

**The
Journal of the
Senate**

**OF THE
SEVENTY-SIXTH SESSION**

**OF THE
LEGISLATURE OF THE
STATE OF NEVADA**

2011



**BEGUN ON MONDAY, THE SEVENTH DAY OF FEBRUARY,
AND
ENDED ON MONDAY, THE SIXTH DAY OF JUNE**

**VOLUME 3
THE SEVENTY-EIGHTH DAY—THE EIGHTY-FIRST DAY**

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THE SEVENTY-EIGHTH DAY

CARSON CITY (Monday), April 25, 2011

Senate called to order at 10:23 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Bruce Henderson.

Yesterday we celebrated resurrection and new life.

Lord, I would pray those things for this week. As we face pressures and deadlines, we pray for a resurrection of unity, teamwork and compromise. And please refurbish us with a new life of joy peace and enthusiasm.

I pray in the Name of the One who wants to bring all of us together.

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, Labor and Energy, to which were referred Senate Bills Nos. 59, 164, 184, 190, 234, 354, 412, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 232, 400, 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 Human Services, to which were referred Senate Bills Nos. 43, 52, 138, 210, 246, 264, 300, 335, 338, 379, 419, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ALLISON COPENING, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 88, 265, 381, 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 Natural Resources, to which were referred Senate Bills Nos. 287, 299, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK A. MANENDO, *Chair*

Mr. President:

Your Committee on Revenue, to which were referred Senate Bills Nos. 79, 249, 493, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHEILA LESLIE, *Chair*

Mr. President:

Your Committee on Transportation, to which was referred Senate Bill No. 274, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Transportation, to which was referred Senate Bill No. 483, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass as amended, and re-refer to the Committee on Finance.

SHIRLEY A. BREEDEN, *Chair*

WAIVERS AND EXEMPTIONS WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by Assemblyman Ocegueda and Senator Horsford
For: BDR-1282.

To Waive:

- Subsection 1 of Joint Standing Rule No. 14.
- Subsection 1 of Joint Standing Rule No. 14.2.
- Subsection 1 of Joint Standing Rule No. 14.3.
- Subsection 2 of Joint Standing Rule No. 14.3.
- Subsection 3 of Joint Standing Rule No. 14.3.
- Subsection 4 of Joint Standing Rule No. 14.3.

Has been granted effective: Friday, April 22, 2011.

STEVEN A. HORSFORD
Senate Majority Leader

JOHN OCEGUERA
Speaker of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bills Nos. 180, 331, 368, be taken from their positions on General File and placed at the top of the General File.
Motion carried.

Senator Wiener moved that Senate Bill No. 83 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senator Brower requested that his name be removed as the primary sponsor of Senate Bill No. 325 and that Senator Lee's name be added as the primary sponsor. Senator Brower's name will be removed and Senator Lee's name will be added as requested.

SECOND READING AND AMENDMENT

Senate Bill No. 49.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 250.

"SUMMARY—Revises provisions governing the authority of a board of county highway commissioners regarding the establishment of certain rights-of-way. (BDR 35-341)"

"AN ACT relating to public roads; providing that ~~acceptance by the Department of Transportation of a~~ filing by a board of county highway commissioners of a map that includes a county road located on a certain right-of-way constitutes ~~validation~~ the establishment of the existence and location of the a right-of-way ~~by the State of Nevada;~~ that is open for public use; providing that acceptance by the Department of Transportation of that map constitutes acknowledgment by the Department of the establishment of the existence and location of a right-of-way that is open for public use; authorizing the board of county highway commissioners in certain counties to locate and determine the width of certain rights-of-way and to open those rights-of-way for public use; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Currently in Nevada, many roads are popularly referred to as "R.S. 2477 roads." R.S. 2477 roads are roads that exist on public rights-of-way granted pursuant to 43 U.S.C. § 932, a federal law passed in 1866 and stating, "[t]he right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted." In 1976, the United States Congress repealed the provisions of 43 U.S.C. § 932 by enacting the Federal Land Policy and Management Act of 1976 (43 U.S.C. §§ 1701 et seq.). However, section 701 of that Act also included a savings provision concerning R.S. 2477 roads that provided that "[n]othing in this Act, or in any amendment made by this Act, shall be construed as terminating any valid lease, permit, patent, right-of-way, or other land use right or authorization existing on [October 21, 1976]." (43 U.S.C. § 1701 note (Savings Provisions)) Therefore, valid R.S. 2477 rights-of-way continue to exist, and under existing state law, any board of county commissioners may locate and determine the width of those rights-of-way and may locate and open R.S. 2477 roads on those rights-of-way. (NRS 405.191)

Existing law also creates, in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties), a board of county highway commissioners, composed of the regularly elected and qualified county commissioners. (NRS 403.005, 403.010, 403.020) A board of county highway commissioners has the authority to lay out and designate main, general and minor county roads and are required, upon so laying out and designating such roads, to create a county map showing the roads and their designations and to file copies of the map with the clerk of the board of county highway commissioners, the county clerk, the county recorder and the Department of Transportation. (NRS 403.170, 403.190) **Section 1** of this bill provides that ~~if a map showing~~ the filing of the copies of the map constitutes the establishment of the existence and location of an R.S. 2477 right-of-way ~~is filed with the Department of Transportation,~~ that is open

for public use. Section 1 also provides that acceptance of the map by the Department constitutes ~~validation of the R.S. 2477 right-of-way by the State of Nevada for the purpose of establishing~~ **acknowledgment by the Department of the establishment of** the existence and location of ~~the~~ **an** R.S. 2477 right-of-way ~~that is open for public use.~~ **Section 2** of this bill confers authority upon a board of county highway commissioners to locate and determine the width of an R.S. 2477 right-of-way and to open that right-of-way for public use for the purpose of designating county roads within the county and taking certain other authorized actions concerning the R.S. 2477 right-of-way.

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

Section 1. NRS 403.190 is hereby amended to read as follows:

403.190 1. Except as otherwise provided in subsection ~~3~~ 4, upon laying out and designating the county roads as required in NRS 403.170, the board of county highway commissioners shall cause a map of the county to be made, showing the county roads and their designations. The board shall file one copy of the map with the clerk of the board of county highway commissioners, one copy with the Department of Transportation, one copy with the county clerk and one copy with the county recorder.

2. *If the map required pursuant to subsection 1 includes a county road located on a right-of-way that the board of county highway commissioners has located, determined the width of and opened for public use pursuant to subsection 2 of NRS 405.191 ~~acceptance~~:*

(a) The filing of copies of the map pursuant to subsection 1 constitutes the establishment of the existence and location of a right-of-way that is open for public use; and

(b) Acceptance of the map by the Department of Transportation constitutes ~~validation of the right-of-way by the State of Nevada for the purpose of establishing~~ acknowledgment by the Department of the establishment of the existence and location of ~~the~~ a right-of-way ~~that is open for public use.~~

3. When any road has been designated by the board of county highway commissioners as a standard county road, as provided in NRS 403.180, that designation must be made on the copies of the map on file with the clerk of the board of county highway commissioners, the county clerk, the Department of Transportation and the county recorder.

~~3~~ 4. The board of county highway commissioners need not include a minor county road upon the map required by subsection 1. Any person who uses a minor county road may file with the county recorder a map showing the location of the road, appropriately emphasized in black ink upon the map by the person filing it. The map must:

(a) Be a topographical map prepared by the United States Geological Survey, unless the board of county highway commissioners determines that other specific maps are acceptable.

(b) Have written on its face, in black ink, the townships, ranges and sections through which the road traverses.

➡ The map so filed is evidence of the existence and location of the road. Each person filing such a map shall pay to the county recorder a fee of \$17 for the first sheet of the map plus \$10 for each additional sheet.

Sec. 2. NRS 405.191 is hereby amended to read as follows:

405.191 As used in NRS 405.193 and 405.195, "public road" includes:

1. A United States highway, a state highway or a main, general or minor county road and any other way laid out or maintained by any governmental agency.

2. Any way which exists upon a right-of-way granted by Congress over public lands of the United States not reserved for public uses in chapter 262, section 8, 14 Statutes 253 (former 43 U.S.C. § 932, commonly referred to as R.S. 2477), and accepted by general public use and enjoyment before, on or after July 1, 1979. ~~Each~~ ***Except as otherwise provided in this subsection, each*** board of county commissioners may locate and determine the width of such rights-of-way and locate, open for public use and establish thereon county roads or highways, but public use alone has been and is sufficient to evidence an acceptance of the grant of a public user right-of-way pursuant to former 43 U.S.C. § 932. ***In a county in which a board of county highway commissioners has exclusive control of all matters relating to the construction, repairing and maintaining of public highways, roads and bridges within the county pursuant to NRS 403.090, the board of county highway commissioners may locate and determine the width of those rights-of-way and open those rights-of-way for public use for the purpose of designating county roads pursuant to NRS 403.170 or taking any other action concerning those rights-of-way pursuant to chapter 403 of NRS.***

3. Any way which is shown upon any plat, subdivision, addition, parcel map or record of survey of any county, city, town or portion thereof duly recorded or filed in the office of the county recorder, and which is not specifically therein designated as a private road or a nonpublic road, and any way which is described in a duly recorded conveyance as a public road or is reserved thereby for public road purposes or which is described by words of similar import.

Sec. 3. This act becomes effective on July 1, 2011.

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. 250 to Senate Bill No. 49 provides that filing copies of a map required to establish a right-of-way by a board of county highway commissioners with the required State and local agencies constitutes the establishment of the existence and location of a right-of-way that is open for public use. The amendment further provides that acceptance of the map by the Department of Transportation constitutes acknowledgement by the Department of the right-of-way establishment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 103.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 350.

"SUMMARY—~~{Authorizes a licensed interactive gaming service provider to perform certain actions on behalf of an establishment licensed to operate interactive gaming;}~~ **Clarifies that certain service charges are subject to the tax on live entertainment.** (BDR ~~{41-828}~~)" **32-828**)"

"AN ACT relating to gaming; ~~{authorizing a licensed interactive gaming service provider to perform certain actions on behalf of an establishment licensed to operate interactive gaming;}~~ **clarifying that certain service charges are subject to the tax on live entertainment;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~{ Existing law authorizes certain gaming establishments to obtain a license to operate interactive gaming and additionally authorizes the licensing of manufacturers of interactive gaming systems and manufacturers of equipment associated with interactive gaming. (NRS 463.750, 463.765) This bill: (1) authorizes an interactive gaming service provider to perform certain actions on behalf of an establishment licensed to operate interactive gaming; and (2) requires that a person must obtain a license as an interactive gaming service provider before performing such actions. This bill also requires the Nevada Gaming Commission to establish by regulation certain provisions concerning: (1) the licensing requirements for an interactive gaming service provider; and (2) certain fees that an interactive gaming service provider may be required to pay.}~~

Under existing law, there is an excise tax that is imposed, with certain exceptions, on admission to any facility in this State where live entertainment is provided. Certain admission charges, gratuities and service charges are not subject to such tax on live entertainment. (NRS 368A.200) This bill clarifies existing law and specifies that service charges which are collected and retained by certain third parties are subject to the tax on live entertainment. This provision applies retroactively from January 1, 2004, the date on which the imposition of the tax on live entertainment became effective.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 368A.200 is hereby amended to read as follows:

368A.200 1. Except as otherwise provided in this section, there is hereby imposed an excise tax on admission to any facility in this State where

live entertainment is provided. If the live entertainment is provided at a facility with a maximum occupancy of:

(a) Less than 7,500 persons, the rate of the tax is 10 percent of the admission charge to the facility plus 10 percent of any amounts paid for food, refreshments and merchandise purchased at the facility.

(b) At least 7,500 persons, the rate of the tax is 5 percent of the admission charge to the facility.

2. Amounts paid for:

(a) Admission charges collected and retained by a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or by a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS, are not taxable pursuant to this section.

(b) Gratuities directly or indirectly remitted to persons employed at a facility where live entertainment is provided or for service charges, including those imposed in connection with the use of credit cards or debit cards, which are collected and retained by persons other than the taxpayer, *the operator of the entertainment facility or an affiliate of the taxpayer or the operator* are not taxable pursuant to this section. *As used in this paragraph, "affiliate" has the meaning ascribed to it in NRS 463.0133.*

3. A business entity that collects any amount that is taxable pursuant to subsection 1 is liable for the tax imposed, but is entitled to collect reimbursement from any person paying that amount.

4. Any ticket for live entertainment must state whether the tax imposed by this section is included in the price of the ticket. If the ticket does not include such a statement, the taxpayer shall pay the tax based on the face amount of the ticket.

5. The tax imposed by subsection 1 does not apply to:

(a) Live entertainment that this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) Live entertainment that is provided by or entirely for the benefit of a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS.

(c) Any boxing contest or exhibition governed by the provisions of chapter 467 of NRS.

(d) Live entertainment that is not provided at a licensed gaming establishment if the facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.

(e) Live entertainment that is provided at a licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, if the facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.

(f) Merchandise sold outside the facility in which the live entertainment is provided, unless the purchase of the merchandise entitles the purchaser to admission to the entertainment.

(g) Live entertainment that is provided at a trade show.

(h) Music performed by musicians who move constantly through the audience if no other form of live entertainment is afforded to the patrons.

(i) Live entertainment that is provided at a licensed gaming establishment at private meetings or dinners attended by members of a particular organization or by a casual assemblage if the purpose of the event is not primarily for entertainment.

(j) Live entertainment that is provided in the common area of a shopping mall, unless the entertainment is provided in a facility located within the mall.

(k) Food and product demonstrations provided at a shopping mall, a craft show or an establishment that sells grocery products, housewares, hardware or other supplies for the home.

(l) Live entertainment that is incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction. For the purposes of this paragraph, live entertainment shall be deemed to be incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction if the live entertainment is:

(1) Not the predominant element of the attraction; and

(2) Not the primary purpose for which the public rides, attends or otherwise participates in the attraction.

(m) Live entertainment that is provided to the public in an outdoor area, without any requirements for the payment of an admission charge or the purchase of any food, refreshments or merchandise.

(n) An outdoor concert, unless the concert is provided on the premises of a licensed gaming establishment.

(o) Beginning July 1, 2007, race events scheduled at a race track in this State as a part of the National Association for Stock Car Auto Racing Nextel Cup Series, or its successor racing series, and all races associated therewith.

(p) Beginning July 1, 2007, a baseball contest, event or exhibition conducted by professional minor league baseball players at a stadium in this State.

(q) Live entertainment provided in a restaurant which is incidental to any other activities conducted in the restaurant or which only serves as ambience so long as there is no charge to the patrons for that entertainment.

6. The Commission may adopt regulations establishing a procedure whereby a taxpayer that is a licensed gaming establishment may request an exemption from the tax pursuant to paragraph (q) of subsection 5. The regulations must require the taxpayer to seek an administrative ruling from the Chair of the Board, provide a procedure for appealing that ruling to the

Commission and further describe the forms of incidental or ambient entertainment exempted pursuant to that paragraph.

7. As used in this section, "maximum occupancy" means, in the following order of priority:

(a) The maximum occupancy of the facility in which live entertainment is provided, as determined by the State Fire Marshal or the local governmental agency that has the authority to determine the maximum occupancy of the facility;

(b) If such a maximum occupancy has not been determined, the maximum occupancy of the facility designated in any permit required to be obtained in order to provide the live entertainment; or

(c) If such a permit does not designate the maximum occupancy of the facility, the actual seating capacity of the facility in which the live entertainment is provided.

Sec. 4. Section 3 of this act becomes effective upon passage and approval and applies retroactively from January 1, 2004.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

The amendment deletes the bill as originally written because it was combined with Senate Bill No. 218 that has already been approved by the Senate.

Instead, the amendment adds a new section to Senate Bill No. 103 concerning the imposition and collection of the tax on live entertainment by clarifying that the service charges collected and retained by certain third parties are subject to the tax.

Finally, it changes the effective date to "upon passage and approval" and applies retroactively from January 1, 2004, which is the date on which the imposition of the tax became effective.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that upon return from reprint, Senate Bill No. 103 be re-referred to the Committee on Finance.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 129.

Bill read second time.

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

Amendment No. 237.

"SUMMARY—Requires training of certain persons who operate or work in certain facilities. (BDR 40-155)"

"AN ACT relating to public health; requiring certain persons who operate or work in ~~facilities for the dependent,~~ facilities for intermediate care, facilities for skilled nursing, **agencies to provide personal care services in the home, facilities for the care of adults during the day, residential**

facilities for groups and homes for individual residential care to complete certain training; ~~requiring the State Board of Health to adopt regulations concerning such training;~~ providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires an applicant for a license to operate ~~a facility for the dependent,~~ a facility for intermediate care, a facility for skilled nursing, **an agency to provide personal care services in the home, a facility for the care of adults during the day, a residential facility for groups** or a home for individual residential care to obtain training ~~concerning the care~~ **to recognize and prevent the abuse** of older persons before a license is issued to the applicant and annually thereafter. **Section 1** also requires the holders of licenses to operate, and the administrators and employees of, those facilities, **agencies and homes** to obtain such training. ~~Section 1 further requires the State Board of Health to adopt regulations governing the training requirements, including the number of hours of training, topics of instruction and methods of instruction.~~

Sections 6 and 7 of this bill amend the grounds for which disciplinary action may be taken against a facility, **agency** or home to include violations of the provisions of **section 1**.

Section 11 of this bill provides that an administrator who is licensed as an administrator of a residential facility for groups or as a nursing facility administrator may be disciplined for failure to comply with the provisions of **section 1**.

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *An applicant for a license to operate a ~~facility for the dependent,~~ facility for intermediate care, facility for skilled nursing, **agency to provide personal care services in the home, facility for the care of adults during the day, residential facility for groups** or home for individual residential care must receive training ~~concerning the care~~ **to recognize and prevent the abuse** of older persons before a license to operate such a facility, **agency** or home is issued to the applicant. If an applicant has completed such training within the year preceding the date of the application for a license and the application includes evidence of the training, the applicant shall be deemed to have complied with the requirements of this subsection.*

2. *A licensee who holds a license to operate a ~~facility for the dependent,~~ facility for intermediate care, facility for skilled nursing, **agency to provide personal care services in the home, facility for the care of adults during the day, residential facility for groups** or home for individual residential care must annually receive training ~~concerning the care~~ **to recognize and prevent the abuse** of older persons before the license to operate such a facility, **agency** or home may be renewed.*

3. *If an applicant or licensee who is required by this section to obtain training is ~~for~~*

~~—(a) Firm, association, organization, partnership, business trust, corporation or company, the board of directors, officers or members thereof and the person in charge of the facility or home must receive the training required by this section; or~~

~~—(b) Political subdivision of the State or other governmental agency;~~ **not a natural person, the person in charge of the facility, agency or home must receive the training required by this section.**

4. *An administrator or other person in charge of a ~~facility for the dependent,~~ facility for intermediate care, facility for skilled nursing, agency to provide personal care services in the home, facility for the care of adults during the day, residential facility for groups or home for individual residential care must receive training ~~concerning the care~~ to recognize and prevent the abuse of older persons before the facility, agency or home provides care to a person and annually thereafter.*

5. *An employee who will provide care to a ~~resident,~~ person in a ~~facility for the dependent,~~ facility for intermediate care, facility for skilled nursing, agency to provide personal care services in the home, facility for the care of adults during the day, residential facility for groups or home for individual residential care must receive training ~~concerning the care~~ to recognize and prevent the abuse of older persons before the employee provides care to a person in the facility, agency or home and annually thereafter.*

6. *The ~~Board shall adopt regulations establishing the requirements for training concerning the care of older persons required by this section. The regulations must prescribe, without limitation:~~*

~~—(a) The number of hours of initial training required for each applicant, administrator and employee and the number of hours for the training required annually thereafter;~~

~~—(b) The procedure and requirements for the approval of a program to provide training;~~

~~—(c) The topics of instruction that must be included in the training ~~for which~~ required by this section must include, without limitation:~~

~~[(1)]~~ **(a) Recognizing the abuse of older persons, including sexual abuse and violations of NRS 200.5091 to 200.50995, inclusive;**

~~[(2)]~~ **(b) Responding to reports of the alleged abuse of older persons, including sexual abuse and violations of NRS 200.5091 to 200.50995, inclusive; and**

~~[(3)]~~ **(c) Instruction concerning the federal, state and local laws, and any changes to those laws, relating to:**

~~[(4)]~~ **(1) The abuse of older persons; and**

~~[(4)]~~ **(2) Facilities ~~for the dependent, facilities~~ for intermediate care, facilities for skilled nursing, agencies to provide personal care services in the home, facilities for the care of adults during the day,**

residential facilities for groups or homes for individual residential care, as applicable for the person receiving the training. ~~and~~

~~—(d) The approved methods of instruction, which must include the use of the Internet.~~

7. ~~The [facility for the dependent.]~~ facility for intermediate care, facility for skilled nursing, agency to provide personal care services in the home, facility for the care of adults during the day, residential facility for groups or home for individual residential care ~~[shall pay]~~ is responsible for the costs related to the training required by this section.

8. The administrator of a facility for intermediate care, facility for skilled nursing or residential facility for groups who is licensed pursuant to chapter 654 of NRS shall ensure that each employee of the facility who provides care to residents has obtained the training required by this section. If an administrator or employee of a facility or home does not obtain the training required by this section, the Health Division shall notify the Board of Examiners for Long-Term Care Administrators that the administrator is in violation of this section.

9. The holder of a license to operate a ~~[facility for the dependent.]~~ facility for intermediate care, facility for skilled nursing, agency to provide personal care services in the home, facility for the care of adults during the day, residential facility for groups or home for individual residential care shall ensure that each person who is required to comply with the requirements for training ~~[and any regulations adopted by the Board]~~ pursuant to this section complies with such requirements. The Health Division may, for any violation of this section, take disciplinary action against a facility, agency or home pursuant to NRS 449.160 and 449.163.

Sec. 2. NRS 449.037 is hereby amended to read as follows:

449.037 1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.001 to 449.240, inclusive, **and section 1 of this act** and for programs of hospice care.

(b) Regulations governing the licensing of such facilities and programs.

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his or her home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

(d) Regulations establishing a procedure for the indemnification by the Health Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.001 to 449.240, inclusive ~~[]~~, **and section 1 of this act.**

2. The Board shall adopt separate regulations governing the licensing and operation of:

(a) Facilities for the care of adults during the day; and

(b) Residential facilities for groups,

→ which provide care to persons with Alzheimer's disease.

3. The Board shall adopt separate regulations for:

(a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.

(b) The licensure of facilities for refractive surgery which take into consideration the unique factors of operating such a facility.

(c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well-being of each person accommodated in the facility.

5. ~~{The}~~ ***In addition to the training requirements prescribed pursuant to section 1 of this act, the*** Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential facilities for groups. The regulations must require at least the following conditions before such assistance may be given:

(a) The ultimate user's physical and mental condition is stable and is following a predictable course.

(b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.

(c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) The prescribed medication is not administered by injection or intravenously.

(e) The employee has successfully completed training and examination approved by the Health Division regarding the authorized manner of assistance.

7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The Board shall not allow the licensing of a facility as a residential

facility for groups which provides assisted living services and a residential facility for groups shall not claim that it provides "assisted living services" unless:

(a) Before authorizing a person to move into the facility, the facility makes a full written disclosure to the person regarding what services of personalized care will be available to the person and the amount that will be charged for those services throughout the resident's stay at the facility.

(b) The residents of the facility reside in their own living units which:

(1) Except as otherwise provided in subsection 8, contain toilet facilities;

(2) Contain a sleeping area or bedroom; and

(3) Are shared with another occupant only upon consent of both occupants.

(c) The facility provides personalized care to the residents of the facility and the general approach to operating the facility incorporates these core principles:

(1) The facility is designed to create a residential environment that actively supports and promotes each resident's quality of life and right to privacy;

(2) The facility is committed to offering high-quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;

(3) The facility provides a variety of creative and innovative services that emphasize the particular needs of each individual resident and the resident's personal choice of lifestyle;

(4) The operation of the facility and its interaction with its residents supports, to the maximum extent possible, each resident's need for autonomy and the right to make decisions regarding his or her own life;

(5) The operation of the facility is designed to foster a social climate that allows the resident to develop and maintain personal relationships with fellow residents and with persons in the general community;

(6) The facility is designed to minimize and is operated in a manner which minimizes the need for its residents to move out of the facility as their respective physical and mental conditions change over time; and

(7) The facility is operated in such a manner as to foster a culture that provides a high-quality environment for the residents, their families, the staff, any volunteers and the community at large.

8. The Health Division may grant an exception from the requirement of subparagraph (1) of paragraph (b) of subsection 7 to a facility which is licensed as a residential facility for groups on or before July 1, 2005, and which is authorized to have 10 or fewer beds and was originally constructed as a single-family dwelling if the Health Division finds that:

(a) Strict application of that requirement would result in economic hardship to the facility requesting the exception; and

(b) The exception, if granted, would not:

(1) Cause substantial detriment to the health or welfare of any resident of the facility;

(2) Result in more than two residents sharing a toilet facility; or

(3) Otherwise impair substantially the purpose of that requirement.

9. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:

(a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;

(b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that nonambulatory patients may be evacuated;

(c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and

(d) Posting the plans or a summary of the plans adopted pursuant to paragraphs (a) and (b) in a conspicuous place in each residential facility for groups.

10. The regulations governing the licensing and operation of facilities for transitional living for released offenders must provide for the licensure of at least three different types of facilities, including, without limitation:

(a) Facilities that only provide a housing and living environment;

(b) Facilities that provide or arrange for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; and

(c) Facilities that provide or arrange for the provision of alcohol and drug abuse programs, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.

➤ The regulations must provide that if a facility was originally constructed as a single-family dwelling, the facility must not be authorized for more than eight beds.

11. As used in this section, "living unit" means an individual private accommodation designated for a resident within the facility.

Sec. 3. NRS 449.060 is hereby amended to read as follows:

449.060 1. Each license issued pursuant to NRS 449.001 to 449.240, inclusive, *and section 1 of this act* expires on December 31 following its issuance and is renewable for 1 year upon reapplication and payment of all fees required pursuant to NRS 449.050 unless the Health Division finds, after an investigation, that the facility has not:

(a) Satisfactorily complied with the provisions of NRS 449.001 to 449.240, inclusive, *and section 1 of this act* or the standards and regulations adopted by the Board;

(b) Obtained the approval of the Director of the Department of Health and Human Services before undertaking a project, if such approval is required by NRS 439A.100; or

(c) Conformed to all applicable local zoning regulations.

2. Each reapplication for an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing, a residential facility for groups or a home for individual residential care must include, without limitation, a statement that the facility, agency or home is in compliance with the provisions of NRS 449.173 to 449.188, inclusive.

3. *Each reapplication for an agency to provide personal care services in the home, a ~~facility for the dependent,~~ facility for intermediate care, a facility for skilled nursing, a facility for the care of adults during the day, a residential facility for groups or a home for individual residential care must include, without limitation, a statement that the holder of the license to operate, and the administrator or other person in charge and employees of, the facility, agency or home are in compliance with the provisions of section 1 of this act.*

Sec. 4. NRS 449.070 is hereby amended to read as follows:

449.070 The provisions of NRS 449.001 to 449.240, inclusive, ***and section 1 of this act*** do not apply to:

1. Any facility conducted by and for the adherents of any church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing in the practice of the religion of the church or denomination, except that such a facility shall comply with all regulations relative to sanitation and safety applicable to other facilities of a similar category.

2. Foster homes as defined in NRS 424.014.

3. Any medical facility or facility for the dependent operated and maintained by the United States Government or an agency thereof.

Sec. 5. NRS 449.140 is hereby amended to read as follows:

449.140 1. Money received from licensing medical facilities and facilities for the dependent must be forwarded to the State Treasurer for deposit in the State General Fund.

2. The Health Division shall enforce the provisions of NRS 449.001 to 449.245, inclusive, ***and section 1 of this act*** and may incur any necessary expenses not in excess of money appropriated for that purpose by the State or received from the Federal Government.

Sec. 6. NRS 449.160 is hereby amended to read as follows:

449.160 1. The Health Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.001 to 449.240, inclusive, ***and section 1 of this act*** upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.001 to 449.245, inclusive, ***and section 1 of this act***, or

of any other law of this State or of the standards, rules and regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.

(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to this chapter, if such approval is required.

(f) Failure to comply with the provisions of NRS 449.2486.

2. In addition to the provisions of subsection 1, the Health Division may revoke a license to operate a facility for the dependent if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Health Division shall maintain a log of any complaints that it receives relating to activities for which the Health Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The Health Division shall provide to a facility for the care of adults during the day:

(a) A summary of a complaint against the facility if the investigation of the complaint by the Health Division either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

↪ The facility shall make the information available to the public pursuant to NRS 449.2486.

4. On or before February 1 of each odd-numbered year, the Health Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Health Division pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Health Division pursuant to subsection 2.

Sec. 7. NRS 449.163 is hereby amended to read as follows:

449.163 1. If a medical facility or facility for the dependent violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, **and section 1 of this act**, or any condition, standard or regulation adopted by the Board, the Health Division, in accordance with the regulations adopted pursuant to NRS 449.165, may:

(a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;

(b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;

(c) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and

(d) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:

(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. If a violation by a medical facility or facility for the dependent relates to the health or safety of a patient, an administrative penalty imposed pursuant to paragraph (c) of subsection 1 must be in a total amount of not less than \$1,000 and not more than \$10,000 for each patient who was harmed or at risk of harm as a result of the violation.

3. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (c) of subsection 1, the Health Division may:

(a) Suspend the license of the facility until the administrative penalty is paid; and

(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

4. The Health Division may require any facility that violates any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, **and section 1 of this act**, or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.

5. Any money collected as administrative penalties pursuant to this section must be accounted for separately and used to protect the health or property of the residents of the facility in accordance with applicable federal standards.

Sec. 8. NRS 449.220 is hereby amended to read as follows:

449.220 1. The Health Division may bring an action in the name of the State to enjoin any person, state or local government unit or agency thereof from operating or maintaining any facility within the meaning of NRS 449.001 to 449.240, inclusive ~~+~~, **and section 1 of this act**:

(a) Without first obtaining a license therefor; or

(b) After his or her license has been revoked or suspended by the Health Division.

2. It is sufficient in such action to allege that the defendant did, on a certain date and in a certain place, operate and maintain such a facility without a license.

Sec. 9. NRS 449.230 is hereby amended to read as follows:

449.230 1. Any authorized member or employee of the Health Division may enter and inspect any building or premises at any time to secure compliance with or prevent a violation of any provision of NRS 449.001 to 449.245, inclusive ~~{-}~~, **and section 1 of this act.**

2. The State Fire Marshal or a designee of the State Fire Marshal shall, upon receiving a request from the Health Division or a written complaint concerning compliance with the plans and requirements to respond to an emergency adopted pursuant to subsection 9 of NRS 449.037:

(a) Enter and inspect a residential facility for groups; and

(b) Make recommendations regarding the adoption of plans and requirements pursuant to subsection 9 of NRS 449.037,

➤ to ensure the safety of the residents of the facility in an emergency.

3. The State Health Officer or a designee of the State Health Officer shall enter and inspect at least annually each building or the premises of a residential facility for groups to ensure compliance with standards for health and sanitation.

4. An authorized member or employee of the Health Division shall enter and inspect any building or premises operated by a residential facility for groups within 72 hours after the Health Division is notified that a residential facility for groups is operating without a license.

Sec. 10. NRS 449.240 is hereby amended to read as follows:

449.240 The district attorney of the county in which the facility is located shall, upon application by the Health Division, institute and conduct the prosecution of any action for violation of any provisions of NRS 449.001 to 449.245, inclusive ~~{-}~~, **and section 1 of this act.**

Sec. 11. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and a hearing as required by law, impose an administrative fine of not more than \$10,000 for each violation on, recover reasonable investigative fees and costs incurred from, suspend, revoke, deny the issuance or renewal of or place conditions on the license of, and place on probation or impose any combination of the foregoing on any nursing facility administrator or administrator of a residential facility for groups who:

(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.

(b) Has obtained his or her license by the use of fraud or deceit.

(c) Violates any of the provisions of this chapter.

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.001 to 449.240, inclusive, *and section 1 of this act*, as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

(e) Violates any regulation of the Board prescribing additional standards of conduct for nursing facility administrators or administrators of residential facilities for groups, including, without limitation, a code of ethics.

(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the nursing facility administrator or administrator of a residential facility for groups and the patient or resident for the financial or other gain of the licensee.

2. The Board shall give a licensee against whom proceedings are brought pursuant to this section written notice of a hearing pursuant to NRS 233B.121 and 241.034. A licensee may waive, in writing, his or her right to attend the hearing.

3. The Board may compel the attendance of witnesses or the production of documents or objects by subpoena. The Board may adopt regulations that set forth a procedure pursuant to which the Chair of the Board may issue subpoenas on behalf of the Board. Any person who is subpoenaed pursuant to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.

4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

5. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

Sec. 12. 1. Each person who holds a license to operate and each person who is an administrator or employee of a ~~facility for the dependent,~~ facility for intermediate care, facility for skilled nursing, **agency to provide personal care services in the home, facility for the care of adults during the day, residential facility for groups** or home for individual residential care on October 1, 2011, and who is required to complete the training required by section 1 of this act shall complete the training on or before October 1, 2012.

2. A statement that:

(a) The applicant has completed the training required by section 1 of this act must be included with an application for a license to operate a ~~facility for the dependent,~~ facility for intermediate care, facility for skilled nursing, **agency to provide personal care services in the home, facility for the care of adults during the day, residential facility for groups** or home for individual residential care submitted on or after October 1, 2011; and

(b) The holder of a license to operate, and the administrator and employees of, a ~~facility for the dependent,~~ facility for intermediate care,

facility for skilled nursing, agency to provide personal care services in the home, facility for the care of adults during the day, residential facility for groups or home for individual residential care have completed the training required by section 1 of this act must be included with a reapplication submitted for the facility or home on or after October 1, 2012.

Sec. 13. This act becomes effective ~~upon passage and approval for the purpose of adopting regulations and~~ on October 1, 2011, ~~for all other purposes.~~

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 237 revises the provisions to Senate Bill No. 129 by adding three additional entities to the list of entities that are required to obtain certain training to recognize and prevent abuse of older persons. Those entities are an agency to provide personal care services in the home, a facility for the care of adults during the day, and a residential facility for groups.

The amendment removes the requirement that the State Board of Health adopt regulations governing the training requirements and specifically notes the requirements for such training.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 150.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 480.

"SUMMARY—Revises certain provisions governing liens of owners of facilities for storage. (BDR 9-907)"

"AN ACT relating to liens; revising certain provisions governing liens of owners of facilities for storage; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law generally provides that if an occupant of a storage space at a self-storage facility defaults on the payment of rent or other charges that are due to the owner of the facility pursuant to a rental agreement, the owner has a lien on the occupant's personal property contained in the storage space and is entitled to certain remedies until the lien is satisfied. (NRS 108.4753, 108.4763) In addition to being able to deny the occupant access to the storage space and remove the occupant's personal property from the storage space, an owner may also sell the occupant's personal property to satisfy the lien. (NRS 108.4763) **Section 16** of this bill further authorizes an owner to dispose of certain personal property. **Sections 13, 16, 17 and 19** of this bill revise various provisions relating to an owner's lien on an occupant's personal property as well as the sale to satisfy such a lien.

Existing law also authorizes an occupant to prevent the sale of his or her personal property to satisfy the lien by executing a declaration of opposition to the sale and returning the declaration to the owner. Upon receipt of the

declaration of opposition to the sale, the owner may commence an action in court to enforce the lien. (NRS 108.4765, 108.478) **Section 22** of this bill repeals these provisions.

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

Section 1. Chapter 108 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *"Electronic ~~mailing~~" mail" means ~~the mailing of~~ an electronic message, executable program or computer file which contains an image of a message that is transmitted between two or more computers or electronic terminals, or within or between computer networks ~~and~~ from which an electronic confirmation of receipt is received.*

Sec. 3. *"Protected property" means personal property, the sale of which or prohibition against the sale of which is regulated by state or federal law. The term includes, without limitation:*

1. Documents, film or electronic data that contain personal information, such as social security numbers, credit or debit card information, bank account information, passport information and medical or legal records relating to clients, customers, patients or others in connection with an occupant's business.

2. Pharmaceuticals other than those dispensed by a licensed pharmacy for use by an occupant.

3. Alcoholic beverages.

4. Firearms.

Sec. 4. *"Storage space" means a space used for storing personal property, which is rented or leased to an individual occupant who has access to the space.*

Sec. 5. *"Verified mail" means any method of mailing offered by the United States Postal Service that provides evidence of mailing ~~for or an electronic mailing from which an electronic confirmation of receipt is received.~~*

Sec. 6. *If a rental agreement contains a limit on the value of property stored in the storage space of an occupant, the limit is presumed to be the maximum value of the personal property stored in the storage space.*

Sec. 7. NRS 108.473 is hereby amended to read as follows:

108.473 As used in NRS 108.473 to 108.4783, inclusive, **and sections 2 to 6, inclusive, of this act**, unless the context otherwise requires, the words and terms defined in NRS 108.4733 to 108.4745, inclusive, **and sections 2 to 5, inclusive, of this act** have the meanings ascribed to them in those sections.

Sec. 8. NRS 108.4733 is hereby amended to read as follows:

108.4733 "Facility" means real property divided into individual **storage spaces** . ~~[for storing personal property which are rented or leased to individual occupants and to which the individual occupant has access.]~~ The term does not include a garage or storage area in a private residence.

Sec. 9. NRS 108.4735 is hereby amended to read as follows:

108.4735 "Occupant" includes a person or a person's sublessee, successor or assignee who is entitled to the exclusive use of ~~{a space for}~~ ~~{one or more}~~ an individual storage ~~{spaces}~~ space at a facility pursuant to a rental agreement.

Sec. 10. NRS 108.4743 is hereby amended to read as follows:

108.4743 "Personal property" means any property not affixed to land and includes ~~{goods,}~~ , without limitation, merchandise, furniture, ~~{and}~~ household items ~~{,}~~ , motor vehicles, boats and personal ~~{watercrafts.}~~ watercraft.

Sec. 11. NRS 108.4745 is hereby amended to read as follows:

108.4745 "Rental agreement" means any written agreement or lease establishing or modifying the terms, conditions or rules concerning the use and occupancy of an individual ~~{space in}~~ ~~{one or more}~~ storage ~~{spaces}~~ space at a facility.

Sec. 12. NRS 108.475 is hereby amended to read as follows:

108.475 1. A person shall not use a **storage space at a** facility for a residence. The owner of such a facility shall evict any person who uses **a storage space at** the facility as a residence in the manner provided for in NRS 40.760.

2. A facility shall not be deemed to be a warehouse or a public utility.

3. If an owner of a facility issues a warehouse receipt, bill of lading or other document of title for the personal property stored in **a storage space at** the facility, the owner and occupant are subject to the provisions of NRS 104.7101 to 104.7603, inclusive, and the provisions of NRS 108.473 to 108.4783, inclusive, **and sections 2 to 6, inclusive, of this act** do not apply.

Sec. 13. NRS 108.4753 is hereby amended to read as follows:

108.4753 1. The owner of a facility and the owner's heirs, assignees or successors have a **possessory lien, from the date the rent for a storage space at the facility is due and unpaid,** on all personal property, **including protected property,** located ~~{at the facility}~~ **in the storage space** for the rent, labor or other charges incurred by the owner pursuant to a rental agreement and for those expenses ~~{necessarily}~~ **reasonably** incurred by the owner to preserve, sell or otherwise dispose of the personal property.

2. Any lien created by a document of title for a motor vehicle or boat has priority over a lien attaching to that motor vehicle or boat pursuant to NRS 108.473 to 108.4783, inclusive. ~~{The lien must not impair any other lien or security interest in existence at the time the storage was commenced, unless the lienor or secured party knew of and consented to the storage of the personal property.}~~

Sec. 14. NRS 108.4755 is hereby amended to read as follows:

108.4755 1. Each rental agreement must be in writing and must contain:

(a) A provision printed in a size equal to at least 10-point type that states, "IT IS UNLAWFUL TO USE ~~{THIS}~~ **A STORAGE SPACE IN THIS FACILITY AS A RESIDENCE.**"

(b) A statement that the occupant's personal property will be subject to a claim for a lien and may be sold ~~[to satisfy that lien]~~ **or disposed of** if the rent or other charges described in the rental agreement remain unpaid for 14 consecutive days.

(c) ***A provision requiring the occupant to ~~disclose~~ :***

(1) Disclose to the owner ~~each time the occupant stores~~ any items of protected property in the storage space.

(2) If the occupant is subject to mandatory licensing, registration, permitting or other professional or occupational regulation by a governmental agency, board or commission and the protected property to be stored is related to the practice of that profession or occupation by the occupant, provide written notice to that agency, board or commission stating that the occupant is storing protected property at the facility, identifying the general type of protected property being stored at the facility and providing complete contact information for the facility. The occupant shall give the owner a copy of any written notice provided to such an agency, board or commission.

(3) Provide complete contact information for a secondary contact who may be contacted by the owner if the owner is unable to contact the occupant.

2. If any provision of the rental agreement provides that an owner, lessor, operator, manager or employee of the facility, or any combination thereof, is not liable, jointly or severally, for any loss or theft of personal property stored in **a storage space** at the facility, the provision is unenforceable unless:

(a) The rental agreement contains a statement advising the occupant to purchase insurance for any personal property stored in **a storage space** at the facility and informing the occupant that such insurance is available through most insurers;

(b) The provision and the statement are:

(1) Printed in all capital letters or, if the rental agreement is printed in all capital letters, printed in all capital letters and boldface type, italic type or underlined type; and

(2) Printed in a size equal to at least 10-point type or, if the rental agreement is printed in 10-point type or larger, printed in type that is at least 2 points larger than the size of type used for other provisions of the rental agreement; and

(c) The provision is otherwise enforceable pursuant to the laws of this state.

3. NRS 108.473 to 108.4783, inclusive, **and sections 2 to 6, inclusive, of this act** do not apply and the lien for charges for storage does not attach unless the rental agreement contains a space for the occupant to provide the name and address of an alternative person to whom the notices under those sections may be sent. The occupant's failure to provide an alternative address does not affect the owner's remedies under those sections.

4. The parties may agree in the rental agreement to additional rights, obligations or remedies other than those provided by NRS 108.473 to 108.4783, inclusive ~~and~~, ***and sections 2 to 6, inclusive, of this act.*** The rights provided in those sections are in addition to any other rights of a creditor against a debtor.

Sec. 15. NRS 108.476 is hereby amended to read as follows:

108.476 1. If any charges for rent or other items owed by the occupant remain unpaid for 14 days or more, the owner may terminate the occupant's right to use the ~~individual~~ ***storage*** space ~~for storage~~ at the facility, ***for which charges are owed***, not less than 14 days after sending a notice by ~~certified~~ ***verified mail or electronic mail*** to the occupant at his or her last address and to the alternative address provided by the occupant in the rental agreement. The notice must contain:

(a) An itemized statement of the amount owed by the occupant at the time of the notice and the date when the amount became due;

(b) The name, address and telephone number of the owner or the owner's agent;

(c) A statement that the occupant's right to use the ~~space for~~ ***storage space*** will terminate on a specific date unless the occupant pays the amount owed to the owner; and

(d) A statement that upon the termination of the occupant's right to occupy the ***storage*** space and after the date specified in the notice, an owner's lien pursuant to NRS 108.4753, will be imposed.

2. For the purposes of this section, "last known address" means the ***postal or electronic mail*** address provided by the occupant in the most recent rental agreement between the owner and occupant, or the ***postal or electronic mail*** address provided by the occupant in a written notice sent to the owner with a change of the occupant's address after the execution of the rental agreement.

Sec. 16. NRS 108.4763 is hereby amended to read as follows:

108.4763 1. After the notice of the lien is mailed by the owner, if the occupant fails to pay the total amount due by the date specified in the notice, the owner may:

(a) Deny the occupant access to the ***storage space***. ~~for storage; and~~

(b) Enter the ***storage*** space and remove the personal property within it to a safe place.

(c) ***Dispose of, but may not sell, any protected property contained in the storage space in accordance with the provisions of subsection 4 if the owner has actual knowledge of such protected property. If the owner disposes of the protected property in accordance with the provisions of subsection 4, the owner is not liable to the occupant or any other person who claims an interest in the protected property.*** ~~The owner may dispose of the protected property by:~~

~~(1) Destroying the protected property in an appropriate manner authorized by law; or~~

~~—(2) Surrendering the protected property to the appropriate state or federal authorities, if such authorities will accept the protected property.~~

(d) If the personal property upon which the lien is claimed is a motor vehicle, boat or personal watercraft, and rent and other charges related to such property remain unpaid or unsatisfied for 60 days, have the property towed by any tow car operator subject to the jurisdiction of the Nevada Transportation Authority. If a motor vehicle, boat or personal watercraft is towed pursuant to this paragraph, the owner is not liable for any damages to such property once the tow car operator takes possession of the motor vehicle, boat or personal watercraft.

2. The owner shall send the occupant a notice of a sale to satisfy the lien by ~~{certified}~~ **verified** mail to the occupant at his or her last known address and to the alternative address provided by the occupant in the rental agreement at least 14 days before the sale. The notice must contain:

(a) A statement that the occupant may no longer use the ~~{space for}~~ storage **space** and no longer has access to the occupant's personal property stored therein . ~~{;}~~

(b) A statement that the personal property of the occupant is subject to a lien and the amount of the lien . ~~{;}~~

(c) A statement that the personal property will be sold **or disposed of** to satisfy the lien on a date specified in the notice, unless the total amount of the lien is paid . ~~{for the occupant executes and returns by certified mail, the declaration in opposition to the sale; and}~~

(d) A statement of the provisions of subsection 3.

3. Proceeds of the sale over the amount of the lien and the costs of the sale must be retained by the owner and may be reclaimed by the occupant or the occupant's authorized representative at any time up to 1 year from the date of the sale.

~~4. {The notice of the sale must also contain a blank copy of a declaration of opposition to the sale to be executed by the occupant if the occupant wishes to do so.}~~ **The owner may dispose of protected property contained in the storage space by taking the following actions, in the following order of priority, until the protected property is disposed of:**

(a) Contacting the occupant and returning the protected property to the occupant.

(b) Contacting the secondary contact listed by the occupant in the rental agreement and returning the protected property to the secondary contact.

(c) Contacting any appropriate state or federal authorities, including, without limitation, any appropriate governmental agency, board or commission listed by the occupant in the rental agreement pursuant to NRS 108.4755, ascertaining whether such authorities will accept the protected property and, if such authorities will accept the protected property, ensuring that the protected property is delivered to such authorities.

(d) Destroying the protected property in an appropriate manner which is authorized by law and which ensures that any confidential information contained in the protected property is completely obliterated and may not be examined or accessed by the public.

Sec. 17. NRS 108.477 is hereby amended to read as follows:

108.477 1. ~~If the declaration in opposition to the lien sale executed by the occupant is not received by the date of the sale specified in the notice mailed to the occupant, the owner may sell the property.~~

2. The owner shall advertise the sale once a week for 2 consecutive weeks immediately preceding the date of the sale **on a publicly accessible Internet website and** in a newspaper of general circulation in the judicial district where the sale is to be held. The advertisement must contain:

(a) A general description of the personal property to be sold;

(b) The name of the occupant;

(c) The number of the individual **storage** space ~~for storage~~ at the facility where the personal property was stored; and

(d) The name and address of the facility.

~~3.~~ 2. If there is no newspaper of general circulation in the judicial district where the sale is to be held, the advertisement must be posted 10 days before the sale in at least six conspicuous places near the place of the sale.

~~4.~~ 3. The sale must be conducted in a commercially reasonable manner. **If five or more bidders who are unrelated to the owner are in attendance at a sale held to satisfy the lien, the sale and all proceeds from the sale are deemed to be commercially reasonable.**

~~2.~~ 4. After deducting the amount of the lien and the costs of the sale, the owner shall retain any excess proceeds from the sale on the behalf of the occupant.

~~3.~~ 5. The occupant or any person authorized by the occupant or by an order of the court may claim the excess proceeds or the portion of the proceeds necessary to satisfy the person's claim at any time within 1 year after the date of the sale. After 1 year, the owner shall pay any proceeds remaining from the sale to the treasurer of the county where the sale was held for deposit in the general fund of the county.

Sec. 18. NRS 108.4773 is hereby amended to read as follows:

108.4773 1. Any person who has a security interest in the personal property perfected pursuant to NRS 104.9101 to 104.9709, inclusive, may claim the personal property which is subject to the security interest and to the lien for storage charges by paying the amount due, as specified in the preliminary notice of the lien, for the storage of the property . ~~if no declaration in opposition to the sale to satisfy the lien has been executed and returned by the occupant to the owner.~~

2. Upon payment of the total amount due pursuant to this section, the owner shall deliver the personal property subject to the security interest to the person **holding such interest and** paying the amount of the owner's lien. The owner is not liable to any person for any action taken pursuant to this section

if the owner complied with the provisions of NRS 108.473 to 108.4783, inclusive ~~{-}~~, *and sections 2 to 6, inclusive, of this act.*

Sec. 19. NRS 108.4783 is hereby amended to read as follows:

108.4783 Any person who purchases the personal property in good faith at a sale to satisfy the lien ~~{or a sale to enforce a judgment on a lien}~~ :

1. Does not acquire ownership of any protected property found in the storage space. The person who purchased the protected property in good faith at a sale to satisfy the lien shall, as soon as reasonably practicable, return the protected property to the occupant or, if the occupant cannot be found after reasonable diligence, to the owner, who shall dispose of the protected property in accordance with the provisions of subsection 4 of NRS 108.4763.

2. Except as otherwise provided in subsection 1, takes the property free and clear of ~~{any interests of the occupant,}~~ the rights of any party, even though the owner who conducted the sale may have failed to comply with the provisions of NRS 108.473 to 108.4783, inclusive ~~{-}~~, *and sections 2 to 6, inclusive, of this act.*

Sec. 20. NRS 40.760 is hereby amended to read as follows:

40.760 1. When a person is using a *storage space at a facility* ~~{for storage}~~ as a residence, the owner or the owner's agent shall serve or have served a notice in writing which directs the person to cease using the ~~{facility}~~ *storage space* as a residence no later than 24 hours after receiving the notice. The notice must advise the person that:

(a) NRS 108.475 requires the owner to ask the court to have the person evicted if the person has not ceased using the ~~{facility}~~ *storage space* as a residence within 24 hours; and

(b) The person may continue to use the ~~{facility}~~ *storage space* to store the person's personal property in accordance with the rental agreement.

2. If the person does not cease using the ~~{facility}~~ *storage space* as a residence within 24 hours after receiving the notice to do so, the owner of the facility or the owner's agent shall apply by affidavit for summary eviction to the justice of the peace of the township wherein the facility is located. The affidavit must contain:

(a) The date the rental agreement became effective.

(b) A statement that the person is using the ~~{facility}~~ *storage space* as a residence.

(c) The date and time the person was served with written notice to cease using the ~~{facility}~~ *storage space* as a residence.

(d) A statement that the person has not ceased using the facility as a residence within 24 hours after receiving the notice.

3. Upon receipt of such an affidavit the justice of the peace shall issue an order directing the sheriff or constable of the county to remove the person within 24 hours after receipt of the order. The sheriff or constable shall not remove the person's personal property from the facility.

4. For the purposes of this section ~~{, "facility for storage"}~~ :

(a) "**Facility**" means real property divided into individual **storage** spaces. ~~[which are rented or leased for storing personal property.]~~ The term does not include a garage or storage area in a private residence.

(b) "**Storage space**" means a space used for storing personal property, which is rented or leased to an individual occupant who has access to the space.

Sec. 21. NRS 597.890 is hereby amended to read as follows:

597.890 1. The owner of a facility for the storage of personal property or a person acting on his or her behalf shall not advertise that the facility is "climate controlled" unless the advertisement specifies the range of the minimum and maximum temperature and humidity within which the facility is maintained.

2. If an owner or a person acting on his or her behalf fails to indicate the range of temperature and humidity of a facility in any advertisement that refers to it as being "climate controlled" or fails to maintain the temperature and humidity of the facility within the advertised range, the owner is guilty of a misdemeanor and is liable to the occupant for any damages that are caused to the occupant's personal property as a result of extremes in temperature or humidity, notwithstanding any contrary provision in the rental agreement.

3. As used in this section, the terms "facility," "occupant," "owner," "personal property" and "rental agreement" have the meanings ascribed to them respectively in NRS 108.4733 to 108.4745, inclusive ~~[-]~~ , **and sections 2 to 5, inclusive, of this act.**

Sec. 22. NRS 108.4765 and 108.478 are hereby repealed.

TEXT OF REPEALED SECTIONS

108.4765 Occupant's declaration of opposition to sale.

The occupant may prevent a sale of the personal property to satisfy the lien if the occupant executes a declaration of opposition to the sale under penalty of perjury and returns the declaration to the owner by certified mail. The declaration must contain the following:

1. The name, address and signature of the occupant;
2. The location of the personal property which is to be sold to satisfy a lien;
3. The date the declaration was executed by the occupant; and
4. A statement that:
 - (a) The occupant has received the notice of the sale to satisfy the lien;
 - (b) The occupant opposes the sale of the property; and
 - (c) The occupant understands that the owner may commence an action for the amount of the lien and the costs of the action.

108.478 Action to enforce lien; enforcement of judgment; stay of enforcement pending appeal.

1. If the occupant signs, and returns to the owner, the declaration in opposition to the sale, the owner may commence an action in any court of competent jurisdiction to enforce the lien.

2. If, after the action to enforce the lien, the owner obtains a judgment against the occupant for the amount of the lien, the owner may enforce the judgment by a sale of the property conducted in a commercially reasonable manner more than 10 days after the notice of the entry of judgment has been filed with the court, unless within that time the occupant pays the amount of the judgment.

3. The occupant may stay the enforcement of the judgment pending an appeal by posting with the court which entered the judgment, a bond in an amount equal to 1.5 times the amount of the judgment. If the occupant posts such a bond, the court may order the owner to return the personal property to the occupant.

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. 480 to Senate Bill No. 150 clarifies that the term "electronic mail," as used in the context of liens against storage units, requires an electronic confirmation of receipt.

It eliminates the aggregation of spaces so the provisions of the bill apply to individual storage spaces consistent with existing law.

It provides that a lien by document of title on a motor vehicle or boat has priority over other liens.

The amendment requires that occupants who are subject to professional licensing or regulation must provide written notification to the appropriate governing board or commission to identify any protected property in the storage space that is associated with that professional licensing, and provide a copy to the facility owner.

It allows the facility owner to dispose of protected property by following specific steps as outlined in the amendment.

It reinstates language currently in statute concerning advertisement of sale in a local newspaper, but also requires advertisement on a publicly accessible Internet website.

It requires anyone who purchases protected property during a sale to return the property to the occupant or owner of the storage facility.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 158.

Bill read second time.

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

Amendment No. 423.

"SUMMARY—Revises provisions governing the frequency of required inspections of the emissions of certain motor vehicles. (BDR 40-310)"

"AN ACT relating to air pollution; revising provisions governing the frequency of required inspections of the emissions of certain motor vehicles; **revising the fees charged by the Department of Motor Vehicles for certain forms**; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the State Environmental Commission, in cooperation with the Department of Motor Vehicles and any local air pollution control

agency, to adopt regulations for the control of emissions from motor vehicles in areas designated by the Commission. (NRS 445B.770) Existing law also imposes limitations on compulsory inspection programs established by the Commission. (NRS 445B.795)

~~[This] Section 1 of this~~ bill further limits the authority of the State Environmental Commission by requiring that the regulations adopted by the Commission require: (1) the initial inspection of a new passenger car or new light-duty motor vehicle 3 years after the initial registration of the vehicle ~~;~~ ~~for when the odometer of the vehicle registers 100,000 miles, whichever occurs first,~~ and (2) the subsequent inspection of a passenger car or light-duty motor vehicle not more often than every 2 years ~~;~~ ~~for when the odometer of the vehicle registers 100,000 miles since the most recent inspection, whichever occurs first,~~ except that if a vehicle fails a required inspection, the regulations must provide for annual inspections of the vehicle thereafter.

Existing law requires the Department of Motor Vehicles to charge a fee for the forms distributed to certify emission control compliance in the amount of \$6 per form and \$150 per set of forms. (NRS 445B.830) Because section 1 specifies that inspections for emission control compliance must not be conducted more often than every 2 years, section 2 of this bill raises the fees to \$12 per form and \$300 per set in order to not affect the funding of the Pollution Control Account.

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

Section 1. NRS 445B.795 is hereby amended to read as follows:

445B.795 The authority set forth in NRS 445B.770 providing for a compulsory inspection program is limited as follows:

1. In a county whose population is 100,000 or more, the following categories of motor vehicles which are powered by motor vehicle fuel or special fuel and require inspection pursuant to the regulations adopted by the Commission under NRS 445B.770 are required to have evidence of compliance upon registration or reregistration:

- (a) All passenger cars;
- (b) Light-duty motor vehicles;
- (c) Heavy-duty motor vehicles that are powered by diesel fuel and have a manufacturer's gross vehicle weight rating which does not exceed 14,000 pounds; and
- (d) Heavy-duty motor vehicles that are powered by motor vehicle fuel or special fuel, excluding diesel fuel.

2. In areas which have been designated by the Commission for inspection programs and which are located in counties whose populations are 100,000 or more, all used motor vehicles which require inspection pursuant to the regulations adopted by the Commission under NRS 445B.770 are required to have evidence of compliance upon registration or reregistration.

3. In designated areas in other counties where the Commission puts a program into effect, all used motor vehicles which require inspection pursuant to the regulations adopted by the Commission under NRS 445B.770 are required to have evidence of compliance upon registration or reregistration.

4. The board of county commissioners of a county containing a designated area may revise its program for the designated area after receiving the approval of the Commission.

5. Before carrying out the inspections of vehicles required pursuant to the regulations adopted by the Commission pursuant to NRS 445B.770, the Commission shall, by regulation, adopt testing procedures and standards for emissions for those vehicles.

6. The regulations adopted by the Commission pursuant to NRS 445B.770 must require that:

(a) The initial inspection of a new passenger car or new light-duty motor vehicle be conducted 3 years after initial registration of the vehicle ; ~~for when the odometer of the vehicle registers 100,000 miles, whichever occurs first.~~

(b) Except as otherwise provided in paragraph (a) or (c), the inspection of a passenger car or light-duty motor vehicle be conducted not more often than every 2 years ; ~~for when the odometer of the vehicle registers 100,000 miles since the most recent inspection, whichever occurs first.~~ and

(c) If a passenger car or light-duty motor vehicle fails a required inspection, the vehicle must be inspected annually thereafter.

Sec. 2. NRS 445B.830 is hereby amended to read as follows:

445B.830 1. In areas of the State where and when a program is commenced pursuant to NRS 445B.770 to 445B.815, inclusive, the following fees must be paid to the Department of Motor Vehicles and accounted for in the Pollution Control Account, which is hereby created in the State General Fund:

(a) For the issuance and annual renewal of a license for an authorized inspection station, authorized maintenance station, authorized station or fleet station..... \$25

(b) For each set of 25 forms certifying emission control compliance..... ~~150~~ **300**

(c) For each form issued to a fleet station..... ~~10~~ **12**

2. Except as otherwise provided in subsections 6, 7 and 8, and after deduction of the amounts distributed pursuant to subsection 4, money in the Pollution Control Account may, pursuant to legislative appropriation or with the approval of the Interim Finance Committee, be expended by the following agencies in the following order of priority:

(a) The Department of Motor Vehicles to carry out the provisions of NRS 445B.770 to 445B.845, inclusive.

(b) The State Department of Conservation and Natural Resources to carry out the provisions of this chapter.

(c) The State Department of Agriculture to carry out the provisions of NRS 590.010 to 590.150, inclusive.

(d) Local governmental agencies in nonattainment or maintenance areas for an air pollutant for which air quality criteria have been issued pursuant to 42 U.S.C. § 7408, for programs related to the improvement of the quality of the air.

(e) The Tahoe Regional Planning Agency to carry out the provisions of NRS 277.200 with respect to the preservation and improvement of air quality in the Lake Tahoe Basin.

3. The Department of Motor Vehicles may prescribe by regulation routine fees for inspection at the prevailing shop labor rate, including, without limitation, maximum charges for those fees, and for the posting of those fees in a conspicuous place at an authorized inspection station or authorized station.

4. The Department of Motor Vehicles shall make quarterly distributions of money in the Pollution Control Account to local governmental agencies in nonattainment or maintenance areas for an air pollutant for which air quality criteria have been issued pursuant to 42 U.S.C. § 7408. The distributions of money made to agencies in a county pursuant to this subsection must be made from an amount of money in the Pollution Control Account that is equal to one-sixth of the amount received for each form issued in the county pursuant to subsection 1.

5. Each local governmental agency that receives money pursuant to subsection 4 shall, not later than 45 days after the end of the fiscal year in which the money is received, submit to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee a report on the use of the money received.

6. The Department of Motor Vehicles shall by regulation establish a program to award grants of money in the Pollution Control Account to local governmental agencies in nonattainment or maintenance areas for an air pollutant for which air quality criteria have been issued pursuant to 42 U.S.C. § 7408, for programs related to the improvement of the quality of the air. The grants to agencies in a county pursuant to this subsection must be made from any excess money in the Pollution Control Account. As used in this subsection, "excess money" means the money in excess of \$1,000,000 remaining in the Pollution Control Account at the end of the fiscal year, after deduction of the amounts distributed pursuant to subsection 4 and any disbursements made from the Account pursuant to subsection 2.

7. Any regulations adopted pursuant to subsection 6 must provide for the creation of an advisory committee consisting of representatives of state and local agencies involved in the control of emissions from motor vehicles. The committee shall:

(a) Review applications for grants and make recommendations for their approval, rejection or modification;

(b) Establish goals and objectives for the program for control of emissions from motor vehicles;

(c) Identify areas where funding should be made available; and

(d) Review and make recommendations concerning regulations adopted pursuant to subsection 6 or NRS 445B.770.

8. Grants proposed pursuant to subsections 6 and 7 must be submitted to the appropriate deputy director of the Department of Motor Vehicles and the Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources. Proposed grants approved by the appropriate deputy director and the Administrator must not be awarded until approved by the Interim Finance Committee.

~~[Sec. 2.]~~ **Sec. 3.** This act becomes effective on July 1, 2011.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

Amendment No. 423 to Senate Bill No. 158 makes two changes to the bill. The first change relates to the initial emission inspection and subsequent emission inspections. As written the bill provides that inspections be conducted at time certain intervals or when the odometer registers 100,000 miles, whichever occurs first. The amendment removes language referencing the odometer reading. The second change in this amendment doubles the amount of the fees that must be paid for the forms certifying emission control compliance to the Department of Motor Vehicles for the Pollution Control Account.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that upon return from reprint, Senate Bills Nos. 129, 158 be re-referred to the Committee on Finance.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 223.

Bill read second time.

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

Amendment No. 279.

"SUMMARY—Revises provisions relating to cruelty to animals. (BDR 50-760)"

"AN ACT relating to animals; **authorizing a person to report an act of cruelty against an animal; requiring such a report to be kept confidential under certain circumstances;** making certain willful and malicious acts of cruelty to ~~an animal~~ **certain animals** punishable as a felony; clarifying that a retailer, dealer or operator who separates a dog or cat from its mother is guilty of a misdemeanor under certain circumstances; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits a person from committing an act of cruelty against an animal. (NRS 574.100) "Cruelty" is defined to include any act, omission or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted. (NRS 574.050) For a first or second offense within 7 years, existing law provides that a person who commits an act of cruelty against an animal is guilty of a misdemeanor. For a third or subsequent offense within 7 years, existing law provides that such a person is guilty of a category C felony. (NRS 574.100) Existing law also prohibits a person from committing certain acts against a dog that is owned by another person and that is used in an exhibition, show, contest or other event in which the skill, breeding or stamina of the dog is judged or examined. Specifically, a person who willfully, unjustifiably and maliciously tampers or interferes with such a dog is guilty of a category D felony. A person who willfully and unjustifiably abuses or injures such a dog is guilty of a category D felony and may be further punished by a fine of not more than \$10,000. A person who willfully and unjustifiably kills such a dog is guilty of a category C felony. (NRS 574.107) **Section 1 of this bill : (1) authorizes a person to report an act of cruelty against an animal to any peace officer, officer of a society for the prevention of cruelty to animals or animal control officer; (2) provides that the report is confidential; and (3) prohibits releasing any information concerning the report except pursuant to a criminal prosecution. Section 4 of this bill** provides that a person who willfully and maliciously commits certain acts of cruelty against an animal **kept for companionship or pleasure or against any cat or dog** is guilty of a category D felony, ~~if the act does not result in the death of the animal, and~~ **except that the person** is guilty of a category C felony, ~~if the animal dies because of the act of cruelty.~~ **is committed against the animal in order to threaten, intimidate or terrorize another person.**

Existing law prohibits a retailer, dealer or operator from separating a dog or cat from its mother until it is 8 weeks of age or is accustomed to taking food or nourishment other than by nursing, whichever is later. (NRS 574.500) Although no penalty is specifically provided for violating that prohibition, existing law provides that whenever the performance of any act is prohibited by any statute, and no penalty for the violation of such statute is imposed, a person who commits that act is guilty of a misdemeanor. (NRS 193.170) **Section 12** ~~6~~ of this bill clarifies that a person who separates a dog or cat from its mother before it is 8 weeks old or is accustomed to taking food or nourishment other than by nursing is guilty of a misdemeanor.

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

Section 1. Chapter 574 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person who knows or has reasonable cause to believe that an animal has been subjected to an act of cruelty in violation of NRS 574.100 may report the act of cruelty to any:

- (a) Peace officer;
(b) Officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040; or
(c) Animal control officer.
2. Any report made pursuant to subsection 1 is confidential.
3. Any person, law enforcement agency, society for the prevention of cruelty to animals or animal control agency that willfully releases data or information concerning the reports, except pursuant to a criminal prosecution, is guilty of a misdemeanor.

Sec. 2. NRS 574.050 is hereby amended to read as follows:

574.050 As used in NRS 574.050 to 574.200, inclusive ~~+~~ , and
section 1 of this act:

1. "Animal" does not include the human race, but includes every other living creature.
2. "First responder" means a person who has successfully completed the national standard course for first responders.
3. "Police animal" means an animal which is owned or used by a state or local governmental agency and which is used by a peace officer in performing his or her duties as a peace officer.
4. "Torture" or "cruelty" includes every act, omission or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.

Sec. 3. NRS 574.055 is hereby amended to read as follows:

574.055 1. Any peace officer or officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040 shall, upon discovering any animal which is being treated cruelly, take possession of it and provide it with shelter and care or, upon obtaining written permission from the owner of the animal, may destroy it in a humane manner.

2. If an officer takes possession of an animal, the officer shall give to the owner, if the owner can be found, a notice containing a written statement of the reasons for the taking, the location where the animal will be cared for and sheltered, and the fact that there is a limited lien on the animal for the cost of shelter and care. If the owner is not present at the taking and the officer cannot find the owner after a reasonable search, the officer shall post the notice on the property from which the officer takes the animal. If the identity and address of the owner are later determined, the notice must be mailed to the owner immediately after the determination is made.

3. An officer who takes possession of an animal pursuant to this section has a lien on the animal for the reasonable cost of care and shelter furnished to the animal and, if applicable, for its humane destruction. The lien does not extend to the cost of care and shelter for more than 2 weeks.

4. Upon proof that the owner has been notified in accordance with the provisions of subsection 2 or, if the owner has not been found or identified, that the required notice has been posted on the property where the animal

was found, a court of competent jurisdiction may, after providing an opportunity for a hearing, order the animal sold at auction, humanely destroyed or continued in the care of the officer for such disposition as the officer sees fit.

5. An officer who seizes an animal pursuant to this section is not liable for any action arising out of the taking or humane destruction of the animal.

6. The provisions of this section do not apply to any animal which is located on land being employed for an agricultural use as defined in NRS 361A.030 unless the owner of the animal or the person charged with the care of the animal is in violation of paragraph ~~[(b)]~~ (c) of subsection 1 of NRS 574.100 and the impoundment is accomplished with the concurrence and supervision of the sheriff or the sheriff's designee, a licensed veterinarian and the district brand inspector or the district brand inspector's designee. In such a case, the sheriff shall direct that the impoundment occur not later than 48 hours after the veterinarian determines that a violation of paragraph ~~[(b)]~~ (c) of subsection 1 of NRS 574.100 exists.

7. The owner of an animal impounded in accordance with the provisions of subsection 6 must, before the animal is released to the owner's custody, pay the charges approved by the sheriff as reasonably related to the impoundment, including the charges for the animal's food and water. If the owner is unable or refuses to pay the charges, the State Department of Agriculture shall sell the animal. The Department shall pay to the owner the proceeds of the sale remaining after deducting the charges reasonably related to the impoundment.

~~Section 1.~~ **Sec. 4.** NRS 574.100 is hereby amended to read as follows:

574.100 1. A person shall not:

(a) ~~Overdrive,~~ **Torture or unjustifiably maim, mutilate or kill:**

(1) An animal kept for companionship or pleasure, whether belonging to the person or to another; or

(2) Any cat or dog;

(b) Except as otherwise provided in paragraph (a), overdrive, overload, torture, cruelly beat or unjustifiably injure, maim, mutilate or kill an animal, whether belonging to the person or to another;

~~[(b)]~~ (c) Deprive an animal of necessary sustenance, food or drink, or neglect or refuse to furnish it such sustenance or drink;

~~[(e)]~~ (d) Cause, procure or allow an animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed or to be deprived of necessary food or drink;

~~[(d)]~~ (e) Instigate, engage in, or in any way further an act of cruelty to any animal, or any act tending to produce such cruelty; or

~~[(e)]~~ (f) Abandon an animal in circumstances other than those prohibited in NRS 574.110.

2. Except as otherwise provided in subsections 3 and 4 and NRS 574.210 to 574.510, inclusive, a person shall not restrain a dog:

- (a) Using a tether, chain, tie, trolley or pulley system or other device that:
 - (1) Is less than 12 feet in length;
 - (2) Fails to allow the dog to move at least 12 feet or, if the device is a pulley system, fails to allow the dog to move a total of 12 feet; or
 - (3) Allows the dog to reach a fence or other object that may cause the dog to become injured or die by strangulation after jumping the fence or object or otherwise becoming entangled in the fence or object;
- (b) Using a prong, pinch or choke collar or similar restraint; or
- (c) For more than 14 hours during a 24-hour period.

3. Any pen or other outdoor enclosure that is used to maintain a dog must be appropriate for the size and breed of the dog. If any property that is used by a person to maintain a dog is of insufficient size to ensure compliance by the person with the provisions of paragraph (a) of subsection 2, the person may maintain the dog unrestrained in a pen or other outdoor enclosure that complies with the provisions of this subsection.

4. The provisions of subsections 2 and 3 do not apply to a dog that is:

- (a) Tethered, chained, tied, restrained or placed in a pen or enclosure by a veterinarian, as defined in NRS 574.330, during the course of the veterinarian's practice;
- (b) Being used lawfully to hunt a species of wildlife in this State during the hunting season for that species;
- (c) Receiving training to hunt a species of wildlife in this State;
- (d) In attendance at and participating in an exhibition, show, contest or other event in which the skill, breeding or stamina of the dog is judged or examined;
- (e) Being kept in a shelter or boarding facility or temporarily in a camping area;
- (f) Temporarily being cared for as part of a rescue operation or in any other manner in conjunction with a bona fide nonprofit organization formed for animal welfare purposes;
- (g) Living on land that is directly related to an active agricultural operation, if the restraint is reasonably necessary to ensure the safety of the dog. As used in this paragraph, "agricultural operation" means any activity that is necessary for the commercial growing and harvesting of crops or the raising of livestock or poultry; or
- (h) With a person having custody or control of the dog, if the person is engaged in a temporary task or activity with the dog for not more than 1 hour.

5. ***A person who willfully and maliciously violates paragraph (a) of subsection 1:***

(a) ~~If the act does not result in the death of an animal, is~~ Except as otherwise provided in paragraph (b), is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(b) If the act ~~[results in the death of an animal,]~~ is committed in order to threaten, intimidate or terrorize another person, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. Except as otherwise provided in subsection 5, a person who violates subsection 1, 2 or 3:

(a) For the first offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service.

↪ The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur either at a time when the person is not required to be at the person's place of employment or on a weekend.

(b) For the second offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service.

↪ The person shall be further punished by a fine of not less than \$500, but not more than \$1,000.

(c) For the third and any subsequent offense within the immediately preceding 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

~~{6-}~~ **7.** In addition to any other fine or penalty provided in subsection 5 ~~{-}~~ **or 6,** a court shall order a person convicted of violating subsection 1, 2 or 3 to pay restitution for all costs associated with the care and impoundment of any mistreated animal under subsection 1, 2 or 3, including, without limitation, money expended for veterinary treatment, feed and housing.

~~{7-}~~ **8.** The court may order the person convicted of violating subsection 1, 2 or 3 to surrender ownership or possession of the mistreated animal.

~~{8-}~~ **9.** The provisions of this section do not apply with respect to an injury to or the death of an animal that occurs accidentally in the normal course of:

(a) Carrying out the activities of a rodeo or livestock show; or

(b) Operating a ranch.

Sec. 5. NRS 574.200 is hereby amended to read as follows:

574.200 The provisions of NRS 574.050 to 574.510, inclusive, **and section 1 of this act** do not:

1. Interfere with any of the fish and game laws contained in title 45 of NRS or any laws for the destruction of certain birds.

2. Interfere with the right to destroy any venomous reptiles or animals, or any animal known as dangerous to life, limb or property.

3. Interfere with the right to kill all animals and fowl used for food.

4. Prohibit or interfere with any properly conducted scientific experiments or investigations which are performed under the authority of the faculty of some regularly incorporated medical college or university of this State.

5. Interfere with any scientific or physiological experiments conducted or prosecuted for the advancement of science or medicine.

6. Prohibit or interfere with established methods of animal husbandry, including the raising, handling, feeding, housing and transporting of livestock or farm animals.

~~{Sec. 2.}~~ **Sec. 6.** NRS 574.500 is hereby amended to read as follows:

574.500 **1.** A retailer, dealer or operator shall not separate a dog or cat from its mother until it is 8 weeks of age or accustomed to taking food or nourishment other than by nursing, whichever is later.

2. A person who violates the provisions of this section is guilty of a misdemeanor.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

Amendment No. 279 to Senate Bill No. 223 provides that the intentional torturing or unjustifiable maiming, mutilating, or killing of a companion animal or any cat or dog is punishable as a category D felony. If the act is done to threaten, intimidate, or terrorize another person, the punishment is a category C felony. The amendment also provides that if a person makes a report to animal control or law enforcement regarding abuse of an animal, the person's identity must remain confidential except to appropriate law enforcement or government agencies for prosecution. Any violation of this provision would be a misdemeanor.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 226.

Bill read second time.

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

Amendment No. 424.

"SUMMARY—~~{Makes it unlawful for a person to trap a}~~ **Requires the Board of Wildlife Commissioners to adopt certain regulations governing the trapping of fur-bearing {mammal within a} mammals in certain {distance of an occupied dwelling under certain circumstances.} counties.** (BDR 45-975)"

"AN ACT relating to trapping; ~~{making it unlawful for a person to trap a}~~ **requiring the Board of Wildlife Commissioners to adopt regulations**

governing the trapping of fur-bearing mammals in certain distance of an occupied dwelling under certain circumstances; providing a penalty; counties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, ~~any person who takes a fur-bearing mammal by trapping is required to obtain a trapping license. (NRS 503.454) A person who obtains a trapping license may trap only during the open season for trapping designated by the Board of Wildlife Commissioners. (NRS 503.440) The terms "to trap," "trapping" and "trapped" mean to set or operate any device or mechanism that is designed, built or made to close upon or hold fast any wildlife. Those terms include every act of assistance provided to a person in setting or operating the device or mechanism. (NRS 501.090) A person who violates a provision relating to trapping is guilty of a misdemeanor, punishable by a criminal fine of not less than \$50 or more than \$500 or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment. (NRS 501.385))~~ **the Board of Wildlife Commissioners is required to adopt certain regulations establishing seasons for trapping fur-bearing mammals and the manner and means of taking wildlife. Those regulations must be established after first considering the recommendations of the Department, the county advisory boards to manage wildlife and others who wish to present their views at an open meeting. (NRS 501.181)**

Section 2 of this bill makes it unlawful for a person specifically requires the Board of Wildlife Commissioners to adopt regulations governing the trapping of fur-bearing mammals in a residential area of a county whose population is 100,000 or more (currently Clark and Washoe Counties). ~~to trap a fur-bearing mammal using a trap, other than a box or cage trap, within 1,000 yards of an occupied dwelling, if the dwelling is located within an area of the county in which the discharge of firearms is prohibited by a county ordinance. Section 1 defines the term "box or cage trap" to mean any trap that is not designed, built or made to close upon any portion of the body of a fur-bearing mammal.~~ Section 3 of this bill requires those regulations to be adopted on or before December 31, 2012.

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

Section 1. ~~{Chapter 503 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Except as otherwise provided in NRS 503.470, 503.580 and 503.595, in a county whose population is 100,000 or more, it is unlawful for a person to trap a fur-bearing mammal using a trap, other than a box or cage trap, within 1,000 yards of an occupied dwelling, if the dwelling is located within an area of the county in which the discharge of firearms is prohibited by a county ordinance.~~

~~2. As used in this section, "box or cage trap" means any trap that is not designed, built or made to close upon any portion of the body of a fur-bearing mammal.] (Deleted by amendment.)~~

Sec. 2. NRS 501.181 is hereby amended to read as follows:

501.181 The Commission shall:

1. Establish broad policies for:
 - (a) The protection, propagation, restoration, transplanting, introduction and management of wildlife in this State.
 - (b) The promotion of the safety of persons using or property used in the operation of vessels on the waters of this State.
 - (c) The promotion of uniformity of laws relating to policy matters.
2. Guide the Department in its administration and enforcement of the provisions of this title and of chapter 488 of NRS by the establishment of such policies.
3. Establish policies for areas of interest including:
 - (a) The management of big and small game mammals, upland and migratory game birds, fur-bearing mammals, game fish, and protected and unprotected mammals, birds, fish, reptiles and amphibians.
 - (b) The control of wildlife depredations.
 - (c) The acquisition of lands, water rights and easements and other property for the management, propagation, protection and restoration of wildlife.
 - (d) The entry, access to, and occupancy and use of such property, including leases of grazing rights, sales of agricultural products and requests by the Director to the State Land Registrar for the sale of timber if the sale does not interfere with the use of the property on which the timber is located for wildlife management or for hunting or fishing thereon.
 - (e) The control of nonresident hunters.
 - (f) The introduction, transplanting or exporting of wildlife.
 - (g) Cooperation with federal, state and local agencies on wildlife and boating programs.
 - (h) The revocation of licenses issued pursuant to this title to any person who is convicted of a violation of any provision of this title or any regulation adopted pursuant thereto.
4. Establish regulations necessary to carry out the provisions of this title and of chapter 488 of NRS, including:
 - (a) Seasons for hunting game mammals and game birds, for hunting or trapping fur-bearing mammals and for fishing, the daily and possession limits, the manner and means of taking wildlife, including, but not limited to, the sex, size or other physical differentiation for each species, and, when necessary for management purposes, the emergency closing or extending of a season, reducing or increasing of the bag or possession limits on a species, or the closing of any area to hunting, fishing or trapping. The regulations must be established after first considering the recommendations of the Department, the county advisory boards to manage wildlife and others who wish to

present their views at an open meeting. Any regulations relating to the closure of a season must be based upon scientific data concerning the management of wildlife. The data upon which the regulations are based must be collected or developed by the Department.

(b) The manner of using, attaching, filling out, punching, inspecting, validating or reporting tags.

(c) The delineation of game management units embracing contiguous territory located in more than one county, irrespective of county boundary lines.

(d) The number of licenses issued for big game and, if necessary, other game species.

5. Adopt regulations requiring the Department to make public, before official delivery, its proposed responses to any requests by federal agencies for its comment on drafts of statements concerning the environmental effect of proposed actions or regulations affecting public lands.

6. Adopt regulations:

(a) Governing the provisions of the permit required by NRS 502.390 and for the issuance, renewal and revocation of such a permit.

(b) Establishing the method for determining the amount of an assessment, and the time and manner of payment, necessary for the collection of the assessment required by NRS 502.390.

7. Designate those portions of wildlife management areas for big game mammals that are of special concern for the regulation of the importation, possession and propagation of alternative livestock pursuant to NRS 576.129.

8. Adopt regulations governing the trapping of fur-bearing mammals in a residential area of a county whose population is 100,000 or more.

Sec. 3. The Board of Wildlife Commissioners shall, on or before December 31, 2012, adopt any regulations required by the amendatory provisions of this act.

Sec. 4. This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations required by the amendatory provisions of this act; and

2. On January 1, 2013, for all other purposes.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

Amendment No. 424 to Senate Bill No. 226 deletes the bill as a whole and replaces it with language requiring the Board of Wildlife Commissioners to adopt regulations governing the trapping of fur-bearing mammals in residential areas in counties whose population is 100,000 or more. The regulations must be adopted by December 31, 2012.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 231.

Bill read second time.

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

Amendment No. 112.

"SUMMARY—Makes various changes relating to concealed firearms. (BDR 20-742)"

"AN ACT relating to concealed firearms; authorizing a sheriff to provide certain information concerning the availability of certain courses relating to firearm safety; authorizing persons who hold permits to carry concealed firearms to carry concealed firearms on the property of the Nevada System of Higher Education ~~to~~ **under certain circumstances;** authorizing the Police Department for the System to provide certain information concerning the availability of certain courses relating to firearm safety; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill authorizes the sheriff of a county to provide to persons who hold permits to carry concealed firearms information concerning instructors and organizations that offer courses in firearm safety which focus on issues relating to firearm safety in an educational environment.

Existing law prohibits a person from carrying a concealed firearm on the property of the Nevada System of Higher Education, unless the person holds a permit to carry a concealed firearm and has written permission from the president of a branch or facility of the System to carry the concealed firearm. (NRS 202.265, 202.3673) **Sections 3, 4 and 6** of this bill authorize a person who holds a permit to carry a concealed firearm to carry a concealed firearm while on the property of the Nevada System of Higher Education ~~to~~ **unless the person is attending an event held at a sporting venue with a seating capacity of 1,000 or more.**

Section 5 of this bill authorizes the Police Department for the System to provide to persons who hold permits to carry concealed firearms information concerning instructors and organizations that offer courses in firearm safety which focus on issues relating to firearm safety in an educational environment.

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

Section 1. Chapter 248 of NRS is hereby amended by adding thereto a new section to read as follows:

The sheriff of each county may, within the limits of available money, provide to persons who are authorized to carry concealed firearms pursuant to the provisions of NRS 202.3653 to 202.369, inclusive, information concerning instructors and organizations that offer courses in firearm safety which focus on issues relating to firearm safety in an educational environment.

Sec. 2. NRS 62C.060 is hereby amended to read as follows:

62C.060 1. If a peace officer or probation officer has probable cause to believe that a child is committing or has committed an unlawful act that involves the possession, use or threatened use of a firearm, the officer shall take the child into custody.

2. If a child is taken into custody for an unlawful act described in this section, the child must not be released before a detention hearing is held pursuant to NRS 62C.040.

3. At the detention hearing, the juvenile court shall, if the child was taken into custody for:

(a) Carrying or possessing a firearm while on the property of the Nevada System of Higher Education, a private or public school or child care facility, or while in a vehicle of a private or public school or child care facility, order the child to:

(1) Be evaluated by a qualified professional; and

(2) Submit to a test to determine whether the child is using any controlled substance.

(b) Committing an unlawful act involving a firearm other than the act described in paragraph (a), determine whether to order the child to be evaluated by a qualified professional.

4. If the juvenile court orders the child to be evaluated by a qualified professional or to submit to a test to determine whether the child is using any controlled substance, the evaluation or the results from the test must be completed not later than 14 days after the detention hearing. Until the evaluation or the test is completed, the child must be:

(a) Detained at a facility for the detention of children; or

(b) Placed under a program of supervision in the home of the child that may include electronic surveillance of the child.

5. If a child is evaluated by a qualified professional pursuant to this section, the statements made by the child to the qualified professional during the evaluation and any evidence directly or indirectly derived from those statements may not be used for any purpose in a proceeding which is conducted to prove that the child committed a delinquent act or criminal offense. The provisions of this subsection do not prohibit the district attorney from proving that the child committed a delinquent act or criminal offense based upon evidence obtained from sources or by means that are independent of the statements made by the child to the qualified professional during the evaluation.

6. As used in this section, "child care facility" has the meaning ascribed to it in paragraph (a) of subsection ~~5~~ 6 of NRS 202.265.

Sec. 3. NRS 202.265 is hereby amended to read as follows:

202.265 1. Except as otherwise provided in this section, a person shall not carry or possess while on the property of the Nevada System of Higher Education, a private or public school or child care facility, or while in a vehicle of a private or public school or child care facility:

(a) An explosive or incendiary device;

(b) A dirk, dagger or switchblade knife;
 (c) A nunchaku or trefoil;
 (d) A blackjack or billy club or metal knuckles;
 (e) A pistol, revolver or other firearm; or
 (f) Any device used to mark any part of a person with paint or any other substance.

2. Any person who violates subsection 1 is guilty of a gross misdemeanor.

3. This section does not prohibit the possession of a weapon listed in subsection 1 on the property of:

(a) ~~{A}~~ ***The Nevada System of Higher Education, a private or public school or child care facility*** by a:

(1) Peace officer;
 (2) School security guard; or
 (3) Person having written permission from the president of a branch or facility of the Nevada System of Higher Education or the principal of the school or the person designated by a child care facility to give permission to carry or possess the weapon.

(b) A child care facility which is located at or in the home of a natural person by the person who owns or operates the facility so long as the person resides in the home and the person complies with any laws governing the possession of such a weapon.

4. ***This section does not prohibit the possession of a firearm on the property of the Nevada System of Higher Education by a person who is authorized to carry a concealed firearm pursuant to the provisions of NRS 202.3653 to 202.369, inclusive ~~f-7~~, except during any period in which the person attends an event specified in subsection 4 of NRS 202.3673.***

5. The provisions of this section apply to a child care facility located at or in the home of a natural person only during the normal hours of business of the facility.

~~{5-}~~ 6. For the purposes of this section:

(a) "Child care facility" means any child care facility that is licensed pursuant to chapter 432A of NRS or licensed by a city or county.

(b) "Firearm" includes any device from which a metallic projectile, including any ball bearing or pellet, may be expelled by means of spring, gas, air or other force.

(c) "Nunchaku" has the meaning ascribed to it in NRS 202.350.

(d) "Switchblade knife" has the meaning ascribed to it in NRS 202.350.

(e) "Trefoil" has the meaning ascribed to it in NRS 202.350.

(f) "Vehicle" has the meaning ascribed to "school bus" in NRS 484A.230.

Sec. 4. NRS 202.3673 is hereby amended to read as follows:

202.3673 1. ~~{A}~~ ***Except as otherwise provided in subsection 4, a permittee may carry a concealed firearm while the permittee is on the property of the Nevada System of Higher Education or on the premises of a public building that is located on the property of the Nevada System of***

Higher Education. Except as otherwise provided in subsections 2 and 3, a permittee may carry a concealed firearm while the permittee is on the premises of any public building.

2. A permittee shall not carry a concealed firearm while the permittee is on the premises of a public building that is located on the property of a public airport.

3. A permittee shall not carry a concealed firearm while the permittee is on the premises of:

(a) A public building that is located on the property of a public school or a child care facility , ~~for the property of the Nevada System of Higher Education,~~ unless the permittee has obtained written permission *from the principal of the school or the person designated by a child care facility* to carry a concealed firearm while he or she is on the premises of the public building pursuant to subparagraph (3) of paragraph (a) of subsection 3 of NRS 202.265.

(b) A public building that has a metal detector at each public entrance or a sign posted at each public entrance indicating that no firearms are allowed in the building, unless ~~the~~ :

(1) The public building is located on the property of the Nevada System of Higher Education; or

(2) The permittee is not prohibited from carrying a concealed firearm while he or she is on the premises of the public building pursuant to subsection ~~4~~ 5.

4. A permittee shall not carry a concealed firearm while the permittee is attending any event held on the premises of a stadium, arena, field house or other athletic facility with a seating capacity of 1,000 or more that is located on the property of the Nevada System of Higher Education.

5. The provisions of paragraph (b) of subsection 3 do not prohibit:

(a) A permittee who is a judge from carrying a concealed firearm in the courthouse or courtroom in which the judge presides or from authorizing a permittee to carry a concealed firearm while in the courtroom of the judge and while traveling to and from the courtroom of the judge.

(b) A permittee who is a prosecuting attorney of an agency or political subdivision of the United States or of this State from carrying a concealed firearm while he or she is on the premises of a public building.

(c) A permittee who is employed in the public building from carrying a concealed firearm while he or she is on the premises of the public building.

(d) A permittee from carrying a concealed firearm while he or she is on the premises of the public building if the permittee has received written permission from the person in control of the public building to carry a concealed firearm while the permittee is on the premises of the public building.

~~5~~ **6.** A person who violates subsection 2 or 3 is guilty of a misdemeanor.

~~6~~ **7.** As used in this section:

(a) "Child care facility" has the meaning ascribed to it in paragraph (a) of subsection ~~5~~ **6** of NRS 202.265.

(b) "Public building" means any building or office space occupied by:

(1) Any component of the Nevada System of Higher Education and used for any purpose related to the System; or

(2) The Federal Government, the State of Nevada or any county, city, school district or other political subdivision of the State of Nevada and used for any public purpose.

➤ If only part of the building is occupied by an entity described in this subsection, the term means only that portion of the building which is so occupied.

Sec. 5. Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:

The Police Department for the System may, within the limits of available money, provide to persons who are authorized to carry concealed firearms pursuant to the provisions of NRS 202.3653 to 202.369, inclusive, information concerning instructors and organizations that offer courses in firearm safety which focus on issues relating to firearm safety in an educational environment.

Sec. 6. NRS 396.110 is hereby amended to read as follows:

396.110 1. The Board of Regents may prescribe rules for:

(a) Its own government; and

(b) The government of the System.

2. The Board of Regents shall prescribe rules for the granting of permission to carry or possess a weapon pursuant to NRS 202.265. *The rules prescribed by the Board of Regents pursuant to this subsection:*

(a) Must allow a person to carry a concealed firearm if the person is authorized to carry a concealed firearm pursuant to the provisions of NRS 202.3653 to 202.369, inclusive, ~~if and~~

(b) Must not require a person who is authorized to carry a concealed firearm pursuant to the provisions of NRS 202.3653 to 202.369, inclusive, to obtain permission to carry a concealed firearm.

(c) Except as otherwise provided in paragraphs (a) and (b), must provide for the storage of firearms in dormitories, apartments and other facilities for housing that are located on the property of the System.

(d) Must include provisions concerning the carrying of a concealed firearm in a parking area that is located on the property of the System during any period in which the parking area is used or available for use by persons attending an event described in subsection 4 of NRS 202.3673, or on any other property of the System which is set aside for, or otherwise used or available for use by, persons to park or gather before attending an event described in subsection 4 of NRS 202.3673.

↵ ***Any rules prescribed by the Board of Regents before, on or after July 1, 2011, that are inconsistent with the provisions of ~~paragraphs (a) for (b)~~ to (d), inclusive, are void.***

Sec. 7. This act becomes effective on July 1, 2011.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 112 to Senate Bill No. 231 prohibits a concealed weapons permit holder from carrying a concealed weapon while attending any event held at a sporting venue with a seating a capacity of 1,000 or more that is located on the property of the Nevada System of Higher Education.

It requires the Board of Regents to establish policies and procedures regarding how to implement this restriction in relation to parking and tailgating for such events that occur on the property of the Nevada System of Higher Education.

It requires the Board of Regents to prescribe rules concerning the storage of firearms in dormitories or residence halls located on the property of the Nevada System of Higher Education.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Lee moved that upon from reprint, Senate Bill No. 231 be re-referred to the Committee on Finance.

Remarks by Senator Lee.

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

This bill just received a fiscal note and I would like the Senate Finance Committee to verify the validity of this last minute unsolicited fiscal note.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 236.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 477.

"SUMMARY—~~Requires the Director of the Department of Transportation to adopt regulations governing~~ **Provides for the increased use of recycled aggregate for road and materials in certain road and highway projects. (BDR 35-766)**"

"AN ACT relating to highways; **declaring that it is the policy of this State to encourage and promote the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in the construction, reconstruction, improvement, maintenance and repair of public highways in this State;** requiring the Director of the Department of Transportation to adopt ~~regulations governing~~ **policies to optimize** the use of ~~recycled aggregate in the construction, reconstruction, improvement, maintenance and repair of the roads and highways in this State;~~ **such**

materials in highway projects; requiring a local government that undertakes certain road or highway projects to adopt policies that optimize the use of such materials in the projects; requiring certain reporting to the Legislature concerning such projects; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Existing law authorizes the boards of county highway commissioners and the Director of the Department of Transportation to construct, repair and maintain the roads and highways in this State. (NRS 403.090, 408.195)]~~
Section 1.5 of this bill declares it to be the policy of this State to encourage and promote the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in the construction, reconstruction, improvement, maintenance and repair of public highways in this State. Section 2 of this bill requires the Director of the Department of Transportation to adopt regulations which prescribe the specifications for the use of aggregate for highway projects and which require policies that optimize the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in projects for the construction, reconstruction, improvement, maintenance or repair of highways. ~~[The regulations must provide for exemptions from the requirement for the use of recycled aggregate if the Director determines that the use of recycled aggregate is unreasonable, impractical or impossible. Sections 1 and 2 of this bill require any person who uses aggregate for a road or highway project to comply with the regulations adopted by the Director.]~~
and to submit certain reports to the Legislature concerning the Department's use of such materials in those projects. Section 2.5 of this bill imposes comparable requirements on local governments that undertake public works projects for the construction, reconstruction, improvement, maintenance or repair of a public road or public highway.

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

Section 1. [Chapter 403 of NRS is hereby amended by adding thereto a new section to read as follows:

~~—A person who uses aggregate for the construction, reconstruction, improvement, repair or maintenance of a public highway or road pursuant to this chapter shall comply with the regulations adopted by the Director of the Department of Transportation pursuant to section 2 of this act.] (Deleted by amendment.)~~

Sec. 1.5. The Legislature hereby declares that it is the policy of this State to encourage and promote the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in the construction, reconstruction, improvement, maintenance and repair of public roads and highways in this State.

Sec. 2. Chapter 408 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[1.] The Director shall [adopt regulations which prescribe the specifications for] :~~

1. Adopt policies to optimize the use of recycled aggregate ~~used for~~ , recycled bituminous pavement and recycled rubber from tires in projects for the construction, reconstruction, improvement, maintenance ~~for~~ and repair of ~~[a highway]~~ highways undertaken by the Department pursuant to this chapter ; and ~~[which must include, without limitation, provisions that:~~

~~— (a) Define aggregate and recycled aggregate for the purposes of this section;~~

~~— (b) Except as otherwise provided by paragraph (c), require the use of recycled aggregate;~~

~~— (c) Provide for an exemption from the regulations adopted pursuant to this section if the Director determines that requiring the use of recycled aggregate for a particular project for the construction, reconstruction, improvement, maintenance or repair of a highway is unreasonable, impracticable or impossible; and~~

~~— (d) Establish administrative penalties for any violation of the regulations adopted pursuant to this section.~~

~~— 2. A person who uses aggregate for the construction, reconstruction, improvement, maintenance or repair of a highway pursuant to this chapter shall comply with the regulations adopted by the Director pursuant to this section.]~~

2. Not later than January 31 of each odd-numbered year, submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in each project for the construction, reconstruction, improvement, maintenance or repair of a highway undertaken by the Department pursuant to this chapter during the immediately preceding 2 calendar years.

Sec. 2.5. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

The governing body of a local government that undertakes a project pursuant to this chapter for the construction, reconstruction, improvement, maintenance or repair of a public road or public highway shall:

1. Adopt policies to optimize the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in the project; and

2. Not later than January 31 of each odd-numbered year, submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in each such project undertaken by the local government during the immediately preceding 2 calendar years.

Sec. 3. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

- (a) NRS 338.1377 to 338.139, inclusive;
- (b) NRS 338.143 to 338.148, inclusive;
- (c) NRS 338.169 to 338.1699, inclusive; or
- (d) NRS 338.1711 to 338.1727, inclusive.

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142, 338.169 to 338.1699, inclusive, and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive ~~to~~, *and section 2 of this act.*

Sec. 4. This act becomes effective on July 1, 2011.

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. 477 to Senate Bill No. 236 declares it to be a policy of this State to encourage and promote the use of recycled aggregate, pavement, and rubber in road construction projects. The amendment requires certain State agencies and local governments to adopt policies that optimize the use of these recycled materials in highway projects and to submit a report to the Legislature and the Governor concerning their use on a biennial basis.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 307.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 465.

"SUMMARY—Revises provisions relating to the exercise of the power of sale under a deed of trust concerning owner-occupied property. (BDR 9-958)"

"AN ACT relating to real property; revising provisions governing the exercise of the power of sale under a deed of trust concerning owner-occupied property; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the trustee under a deed of trust concerning owner-occupied housing has the power to sell the property to which the deed of trust applies, subject to certain restrictions. (NRS 107.080, 107.085, 107.086) Existing law prohibits the exercise of the trustee's power of sale concerning owner-occupied property unless the trustee records in the office of the county recorder a certificate issued by the entity designated as the Mediation Administrator for the foreclosure mediation program which indicates that foreclosure mediation is not required or has been completed. (NRS 107.086)

This bill establishes additional restrictions on the trustee's power of sale with respect to owner-occupied housing which are based on Maryland law and which require an analysis of the eligibility of the grantor or person who holds the title of record for a loan modification or other loss mitigation alternative. ~~Under this bill, the trustee must include with~~ **Section 1 of this bill provides that, not later than 30 days before** the notice of default and election to sell ~~mailed to the grantor or the person who holds title of record~~ **is recorded in the office of the county recorder of the county in which the property is located, the beneficiary of the deed of trust must mail to the grantor or the person who holds title of record** an application for a loan modification program or other loss mitigation alternative. If the application is returned to the ~~trustee~~ **beneficiary within 30 days after the date on which it is received by the grantor or person who holds title of record:** (1) the ~~trustee~~ **beneficiary** must forward it to the person responsible for analyzing the eligibility of the grantor or the person who holds title of record for a loan modification or other loss mitigation alternative ~~and~~ ; (2) that **person** must complete an analysis of the application; and ~~(2) the Mediation Administrator may not issue to~~ (3) the trustee ~~the certificate which must be recorded before the~~ **may not** exercise ~~of~~ the power of sale unless the ~~trustee serves on the Mediation Administrator~~ **beneficiary has mailed to the grantor or the person who holds title of record** an affidavit certifying that an analysis of the application was completed. ~~This bill also provides the procedures to be followed if a~~ **If the grantor or person who holds title of record returns a loss mitigation application within the required time period and requests foreclosure mediation in accordance with existing law: (1) under section 1, the analysis of the application must be completed before the mediation is conducted; and (2) under section 1.7 of this bill, the beneficiary of the deed of trust must bring to the mediation certain information related to the loss mitigation application. Section 1 further provides that if the grantor or the person who holds title of record does not return the** loss mitigation application ~~is not returned~~ within 30 days after ~~service of the notice of default and election to sell and the procedures to be followed with respect to loss mitigation applications if mediation is required under existing law. Finally, this bill requires the Mediation Administrator to create standard forms for the required affidavits.~~ **receipt of the application: (1) the beneficiary shall mail an affidavit to the grantor or person who holds title of record attesting to that fact; and (2) the trustee may exercise the power of sale in accordance with existing law.**

Existing law provides that if certain provisions of existing law governing the exercise of the trustee's power of sale are not followed, a court of competent jurisdiction may void the sale. (NRS 107.080) Section 1.3 of this bill authorizes a court of competent jurisdiction to void a sale made pursuant to the exercise of the trustee's power of sale if

the beneficiary of the deed of trust does not comply with the provisions of this bill.

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

Section 1. Chapter 107 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to the requirements of NRS 107.085 and 107.086, the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement which concerns owner-occupied housing is subject to the provisions of this section.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless:

(a) Not later than 30 days before the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located pursuant to subsection 3 of NRS 107.080, the beneficiary of the deed of trust mails by registered or certified mail, return receipt requested and with postage prepaid, to the grantor or to the person who holds the title of record:

(1) A loss mitigation application for loss mitigation programs that are applicable to the obligation secured by the deed of trust;

(2) Instructions for completing the loss mitigation application;

(3) A description of the eligibility requirements for the loss mitigation programs offered by the beneficiary that may be applicable to the obligation secured by the deed of trust;

(4) A telephone number which the grantor or the person who holds title of record may call to confirm receipt of the completed loss mitigation application; and

(5) An envelope preprinted with the address of the beneficiary.

(b) The beneficiary mails by registered or certified mail, return receipt requested and with postage prepaid, to the grantor or the person who holds title of record, the affidavit described in subsection 3 or a final loss mitigation affidavit.

3. If the grantor or the person who holds the title of record fails to return the loss mitigation application to the beneficiary of the deed of trust within 30 days after receipt of the application, the beneficiary shall execute an affidavit attesting to that fact under penalty of perjury and mail a copy of the affidavit to the grantor or the person who holds the title of record by registered or certified mail, return receipt requested and with postage prepaid.

4. If the grantor or the person who holds the title of record returns the loss mitigation application to the beneficiary of the deed of trust within 30 days after receipt of the application, the beneficiary shall forward the loss mitigation application to the person responsible for conducting loss mitigation analysis on behalf of the beneficiary. Upon receipt of a loss mitigation application pursuant to this subsection, the person responsible

for conducting loss mitigation analysis shall perform and complete a loss mitigation analysis. If the grantor or the person who holds the title of record has returned the loss mitigation application to the beneficiary within the time specified in this subsection and has elected to enter into mediation pursuant to NRS 107.086, the loss mitigation analysis must be completed before the mediation is conducted.

5. Upon completion of the loss mitigation analysis pursuant to subsection 4, the beneficiary shall:

(a) Execute a final loss mitigation affidavit; and

(b) Mail the final loss mitigation affidavit by registered or certified mail, return receipt requested and with postage prepaid, to the grantor or the person who holds the title of record.

6. A beneficiary of a deed of trust, or a person conducting loss mitigation analysis on behalf of the beneficiary, which has received a loan mitigation application within the time specified in subsection 4 shall not deny a loan modification or any other loss mitigation program because of an inability to establish communication with the grantor or the person who holds the title of record or obtain all documentation and information necessary to conduct the loss mitigation analysis unless, for at least 30 days after receipt of the loss mitigation application, the beneficiary or the person acting on its behalf has made good faith attempts to:

(a) Establish communication with the grantor or the person who holds the title of record; and

(b) Obtain all documentation and information necessary to conduct the loss mitigation analysis.

7. As used in this section:

(a) "Final loss mitigation affidavit" means an affidavit that:

(1) Is made by the beneficiary of a deed of trust or a person authorized to act on behalf of the beneficiary;

(2) Certifies the completion of the final determination of loss mitigation analysis in connection with a deed of trust; and

(3) Certifies the denial of a loan modification or other loss mitigation.

(b) "Loss mitigation analysis" means an evaluation of the facts and circumstances of an obligation secured by a deed of trust concerning owner-occupied housing to determine:

(1) Whether the grantor or the person who holds the title of record qualifies for a loan modification; and

(2) If there will not be a loan modification, whether any other loss mitigation program may be made available to the grantor or the person who holds the title of record.

(c) "Loss mitigation program" means an option in connection with an obligation secured by a deed of trust concerning owner-occupied housing that:

(1) Avoids the exercise of the trustee's power of sale through loan modification or other changes to the existing terms of the obligation that

are intended to allow the grantor or the person who holds the title of record to stay in the property;

(2) Avoids the exercise of the trustee's power of sale through a short sale, deed in lieu of trustee's sale or other alternative that is intended to simplify the relinquishment of ownership of the property by the grantor or the person who holds the title of record; or

(3) Lessens the harmful impact of the exercise of the trustee's power of sale on the grantor or the person who holds the title of record.

(d) "Owner-occupied housing" has the meaning ascribed to it in NRS 107.086.

Sec. 1.3. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085 and 107.086, **and section 1 of this act**, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) Except as otherwise provided in paragraph (b), in the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS 107.086, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment;

(c) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of the election to sell or cause to be sold the property to satisfy the obligation; and

(d) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2, or the period provided in paragraph (b) of subsection 2, commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor or, to the person who holds the title of record on the date the notice of default and election to sell is recorded, and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must:

(a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2; and

(b) If the property is a residential foreclosure, comply with the provisions of NRS 107.087.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor, any other person entitled to notice pursuant to this section and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health, by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold;

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated; and

(d) If the property is a residential foreclosure, complying with the provisions of NRS 107.087.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and any successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section or any applicable provision of NRS 107.086 and 107.087 ~~and~~ or the beneficiary of the deed of trust does not comply with any applicable provision of section 1 of this act;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

8. After a sale of property is conducted pursuant to this section, the trustee shall:

(a) Within 30 days after the date of the sale, record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located; or

(b) Within 20 days after the date of the sale, deliver the trustee's deed upon sale to the successful bidder. Within 10 days after the date of delivery of the deed by the trustee, the successful bidder shall record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located.

9. If the successful bidder fails to record the trustee's deed upon sale pursuant to paragraph (b) of subsection 8, the successful bidder:

(a) Is liable in a civil action to any party that is a senior lienholder against the property that is the subject of the sale in a sum of up to \$500 and for reasonable attorney's fees and the costs of bringing the action; and

(b) Is liable in a civil action for any actual damages caused by the failure to comply with the provisions of subsection 8 and for reasonable attorney's fees and the costs of bringing the action.

10. The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect:

(a) A fee of \$150 for deposit in the State General Fund.

(b) A fee of \$50 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The Account must be administered by the Court Administrator, and the money in the Account may

be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.

➤ The fees collected pursuant to this subsection 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, except as otherwise provided in this subsection, must be placed to the credit of the State General Fund or the Account as prescribed pursuant to this subsection. The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder pursuant to this subsection to the State Controller for credit to the State General Fund or the Account as prescribed in this subsection.

11. The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection 10.

12. As used in this section, "residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this subsection, "single family residence":

(a) Means a structure that is comprised of not more than four units.

(b) Does not include any time share or other property regulated under chapter 119A of NRS.

~~[Section 1.]~~ **Sec. 1.7.** NRS 107.086 is hereby amended to read as follows:

107.086 1. In addition to the requirements of NRS 107.085, **and section 1 of this act,** the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement which concerns owner-occupied housing is subject to the provisions of this section.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless the trustee:

(a) Includes with the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080:

(1) Contact information which the grantor or the person who holds the title of record may use to reach a person with authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust;

(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development; **and**

(3) A form upon which the grantor or the person who holds the title of record may indicate an election to enter into mediation or to waive mediation and one envelope addressed to the trustee and one envelope addressed to the Mediation Administrator, which the grantor or the person who holds the title of record may use to comply with the provisions of subsection 3;

~~† (4) A loss mitigation application for loss mitigation programs that are applicable to the obligation secured by the deed of trust;~~

~~— (5) Instructions for completing the loss mitigation application;~~

~~— (6) A description of the eligibility requirements for the loss mitigation programs offered by the trustee or beneficiary of the deed of trust that may be applicable to the obligation secured by the deed of trust;~~

~~— (7) A telephone number which the grantor or the person who holds title of record may call to confirm receipt of the completed loss mitigation application; and~~

~~— (8) An envelope preprinted with the address of the trustee;]~~

(b) Serves a copy of the notice upon the Mediation Administrator; and

(c) Causes to be recorded in the office of the recorder of the county in which the trust property, or some part thereof, is situated:

(1) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 3 or 6 ~~†9†~~ which provides that no mediation is required in the matter; or

(2) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 7 ~~†10†~~ which provides that mediation has been completed in the matter.

3. The grantor or the person who holds the title of record shall, not later than 30 days after service of the notice in the manner required by NRS 107.080, complete the form required by subparagraph (3) of paragraph (a) of subsection 2 and return the form to the trustee by certified mail, return receipt requested. If the grantor or the person who holds the title of record indicates on the form an election to enter into mediation, the trustee shall notify the beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the election of the grantor or the person who holds the title of record to enter into mediation and file the form with the Mediation Administrator, who shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. No further action may be taken to exercise the power of sale until the completion of the mediation. If the grantor or the person who holds the title of record indicates on the form an election to waive mediation or fails to return the form to the trustee as required by this subsection, ~~and fails to return the loss mitigation application required to be mailed to the grantor or the person who holds title of record pursuant to subparagraph (4) of paragraph (a) of subsection 2,~~ the trustee shall execute an affidavit attesting to that fact ~~those facts~~ under penalty of perjury and serve a copy of the affidavit, together with the waiver of mediation by the grantor or the person who holds the title of record, or proof of service on the grantor or the person who holds the title of record of the notice required by subsection 2 of this section and subsection 3 of NRS 107.080, upon the Mediation Administrator. Upon receipt of the affidavit and the waiver or proof of service, the Mediation Administrator

shall provide to the trustee a certificate which provides that no mediation is required in the matter.

~~4. If the grantor or the person who holds the title of record returns the loss mitigation application to the trustee within 30 days after service of the notice in the manner required by NRS 107.080, whether or not the grantor or person who holds the title of record has elected to waive mediation pursuant to subsection 3 or failed to return the form required by subparagraph (3) of paragraph (a) of subsection 2, the trustee shall:~~

~~— (a) Notify the Mediation Administrator, the beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the receipt of the application;~~

~~— (b) Forward the loss mitigation application to the person responsible for conducting loss mitigation analysis on behalf of the trustee or beneficiary of the deed of trust. Upon receipt of a loss mitigation application pursuant to this subsection, the person responsible for conducting loss mitigation analysis shall perform and complete a loss mitigation analysis;~~

~~5. Upon completion of the loss mitigation analysis pursuant to paragraph (b) of subsection 4, the trustee shall:~~

~~— (a) Execute a final loss mitigation affidavit in the form created by the Mediation Administrator;~~

~~— (b) Mail the final loss mitigation affidavit by registered or certified mail, return receipt requested, to the grantor or the person who holds the title of record; and~~

~~— (c) Serve a copy of the final loss mitigation affidavit upon the Mediation Administrator.~~

~~6. A trustee or a person conducting loss mitigation analysis on behalf of the trustee who has received a loan mitigation application pursuant to this section shall not deny a loan modification or any other loss mitigation program because of an inability to establish communication with the grantor or the person who holds the title of record or obtain all documentation and information necessary to conduct the loss mitigation analysis unless, for at least 30 days after receipt of the loss mitigation application, the trustee or the person acting on its behalf has made good faith attempts to:~~

~~— (a) Establish communication with the grantor or the person who holds the title of record; and~~

~~— (b) Obtain all documentation and information necessary to conduct the loss mitigation analysis.~~

~~7.]~~ Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection 8. ~~[[[~~ The beneficiary of the deed of trust or a representative shall attend the mediation. The grantor or a representative shall attend the mediation if the grantor elected to enter into mediation, or the person who holds the title of record or a representative shall attend the mediation if the person who holds the title of record elected to enter into mediation. The beneficiary of the deed of trust shall bring to the mediation

the original or a certified copy of the deed of trust, the mortgage note , ~~{and}~~ each assignment of the deed of trust or mortgage note ~~{ }~~ ***and, if the grantor or the person who holds the title of record has returned to the ~~{trustee the}~~ beneficiary a loss mitigation application pursuant to ~~{subsection 4}~~ section 1 of this act, a copy of the loss mitigation application , a final loss mitigation affidavit and the information obtained in connection with the loss mitigation analysis. ~~{In addition to these documents, if the grantor or the person who holds the title of record has returned to the trustee the loss mitigation application pursuant to subsection 4, the trustee shall bring to the mediation a preliminary loss mitigation affidavit or a final loss mitigation affidavit, whichever is applicable.}~~*** If the beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority.

5. ~~{8.}~~ If the beneficiary of the deed of trust or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not bring to the mediation each document required by subsection 4 ~~{7}~~ or does not have the authority or access to a person with the authority required by subsection 4, ~~{7.}~~ the mediator shall prepare and submit to the Mediation Administrator a petition and recommendation concerning the imposition of sanctions against the beneficiary of the deed of trust or the representative. The court may issue an order imposing such sanctions against the beneficiary of the deed of trust or the representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

6. If
~~{ 9. Except as otherwise provided in this subsection, if}~~ the grantor or the person who holds the title of record elected to enter into mediation and fails to attend the mediation, the Mediation Administrator shall provide to the trustee a certificate which states that no mediation is required in the matter. ~~{If the grantor or the person who holds the title of record returned a loss mitigation application to the trustee pursuant to subsection 4, the Mediation Administrator may not provide the certificate to the trustee until the trustee serves on the Mediation Administrator a final loss mitigation affidavit.}~~

7. If
~~{ 10. Except as otherwise provided in this subsection, if}~~ the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the Mediation Administrator a recommendation that the matter be terminated. The Mediation Administrator shall provide to the trustee a certificate which provides that the mediation required by this section has been completed in the matter. ~~{If the grantor or the person who holds the title of record returned a loss mitigation application to the trustee pursuant to subsection 4, the Mediation Administrator may not provide the certificate to the trustee}~~

~~until the trustee serves on the Mediation Administrator a final loss mitigation affidavit.~~

~~8. ~~111~~~~ The Supreme Court shall adopt rules necessary to carry out the provisions of this section. The rules must, without limitation, include provisions:

(a) Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the district court of the county in which the property is situated or any other judicial entity. ~~The Mediation Administrator shall create a standard form for a preliminary loss mitigation affidavit and a final loss mitigation affidavit. A preliminary loss mitigation affidavit and a final loss mitigation affidavit must be in the form created by the Mediation Administrator pursuant to this section.~~

(b) Ensuring that mediations occur in an orderly and timely manner.

(c) Requiring each party to a mediation to provide such information as the mediator determines necessary.

(d) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith.

(e) Establishing a total fee of not more than \$400 that may be charged and collected by the Mediation Administrator for mediation services pursuant to this section and providing that the responsibility for payment of the fee must be shared equally by the parties to the mediation.

~~9. ~~112~~~~ Except as otherwise provided in subsection ~~11. ~~114~~~~ the provisions of this section do not apply if:

(a) The grantor or the person who holds the title of record has surrendered the property, as evidenced by a letter confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or

(b) A petition in bankruptcy has been filed with respect to the grantor or the person who holds the title of record under chapter 7, 11, 12 or 13 of Title 11 of the United States Code and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

~~10. ~~113~~~~ A noncommercial lender is not excluded from the application of this section.

~~11. ~~114~~~~ The Mediation Administrator and each mediator who acts pursuant to this section in good faith and without gross negligence are immune from civil liability for those acts.

~~12. ~~115~~~~ As used in this section:

(a) **"Final loss mitigation affidavit"** ~~means an affidavit that:~~

~~— (1) Is made by the trustee or a person authorized to act on behalf of the trustee;~~

~~— (2) Certifies the completion of the final determination of loss mitigation analysis in connection with a deed of trust; and~~

~~— (3) Certifies the denial of a loan modification or other loss mitigation.]~~
~~**has the meaning ascribed to it in section 1 of this act.**~~

~~(b) ["Loss mitigation analysis" means an evaluation of the facts and circumstances of an obligation secured by a deed of trust concerning owner-occupied housing to determine:~~

~~— (1) Whether the grantor or the person who holds the title of record qualifies for a loan modification; and~~

~~— (2) If there will not be a loan modification, whether any other loss mitigation program may be made available to the grantor or the person who holds the title of record.~~

~~— (c) "Loss mitigation program" means an option in connection with an obligation secured by a deed of trust concerning owner-occupied housing that:~~

~~— (1) Avoids the exercise of the trustee's power of sale through loan modification or other changes to the existing terms of the obligation that are intended to allow the grantor or the person who holds the title of record to stay in the property;~~

~~— (2) Avoids the exercise of the trustee's power of sale through a short sale, deed in lieu of trustee's sale or other alternative that is intended to simplify the relinquishment of ownership of the property by the grantor or the person who holds the title of record; or~~

~~— (3) Lessens the harmful impact of the exercise of the trustee's power of sale on the grantor or the person who holds the title of record.~~

~~— (d)] "Mediation Administrator" means the entity so designated pursuant to subsection 8.~~

~~{(b)} {11}~~

~~{(c)}~~ **(c)** "Noncommercial lender" means a lender which makes a loan secured by a deed of trust on owner-occupied housing and which is not a bank, financial institution or other entity regulated pursuant to title 55 or 56 of NRS.

~~{(e)}~~ ~~{(f)}~~ **(d)** "Owner-occupied housing" means housing that is occupied by an owner as the owner's primary residence. The term does not include any time share or other property regulated under chapter 119A of NRS.

~~{ (g) "Preliminary loss mitigation affidavit" means an affidavit that:~~

~~— (1) Is made by the trustee or a person authorized to act on behalf of the trustee;~~

~~— (2) Certifies the status of an incomplete loss mitigation analysis in connection with a deed of trust; and~~

~~— (3) States the reason that the loss mitigation analysis is incomplete.]~~

Sec. 2. The amendatory provisions of this act apply only with respect to trust agreements which concern owner-occupied housing, as defined in NRS 107.086, as amended by section ~~11~~ **1.7** of this act, for which a notice of default is recorded on or after July 1, 2011.

Sec. 3. This act becomes effective on July 1, 2011.

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. 465 to Senate Bill No. 307 revises the changes that were in Section 1 of the bill so that provisions regarding the loss mitigation application and analysis are not in the Mediation Program. Section 1 has been moved to Section 1.7.

It adds two new sections, one of which provides that before a trustee conducts a foreclosure sale on a home, the bank or other lending institution must send a letter to the homeowner at least 30 days in advance that must include a loss mitigation application and other related information.

The second new section of the bill contains certain duties moved from the original Section 1, and requires that the duties must be carried out by the bank instead of the trustee.

If the homeowner elects to enter into mediation, the amendment also requires the bank to complete the loss mitigation analysis and affidavit before mediation begins. Failure to do so could result in a void of the sale.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 325.

Bill read second time.

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

Amendment No. 341.

"SUMMARY—~~{Creates the Office of Inspector General in}~~ **Moves the Division of Internal Audits from** the Department of Administration ~~{to the Office of the State Controller.}~~ (BDR 18-1062)"

"AN ACT relating to governmental administration; ~~{creating the Office of Inspector General in}~~ **moving the Division of Internal Audits from** the Department of Administration ~~{setting forth the duties of the Inspector General; requiring a state agency to cooperate with and provide assistance}}~~ to the ~~{Inspector General in carrying out those duties;}~~ **Office of the State Controller;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law creates the **Division of Internal Audits within the** Department of Administration, ~~{consisting of the Director of the Department and several divisions, including the Budget Division, Risk Management Division, Hearings Division, Buildings and Grounds Division, Purchasing Division, Administrative Services Division, Division of Internal Audits and, if established by the Director, Motor Pool Division. (NRS 232.213)}~~ This bill creates the Office of Inspector General in the Department of Administration. Section 3 of this bill provides that the Office of Inspector General consists of the Inspector General and any person employed in the Office of Inspector General. Section 3 also requires the Governor to appoint the Inspector General and specifies that the Inspector General is directly responsible to the Governor. Section 4 of this bill requires the Inspector General to investigate, audit and review the operation and management of each state agency to determine whether any act or omission amounting to fraud, waste, abuse or corruption has occurred or may occur within that state agency. Section 5 of

~~this bill requires a state agency, upon request by the Inspector General, to cooperate with and provide assistance to the Inspector General in carrying out his or her duties. Section 5 also authorizes a law enforcement agency in this State, upon request by the Inspector General and to the extent that money is available for that purpose, to provide officers, staff and other assistance to the Inspector General. Section 6 of this bill provides for the confidentiality of any book, paper, report or other record received, prepared or maintained by the Inspector General and provides for the release of any such record under certain circumstances. Section 9 of this bill includes the operating budget of the Office of Inspector General within certain provisions governing the Department of Administration's Operating Fund for Administrative Services.} This bill moves the Division to the Office of the State Controller.~~

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

Section 1. ~~{Chapter 232 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.}~~ (Deleted by amendment.)

Sec. 2. ~~{As used in sections 2 to 6, inclusive, of this act, unless the context otherwise requires, "state agency" means any board, commission, department, division, officer or employee in the Executive Department of the State Government.}~~ (Deleted by amendment.)

Sec. 3. ~~{1. The Office of Inspector General is hereby created in the Department of Administration. The Office of Inspector General consists of the Inspector General and any person employed in the Office of Inspector General.~~

~~—2. The Governor shall appoint the Inspector General. The Inspector General is in the unclassified service of the State and serves at the pleasure of the Governor.~~

~~—3. The Inspector General shall devote his or her entire time and attention to the business of his or her office and shall not engage in any other gainful employment or occupation.~~

~~—4. The Inspector General is directly responsible to the Governor in all matters relating to an investigation, audit or review conducted pursuant to sections 2 to 6, inclusive, of this act.}~~ (Deleted by amendment.)

Sec. 4. ~~{The Inspector General shall:~~

~~—1. Investigate, audit and review the operation and management of each state agency to determine whether any act or omission amounting to fraud, waste, abuse or corruption has occurred or may occur within that state agency;~~

~~—2. Periodically or upon request by the Governor submit a report to the Governor setting forth any findings and conclusions relating to an investigation, audit or review specified in subsection 1 and any suggested corrective or remedial actions, including, without limitation, increased oversight, carrying out or modification of any controls for internal~~

~~management, termination of employment or referral to the Commission on Ethics or the Attorney General when appropriate;~~

~~—3. Establish a program for receiving, reviewing and investigating any complaint submitted to the Inspector General concerning any fraud, waste, abuse or corruption within any state agency and referral of those complaints to the appropriate state agency;~~

~~—4. Identify any other state agency that is responsible for investigating, auditing or reviewing the operation and management of a state agency, including, without limitation, the Chief of the Division of Internal Audits of the Department and the Inspector General of the Department of Corrections, and coordinate with those state agencies to share information and avoid any duplication of activities; and~~

~~—5. Perform any other task relating to his or her duties required by the Governor.}] **(Deleted by amendment.)**~~

Sec. 5. ~~[1. Upon request by the Inspector General, each state agency and any employee of that state agency shall cooperate with and provide assistance to the Inspector General in carrying out the provisions of sections 2 to 6, inclusive, of this act and shall, to the greatest extent practicable, ensure that the premises, equipment, employees and books, papers and other records of the state agency are available for use by the Inspector General in carrying out those provisions.~~

~~—2. To the extent that money is available for that purpose, any law enforcement agency in this State may, upon request by the Inspector General, provide officers, staff and any other assistance to the Inspector General in carrying out the provisions of sections 2 to 6, inclusive, of this act.}] **(Deleted by amendment.)**~~

Sec. 6. ~~[Any book, paper, report or other record received, prepared or maintained by the Inspector General pursuant to sections 2 to 6, inclusive, of this act is confidential, except that the Inspector General:~~

~~—1. Shall release any such record when subpoenaed by a court of competent jurisdiction or when required pursuant to NRS 239.0115;~~

~~—2. Shall make any such record available to the Legislative Auditor upon his or her request; and~~

~~—3. May make any such record available for inspection by an authorized representative of any other governmental entity for a matter officially before him or her.}] **(Deleted by amendment.)**~~

Sec. 7. ~~[NRS 232.212 is hereby amended to read as follows:~~

~~—232.212 As used in NRS 232.212 to 232.2195, inclusive, and sections 2 to 6, inclusive, of this act, unless the context requires otherwise:~~

~~—1. "Department" means the Department of Administration.~~

~~—2. "Director" means the Director of the Department.}] **(Deleted by amendment.)**~~

Sec. 7.5. **Chapter 227 of NRS is hereby amended by adding thereto a new section to read as follows:**

The Division of Internal Audits is hereby created within the Office of the State Controller.

Sec. 8. NRS 232.213 is hereby amended to read as follows:

232.213 1. The Department of Administration is hereby created.

2. The Department consists of a Director ~~of the Office of Inspector General~~ and the following divisions:

(a) Budget Division.

(b) Risk Management Division.

(c) Hearings Division, which consists of hearing officers, compensation officers and appeals officers.

(d) Buildings and Grounds Division.

(e) Purchasing Division.

(f) Administrative Services Division.

~~(g) Division of Internal Audits.~~

3. The Director may establish a Motor Pool Division or may assign the functions of the State Motor Pool to one of the other divisions of the Department.

Sec. 8.3. NRS 232.215 is hereby amended to read as follows:

232.215 The Director:

1. Shall appoint a Chief of the:

(a) Risk Management Division;

(b) Buildings and Grounds Division;

(c) Purchasing Division;

(d) Administrative Services Division; **and**

~~(e) Division of Internal Audits; and~~

~~—(f) Motor Pool Division, if separately established.~~

2. Shall appoint a Chief of the Budget Division, or may serve in this position if the Director has the qualifications required by NRS 353.175.

3. Shall serve as Chief of the Hearings Division and shall appoint the hearing officers and compensation officers. The Director may designate one of the appeals officers in the Division to supervise the administrative, technical and procedural activities of the Division.

4. Is responsible for the administration, through the divisions of the Department, of the provisions of chapters 331, 333 and 336 of NRS, NRS 353.150 to 353.246, inclusive, and 353A.031 to 353A.100, inclusive, and all other provisions of law relating to the functions of the divisions of the Department.

5. Is responsible for the administration of the laws of this State relating to the negotiation and procurement of medical services and other benefits for state agencies.

6. Has such other powers and duties as are provided by law.

Sec. 8.5. NRS 232.2165 is hereby amended to read as follows:

232.2165 1. The Chief of:

(a) The Buildings and Grounds Division;

(b) The Purchasing Division;

- (c) The Administrative Services Division; and
 (d) ~~{The Division of Internal Audits; and~~
~~—(e)}~~ If separately established, the Motor Pool Division,
 ➤ of the Department serves at the pleasure of the Director, but, except as otherwise provided in subsection 2, for all purposes except removal is in the classified service of the State.
2. The Chief of the Motor Pool Division, if separately established, ~~and the Chief of the Division of Internal Audits are~~ is in the unclassified service of the State.

Sec. 8.7. NRS 232.217 is hereby amended to read as follows:

232.217 Unless federal law or regulation otherwise requires, the Chief of the:

1. Budget Division;
2. Buildings and Grounds Division;
3. Purchasing Division; and
4. ~~{Division of Internal Audits; and~~
~~—5.}~~ Motor Pool Division, if separately established,
 ➤ may appoint a Deputy and a Chief Assistant in the unclassified service of the State, who shall not engage in any other gainful employment or occupation except as otherwise provided in NRS 284.143.

Sec. 9. NRS 232.219 is hereby amended to read as follows:

232.219 1. The Department of Administration's Operating Fund for Administrative Services is hereby created as an internal service fund.

2. The operating budget of each of the following entities must include an amount representing that entity's share of the operating costs of the central accounting function of the Department:

- (a) State Public Works Board;
- (b) Budget Division;
- (c) Buildings and Grounds Division;
- (d) Purchasing Division;
- (e) Hearings Division;
- (f) Risk Management Division; and
- (g) ~~{Division of Internal Audits;}~~ ~~{and}~~
~~{(h)}~~ If separately established, the Motor Pool Division. ~~f; and~~
~~—(i) Office of Inspector General.~~

3. All money received for the central accounting services of the Department must be deposited in the State Treasury for credit to the Operating Fund.

4. All expenses of the central accounting function of the Department must be paid from the Fund as other claims against the State are paid.

Sec. 10. NRS 353A.036 is hereby amended to read as follows:

353A.036 "Division" means the Division of Internal Audits of the ~~{Department of Administration.}~~ Office of the State Controller.

Sec. 11. NRS 353A.045 is hereby amended to read as follows:

353A.045 The Chief shall:

1. Report to the ~~Director,~~ **State Controller.**
2. Develop long-term and annual work plans to be based on the results of periodic documented risk assessments. The annual work plan must list the agencies to which the Division will provide training and assistance and be submitted to the ~~Director,~~ **State Controller** for approval. Such agencies must not include:
 - (a) A board created by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS.
 - (b) The Nevada System of Higher Education.
 - (c) The Public Employees' Retirement System.
 - (d) The Housing Division of the Department of Business and Industry.
 - (e) The Colorado River Commission of Nevada.
3. Provide a copy of the approved annual work plan to the Legislative Auditor.
4. In consultation with the ~~Director,~~ **State Controller,** prepare a plan for auditing executive branch agencies for each fiscal year and present the plan to the Committee for its review and approval. Each plan for auditing must:
 - (a) State the agencies which will be audited, the proposed scope and assignment of those audits and the related resources which will be used for those audits; and
 - (b) Ensure that the internal accounting, administrative controls and financial management of each agency are reviewed periodically.
5. Perform the audits of the programs and activities of the agencies in accordance with the plan approved pursuant to subsection 5 of NRS 353A.038 and prepare audit reports of his or her findings.
6. Review each agency that is audited pursuant to subsection 5 and advise those agencies concerning internal accounting, administrative controls and financial management.
7. Submit to each agency that is audited pursuant to subsection 5 analyses, appraisals and recommendations concerning:
 - (a) The adequacy of the internal accounting and administrative controls of the agency; and
 - (b) The efficiency and effectiveness of the management of the agency.
8. Report any possible abuses, illegal actions, errors, omissions and conflicts of interest of which the Division becomes aware during the performance of an audit.
9. Adopt the standards of the Institute of Internal Auditors for conducting and reporting on internal audits.
10. Consult with the Legislative Auditor concerning the plan for auditing and the scope of audits to avoid duplication of effort and undue disruption of the functions of agencies that are audited pursuant to subsection 5.
11. Appoint a Manager of Internal Controls.

Sec. 12. NRS 353A.065 is hereby amended to read as follows:

353A.065 1. Within 90 days after the end of each fiscal year, the Chief shall submit an annual report to the Committee for its approval which:

(a) Lists the agencies to which the Division provided training and assistance;

(b) Separately lists any other activities undertaken by the Division that are related to the provision of training and assistance and the status of those activities;

(c) Contains a list of the final reports that have been submitted pursuant to NRS 353A.085;

(d) Contains a separate list of any other activities undertaken by the Division that are related to the final reports submitted pursuant to NRS 353A.085 and the status of those activities; and

(e) Describes the accomplishments of the Division.

2. The Chief shall provide a copy of the annual report to the:

(a) Committee;

(b) ~~Director;~~ ***State Controller;***

(c) Interim Finance Committee; and

(d) Legislative Auditor.

~~Sec. 10.~~ ***Sec. 13.*** This act becomes effective on July 1, 2011.

Senator Lee moved the adoption of the amendment.

Remarks by Senators Lee and Brower.

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

SENATOR LEE:

Amendment No. 341 to Senate Bill No. 325 deletes Sections 1 through 7 of the bill. It removes the Division of Internal Audits as an entity within the Department of Administration.

It places the Division of Internal Audits under the Office of the State Controller.

SENATOR BROWER:

Thank you Mr. President. This amendment is the reason for my earlier motion to remove my name and add the Chair's name to the bill. If the amendment is adopted, it completely changes the intent and nature of the bill creating a bill that is contrary to mine and the Governor's intent in bringing this concept forward. I would urge you to vote against this amendment.

SENATOR LEE:

Thank you Mr. President. I know we do not want to debate the bill, but what the amendment basically says is "Can one Inspector General with the support staff of one adequately audit all the agencies that need to be audited?" I think not. The duties set forth for the Inspector General in Senate Bill No. 325 are similar to the duties already set forth in Nevada law for the Chief of the Division of Internal Audits. Why duplicate these efforts?

A better use of the \$220,000 annual cost for the Office of Inspector General would be to hire upwards of two to three new auditors in the existing Division of Internal Audits. We certainly will need more than one person to audit Nevada's Medicaid program. I urge the body's support in this amendment.

Motion carried on a division of the house.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 387.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 326.

"SUMMARY—Revises certain provisions governing off-highway vehicles. (BDR 43-211)"

"AN ACT relating to off-highway vehicles; authorizing the Department of Motor Vehicles to assign a distinguishing number to any off-highway vehicle that does not have a unique vehicle identification number or serial number; providing for the imposition of a fee for the assignment of such a distinguishing number; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the owner of an off-highway vehicle may be required to register the vehicle with the Department of Motor Vehicles if the Interim Finance Committee issues a notice to the Department that adequate money is available to begin registering such vehicles on or before July 1, 2011. As part of that registration, the owner of the off-highway vehicle will be required to notify the Department of the unique vehicle identification number or serial number of the vehicle. (NRS 490.082) This bill authorizes the Department to assign a distinguishing number to an off-highway vehicle that does not have a unique vehicle identification number or serial number, or to an off-highway vehicle on or from which the unique vehicle identification number or serial number has been removed, defaced, altered or obliterated. This bill also authorizes the Department to charge a fee for the assignment of such a distinguishing number.

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

Section 1. Chapter 490 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Department may assign a distinguishing number to any off-highway vehicle if:*

(a) *The off-highway vehicle does not have a unique vehicle identification number or serial number provided by the manufacturer of the vehicle;*

(b) *The unique vehicle identification number or serial number provided by the manufacturer of the off-highway vehicle has been removed, defaced, altered or obliterated; or*

(c) *The off-highway vehicle is homemade.*

2. *Any off-highway vehicle to which there is assigned a distinguishing number pursuant to subsection 1 must be registered, if required pursuant to NRS 490.082, under the distinguishing number.*

3. *The Department shall collect a fee of \$2 for the assignment and recording of each such distinguishing number.*

4. *The number by which an off-highway vehicle is registered pursuant to NRS 490.082 must be permanently stamped or attached to the vehicle.*

False attachment or willful removal, defacement, alteration or obliteration of such a number with intent to defraud is a gross misdemeanor.

Sec. 2. NRS 490.082 is hereby amended to read as follows:

490.082 1. An owner of an off-highway vehicle that is acquired:

(a) Before the effective date of this section:

(1) May apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection 3, shall, within 1 year after the effective date of this section, apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, the registration of the off-highway vehicle.

(b) On or after the effective date of this section, shall, within 30 days after acquiring ownership of the off-highway vehicle:

(1) Apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection 3, apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, the registration of the off-highway vehicle.

2. If an owner of an off-highway vehicle applies to the Department or to an authorized dealer for:

(a) A certificate of title for the off-highway vehicle, the owner shall submit to the Department or to the authorized dealer proof prescribed by the Department that he or she is the owner of the off-highway vehicle.

(b) The registration of the off-highway vehicle, the owner shall submit:

(1) If ownership of the off-highway vehicle was obtained before the effective date of this section, proof prescribed by the Department:

(I) That he or she is the owner of the off-highway vehicle; and

(II) Of the unique vehicle identification ~~{or}~~ **number**, serial number ***or distinguishing number obtained pursuant to section 1 of this act*** for the off-highway vehicle; or

(2) If ownership of the off-highway vehicle was obtained on or after the effective date of this section:

(I) Evidence satisfactory to the Department that he or she has paid all taxes applicable in this State relating to the purchase of the off-highway vehicle, or submit an affidavit indicating that he or she purchased the vehicle through a private party sale and no tax is due relating to the purchase of the off-highway vehicle; and

(II) Proof prescribed by the Department that he or she is the owner of the off-highway vehicle and of the unique vehicle identification ~~{or}~~ **number**, serial number ***or distinguishing number obtained pursuant to section 1 of this act*** for the off-highway vehicle.

3. Registration of an off-highway vehicle is not required if the off-highway vehicle:

(a) Is owned and operated by:

- (1) A federal agency;
- (2) An agency of this State; or
- (3) A county, incorporated city or unincorporated town in this State;
- (b) Is part of the inventory of a dealer of off-highway vehicles;
- (c) Is registered or certified in another state and is located in this State for not more than 60 days;
- (d) Is used solely for husbandry on private land or on public land that is leased to or used under a permit issued to the owner or operator of the off-highway vehicle;
- (e) Is used for work conducted by or at the direction of a public or private utility; or
- (f) Was manufactured before January 1, 1976.

4. The registration of an off-highway vehicle expires 1 year after its issuance. If an owner of an off-highway vehicle fails to renew the registration of the off-highway vehicle before it expires, the registration may be reinstated upon the payment to the Department of the annual renewal fee and a late fee of \$25. Any late fee collected by the Department must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

5. If a certificate of title or registration for an off-highway vehicle is lost or destroyed, the owner of the off-highway vehicle may apply to the Department by mail, or to an authorized dealer, for a duplicate certificate of title or registration. The Department may collect a fee to replace a certificate of title or registration certificate, sticker or decal that is lost, damaged or destroyed. Any such fee collected by the Department must be:

- (a) Set forth by the Department by regulation; and
- (b) Deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

6. The provisions of subsections 1 to 5, inclusive, do not apply to an owner of an off-highway vehicle who is not a resident of this State.

Sec. 3. NRS 490.083 is hereby amended to read as follows:

490.083 Each registration of an off-highway vehicle must:

- 1. Be in the form of a sticker or decal, as prescribed by the Department.
- 2. Be approximately the size of a license plate for a motorcycle, as set forth by the Department.
- 3. Include ~~the~~ *the* unique vehicle identification ~~or~~ *number*, serial number *or distinguishing number obtained pursuant to section 1 of this act* for the off-highway vehicle.
- 4. Be displayed on the off-highway vehicle in the manner set forth by the Commission.

Sec. 4. NRS 490.150 is hereby amended to read as follows:

490.150 1. Before taking an off-highway vehicle on consignment, an off-highway vehicle dealer or lessor shall prepare a written consignment contract.

2. A consignment contract must include, without limitation:

- (a) The names of the consignor and consignee;
- (b) The date on which the consignment contract was entered into;
- (c) A complete description of the off-highway vehicle subject to the consignment contract, including the unique vehicle identification ~~{or}~~ **number**, serial number ~~{}~~ **or distinguishing number obtained pursuant to section 1 of this act**, and the year, make and model of the off-highway vehicle;
- (d) The term of the consignment contract;
- (e) The name of each person or business entity holding any security interest in the off-highway vehicle to be consigned;
- (f) The minimum sales price for the off-highway vehicle and the disposition of the proceeds therefrom, as agreed upon by the consignor and consignee; and
- (g) The signatures of the consignor and consignee acknowledging all the terms and conditions set forth in the consignment contract.

Sec. 5. NRS 490.160 is hereby amended to read as follows:

490.160 1. A consignee of an off-highway vehicle shall, upon entering into a consignment contract or other form of agreement to sell an off-highway vehicle owned by another person:

(a) Open and maintain a separate trust account in a federally insured bank or savings and loan association that is located in this State, into which the consignee shall deposit all money received from a prospective buyer as a deposit, or as partial or full payment of the purchase price agreed upon, toward the purchase or transfer of interest in the off-highway vehicle. A consignee of an off-highway vehicle shall not:

(1) Commingle the money in the trust account with any other money that is not on deposit or otherwise maintained toward the purchase of the off-highway vehicle subject to the consignment contract or agreement; or

(2) Use any money in the trust account to pay his or her operational expenses for any purpose that is not related to the consignment contract or agreement.

(b) Obtain from the consignor, before receiving delivery of the off-highway vehicle, a signed and dated disclosure statement that is included in the consignment contract and provides in at least 10-point bold type or font:

IMPORTANT NOTICE TO OFF-HIGHWAY VEHICLE OWNERS

State law (NRS 490.160) requires that the operator of this business file a Uniform Commercial Code 1 (UCC1) form with the Office of the Secretary of State on your behalf to protect your interest in your off-highway vehicle. The form is required to protect your off-highway

vehicle from forfeiture in the event that the operator of this business fails to meet his or her financial obligations to a third party holding a security interest in his or her inventory. The form must be filed by the operator of this business before the operator may take possession of your off-highway vehicle. If the form is not filed as required, YOU MAY LOSE YOUR VEHICLE THROUGH NO FAULT OF YOUR OWN. For a copy of the UCC1 form filed on your behalf or for more information, please contact:

The Office of the Secretary of State of Nevada

Uniform Commercial Code Division

(775) 684-5708

I understand and acknowledge the above disclosure.

.....
 Consignee Signature Date

(c) Assist the consignor in completing, with respect to the consignor's purchase-money security interest in the off-highway vehicle, a ~~{financial}~~ **financing** statement of the type described in subsection 5 of NRS 104.9317 and shall file the ~~{financial}~~ **financing** statement with the Secretary of State on behalf of the consignor. If a consignee has previously granted to a third party a security interest with an after-acquired property clause in the consignee's inventory, the consignee additionally shall assist the consignor in sending an authenticated notification, as described in paragraph (b) of subsection 1 of NRS 104.9324, to each holder of a conflicting security interest. The consignee must not receive delivery of the off-highway vehicle until the consignee has:

- (1) Filed the financing statement with the Secretary of State; and
- (2) If applicable, assisted the consignor in sending an authenticated notification to each holder of a conflicting security interest.

2. Upon the sale or transfer of interest in the off-highway vehicle, the consignee shall forthwith:

(a) Satisfy or cause to be satisfied all outstanding security interests in the off-highway vehicle; and

(b) Satisfy the financial obligations due the consignor pursuant to the consignment contract.

3. Upon the receipt of money by delivery of cash, bank check or draft, or any other form of legal monetary exchange, or after any form of transfer of interest in an off-highway vehicle, the consignee shall notify the consignor that the money has been received or that a transfer of interest in the off-highway vehicle has occurred. Notification by the consignee to the consignor must be given in person or, in the absence of the consignor, by registered or certified mail addressed to the last address or residence of the consignor known to the consignee. The notification must be made within 3 business days after the date on which the money is received or the transfer of interest in the off-highway vehicle is made.

4. The provisions of this section do not apply to:

- (a) An executor;
- (b) An administrator;
- (c) A sheriff; or
- (d) Any other person who sells off-highway vehicles pursuant to the powers or duties granted to or imposed on him or her by specific statute.

5. Notwithstanding any provision of the Nevada Revised Statutes to the contrary, an off-highway vehicle subject to a consignment contract may not be operated by the consignee, an employee or agent of the consignee, or a prospective buyer unless the operation of the off-highway vehicle is authorized by the express written consent of the consignor.

6. A consignee shall maintain a written log for each off-highway vehicle for which he or she has entered into a consignment contract. The written log must include:

- (a) The name and address, or place of residence, of the consignor;
- (b) A description of the off-highway vehicle consigned, including the year, make, model and unique vehicle identification ~~{or}~~ **number**, serial number **or distinguishing number obtained pursuant to section 1 of this act** of the off-highway vehicle;
- (c) The date on which the consignment contract is entered into;
- (d) The period that the off-highway vehicle is to be consigned;
- (e) The minimum agreed upon sales price for the off-highway vehicle;
- (f) The approximate amount of money due any lienholder or other person known to have an interest in the off-highway vehicle;
- (g) If the off-highway vehicle is sold, the date on which the off-highway vehicle is sold;
- (h) The date that the money due the consignor and the lienholder was paid;
- (i) The name and address of the federally insured bank or savings and loan association in which the consignee opened the trust account required pursuant to subsection 1; and
- (j) The signature of the consignor acknowledging that the terms of the consignment contract were fulfilled or terminated, as appropriate.

7. A person who:

(a) Appropriates, diverts or otherwise converts to his or her own use money in a trust account opened pursuant to paragraph (a) of subsection 1 or otherwise subject to a consignment contract or agreement is guilty of embezzlement and shall be punished in accordance with NRS 205.300. The court shall, in addition to any other penalty, order the person to pay restitution.

(b) Violates paragraph (b) or (c) of subsection 1 is guilty of a misdemeanor. The court shall, in addition to any other penalty, order the person to pay restitution.

(c) Violates any other provision of this section is guilty of a misdemeanor.

Sec. 6. 1. This act becomes effective:

- (a) Upon passage and approval for the purpose of adopting regulations.

(b) On July 1, ~~{2011,}~~ **2012, or 30 days after the date on which the Department of Motor Vehicles publishes on its website a statement indicating that it has completed the preparatory administrative tasks that are necessary to carry out the provisions of this act, whichever occurs first,** for all other purposes.

2. This act expires by limitation on July 1, ~~{2011,}~~ **2012,** if the Interim Finance Committee has not issued a notice to the Department of Motor Vehicles pursuant to section 62.5 of chapter 504, Statutes of Nevada 2009, at page 3105, before that date.

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. 326 to Senate Bill No. 387 modifies the effective date of the bill to July 1, 2012, or 30 days after the date the Department of Motor Vehicles notifies the public it is ready to begin the off-highway vehicle titling program, whichever is first.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 12.

Bill read second time and ordered to third reading.

Assembly Bill No. 83.

Bill read second time and ordered to third reading.

Assembly Bill No. 250.

Bill read second time and ordered to third reading.

Assembly Bill No. 348.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 368.

Bill read third time.

Remarks by Senators Parks, Schneider and Hardy

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

SENATOR PARKS:

Senate Bill No. 368 prohibits various forms of discrimination based on sexual orientation and gender identity or expression in certain real estate transactions. The bill declares it to be the public policy of the State of Nevada that all people shall, without discrimination, distinction or restriction because of sexual orientation or gender identity or expression, have equal opportunity to inherit, purchase, lease, rent, sell, hold, and convey real property; and reasonably seek and obtain housing accommodations.

Senate Bill No. 368 prohibits specific acts based on such discrimination involving the sale or rental of a dwelling; access to a multiple-listing service or other service or facility relating to sale or rental of a dwelling; eviction of a tenant from a dwelling; denial of a commercial real estate loan by a financial institution; or refusal by a certified or licensed appraiser to prepare or communicate an appraisal.

The bill authorizes the Nevada Equal Rights Commission to order its Administrator to investigate and hold hearings in respect to housing regarding tensions, practices of discrimination, and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, gender identity or expression, national origin, or ancestry.

Senate Bill No. 368 seeds to add sexual orientation and gender identity or expression to Nevada's Fair Housing Laws and to bring our State statutes in line with the policies of the U.S. Department of Housing and Urban Development.

On January 24, 2001 the U.S. Department of Housing and Urban Development proposed new regulations intended to ensure that its core housing programs are open to all eligible persons, regardless of sexual orientation or gender identity.

HUD Secretary Shaun Donovan stated, "This is a fundamental issue of fairness. We have a responsibility to make certain that public programs are open to all Americans. With this proposed rule, we will make clear that a person's eligibility for federal housing programs is, and should be, based on their need and not on their sexual orientation or gender identity.

HUD currently requires its recipients of discretionary funds to comply with local and state non-discrimination laws that cover sexual orientation or gender identity.

I would like to note that Nevada's Fair Housing Laws only apply to those Nevada companies that are in the real estate business and Nevada's real estate professionals.

These statutes do not apply to private citizens who own less than three single-family houses at any one time.

States with legal protections report no increase in discrimination claims or burdens on their state.

I encourage you to support the passage of Senate Bill No. 368.

Thank you.

SENATOR SCHNEIDER:

Mr. President, I stand in support of this bill. I am a landlord. This is the right thing to do. This does not put any burden on me. I cannot believe anyone would not vote for this bill. This bill says we cannot discriminate against people, in general. I stand in support of this. The government is in support of it. It does not cost me any money as a landlord. There is no burden to me. It is something I can do without thinking about it. I stand in support of this bill.

SENATOR HARDY:

Thank you, Mr. President. I appreciate the debate that has happened along with the comments made, but I do have a concern, therefore, I will not be supporting this. My concern is the broad implications of what I read as the expression. Expression can be understood in many different ways. Without limitations, we may be going too far depending on how one interprets that particular word.

Roll call on Senate Bill No. 368:

YEAS—13.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Rhoads, Roberson, Settlemeyer—8.

Senate Bill No. 368 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 331.

Bill read third time.

Remarks by Senators Parks, Leslie, Schneider and Horsford.

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

SENATOR PARKS:

Senate Bill No. 331 provides that all persons are entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodation, without discrimination or segregation on the grounds of sex or gender identity or expression. Any person who believes he or she has been discriminated against in this regard may file a complaint with the Nevada Equal Rights Commission.

It is not unlawful and is not a ground for a civil action for a place of public accommodation to offer differential pricing, discounted pricing, or other special offers based on sex for purposes of promoting or marketing its business.

The bill authorizes the Commission to order its Administrator to investigate and hold hearings in respect to housing regarding tensions, practices of discrimination, and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, gender identity or expression, national origin, or ancestry.

SENATOR LESLIE:

Thank you, Mr. President. I urge my colleagues to pass this bill. It is about discrimination. It simply adds gender identity and expression to the list of qualities that cannot be discriminated against in terms of public accommodations, such as hotels, restaurants and places where any member of the public can go. This is about good business practices. The bill does enjoy the full support of the Nevada Resort Association. Las Vegas and rural Nevada have been making a decided effort to reach out to the gay, lesbian, transgender community encouraging them to come to Nevada. This bill is important for them to feel that their basic human rights are being protected. There is an amendment in the bill. It provides for the "Ladies Night" exception which does provide for differential pricing. That concern has been addressed.

Another concern I have heard about from some of the members is the bathroom question and whether this bill would open up public accommodations and restrooms to dangerous people. Transgender people by definition are not dangerous people. Predators in restrooms will be dealt with the same way they have always been regardless of their sexual orientation or transgenerness. The DMV has a medical certification and authorization for gender change. This bill does not affect that. Someone would have had to complete that process and have that marked on their drivers license.

This bill is about basic fairness, human dignity and human rights. I urge your support.

SENATOR SCHNEIDER:

As Chair of Committee on Commerce, Labor & Energy I want to state that the resort association came in full support of this bill, representing their 150,000 rooms and their multi-billion dollars worth of infrastructure in Las Vegas on the Strip which is the economic engine of this State. They stood in full support of this.

SENATOR HORSFORD:

Thank you, Mr. President. I also wanted to rise in support of this legislation, for all three of these bills. I view this bill as not being about creating special rights for a certain class of citizen, it is about explicitly extending the equal protection of law to those who are often the target of discrimination. Senate Bill No. 368, Senate Bill No. 331 and Senate Bill No. 180 protect fundamental rights.

If you have the money, you have the right to buy a house. If you are going out to a baseball game or a coffee shop, you should not be denied the accommodations everyone else receives because of how you express your gender. No one should fear for their safety when they walk down the street just because of who they are. We are leading the country regarding anti-discrimination policy. This body has supported this policy in previous Legislatures. I believe this is the right thing to do. It is required on its own merits. It also helps us to attract tourists. A recent Las Vegas Sun article stated that there are 15 million gay adults in the United States. They have buying power of \$690 million and their average household income is \$82,000 a year. Thirty-five percent of those have household incomes in excess of \$100,000 per year. As a lesbian, gay, bisexual, and transgender (LGBT) friendly state, we invite our friends of any sexual orientation or gender identity to visit the great State of Nevada. Hopefully, they can all call our State their home.

Roll call on Senate Bill No. 331:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Senate Bill No. 331 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 180.

Bill read third time.

Remarks by Senator Parks.

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

Senate Bill No. 180 adds crimes committed because of a person's actual or perceived gender identity or expression to the list of crimes for which the offender is subject to an additional penalty; the offender may be charged with a gross misdemeanor for an otherwise misdemeanor offense; and the victim may bring a civil action against the offender.

Additionally, the bill adds crimes committed on the basis of gender identity or expression to the crimes covered by the Program for Reporting Crimes within the Department of Public Safety.

A hate crime in Nevada is a crime that is committed against a person because of that person's race, color, religion, national origin, physical or mental disability, or sexual orientation. A hate crime can also be committed if the attacker believes that the victim is in one of these groups, even if the victim actually is not.

Every act of violence is tragic and harmful in its consequences, but not all crimes are based on hate. A hate crime or bias motivated crime occurs when the perpetrator of the crime intentionally selects the victim because of who the victim is.

A bias motivated crime affects not only the victim and his or her family but also an entire community and their families. The perpetrators of these crimes single out and separate some individuals from others as a means of sending a message to society and to others who belong to the same community. Perpetrators of hate crimes often perceive that they have societal permission to engage in these crimes.

Studies have shown that victims of hate crimes rarely report their assaults to law enforcement because of fear and isolation. Such underreporting further leads to a false impression of the effect that real attacks have within the community. Unfortunately, all too often, it is only the most violent hate crimes that are reported as such.

Hate crimes legislation has been around for a long time. The earliest forms of hate crime legislation were laws that made it a capital offense to kill a police officer. Hate crime statutes have been endorsed by more than 300 law enforcement, civil rights, civic and religious organizations. They include; the National Sheriffs' Association; International Association of Chiefs of Police; U.S. Conference of Mayors; Leadership Conference on Civil Rights, Anti-Defamation League, NAACP, and the National Council of La Raza, just to name a few.

Poll after poll consistently shows that the American public supports hate crimes legislation including a Hart Research poll and a Kaiser Family Foundation poll. Dating as far back as a decade ago, these polls show that three quarters of Americans support hate crimes legislation.

Over the course of the last three months, I have had a number of conversations with members of this body. I have been told by some that they did not like this bill because they did not support enhancements to criminal penalties. Well, I have news for those individuals. At least twice this session, this body has considered bills that imposed an additional term of imprisonment or reduced the threshold for an additional term of imprisonment. On two of those bills, the vote in this body was unanimous. So, on this point, you cannot have it both ways.

Senate Bill No. 180 does nothing more than bring Nevada into compliance with federal law. The Mathew Shepard and James Byrd, Jr. Hate Crimes Prevention Act was signed into law 18 months ago by President Obama on October 28, 2009. This law expanded the 1969

United States federal hate crime law to include crimes motivated by a victim's actual or perceived gender, sexual orientation, gender identity, or disability. Furthermore, at least 12 states include gender identity and expression in their hate crimes statutes. Some of these statutes date back to 1975 in Minnesota.

Protecting our transgender citizens harms no one. States with legal protections report no increase in discrimination claims.

Hate crimes statutes have been supported by prominent members of both parties including Nevada Governor Brian Sandoval, who cosponsored Nevada's original hate-crimes legislation in 1995 as a State Assemblyman. In fact, Assembly Bill No. 606 of the 68th Legislative Session was sponsored by Assemblywoman Jan Evans and was passed by both houses of this Legislature by a unanimous vote. Several members of this Chamber were here back in 1995 and they supported that bill.

Last month when Governor Sandoval was asked by the Associated Press about this bill, he stated he would likely sign this bill if it reached his desk. In the words of Governor Sandoval, "there is no room for any kind of a hate crime in this State."

I agree with Governor Sandoval and I hope that you do too by voting for Senate Bill No. 180. Thank you.

Roll call on Senate Bill No. 180:

YEAS—10.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, Lee, McGinness, Rhoads, Roberson, Settelmeyer—11.

Senate Bill No. 180 having failed to receive a constitutional majority, Mr. President declared it lost.

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 25, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 231.

MARK KRMPOTIC
Fiscal Analysis Division

GENERAL FILE AND THIRD READING

Senate Bill No. 21.

Bill read third time.

Roll call on Senate Bill No. 21:

YEAS—21.

NAYS—None.

Senate Bill No. 21 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 99.

Bill read third time.

Remarks by Senators Hardy, Cegavske and Leslie.

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

SENATOR HARDY:

Thank you, Mr. President. This bill came about because there were people being scammed in grant writing. This bill thus defines what a grant writer is, allows the registration to be on line for

grant writers making it available for people to see. It has the deceptive trade statute tied into it, thus removing the huge fiscal note. In full disclosure, being the sponsor of the bill, I encourage everyone to vote their conscience and if they would like to help decrease scamming, this would be the bill to do it. I recognize it is not perfect and I know there will be people with questions.

SENATOR CEGAVSKE:

Thank you, Mr. President. Is this for out of state grant writers and are there any effects we have seen from Nevada grant writers?

SENATOR HARDY:

Anyone from any state will be able to say, "You are calling from Nevada. I can get on the Division of Business and Industry web site and check if you are a real grant writer who is duly registered." That does not mean that we have jurisdiction over other states. The bill also recognizes that when the grant writer does this and offers to sell his services in advance of receiving anything, they have to give a contract, a copy of a contract and their physical address where they are located.

SENATOR CEGAVSKE:

What is the cost to the grant writers? Is it a business license?

SENATOR HARDY:

There is no cost to the grant writer. They can do it on line.

SENATOR LESLIE:

For many of us, grant writing falls under our other duties. I write grants all the time as part of my job. It is not my main duty, but I do it. Would I have to get registered? Would a person who works for an agency, not contracting outside of their regular job, but as part of the irregular job, fall under this bill?

SENATOR HARDY:

Thank you, Mr. President. Senator Leslie would never encounter a problem with this bill. She is not that kind of person. Yes, you have the opportunity to register in doing what you are doing without having to pay an onerous fee of any kind. You would be able to be on the web. If someone wanted to choose from the web who is a registered grant writer, they would be able to access your information.

Roll call on Senate Bill No. 99:

YEAS—14.

NAYS—Brower, Gustavson, Halseth, Kieckhefer, Leslie, Roberson, Settlemeyer—7.

Senate Bill No. 99 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 140.

Remarks by Senators Breeden, Settlemeyer, Brower, Manendo and Kieckhefer.

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

SENATOR BREEDEN:

Thank you, Mr. President. We heard the amendments for Senate Bill No. 140 on Friday. I would like to share with the body that we are not trying to take away the rights and privileges of the citizens of our great State. We are trying to make our roads safer. You will be able to use your cell phone with a hands-free device. The goal is to have the driver pay greater attention to the road as they are driving. The amendments addressed those who participate in emergency

services, such as search and rescue and the amateur radio operators. I urge you to vote for this bill.

SENATOR SETTELMAYER:

Thank you, Mr. President. I have a question on the bill. I know the ham operators are still upset. They want to be completely exempt from every aspect of the bill. Does this affect navigational devices? Does this prevent people from using those while driving?

SENATOR BREEDEN:

The language addresses hand held and devices that are fixed to the dashboard. It would not exclude a Global Positioning System (GPS).

SENATOR BROWER:

I was a little confused by the last answer. Would a GPS device of any type be prohibited from use under this bill?

SENATOR BREEDEN:

I am not very familiar with the GPS because I do not own one. We are trying to eliminate texting and typing into a device. The GPS devices are not included in this bill.

SENATOR BROWER:

I am not certain I read it that way, but I will continue to read this. I do not see the term "operating" defined in the bill. What does that mean? Could you offer a definition?

SENATOR BREEDEN:

For operating a motor vehicle?

SENATOR BROWER:

In Section 1, subsection 1, the entire prohibition is prefaced with the language while operating a motor vehicle on a highway. Does that mean you have to be moving in your vehicle, or does the vehicle simply have to be running?

SENATOR BREEDEN:

Operating is when your car is in motion or sitting at a stoplight. That is operating a motor vehicle while driving on a roadway or highway.

SENATOR MANENDO:

Thank you, Mr. President. That was a question I asked in Committee dealing with global positioning devices. Many vehicles now have a GPS unit fixed in their car, but most do not. I asked law enforcement the question. I have a stand-alone one. If it is sitting in my lap, that is like texting. As long as I have it affixed to my dash, I would be allowed to use a GPS in your vehicle.

I stand in support of Senate Bill No. 140. Driving is a privilege. We often take advantage of that privilege. I know there are those who have stated they should have the right to do anything in there that they want, but they do not. We have distracted driving laws on the books, but we have specific laws in place for various things that people can do wrong. People cannot drive under the influence and speed. There are things we do that are singled out in *Nevada Revised Statutes* (NRS) specifically so that law enforcement has those tools. This is just another tool. I appreciate the sponsor of the bill and her work. We have been working on this for three sessions. I have a constituent who told me that her daughter will not put down her phone and that she has to respond to text message, unless there is a law prohibiting it. Young people are addicted to their phones. I am not saying adults are not, but we have to start somewhere to educate our youth. It is a big responsibility to drive a vehicle. When you are young and do not have the experience many people have, you need to spend your time and attention learning a skill. That skill is to drive safely so you do not kill yourself or others.

A friend of mine, Jennifer Watkins, with her husband was on the side of the road on U.S. 95 helping a stranded friend, when a driver, who was texting, crashed into them at 70 miles an hour. They survived, but they will never be the same because someone chose not to pay attention. That person was texting and I have to ask, what on earth could be so important that while traveling

the freeway at 70 miles an hour, someone had to respond to a text message? I hope it was worth it.

SENATOR KIECKHEFER:

Thank you, Mr. President. The prohibition seems to ban specifically on highways. It does not reference roadways. Is there a difference in State law between highways owned by the State and county or city roads?

Addressing the GPS issue, subsection 3 says, "the provisions of this section do not prohibit the use of a voice activated global positioning or navigational system that is affixed to the vehicle." Does that say that one that requires the buttons being pushed is prohibited?

SENATOR BREEDEN:

First, legal has indicated that a highway and a roadway are the same thing, which is any road, highway, street in the State of Nevada.

When we worked with legal on that, they are exempt just like Senator Manendo indicated. If you have one of the hand held ones, if you are pushing it with your hand, then those would not be exempt, but if they are affixed to your dash, where you can see it or are already in your car those are exempt.

SENATOR KIECKHEFER:

But only if it is voice activated according to the bill?

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 11:42 a.m.

SENATE IN SESSION

At 12:02 p.m.

President Krolicki presiding.

Quorum present.

Remarks by Senators Breeden, Cegavske, Kieckhefer, Hardy and Roberson

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

SENATOR BREEDEN:

During our short recess, legal clarified the two points brought up by my colleagues.

First, operating does mean while you are driving. However, if you pull over to the side of the road, you can text or make a cell phone call.

Second, you can use your GPS only if it is voice activated. If you punch or dial in numbers, you cannot use it while driving.

SENATOR CEGAVSKE:

Thank you, Mr. President. I do not know if phones can be voice activated. Some of the GPS units can be suction cupped up to the dashboard and addresses can be entered. I do not know if they are voice activated or not. Did the bill take care of that?

SENATOR BREEDEN:

Legal indicated that the way the bill is written you can use your GPS as long as it is voice activated. The intent of the bill is that you do not take your eyes off the road by looking down, texting, reading or sending a message.

SENATOR CEGAVSKE:

The GPS I have requires you put in the information. You have to start something with the phone or the GPS on the dash. So unless it can be activated by voice, you cannot use it.

I would like to understand the issue of pulling over on a highway. While I was on the Committee on Transportation, one thing I was told by the police was that you cannot pull over to text or to make a phone call in certain areas. Is that designated in the bill as to which roads or roadways where you can pull over. You cannot pull over on a freeway to make a phone call. Is that in the bill?

SENATOR BREEDEN:

Thank you, Mr. President. The testimony from law enforcement indicated that you cannot pull over on the side of a freeway. Those are emergency lanes. Unless you need to make an emergency phone call, you cannot do so. They indicated if you pull off the road or into a parking lot then there is no problem with that.

SENATOR CEGAVSKE:

If I am on a street in a neighborhood and I pull off the street to make a phone call, is that legal to do?

SENATOR BREEDEN:

That is okay.

SENATOR KIECKHEFER:

I would like to address the bill. I would be happy if this bill prohibited text messaging entirely. I would have no qualms with voting for that bill. It does not do that. I think the bill is an overreach. There is a significant problem with people texting. This is bill that is in front of me and it gets to that problem. I am very reluctantly going to vote for this bill. I originally was not going to, but I have changed my position. I hope we can get it trimmed down on the other side.

SENATOR HARDY:

Thank you, Mr. President. I appreciated working with the Chair of the Committee and having Brenda Erdoes explain this. We clarified that the cell phone Bluetooth technology allows you to answer a phone by pushing a button next to your ear or on your steering wheel would still be allowed.

SENATOR BREEDEN:

Yes, you are correct. That is what she said.

SENATOR HARDY:

Some states have recognized that texting surreptitiously creates accidents because the person is looking down instead of holding the phone out in front of them. There are issues with that.

SENATOR ROBERSON:

Thank you, Mr. President. If the GPS is stationary that unless it is voice activated, it is not permitted. My car has a control panel between the two front seats. You move the knob one way for the radio and another way for the GPS. I assume you can still change your radio station and you are not breaking the law, but if I move the knob the other direction, I am breaking the law by activating my GPS system. This illustrates how complicated this is going to be for law enforcement and for law abiding citizens when they try to operate their vehicle in a lawful manner. The citizens of this State need some direction on what is going to be lawful and what is not. It does not make sense to me that I cannot use my GPS, but I can use my radio or will be illegal soon, too?

MOTIONS, RESOLUTIONS AND NOTICES

Senator Breedon moved that Senate Bill No. 140 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 201.

Bill read third time.

Roll call on Senate Bill No. 201:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Roberson, Settelmeyer—9.

Senate Bill No. 201 having received a constitutional majority, Mr. President declared it passed, as amended.

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, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 262.

Bill read third time.

The following amendment was proposed by Senator Hardy:

Amendment No. 295.

"SUMMARY—Provides for the incorporation of the City of Laughlin contingent upon ~~the approval of the voters in the City.~~ **certain conditions.** (BDR S-125)"

"AN ACT providing a charter for the City of Laughlin, in Clark County, Nevada; providing for an election to be held on the question of incorporation; making the incorporation of the City contingent upon **a determination by the Board of County Commissioners of Clark County or the Legislative Commission and** approval of this act by qualified electors of the City; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Legislature may provide for the incorporation of a city by a special act. (Nev. Const. Art. 8, § 8) **Section 1** of this bill provides a charter for the City of Laughlin. **Section 4** of this bill requires the Committee on Local Government Finance to prepare a report with respect to the fiscal feasibility of the incorporation of the City of Laughlin and submit it to the Board of County Commissioners of Clark County **and the Legislative Commission** by December 31, 2011. **Sections 4, 5 and 17** of this bill make the incorporation of the City of Laughlin contingent **upon whether the Board of County Commissioners of Clark County or the Legislative Commission determines that the incorporation is fiscally feasible and, if so,** upon the approval of the Charter by the qualified electors of the City. **Sections 5-9** of this bill provide **, under such circumstances,** for the Board

of County Commissioners of Clark County to conduct an election on the question of incorporation and a consolidated primary election for candidates for City Council and Mayor. **Sections 11 and 12** of this bill provide for a general election of members of the City Council and a Mayor, contingent upon the approval of incorporation. **Section 10** of this bill authorizes the Board of County Commissioners to accept gifts, grants and donations to pay for any expenses associated with incorporation, including, without limitation, the costs of the Committee on Local Government Finance for preparing the fiscal feasibility report and for ~~the~~ an election held on the question of incorporation and ~~the~~ a general election of the Mayor and City Council. **Sections 2 and 10** of this bill provide that to the extent that gifts, grants and donations do not cover such expenses, the Board of County Commissioners shall use the Fort Mohave Valley Development Fund to pay the costs.

Sections 13-15 of this bill authorize the elected City Council to perform various functions before the effective date of incorporation, including preparing and adopting a budget, preparing and adopting ordinances, negotiating and preparing contracts for personnel and various services, negotiating with Clark County for the equitable apportionment of the fixed assets of Clark County that are located in the City of Laughlin and negotiating and preparing certain cooperative agreements with the County. **Section 17** provides for the effective date of incorporation, which will be July 1, 2013 ~~if~~ if approved by the voters on that day.

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

Section 1. The Charter of the City of Laughlin is as follows. Each section of the Charter shall be deemed to be a section of this act for the purpose of any subsequent amendment.

ARTICLE I

INCORPORATION OF CITY; GENERAL POWERS; BOUNDARIES; ANNEXATIONS; CITY OFFICES

Section 1.010 Preamble: Legislative intent; powers.

1. In order to provide for the orderly government of the City of Laughlin and the general welfare of its residents, the Legislature hereby establishes this Charter for the government of the City of Laughlin. It is expressly declared as the intent of the Legislature that all provisions of this Charter be liberally construed to carry out the express purposes of the Charter and that the specific mention of particular powers shall not be construed as limiting in any way the general powers necessary to carry out the purposes of the Charter.

2. Any powers expressly granted by this Charter are in addition to any powers granted to a city by the general law of this State. All provisions of the Nevada Revised Statutes which are applicable generally to cities, unless otherwise expressly mentioned in this Charter or chapter 265, 266 or 267 of NRS, and which are not in conflict with the provisions of this Charter apply to the City of Laughlin.

Sec. 1.020 Incorporation of City.

1. *All persons who are inhabitants of that portion of the State of Nevada embraced within the limits set forth in section 1.030 shall constitute a political and corporate body by the name of "City of Laughlin," and by that name they and their successors shall be known in law, have perpetual succession and may sue and be sued in all courts.*

2. *Whenever used throughout this Charter, "City" means the City of Laughlin.*

Sec. 1.030 Description of territory. The territory embraced in the City is hereby defined and established as follows:

1. *All those portions of Township 32 South, Range 64 East; Township 32 South, Range 65 East; Township 32 South, Range 66 East; Township 33 South, Range 65 East; Township 33 South, Range 66 East; Township 34 South, Range 66 East, M.D.B. & M., which are located in the County of Clark, State of Nevada.*

2. *Excepting therefrom the following described land:*

(a) *That land referred to as the Fort Mojave Indian Reservation, approximately 3,842 acres of land, being a portion of Sections 17, 19, 20 thru 22, 27 thru 28, 30 thru 33 and all of Section 29 of Township 33 South, Range 66 East, Clark County, Nevada, and a portion of Section 5 of Township 34 South, Range 66 East, Clark County, Nevada.*

(b) *Further excepting therefrom Township 34 South, Range 66 East, M.D.B. & M., Clark County, Nevada.*

(c) *Further excepting therefrom the following described Parcels of land referred to as the "Hotel Corridor":*

(1) *Parcel 1. The South Half (S 1/2) of the South Half of Section 12 of Township 32 South, Range 66 East, M.D.M., Clark County, Nevada, excepting therefrom State Route 163 recorded in Book 920722 as Instrument 00564, Official Records of Clark County, Nevada, together with Parcel 1 of File 70 of Parcel Maps at Page 20, Official Records of Clark County Nevada, also together with Civic Way recorded in Book 910906 as Instrument Number 00680, Official Records of Clark County, Nevada, lying within the South Half (S 1/2) of the South Half (S 1/2) of said Section 12.*

(2) *Parcel 2. Section 13, Township 32 South, Range 66 East, M.D.M., Clark County, Nevada, excepting therefrom that remaining portion of Parcel 1 of File 53 of Parcel Maps at Page 53, Official Records of Clark County, Nevada, lying within the Southwest Quarter (SW 1/4) of said Section 13, more particularly described as beginning at the Northeast corner of said Parcel 1, said point being on the Southerly right-of-way line of Bruce Woodbury Drive (90.00 feet wide); thence departing said Southerly right-of-way line and along the Easterly line of said Parcel 1, South 01°08'21" West, 100.00 feet to the Northerly line of Parcel 4 as shown by map thereof recorded in File 98 of Parcel Maps at Page 17, Official Records of Clark County, Nevada; thence along said Northerly*

line of Parcel 4 the following 2 courses: ~~[South]~~ North 89°59'51" ~~[East]~~ West, 75.00 feet; North ~~[01°28'01"]~~ 01°08'21" East, 100.00 feet to said Southerly right-of-way and said Northerly line of Parcel 1; thence along said Southerly right-of-way line and along said Northerly line of Parcel 1, South 89°59'51" East, 75.00 feet to the Point of Beginning.

(3) Parcel 3. Section 24 of Township 32 South, Range 66 East, M.D.M., Clark County, Nevada excepting therefrom Government Lots 7 & 8 of said Section 24, together with Lots 1 & 2 of File 54 of Parcel Maps at Page 79, Official Records of Clark County, Nevada, lying within the Southwest Quarter (SW 1/4) of said Section 24.

Sec. 1.040 Limitation on future annexation. Notwithstanding any provision of law to the contrary, no area may be annexed into the boundaries of the City unless a majority of the owners of the real property that make up the area petition the City Council for annexation into the City.

Sec. 1.050 Form of government.

1. The municipal government provided by this Charter shall be known as the "council-manager government." Pursuant to its provisions and subject only to the limitations imposed by the Constitution of this State and by this Charter, all powers of the City shall be vested in an elective council, hereinafter referred to as "the Council," which shall:

- (a) Enact local legislation;*
- (b) Adopt budgets;*
- (c) Determine policies; and*
- (d) Appoint the City Manager, who shall execute the laws and administer the government of the City.*

2. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner is not prescribed, then in such manner as may be prescribed by ordinance.

Sec. 1.060 Construction of Charter. This Charter, except where the context by clear implication otherwise requires, must be construed as follows:

1. The titles or leadlines which are applied to the articles and sections of this Charter are inserted only as a matter of convenience and ease in reference and in no way define, limit or describe the scope or intent of any provision of this Charter.

2. The singular number includes the plural number, and the plural includes the singular.

3. The present tense includes the future tense.

ARTICLE II

CITY COUNCIL

Sec. 2.010 Number; selection and term; recall. The Council shall have four Council members and a Mayor elected from the City at large in the manner provided in Article X, for terms of 4 years and until their successors have been elected and have taken office as provided in

section 2.100, subject to recall as provided in Article XI. No Council member shall represent any particular constituency or district of the City, and each Council member shall represent the entire City.

Sec. 2.020 Qualifications.

1. No person shall be eligible for the office of Council member or Mayor unless he or she is a qualified elector of the City and has been a resident of the City for at least 1 year immediately before the election in which he or she is a candidate. He or she shall hold no other elective public office, but may hold a commission as a notary public or be a member of the Armed Forces reserve. No employee of the City or officer thereof, excluding Council members, receiving compensation under the provisions of this Charter or any City ordinance, shall be a candidate for or eligible for the office of Council member or Mayor without first resigning from city employment or city office.

2. If a Council member or the Mayor ceases to possess any of the qualifications enumerated in subsection 1 or is convicted of a felony, or ceases to be resident of the City, his or her office shall immediately become vacant.

Sec. 2.030 Salaries.

1. For the first 2 years after election of the first members of the Council after adoption of this Charter, each member of the Council shall receive as compensation for his or her services as such a monthly salary of \$125.00, and the member elected to fill the Office of Mayor shall receive the additional amount of \$25.00 for each month said member shall fill the Office of Mayor.

2. After the period specified in subsection 1, the Council may determine the annual salaries of the Mayor and Council members by ordinance. The Council shall not adopt an ordinance which increases or decreases the salary of the Mayor or the Council members during the term for which they have been elected or appointed.

3. Absence of a member of the Council from all regular and special meetings of the Council during any calendar month shall render him or her ineligible to receive the monthly salary for such a calendar month unless by permission of the Council expressed in its official minutes.

4. The Mayor and Council members shall be reimbursed for their personal expenses when conducting or traveling on city business as authorized by the Council. Reimbursement for use of their personal automobiles will be at the rate per mile established by the rules of the Internal Revenue Service of the United States.

5. The Mayor and Council members shall receive no additional compensation or benefit other than that mandated by state or federal law.

Sec. 2.040 Mayor; Mayor Pro Tem; duties.

1. The Mayor shall:

- (a) Serve as a member of the Council and preside over its meetings;*
- (b) Have no administrative duties; and*

(c) Be recognized as the head of the city government for all ceremonial purposes and for the purposes of dealing with emergencies if martial law has been imposed on the City by the State or Federal Government.

2. The Council shall elect one of its members to be Mayor Pro Tem, who shall:

(a) Hold such office and title, without additional compensation, for the period of 1 year;

(b) Perform the duties of the Mayor during the absence or disability of the Mayor; and

(c) Assume the position of Mayor, if that office becomes vacant, until the next regular election.

Sec. 2.050 Powers. Except as otherwise provided in this Charter, all powers of the City and the determination of all matters of policy shall be vested in the Council. The Council shall have, without limitation, the power to:

1. Establish other administrative departments and distribute the work of divisions.

2. Adopt the budget of the City.

3. Adopt civil service rules and regulations.

4. Inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs.

5. Appoint the members of all boards, commissions and committees for specific or indefinite terms as provided elsewhere in this Charter or in various resolutions or ordinances, with all such persons serving at the pleasure of the Council, provided, however, that all persons so appointed must be and remain bona fide residents of the City during the tenure of each appointment.

6. Levy such taxes as are authorized by applicable laws.

Sec. 2.060 Powers: Zoning and Planning. The Council may:

1. Divide the City into districts and regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land within the districts.

2. Establish and adopt ordinances and regulations relating to the subdivision of land.

Sec. 2.070 Council not to interfere in removals.

1. Neither the Council nor any of its members shall direct or request the removal of any person from office by the City Manager or by any of his or her subordinates, or in any manner take part in the removal of officers and employees in the administrative service of the City. Except for the purpose of inquiry and as otherwise provided in this Charter, the Council and its members shall deal with the administrative service solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately.

2. Any Council member violating the provisions of this section, or voting for a resolution or ordinance in violation of this section, is guilty of a misdemeanor and upon conviction thereof shall cease to be a Council member.

Sec. 2.080 Vacancies in Council. Except as otherwise provided in NRS 268.325, a vacancy on the Council must be filled by appointment by a majority of the remaining members of the Council within 30 days or after three regular or special meetings, whichever is the shorter period of time. In the event of a tie vote among the remaining members of the Council, selection must be made by lot. No such appointment extends beyond the next municipal election.

Sec. 2.090 Creation of new departments or offices; change of duties. The Council by ordinance may:

1. Create, change and abolish offices, departments or agencies, other than offices, departments and agencies established by this Charter.

2. Assign additional functions or duties to offices, departments or agencies established by this Charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency.

Sec. 2.100 Induction of Council into office; meetings of Council. The Council shall meet within 10 days after each city primary election and each city general election specified in Article X, to canvass the returns and to declare the results. All newly elected or reelected Mayor or Council members shall be inducted into office at the next regular Council meeting following certification of the applicable city general election results. Immediately following such induction, the Mayor Pro Tem shall be designated as provided in section 2.040. Thereafter, the Council shall meet regularly at such times as it shall set by resolution from time to time, but not less frequently than once each month.

Sec. 2.110 Council to be judge of qualifications of its members. The Council shall be the judge of the election and qualifications of its members and for such purpose shall have the power to subpoena witnesses and require the production of records, but the decision of the Council in any such case shall be subject to review by the courts.

Sec. 2.120 Rules of procedure.

1. The Council shall establish rules by ordinance for the conduct of its proceedings and to preserve order at its meetings. It shall, through the City Clerk, maintain a journal record of its proceedings which shall be open to public inspection. Any member of the Council may place items on the Council agenda to be considered by the Council.

2. The Council may organize special committees of its members for the principal functions of the government of the City. It shall be the duty of each such committee to be informed of the business of the city government included within the assigned functions of the committee, and, as ordered by

the Council, to report to the Council information or recommendations which shall enable the Council properly to legislate.

Sec. 2.130 Investigations by Council.

1. The Council shall have power to inquire into the conduct of any office, department, agency or officer of the City and to make investigations as to municipal affairs. The Council shall have the power and authority on any investigation or proceeding pending before it to impel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Each member of the Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the Council.

2. Subpoenas may be issued in the name of the City pursuant to subsection 1 and may be attested by the City Clerk. Disobedience of such subpoenas or the refusal to testify upon other than constitutional grounds shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable.

Sec. 2.140 Council's power to make and pass ordinances, resolutions.

1. The Council shall have the power to make and pass all ordinances, resolutions and orders, not repugnant to the Constitution of the United States or of the State of Nevada or to the provisions of this Charter, necessary for the municipal government and the management of the city affairs, for the execution of all powers vested in the City, and for making effective the provisions of this Charter.

2. The Council shall have the power to enforce obedience to its ordinances by such fines, imprisonments or other penalties as the Council may deem proper, but the punishment for any offense shall not be greater than the penalties specified for misdemeanors under applicable provisions of Nevada Revised Statutes in effect at the time such offense occurred.

3. The Council may enact and enforce such local police ordinances as are not in conflict with the general laws of the State of Nevada.

4. Any offense made a misdemeanor by the laws of the State of Nevada shall also be deemed to be a misdemeanor in the City of Laughlin whenever such offense is committed within the city limits.

Sec. 2.150 Voting on ordinances and resolutions.

1. No ordinance or resolution shall be passed without receiving the affirmative votes of at least three members of the Council.

2. The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the Council. Upon the request of any member of the Council, the ayes and noes shall be taken and recorded upon any vote. All members of the Council present at any meeting shall vote, except upon matters in which they have financial interest or when they are reviewing an appeal from a decision of a city commission, before which they have appeared as an advocate for or an adversary against the decision being appealed.

Sec. 2.160 Enactment of ordinances; subject matter, titles.

1. *No ordinance shall be passed except by bill, and when any ordinance is amended, the section or sections thereof must be reenacted as amended, and no ordinance shall be revised or amended by reference only to its title.*

2. *Every ordinance, except those revising the city ordinances, shall embrace but one subject and matters necessarily connected therewith and pertaining thereto, and the subject shall be clearly indicated in the title, and in all cases where the subject of the ordinance is not so expressed in the title, the ordinance shall be void as to the matter not expressed in the title.*

Sec. 2.170 Introduction of ordinances; notice; final action; publication.

1. *The style of ordinances must be as follows: "The Council of the City of Laughlin does ordain." All proposed ordinances, when first proposed, must be read by title to the Council, after which an adequate number of copies of the ordinance must be deposited with the City Clerk for public examination and distribution upon request. Notice of the deposit of the copies, together with an adequate summary of the ordinance, must be published once in a newspaper published in the City, if any, otherwise in some newspaper published in the County which has a general circulation in the City, at least 10 days before the adoption of the ordinance. At any meeting at which final action on the ordinance is considered, at least one copy of the ordinance must be available for public examination. The Council shall adopt or reject the ordinance, or the ordinance as amended, within 30 days after the date of publication, except that in cases of emergency, by unanimous consent of the whole Council, final action may be taken immediately or at a special meeting called for that purpose.*

2. *After final adoption, the ordinance must be signed by the Mayor, and, together with the votes cast on it, must be:*

(a) *Published by title, together with an adequate summary including any amendments, once in a newspaper published in the City, if any, otherwise in a newspaper published in the County and having a general circulation in the City; and*

(b) *Posted in full in the city hall.*

3. *Except as otherwise provided in subsections 4 and 5, all ordinances become effective 20 days after publication.*

4. *Emergency ordinances having for their purpose the immediate preservation of the public peace, health or safety, containing a declaration of and the facts constituting its urgency and passed by a four-fifths vote of the Council, and ordinances calling or otherwise relating to a municipal election, become effective on the date specified therein.*

5. *All ordinances having for their purpose the lease or sale of real estate owned by the City, except city-owned subdivision or cemetery lots, may be effective not fewer than 5 days after the publication.*

Sec. 2.180 Adoption of specialized, uniform codes. An ordinance adopting any specialized or uniform building, plumbing or electrical code

or codes, printed in book or pamphlet form or any other specialized or uniform code or codes of any nature whatsoever so printed, may adopt such code, or any portion thereof, with such changes as may be necessary to make the same applicable to conditions in the City, and with such other changes as may be desirable, by reference thereto, without the necessity of reading the same at length. Such code, upon adoption, need not be published if an adequate number of copies of such code, either typewritten or printed, with such changes, if any, have been filed for use and examination by the public in the Office of the City Clerk at least 1 week before the passage of the ordinance adopting the code, or any amendment thereto. Notice of such filing shall be given in accordance with the provisions of subsection 2 of section 2.170.

Sec. 2.190 Codification of ordinances; publication of Code.

1. The Council shall have the power to codify and publish a code of its municipal ordinances in the form of a Municipal Code, which Code may, at the election of the Council, have incorporated therein a copy of this Charter and such additional data as the Council may prescribe.

2. The ordinances in the Code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, attestations and other formal parts.

3. The codification shall be adopted by an ordinance which shall not contain any substantive changes, modifications or alterations of existing ordinances, and the only title necessary for the ordinance shall be "An ordinance for codifying and compiling the general ordinances of the City of Laughlin."

4. The codification may, by ordinance regularly passed, adopted and published, be amended or extended.

Sec. 2.200 Independent annual audit. *Before the end of each fiscal year, the Council shall designate qualified accountants who, as of the end of the fiscal year, shall make a complete and independent audit of accounts and other evidences of financial transactions of the city government and shall submit their report to the Council and to the City Manager. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. They shall not maintain any accounts or records of the city business, but, within specifications approved by the Council, shall postaudit the books and documents kept by the Department of Finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.*

ARTICLE III

CITY MANAGER

Sec. 3.010 Appointment and qualifications.

1. The Council shall appoint a City Manager by a majority vote who by virtue of his or her position as City Manager shall be an officer of the City and who shall have the powers and shall perform the duties in this Charter

provided. No member of the Council shall receive such appointment during the term for which he or she shall have been elected, nor within 1 year after the expiration of his or her term.

2. The City Manager shall be chosen on the basis of his or her executive and administrative qualifications. The City Manager shall be paid a salary commensurate with his or her responsibilities as Chief Administrative Officer of the City as set by resolution of the Council.

3. The Council shall appoint the City Manager for an indefinite term and may remove him or her in accordance with the procedures set forth in section 3.020.

Sec. 3.020 Removal.

1. Before removal of the City Manager may become effective, the Council must adopt, by the affirmative votes of at least four members, a resolution that must state the reasons for the proposed removal of the City Manager and may provide for the suspension of the City Manager from duty, but shall in any case cause to be paid him or her forthwith any unpaid balance of his or her salary and his or her salary for the next calendar month following the date of adoption of the resolution. A copy of the resolution must be delivered promptly to the City Manager.

2. The City Manager may reply in writing, and any member of the Council may request a public hearing, which, if requested, shall be held not earlier than 20 days or later than 30 days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the Council may remove the City Manager by motion adopted by the affirmative votes of at least four members of the Council.

Sec. 3.030 Powers and duties. The City Manager shall be the Chief Administrative Officer and the Head of the Administrative Branch of the city government. The City Manager shall be responsible to and under the direction of the Council for the proper administration of all affairs of the City. Without limiting the foregoing general grant of powers, responsibilities, and duties, the City Manager shall have the power and be required to:

1. Subject to the civil service rules and regulations adopted by the Council, and with the approval of the Council, appoint all department heads and officers of the City except those officers the power of appointment of whom is vested in the Council and as otherwise provided in this Charter;

2. Subject to the civil service rules and regulations adopted by the Council and ordinances adopted pursuant thereto, pass upon and approve all proposed appointments and removals of subordinate employees, by all officers and heads of offices, agencies and departments;

3. Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption;

4. *Prepare and submit to the Council at the end of the fiscal year a complete report of the finances and administrative activities of the City for the preceding fiscal year;*

5. *Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him or her desirable;*

6. *Keep himself or herself informed of the activities of the several agencies, offices and departments of the City and see to the proper administration of their affairs and the efficient conduct of their business;*

7. *Be vigilant and active in causing all provisions of the law to be executed and enforced;*

8. *Perform all such duties as may be prescribed by this Charter or required of him or her by the Council, not inconsistent with this Charter;*

9. *Submit a monthly report to the Council covering significant activities of the city agencies, offices and departments under his or her supervision and any significant changes in administrative rules and procedures promulgated by him or her; and*

10. *Submit special reports in writing to the Council in answer to any requests for information filed with the City Manager by a member of the Council.*

Sec. 3.040 Seat at Council table. The City Manager shall be accorded a seat at the Council table and shall be entitled to participate in the deliberations of the Council, but shall not have a vote. The City Manager shall attend all regular and special meetings of the Council unless physically unable to do so or unless his or her absence has received prior approval by a majority of the Council.

Sec. 3.050 Absence, disability. To perform his or her duties during his or her temporary absence or disability, the City Manager may designate by letter filed with the City Clerk one of the other officers or department heads of the City to serve as acting City Manager during such temporary absence or disability. Such designation shall be subject to change thereof by the Council. In the event of the failure of the City Manager to make such a designation, the Council may by resolution appoint an officer or department head of the City to perform the duties of the City Manager until he or she shall be prepared to resume the duties of office.

ARTICLE IV

OFFICERS AND EMPLOYEES

Sec. 4.010 City administrative organization.

1. *The Council may provide by ordinance not inconsistent with this Charter for the organization, conduct and operation of the several offices, departments and other agencies of the City as established by this Charter, for the creation of additional departments, divisions, offices and agencies and for their alteration or abolition, for their assignment and reassignment to departments, and for the number, titles, qualifications, powers, duties and compensation of all officers and employees.*

2. *The Council by ordinance may assign additional functions or duties to offices, departments or other agencies established by this Charter, but, except as otherwise provided in subsection 3, shall not discontinue or assign to any other office, department or other agency any function or duty assigned by this Charter to a particular office, department or agency. No office provided in this Charter, to be filled by appointment by the City Manager, shall be combined with an office provided in this Charter to be filled by appointment by the Council.*

3. *Notwithstanding the foregoing, the Council may transfer or consolidate functions of the city government to or with appropriate functions of the state or county government and, in case of any such transfer or consolidation, the provisions of this Charter providing for the functions of the city government so transferred or consolidated, shall be deemed suspended during the continuance of such transfer or consolidation, to the extent that such suspension is made necessary or convenient and is set forth in the ordinance establishing such transfer or consolidation. Any such transfer or consolidation may be repealed by ordinance.*

4. *Subject to the civil service rules and regulations adopted by the Council and section 3.020 of Article III, all officers and department heads of the City, except the City Attorney, Municipal Judge and the City Clerk, shall be appointed by the City Manager and shall thereafter serve at the pleasure of the City Manager.*

5. *Officers of the City appointed by the Council shall be required to reside within the city limits within 3 months of appointment. Employees of the City shall be required to live within a 50-mile radius of the City within 6 months of employment.*

Sec. 4.020 Officers appointed by the Council.

1. *In addition to the City Manager, the Council shall appoint the City Attorney and the Municipal Judge, if required pursuant to section 5.020 of Article V, who shall serve at the pleasure of the Council and may be removed by motion of the Council adopted by the affirmative votes of at least four members of the Council.*

2. *Subject to the provisions of this Charter and rules and regulations adopted by the Council, the Council shall appoint the City Clerk who shall serve at the pleasure of the Council and may be removed by motion of the Council adopted by the affirmative votes of three members of the Council.*

3. *The appointments of city officers pursuant to subsections 1 and 2 shall be for indefinite terms, and each such officer shall receive such compensation and other benefits as may be determined by resolution of the Council from time to time.*

4. *Any city officer may be temporarily suspended with full pay at any time by a majority vote of the Council, but no city officer may be removed from office unless he or she has first been given an opportunity for a hearing before the Council, at his or her request, with not less than 7 days'*

prior notice of the time and place of the hearing. Such hearing may be either public or private, as requested by the officer, and at the hearing, the officer may be assisted by his or her own legal counsel. Any action of the Council following such hearing shall be considered final and conclusive. If a city officer is so removed, the Council will appoint a person as a temporary replacement to perform the duties of the removed officer, and will appoint a qualified person as a permanent replacement officer as soon as practicable.

5. No person shall be appointed as a city officer who is a grandparent, parent, uncle, aunt, brother, sister, nephew, niece, child or grandchild, by birth, marriage or adoption, of a city officer, employee or Council member at the time of appointment.

Sec. 4.030 City Clerk powers and duties. The City Clerk shall have the power and be required to:

1. Receive all documents addressed to the Council and present such documents to the Council.

2. Attend all meetings of the Council and its committees and be responsible for:

(a) Recording and maintaining an accurate journal of Council proceedings;

(b) Recording the ayes and noes in the final action upon the questions of granting franchises, making of contracts, approving of bills, disposing of or leasing city property, the passage or reconsideration of any ordinance, or upon any other act that involves the payment of money or the incurring of debt by the City; and

(c) Other duties as required upon the call of any member of the Council.

3. Maintain the journal of Council proceedings in books which shall bear appropriate titles and which shall be available for public inspection.

4. Maintain separate books in which shall be recorded respectively all ordinances and resolutions, with the certificate of the City Clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter, and maintain all such books properly indexed and available for public inspection when not in actual use.

5. Have charge of the repository for contracts, surety bonds, agreements, and other related documents of City business.

6. Maintain custody of the City seal.

7. Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City, and issue certified copies of official City records.

8. Conduct all City elections.

Sec. 4.040 City Attorney; qualifications, power and duties.

1. The City Attorney shall be an attorney at law duly licensed under the laws of the State of Nevada. He or she shall devote such time to the duties

of his or her office as may be specified in the ordinance or resolution fixing the compensation of such office. If practicable, the Council shall appoint an attorney who has had special training or experience in municipal corporation law.

2. The City Attorney shall have the power and be required to:

(a) Represent and advise the Council and all city officers in all matters of law pertaining to their offices;

(b) Attend all meetings of the Council and give his or her advice or opinion in writing whenever requested to do so by the Council or by any of the officers and boards of the City;

(c) Prepare or approve all proposed ordinances and resolutions for the City, and amendments thereto;

(d) Prosecute on behalf of the people such criminal cases for violation of this Charter or city ordinances, and of misdemeanor offenses and infractions arising upon violations of the laws of the State as, in his or her opinion, that of the Council or of the City Manager, warrant his or her attention;

(e) Represent and appear for the City, any city officer or employee, or former city officer or employee, in any or all actions and proceedings in which the City or any such officer or employee, in or by reason of his or her official capacity, is concerned or is a party;

(f) Approve the form of all bonds given to, and all contracts made by, the City, endorsing his or her approval thereon in writing; and

(g) On vacating the office, surrender to his or her successor all books, papers, files and documents pertaining to the City's affairs.

3. The Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the City Attorney therein.

Sec. 4.050 Director of Finance; qualifications, powers and duties.

1. The person appointed by the City Manager for the position of Director of Finance shall be qualified to administer and direct an integrated Department of Finance.

2. The Director of Finance shall have the power and be required to:

(a) Have charge of the administration of the financial affairs of the City under the direction of the City Manager.

(b) Supervise and be responsible for the disbursement of all money and have control over all expenditures to ensure that budget appropriations are not exceeded.

(c) Supervise a system of financial internal control including the auditing of all purchase orders before issuance, the auditing and approving before payment of all invoices, bills, payrolls, claims, demands or other charges against the City, and, with the advice of the City Attorney, when necessary, determining the regularity, legality and correctness of such charges.

(d) With the advice of the City Attorney, settle claims, demands or other charges, including the issuing of warrants therefor.

(e) Maintain general and cost accounting systems for the city government and each of its offices, departments and other agencies.

(f) Keep separate accounts for the items of appropriation contained in the city budget. Each account shall show the amount of appropriations, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance.

(g) Require reports of the receipts and disbursements from each receiving and expending agency of the city government to be made daily or at such intervals as he or she may deem expedient.

(h) Submit to the Council through the City Manager a monthly statement of all receipts and disbursements and other financial data in sufficient detail to show the exact financial condition of the City, and, as of the end of each fiscal year, submit a complete financial statement and report.

(i) Administer the license and business tax program of the City.

(j) Direct treasury administration for the City, including, without limitation:

(1) Receiving and collecting revenues and receipts from whatever source;

(2) Maintaining custody of all public funds belonging to or under the control of the City or any office, department or other agency of the city government; and

(3) Depositing all funds coming into his or her hands in such depository as may be designated by resolution of the Council, or, if no such resolution is adopted, by the City Manager, in compliance with all of the provisions of the Constitution and laws of this State governing the handling, depositing, and securing of public funds.

(k) Direct centralized purchasing and a property control system for the city government under rules and regulations to be prescribed by ordinance.

Sec. 4.060 Performance review. On or before the annual anniversary date of the appointment of persons serving in the positions of City Manager, City Attorney and City Clerk, the Council shall review and evaluate the performance of such appointees.

Sec. 4.070 Appointment powers of department heads. Subject to the approval of the City Manager and subject to civil service rules and regulations adopted by the Council, each head of a department, office or other agency shall have the power to appoint and remove such deputies, assistants, subordinates and employees as are provided for by the Council for his or her department, office or other agency.

ARTICLE V**JUDICIAL**

Sec. 5.010 Municipal court. The municipal court must be presided over by the Justice of the Peace of Laughlin Township as ex officio municipal judge.

Sec. 5.020 Municipal judge appointed. If the Office of Justice of the Peace of Laughlin Township ceases to exist, the municipal court shall be presided over by a municipal judge appointed by the Council.

ARTICLE VI**CITY BUDGETS**

Sec. 6.010 Budgets. Budgets for the City shall be prepared in accordance with and shall be governed by the provisions of the general laws of the State pertaining to budgets of cities.

ARTICLE VII**PUBLIC IMPROVEMENTS AND REPAIRS**

Sec. 7.010 Expenses of improvements; payment by funds or by special assessments. The expenses of public improvements and repairs, such as the improvement of streets and alleys by grading, paving, graveling and curbing, the construction, repair, maintenance and preservation of sidewalks, drains, curbs, gutters, storm sewers, drainage systems, sewerage systems and sewerage disposal plants, may be paid from the General Fund or Street Fund or the cost or portion thereof as the Council shall determine, may be defrayed by special assessments upon lots and premises abutting upon that part of the street or alley so improved or proposed so to be, or the land abutting upon such improvement and such other lands as in the opinion of the Council may benefit by the improvement all in the manner contained in the provisions of the Nevada Revised Statutes.

ARTICLE VIII**CITY ASSESSOR; TAX RECEIVER; FINANCES AND PURCHASING**

Sec. 8.010 Clark County Assessor to be ex officio City Assessor. The County Assessor of Clark County shall, in addition to the duties now imposed upon him or her by law, act as the Assessor of the City and shall be ex officio City Assessor, without further compensation. He or she shall perform such duties as the Council may by ordinance prescribe with the County Assessor's consent.

Sec. 8.020 Clark County Treasurer to be ex officio City Tax Receiver. The County Treasurer of Clark County shall, in addition to the duties now imposed upon him or her by law, act as ex officio City Tax Receiver. He or she shall receive and safely keep all moneys that come to the City by taxation, and shall pay the same to the Director of Finance. The City Tax Receiver may, with the consent of the Council, collect special assessments which may be levied by authority of this Charter or city ordinance when they become due and payable, and whenever and wherever the general laws of the State of Nevada regarding the authorized acts of tax receivers

may be, the same hereby are, made applicable to the City Tax Receiver of the City of Laughlin, in the collection of city special assessments.

Sec. 8.030 Procedures for city purchasing. All purchases of goods or services of every kind or description for the City by any office, commission, board, department or any division thereof shall be made in conformance with the Nevada Revised Statutes, as amended from time to time.

Sec. 8.040 Transfer of appropriations. The City Manager may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department or agency.

Sec. 8.050 When contracts and expenditures prohibited.

1. No officer, department or agency shall, during any budget year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, for any purpose, in excess of the amounts appropriated for that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter shall be null and void. Any officer or employee of the City who violates this section shall be guilty of a misdemeanor and, upon conviction thereof, shall cease to hold his or her office or employment.

2. Nothing in this section shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made, when such contract is permitted by law.

ARTICLE IX

APPOINTIVE BOARDS AND COMMISSIONS

Sec. 9.010 Established; enumerated.

1. The Council may create by ordinance such other appointive boards or commissions as in its judgment are required and may grant to them powers and duties as are consistent with the provisions of this Charter. The Council, by motion adopted by the affirmative votes of at least a majority of its members, may appoint from time to time temporary committees as deemed advisable to render counsel and advice to the appointing authorities on any designated matters or subjects within the jurisdiction of such authorities.

2. The Personnel Board is hereby established and has the powers and duties contained in this Article.

Sec. 9.020 Appointments, removals, vacancies, terms.

1. Except as otherwise specified in this Charter, the members of each of the appointive boards and commissions shall be appointed, and may be removed, by the Council, subject in both appointment and removal by the affirmative votes of a majority of the Council. For the purposes of this rule, residency is only required at the time of nomination.

2. If a member of a board or commission:

(a) Is absent from two regular meetings of such board or commission, consecutively, unless by permission of such board or commission expressed in its official minutes;

(b) Fails to attend at least one-half of the regular meetings of such board or commission within a calendar year;

(c) Is convicted of a crime involving moral turpitude; or

(d) Ceases to be a qualified elector of the City,

↳ the office of that member shall become vacant and shall be so declared by the Council.

3. Except as otherwise provided in subsection 2 or section 9.030, the members of such boards and commissions shall serve for a term of 2 years and until their respective successors are appointed and qualified.

Sec. 9.030 Prohibition against serving as treasurer for campaign committee. If any member of an appointive board or commission shall become the treasurer of a campaign committee which receives contributions for any candidate for Mayor or Council member, his or her office shall become vacant and shall be so declared by the Council. Any provisions of this Article notwithstanding, no person who serves as the treasurer of a campaign committee which receives contributions for any candidate for Mayor or Council member shall be eligible for appointment to any appointive board or commission.

Sec. 9.040 Appropriations therefor. The Council shall include in its annual budget such appropriations of funds as, in its opinion, shall be sufficient for the efficient and proper functioning of such appointive boards and commissions.

Sec. 9.050 Meetings; chair.

1. The election of each chair and vice chair shall be held at the meetings of the respective boards and commissions during the month of July of each year. The board or commission, in the event of a vacancy in the office of the chair or vice chair, shall elect one of its members for the unexpired term. The chair shall have the responsibility for informing the Council or board, commission or committee of actions or inactions and the reasons therefor.

2. Each board or commission, other than the Personnel Board, shall hold a regular meeting at least once a month with reasonable provision for attendance by the public. The City Manager shall designate a secretary for the recording of minutes for each such board and commission, who shall keep a record of its proceedings and transactions. Each board and commission shall prescribe rules and regulations governing its operations which shall be consistent with this Charter and shall be filed with the City Clerk for public inspection. The Personnel Board shall meet monthly, provided there is business on the agenda to come before it. In the event no business is placed on the Personnel Board's agenda 5 days preceding the tentative meeting date, no meeting need be held, provided that in no event

shall more than 3 months intervene between meetings of the Personnel Board.

Sec. 9.060 Compensation. The members of appointive boards and commissions shall receive such compensation, if any, as may be prescribed by ordinance and may receive reimbursement for necessary traveling and other expenses when on official duty of the City when such expenditure has been so authorized by the board or commission and subject to rules and regulations prescribed by ordinance or order of the Council.

Sec. 9.070 Attendance of witnesses; oaths and affirmations. Each appointive board or commission shall have the same power as the Council to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Each member of any such board or commission shall have the power to administer oaths and affirmations in any investigation or proceeding pending before such board or commission.

Sec. 9.080 Personnel Board: Membership. The Personnel Board shall consist of five members to be appointed by the Council from the qualified electors of the City. None of the members shall be removed from office without reasonable and sufficient cause, in accordance with procedures as provided by ordinance. None of the members shall hold public office or employment in the city government or be a candidate for any other public office or position, be an officer of any local, state or national partisan political club or organization, or while a member of the Personnel Board or for a period of 1 year after he or she has ceased for any reason to be a member, be eligible for appointment to any salaried office or employment in the service of the City.

Sec. 9.090 Personnel Board: Powers and duties. The Personnel Board shall have the power and be required to:

- 1. Hear appeals pertaining to the disciplinary suspension, demotion or dismissal of any officer or employee having permanent status in any office, position or employment in the civil service, and as otherwise provided for in the civil service rules and regulations;*

- 2. Consider matters that may be referred to it by the Council or the City Manager and render such counsel and advice in regard thereto as may be requested by the referring authorities;*

- 3. By its own motion, make such studies and investigations as it may deem necessary for the review of civil service rules and regulations, or to determine the wisdom and efficacy of the rules, regulations, policies, plans and procedures dealing with civil service matters and report its findings and recommendations to the City Manager or the Council, or to both such authorities, as it may see fit; and*

- 4. Conduct public hearings on proposed revisions of civil service rules and regulations in the manner as prescribed by ordinance and advise the Council of its findings in such matters within 60 days.*

ARTICLE X
CITY ELECTIONS

Sec. 10.010 Applicability of state election laws. All city elections must be nonpartisan in character and must be conducted in accordance with the provisions of the general election laws of the State of Nevada and any ordinance regulations as adopted by the Council which are consistent with law and this Charter.

Sec. 10.020 Terms. All full terms of office in the Council are 4 years, and Council members and the Mayor must be elected at large without regard to precinct residency. Two full-term Council members and the Mayor are to be elected in each year immediately preceding a federal presidential election, and two full-term Council members are to be elected in each year immediately following a federal presidential election. In each election, the candidates receiving the greatest number of votes must be declared elected to the vacant full-term positions.

Sec. 10.030 Specific Council positions. In the event a 2-year term position on the Council will be available at the time of a municipal election as provided in section 10.020, a candidate must file specifically for such a position. The candidate receiving the greatest respective number of votes must be declared elected to the available 2-year position.

Sec. 10.040 Primary municipal elections. A city primary election must be held on the first Tuesday after the first Monday in April of each odd-numbered year, and a city general election must be held on the first Tuesday after the first Monday in June of each odd-numbered year.

Sec. 10.050 Primary not required. A primary election must not be held if not more than double the number of Council members to be elected file as candidates. A primary election must not be held for the Office of Mayor if not more than two candidates file for that position. The primary election must be held for the purpose of eliminating candidates in excess of a figure double the number of Council members to be elected.

Sec. 10.060 General election not required. If, in the primary city election, a candidate receives votes equal to a majority of voters casting ballots in that election, he or she shall be considered elected to one of the vacancies and his or her name shall not be placed on the ballot for the general city election.

Sec. 10.070 Voters entitled to vote for each seat on ballot. In each primary and general election, voters shall be entitled to cast ballots for candidates in a number equal to the number of seats to be filled in the city elections.

Sec. 10.080 Council to control elections. The conduct of all municipal elections shall be under the control of the Council, which shall adopt by ordinance all regulations which it considers desirable and consistent with law and this Charter. Nothing in this Charter shall be construed as to deny or abridge the power of the Council to provide for

supplemental regulations for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud.

ARTICLE XI

INITIATIVE, REFERENDUM AND RECALL

Sec. 11.010 Registered voters' power of initiative and referendum concerning city ordinances. The registered voters of a city may:

1. Propose ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without change in substance, adopt or reject it at a primary or general municipal election or primary or general state election; and

2. Require reconsideration by the Council of any adopted ordinance, and if the Council fails to repeal an ordinance so considered, approve or reject it at a primary or general municipal election or primary or general state election.

Sec. 11.020 Initiative and referendum proceedings. All initiative and referendum proceedings shall be conducted in conformance with the provisions of the Nevada Revised Statutes, as amended from time to time.

Sec. 11.030 Results of election.

1. If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the results of the election and must be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes prevails to the extent of the conflict.

2. If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the results of the election.

3. No initiative ordinance voted upon by the registered voters or an initiative ordinance in substantially the same form as one voted upon by the people, may again be placed on the ballot until the next primary or general municipal election or primary or general state election.

Sec. 11.040 Repealing ordinances; publication. Initiative and referendum ordinances adopted or approved by the voters may be published and shall not be amended or repealed by the Council, as in the case of other ordinances.

Sec. 11.050 Recall of Council members. As provided by the general laws of this State, every member of the Council is subject to recall from office.

ARTICLE XII

PUBLIC UTILITIES

Sec. 12.010 Granting of franchises.

1. The City shall have the power to grant a franchise to any private corporation for the use of streets and other public places in the furnishing of any public utility service to the City and to its inhabitants.

2. *All franchises and any renewals, extensions and amendments thereto shall be granted only by ordinance. A proposed franchise ordinance shall be submitted to the City Manager, and he or she shall render to the Council a written report containing recommendations thereon.*

3. *The City shall have the power, as one of the conditions of granting any franchise, to impose a franchise tax, either for the purpose of license or for revenue.*

Sec. 12.020 Conditions and transfer of franchises.

1. *Every franchise or renewal, extension or amendment of a franchise hereafter granted shall:*

(a) *Include that the City may issue such orders with respect to safety and other matters as may be necessary or desirable for the community; and*

(b) *Reserve to the City the right to make all future regulations or ordinances deemed necessary for the preservation of the health, safety and public welfare of the City, including, without limitation, regulations concerning the imposition of uniform codes upon the utilities, standards and rules concerning the excavations and use to which the streets, alleys and public thoroughfares may be put and regulations concerning placement of easement improvements such as poles, valves, hydrants and the like.*

2. *No franchise shall be transferred hereafter by any utility to another without the approval of the Council, and as a condition to such approval, the successor in interest to the said franchise shall execute a written agreement containing a covenant that it will comply with all the terms and conditions of the franchise then in existence.*

Sec. 12.030 Condemnation. The City, by initiative ordinance, shall have the right to condemn the property of any public utility subject to the provisions of chapter 37 of NRS. The public utility shall receive just compensation for the taking of its property. Such an initiative petition must be voted on by the people and cannot be passed by simple acceptance of the Council.

Sec. 12.040 Establishment of municipally owned and operated utilities.

1. *The City shall have power to own and operate any public utility, to construct and install all facilities that are reasonably needed and to lease or purchase any existing utility properties used and useful in public service.*

2. *The Council may provide by ordinance for the establishment of such utility, but an ordinance providing for a newly owned and operated utility shall be enacted only after such hearings and procedure as required herein for the granting of a franchise, and shall also be submitted to and approved at a popular referendum provided that an ordinance providing for any extension, enlargement or improvement of an existing utility may be enacted as a matter of general municipal administration.*

3. *The City shall have the power to execute long-term contracts for the purpose of augmenting the services of existing municipally owned utilities.*

Such contracts shall be passed only in the form of ordinances and may exceed in length the terms of office of the members of the Council.

Sec. 12.050 Municipal utility organizations.

1. The Council may provide for the establishment of a separate department to administer the utility function, including the regulation of privately owned and operated utilities and the operation of municipally owned utilities. Such department shall keep separate financial and accounting records for each municipally owned and operated utility and before February 1 of each fiscal year, shall prepare for the City Manager, in accordance with his or her specifications, a comprehensive report of each utility. The responsible departments or officer shall endeavor to make each utility financially self-sustaining, unless the Council shall by ordinance adopt a different policy. All net profits derived from municipally owned and operated utilities may be expended in the discretion of the Council for general municipal purposes.

2. The rates for the products and services of any municipally owned and operated utility shall only be established, reduced, altered or increased by resolution of the Council following a public hearing.

Sec. 12.060 Financial provisions.

1. The City may finance the acquisition of privately owned utility properties, the purchase of land and the cost of all construction and property installation for utility purposes by borrowing in accordance with the provisions of general law.

2. Appropriate provisions shall be made for the amortization and retirement of all bonds within a maximum period of 40 years. Such amortization and retirement may be effected through the use of depreciation funds or other financial resources provided through the earnings of the utility.

Sec. 12.070 Sale of public utilities; proviso.

1. No public utility of any kind, after having been acquired by the City, may thereafter be sold or leased by the City, unless the proposition for the sale or lease has been submitted to the electors of the City at a special election or primary or general municipal election or primary or general state election. After a majority vote of those electors in favor of the sale, the sale may not be made except after 30 days' published notice thereof, except that the provisions of this section do not apply to a sale by the Council of parts, equipment, trucks, engines and tools which have become obsolete or worn out, any of which equipment may be sold by the Council in the regular course of business.

2. A special election may be held only if the Council determines, by a unanimous vote, that an emergency exists. The determination made by the Council is conclusive unless it is shown that the Council acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the Council must be commenced within 15 days after the Council's determination is final. As used in this subsection, "emergency"

means any unexpected occurrence or combination of occurrences which requires immediate action by the Council to prevent or mitigate a substantial financial loss to the City or to enable the Council to provide an essential service to the residents of the City.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

Sec. 13.010 Removal of officers and employees. Subject to the provisions of this Charter not inconsistent herewith, any employee of the City may be suspended or dismissed from employment at any time by the City Manager or by any applicable person appointed by the City Manager pursuant to this Charter. Unless otherwise provided in this Charter, any such action shall be considered final and conclusive and shall not be subject to appeal to any city governmental entity.

Sec. 13.020 Right of City Manager and other officers of Council. The City Manager shall have the right to take part in the discussion of all matters coming before the Council, and the directors and other officers shall be entitled to take part in all discussions of the Council relating to their respective offices, departments or agencies.

Sec. 13.030 Personal interest.

1. No elective or appointive officer shall take any official action on any contract or other matter in which he or she has any financial interest.

2. A violation of the provisions of this section shall constitute a misdemeanor, subject to a penalty not to exceed the penalties specified for misdemeanors under applicable provisions of Nevada Revised Statutes in effect at the time of such violation.

Sec. 13.040 Official bonds. Officers or employees, as the Council may by general ordinance require so to do, including a municipal court judge appointed pursuant to section 5.020 of Article V, if any, shall give bond in such amount and with such surety as may be approved by the Council. The premiums on such bonds shall be paid by the City.

Sec. 13.050 Oath of office. Every officer of the City shall, before entering upon the duties of his or her office, take and subscribe to the official oath of office of the State of Nevada:

"I, ..., do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States and the Constitution and Government of the State of Nevada, against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance and loyalty to the same, any Ordinance, Resolution or Law of any State notwithstanding, and I will well and faithfully perform all the duties of the Office of on which I am about to enter; (if any oath) so help me God; (if any affirmation) under the pains and penalties of perjury."

Sec. 13.060 Amending the Charter.

1. An amendment to this Charter:

(a) May be made by the Legislature directly by the use of mandatory specific wording or indirectly by the use of wording allowing flexibility in expressing the required change. If a law is enacted which:

(1) Directly amends this Charter, such an amendment is not subject to public approval as provided in paragraph (b) and must be included in the Charter and identified as having been amended by the particular law involved.

(2) Requires that this Charter be amended but does not require the specific wording to be used, the Council shall propose a suitable amendment to be submitted to the registered voters of the City as provided by paragraph (b). If such a proposed amendment is not adopted by the voters, it must be redrafted and resubmitted to the voters at one or more general city elections or general state elections until an amendment is adopted.

(b) May be proposed by the Council and submitted to the registered voters of the City at a general city election or general state election.

(c) May be proposed by a petition signed by registered voters of the City equal in number to 15 percent or more of the voters who voted at the latest preceding general city election and submitted to registered voters of the City at the next general city election or general state election.

2. The City Attorney shall draft any amendment proposed pursuant to subparagraph (2) of paragraph (a) or paragraph (b) of subsection 1, or if such a proposed amendment has been previously drafted, the City Attorney shall review the previous draft and recommend to the Council any suggested changes or corrections.

3. The City Attorney shall, upon request, review any amendment intended to be proposed by petition pursuant to paragraph (c) of subsection 1, make only such corrections as are agreed to by the proposers and report to the Council his or her analysis of the significance and potential effects of the proposed amendment.

4. A petition for amendment must be in the form specified by state law for city initiative petitions and must be filed with the City Clerk not later than 6 months before the date of the general city election or general state election at which the proposed amendment is to be submitted to the voters of the City.

5. When an amendment is adopted by the registered voters of the City, the City Clerk shall, within 30 days thereafter, transmit a certified copy of the amendment to the Legislative Counsel.

6. Any amendment to the Charter proposed under the provisions of this section shall be adopted by a simple majority of the voters casting ballots on that question at two consecutive general elections before any such amendment shall become effective.

Sec. 13.070 Short title; citation of City of Laughlin Act of 2011. This Charter shall be known and may be cited as the City of Laughlin Charter.

Sec. 13.080 Construction of Charter; separability of provisions.

1. Whenever any reference is made to any portion of the Nevada Revised Statutes or of any other law of the State or of the United States, such reference shall apply to all amendments and additions thereto now or hereafter made.

2. If any section or part of a section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of a section may be inseparably connected in meaning and effect with the section or part of the section to which such holding shall directly apply.

Sec. 2. Section 9 of the Fort Mohave Valley Development Law, being chapter 427, Statutes of Nevada 2007, as amended by chapter 369, Statutes of Nevada 2009, at page 1860, is hereby amended to read as follows:

Sec. 9. Limitations on use of money.

~~{The}~~

1. Except as otherwise provided in subsection 2, the Board of County Commissioners may use money in the Fort Mohave Valley Development Fund only to:

~~{1.}~~ **(a) Purchase or otherwise acquire lands described in sections 4 and 8 of this act; and**

~~{2.}~~ **(b) Administer the Fort Mohave Valley Development Law exclusively for the purposes of developing the Fort Mohave Valley and any general improvement district, special district, town or city whose territory contains all or a part of the land in the Fort Mohave Valley, including, without limitation, the planning, design and construction of capital improvements which develop the land in the Fort Mohave Valley or in any general improvement district, special district, town or city whose territory contains all or a part of the land in the Fort Mohave Valley.**

2. The Board of County Commissioners shall use money in the Fort Mohave Valley Development Fund to pay:

(a) Any costs incurred by the Committee on Local Government Finance created by NRS 354.105, for the preparation of the report related to the fiscal feasibility of the incorporation of the City of Laughlin that is required by section 4 of this act;

(b) Any costs incurred by the County to hold the elections described in sections 5 and 11 this act; and

(c) Any other costs incurred by the County or City of Laughlin associated with the incorporation of the City of Laughlin,

↳ to the extent that gifts, grants or donations are not available to pay for the expenses.

Sec. 3. As used in sections 3 to 16, inclusive, of this act:

1. "Board of County Commissioners" means the Board of County Commissioners of Clark County.

2. "City" means the City of Laughlin.
3. "City Council" means the City Council elected pursuant to section 11 of this act.
4. "County" means the County of Clark.
5. "Fort Mohave Valley Development Fund" means the fund created in the County Treasury pursuant to section 6 of the Fort Mohave Valley Development Law.
6. "Qualified elector" means a person who is registered to vote in this State and is a resident of the area to be included in the City, as shown by the last official registration lists before the election.

Sec. 4. 1. On or before December 31, 2011, the Committee on Local Government Finance, created by NRS 354.105, shall prepare and submit a report to the Board of County Commissioners **and the Legislative Commission** with respect to the fiscal feasibility of the incorporation of the City. This report must:

(a) Include, without limitation analyses of:

(1) The tax revenue and other revenues of the County that may be impacted by the incorporation of the City.

(2) The tax revenue and other revenues of the Township of Laughlin compared to the potential tax revenue and other revenues of the City after incorporation.

(3) The expenditures made by the Township of Laughlin compared to the anticipated expenditures of the City after incorporation.

(4) The expenditures made by the County for support of the Township of Laughlin that may or may not be impacted by the incorporation of the City.

(b) Be made available to the public for consideration before ~~the~~ **any** election on the question of incorporation held pursuant to section 5 of this act.

2. **Not later than 90 days after receiving the report, the Board of County Commissioners and the Legislative Commission shall review the report and make a determination as to whether the incorporation of the City is fiscally feasible.**

3. The County Clerk shall cause the report to be published in a newspaper printed in the County and having a general circulation in the City at least once a week for 3 consecutive weeks. ~~The~~ **If the Board of County Commissioners or the Legislative Commission determines that the incorporation of the City is fiscally feasible, the** final publication of the report must be published before the date of the election held pursuant to section 5 of this act.

Sec. 5. 1. ~~An~~ **If the Board of County Commissioners or the Legislative Commission determines pursuant to section 4 of this act that the incorporation of the City is fiscally feasible, an** election on the question of incorporation of the City of Laughlin must be held ~~after the Committee on Local Government Finance submits to the Board of County~~

~~Commissioners the report required by section 4 of this act.~~ The election will also be a primary election for the offices of Mayor and City Council.

2. The Board of County Commissioners may call a special election for the purposes of subsection 1, or may conduct an election pursuant to subsection 1 on the date of the first primary election held in the County after the Board of County Commissioners receives the report required by section 4 of this act. The special election, if any, must be held within 90 days after the Board of County Commissioners receives the report prepared pursuant to section 4 of this act and conducted in accordance with the provisions of law relating to general elections so far as the same can be made applicable.

3. If the Board of County Commissioners calls a special election for the purposes of subsection 1, the County Clerk shall cause a notice of the election to be published in a newspaper printed in the County and having a general circulation in the City at least once a week for 3 consecutive weeks. The final publication of notice must be published before the date of the election.

4. If the Board of County Commissioners conducts an election pursuant to subsection 1 on the day of the first primary election held in the County after the Board of County Commissioners receives the report required by section 4 of this act, ~~it~~

~~—(a) The Board of County Commissioners shall submit the report required by section 4 of this act to the Legislative Commission. The Legislative Commission shall review the report and make a recommendation to the Board of County Commissioners as to whether the incorporation of the City is fiscally feasible.~~

~~—(b) The~~ the County Clerk shall cause notice of the election to be published pursuant to NRS 293.203.

5. The notice of the election held pursuant to subsection 3 or 4 must contain:

- (a) The date of the election;
- (b) The hours during the day in which the polls will be open;
- (c) The location of the polling places;
- (d) A statement of the question in substantially the same form as it will appear on the ballots;
- (e) The names of the candidates; and
- (f) A list of the offices to which the candidates seek election ; ~~and~~
- ~~—(g) If the election is held pursuant to subsection 4, a summary of the recommendation made by the Legislative Commission pursuant to paragraph (a) of subsection 4.~~

Sec. 6. The incorporation question on the ballots used for ~~the~~ an election held pursuant to section 5 of this act must be in substantially the following form:

Shall the area described as...(describe area) be incorporated as the City of Laughlin?

Yes ☐

No ☐

The voter shall mark the ballot by placing a cross (x) next to the word "yes" or "no."

Sec. 7. 1. A person who wishes to become a candidate for any office to be voted for at ~~the~~ an election held pursuant to section 5 of this act must:

- (a) Reside within the boundaries of the City;
- (b) File an affidavit of candidacy, which must include a declaration of residency, with the County Clerk not later than the date for the filing of such affidavits as set by the County Clerk; and
- (c) File a nomination petition containing at least 100 signatures of qualified electors.

2. Qualified electors may sign more than one nominating petition for candidates for the same office.

3. A candidate may withdraw his or her candidacy pursuant to the provisions of NRS 293.202.

4. If there are less than three candidates for any office to be filled at ~~the~~ a primary election held pursuant to section 5 of this act, their names must not be placed on the ballot for the primary election but must be placed on the ballot for ~~the~~ a general election held pursuant to section 11 of this act.

5. The names of the two candidates for mayor and for each seat on the City Council who receive the highest number of votes in ~~the~~ a primary election held pursuant to section 5 of this act must be placed on the ballot for ~~the~~ a general election held pursuant to section 11 of this act.

Sec. 8. 1. At least 10 days before ~~the~~ an election held pursuant to section 5 of this act, the County Clerk shall cause to be mailed to each qualified elector a sample ballot for his or her precinct with a notice informing the elector of the location of his or her polling place.

2. The sample ballot must:

- (a) Include the question in the form required by section 6 of this act;
- (b) Describe the area proposed to be incorporated by assessor's parcel maps, existing boundaries of subdivision or parcel maps, identifying visible ground features, extensions of the visible ground features, or by any boundary that coincides with the official boundary of the state, a county, a city, a township, a section or any combination of these; and
- (c) Include the names of candidates for the various offices as determined pursuant to section 7 of this act.

Sec. 9. 1. The Board of County Commissioners shall canvass the votes cast in ~~the~~ an election held pursuant to section 5 of this act in the same manner as votes are canvassed in a general election. Upon completion of the canvass, the Board shall immediately notify the County Clerk of the results.

2. The County Clerk shall, upon receiving notice of the canvass from the Board of County Commissioners, immediately cause to be published a notice of the results of the election in a newspaper of general circulation in the County. If the incorporation is approved by the voters, the notice must include the category of the City according to population, as described in

NRS 266.055. The County Clerk shall file a copy of the notice with the Secretary of State.

Sec. 10. 1. The Board of County Commissioners may accept gifts, grants and donations to pay for any expenses that are related to the incorporation of the City, including, without limitation:

(a) The costs incurred by the Committee on Local Government Finance for preparing the fiscal feasibility report required by section 4 of this act;

(b) The costs incurred by the County to hold ~~the~~ any elections described in sections 5 and 11 of this act; and

(c) Any other costs incurred by the County or City associated with the incorporation of the City of Laughlin.

2. To the extent that gifts, grants and donations do not pay the costs of the expenses described in subsection 1, the Board of County Commissioners shall order the County Treasurer to pay such expenses from the Fort Mohave Valley Development Fund.

3. The County Clerk shall submit to the Board of County Commissioners a statement of all expenses related to conducting ~~the~~ any elections held pursuant to sections 5 and 11 of this act.

Sec. 11. 1. If the incorporation of the City is approved by the voters at an election held pursuant to section 5 of this act, a general election must be held to elect four members of the City Council and the Mayor. The Board of County Commissioners may conduct a special election for the purposes of this subsection, or may conduct the election required by this subsection on the date of the first general election held in the County after the date of the election held pursuant to section 5 of this act. The election must be conducted in accordance with the provisions of law relating to general elections so far as the same can be made applicable.

2. The names of the two candidates for Mayor and for each particular seat on the City Council who receive the highest number of votes in the primary election must be placed on the ballot for the general election. A candidate for Mayor or a seat on the City Council may not withdraw from the general election.

Sec. 12. 1. The term of the Mayor elected pursuant to section 11 of this act expires upon the election and qualification of the person elected Mayor in the first general election held pursuant to section 10.020 of the City of Laughlin Charter.

2. The terms of two of the members of the City Council elected pursuant to section 11 of this act expire upon the election and qualification of the persons elected to the City Council in the first general election held pursuant to section 10.020 of the City of Laughlin Charter. The terms of the remaining members of the City Council elected pursuant to section 11 of this act expire upon the election and qualification of the persons elected to the City Council in the second general election held pursuant to section 10.020 of the City of Laughlin Charter.

3. The members of the City Council elected pursuant to section 11 of this act shall, at the first meeting of the City Council after their election and qualification, draw lots to determine the length of their respective terms.

Sec. 13. Before the incorporation of the City becomes effective but after the general election held pursuant to section 11 of this act, the City Council may:

1. Prepare and adopt a budget;
2. Prepare and adopt ordinances;
3. Prepare to levy an ad valorem tax on property within the area of the City, at the time and in the amount prescribed by law for cities, for the fiscal year beginning on the date the incorporation of the City becomes effective;
4. Negotiate and prepare an equitable apportionment of the fixed assets of the County pursuant to section 15 of this act;
5. Negotiate and prepare contracts for the employment of personnel;
6. Negotiate and prepare contracts to provide services for the City, including, without limitation, those services provided for by chapter 277 of NRS;
7. Negotiate and prepare contracts for the purchase of equipment, materials and supplies;
8. Negotiate and prepare contracts or memorandums of understanding with the County for the City to provide services to unincorporated areas of the County that are contiguous to the City;
9. Negotiate and prepare a cooperative agreement pursuant to NRS 360.730; and
10. Communicate with and provide information to the Department of Taxation to effectuate the allocation of tax revenues on the date the incorporation of the City becomes effective.

Sec. 14. 1. During the period from the filing of the notice of results of ~~the~~ an election conducted pursuant to section 5 of this act by the County Clerk until the date the incorporation of the City becomes effective, the County is entitled to receive the taxes and other revenue from the City and shall continue to provide services to the City.

2. Except as otherwise provided in NRS 318.492, all special districts, except fire protection districts, located within the boundaries of the City continue to exist within the City after the incorporation becomes effective.

Sec. 15. 1. The City Council and the Board of County Commissioners shall, before the date that the incorporation becomes effective or within 90 days after that date, equitably apportion those fixed assets of the County which are located within the boundaries of the City. The City Council and the Board of County Commissioners shall consider the location, use and types of assets in determining an equitable apportionment between the County and the City.

2. Any real property and its appurtenances located within the City and not required for the efficient operation of the County's duties must first be applied toward the City's share of the assets of the County. Any real property

which is required by the County for the efficient operation of its duties must not be transferred to the City.

3. If an agreement to apportion the assets of the County is not reached within 90 days after the incorporation of the City, the matter may be submitted to arbitration upon the motion of either party.

4. Any appeal of the arbitration award must be filed with the district court within 30 days after the award is granted.

Sec. 16. Any property located within the City which was assessed and taxed by the County before incorporation must continue to be assessed and taxed to pay for the indebtedness incurred by the County before incorporation.

Sec. 17. 1. This section and sections 2 to 16, inclusive, of this act become effective upon passage and approval.

2. Section 1 of this act becomes effective, if the incorporation of the City of Laughlin is approved by the voters at ~~the~~ an election held pursuant to section 5 of this act on July 1, 2013.

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy and Horsford.

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

SENATOR HARDY:

Amendment No. 295 to Senate Bill No. 262 sets forth a time limit of 90 days by which the Board of County Commissioners or the Legislative Commission must review the fiscal feasibility report for the incorporation of the town of Laughlin. It clarifies that the Board of County Commissioners or the Legislative Commission must, as the case may be, determine whether the incorporation of Laughlin is fiscally feasible. It provides for the publication of the fiscal feasibility report before the date of the election for incorporation, this is in addition to the earlier newspaper publication already required in the bill; and it makes a minor technical correction to the description of one of the parcel descriptions in the bill.

SENATOR HORSFORD:

Under the provision, it says, "upon whether the Board of County Commissioners or the Legislative Commission determines that it is fiscally feasible." Who comes first? They both receive the report, but it is not clear who determines first whether it is fiscally feasible or not.

SENATOR HARDY:

I appreciate the question. One of the challenges has been the conversation between the Clark County Commission and the town of Laughlin. I have tried to make this equal allowing both to get the report. The report is generated by the local government finance committee or the committee on local government finance. They have to make the determination if it is fiscally feasible. They forward their report and their recommendation to both the County Commission and the Legislative Commission. Both of them get the opportunity to say "yes" or "no." If one of them says, "yes, it is okay," then the election would be held. This incorporation would only be upon the vote of the people after the vote is allowed to happen by either the County Commission or the Legislative Commission.

SENATOR HORSFORD:

I reviewed the materials you presented to me and I appreciated them. Thank you.

If it is determined that the County Commission puts this to a vote and the voters say "yes," then a fiscal report is issued. After the report is issued it goes to both the County Commission and the Legislature. If the County Commission does not take action within a reasonable amount of time, then the Legislative Commission can take the vote of the public and the fiscal feasibility study allowing the incorporation to occur. Is this correct?

SENATOR HARDY:

The clarification would be the vote of the people is not allowed to happen until the committee on local government finance committee does the study. That fiscal study is then given to the county and to the Legislative Commission. It is only upon one or the other's approval that it goes to the vote of the people. This never goes to the vote of the people until it has passed the scrutiny of fiscal feasibility by the local government finance committee as well as the County Commission or the Legislative Commission.

SENATOR HORSFORD:

I am having a little difficulty understanding the explanation. If the fiscal feasibility study says that it is prudent, and the County Commission puts it to a vote and the voters say it is appropriate, why does the Legislative Commission need to get involved? Why can the Clark County Commission not just allow for the incorporation? From the local government discretion, these issues should be decided by those individuals and not by the legislative body.

SENATOR HARDY:

Your point is well taken and on target. Realistically, it would be appropriate for the County Commission to continue to be involved in that process and I would welcome their insight into that and would appreciate them allowing, if it is fiscally feasible, the vote of the people. The people of Laughlin are more comfortable with the Legislative Commission. In order to give them comfort, and to make certain both bodies get to review it, they both receive the report at the same time. That will allow people who are going to vote to have input from two different directions, which is important.

SENATOR HORSFORD:

Under this amendment, it states "or," so the County Commission can say "no, we are not going to put it to the vote" and then the Legislative Commission could say "yes, we are going to put it to a vote," then it would go to a vote. Correct?

SENATOR HARDY:

Yes.

SENATOR HORSFORD:

Yes, the Legislative Commission can approve it going to a vote without the approval of the County Commission?

SENATOR HARDY:

Yes. Because there has not been a recent study for fiscal feasibility, the county has not felt a comfort level in allowing this to go to a vote of the people. The dynamics have changed; this is a way to get a fiscal feasibility report done so that people can give a comfort level to the County Commission. If the County Commission would like to do it, that would be fine. Or, the Legislative Commission can do it.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 266.

Bill read third time.

Remarks by Senator Breeden.

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

Senate Bill No. 266 revises various provisions relating to keeping pets in a manufactured home park. The bill prohibits a park landlord from requiring a tenant to pay a deposit as a prerequisite to keeping a pet in the park. A landlord may not prohibit a tenant from keeping at least one dog or cat as a pet.

A landlord may also adopt reasonable restrictions prohibiting a tenant from keeping a vicious or dangerous animal; concerning the size of a pet kept by a tenant; and concerning the number of pets kept by a tenant.

Roll call on Senate Bill No. 266:

YEAS—21.

NAYS—None.

Senate Bill No. 266 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 267.

Bill read third time.

Roll call on Senate Bill No. 267:

YEAS—21.

NAYS—None.

Senate Bill No. 267 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 291.

Bill read third time.

Roll call on Senate Bill No. 291:

YEAS—13.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, McGinness, Roberson, Settelmeyer—8.

Senate Bill No. 291 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 292.

Bill read third time.

Roll call on Senate Bill No. 292:

YEAS—21.

NAYS—None.

Senate Bill No. 292 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bills Nos. 314, 315, 328, 351, 356, 367, 377, 384, 385, 405, 414, 420, 487; Senate Joint Resolution No. 12 be placed on the General File on the next Agenda.

Motion carried.

Senator Wiener moved that Assembly Bills Nos. 18, 147, 156, 217, 464, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Mr. President announced that if there were no objections, the Senate would recess until 3 p.m.

Senate in recess at 11:42 a.m.

SENATE IN SESSION

At 3:29 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Senate Bills Nos. 36, 135, 227, 329, 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 Commerce, Labor and Energy, to which was re-referred Senate Bill No. 293, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 100, 250, 396, 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 Human Services, to which was referred Senate Bill No. 339, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ALLISON COPENING, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 142, 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. 128, 174, 204, 221, 254, 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 Natural Resources, to which was referred Senate Joint Resolution No. 5, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK A. MANENDO, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 25, 2011

To the Honorable the Senate:

Also, I have the honor to inform your honorable body that the Assembly on this day passed Assembly Joint Resolution No. 9.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Assembly Concurrent Resolution No. 8.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 3:32 p.m.

SENATE IN SESSION

At 3:36 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bill No. 83 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Assembly Joint Resolution No. 9.

Resolution read.

Senator Wiener moved that all necessary rules be suspended, reading so far be considered to have fulfilled the requirement for second reading and that Assembly Joint Resolution No. 9 be declared an emergency measure under the Constitution and be placed on third reading for final passage on this legislative day.

Motion carried.

Assembly Concurrent Resolution No. 8.

Resolution read.

Senator Parks moved the adoption of the resolution.

Remarks by Senators Parks, McGinness, Settlemeyer and Roberson.

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

SENATOR PARKS:

Today I join my colleagues in the Assembly in proposing a resolution urging an open process to select a replacement for the coming vacancy in the U.S. Senate.

Just a few months ago a legend of this Chamber, Senator Raggio, resigned after decades of service to our State. The Washoe County Commission, empowered by law to fill the vacancy, understood that public participation would be important in filling his seat. The public deserved an open and transparent process then and they deserve no less now.

Nevadans are best served by a caretaker who will be able to focus on their concerns today, not their own career tomorrow. Governor Sandoval should go the route of other Governors and avoid a partisan political appointment until the voters have an opportunity to make their choice. Should we spend tax money on a special election at a time when the Governor himself asks for shared sacrifice? We will only know where the public stands on crucial questions like this if they are asked.

Whoever the Governor appoints will serve unelected in the U.S. Senate for almost two years, is setting aside just two weeks to consult the public too much? They deserve to know who is being considered, the merits of those candidates and an opportunity to have their voices heard. We have a clear choice: have this decision made openly or behind closed doors. I respectively support the former and urge this Chamber to do the same.

SENATOR MCGINNESS:

Thank you, Mr. President. I have no doubt that Governor Sandoval will do as Governors, both Republican and Democrat, have done before in selecting an individual to capably fill this seat. I have great faith in the Governor in making the appointment.

SENATOR SETTELMAYER:

Thank you, Mr. President. Looking at the 17th amendment to the Constitution it says, "that the Legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the Legislature may direct." I believe that is what we currently have in our laws under Nevada Revised Statutes (NRS) as to how that is supposed to occur. I do not understand why we need this resolution.

SENATOR ROBERSON:

I would like to ask my colleague from Senate District No. 7 about what you said regarding the fact that the current Governor should follow the path of previous Governors who have in a non-partisan way filled these appointments. Could you explain to me what previous Governors you were referring to?

Motion carried on a division of the house.

Resolution ordered transmitted to the Assembly.

GENERAL FILE AND THIRD READING

Senate Bill No. 314.

Bill read third time.

Roll call on Senate Bill No. 314:

YEAS—21.

NAYS—None.

Senate Bill No. 314 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 315.

Bill read third time.

Remarks by Senator Brower.

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

This bill provides for alternative routes to licensure for teachers and administrators. I want to thank my colleague from Washoe County for sponsoring the bill and to all those who worked on compromise language to make this bill worthy of our unanimous support.

Roll call on Senate Bill No. 315:

YEAS—21.

NAYS—None.

Senate Bill No. 315 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 328.

Bill read third time.

Remarks by Senators Parks and Kieckhefer.

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

SENATOR PARKS:

Senate Bill No. 328 exempts a "creative professional" from the class of employees who must be paid overtime by an employer. This act will take affect, July 1, 2011.

SENATOR KIECKHEFER:

Thank you, Mr. President. Is it a blanket exemption for those who have to pay overtime, or is it only out of the requirement that it is an 8-hour day versus a 40-hour week?

SENATOR PARKS:

This is a blanket for the category of individual who would fill that position. They are regarded as a professional and they work on their own schedule in most cases.

SENATOR KIECKHEFER:

So, people in this category are not eligible for overtime under our laws period?

SENATOR PARKS:

That is my understanding of it, yes.

Roll call on Senate Bill No. 328:

YEAS—21.

NAYS—None.

Senate Bill No. 328 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 351.

Bill read third time.

Remarks by Senator Roberson.

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

Senate Bill No. 351 provides for disciplinary sanctions against a contractor who owes certain taxes to the Department of Taxation or unpaid contributions to the Employment Security Division of the Department of Employment, Training and Rehabilitation.

The Executive Director of the Department of Taxation or the Administrator of the Employment Security Division shall notify the State Contractors' Board in writing within five business days after acquiring a lien against a contractor for any unpaid tax or any unpaid contributions, respectively.

Roll call on Senate Bill No. 351:

YEAS—21.

NAYS—None.

Senate Bill No. 351 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 356.

Bill read third time.

Roll call on Senate Bill No. 356:

YEAS—21.

NAYS—None.

Senate Bill No. 356 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 367.

Bill read third time.

Roll call on Senate Bill No. 367:

YEAS—21.

NAYS—None.

Senate Bill No. 367 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 377.

Bill read third time.

Roll call on Senate Bill No. 377:

YEAS—21.

NAYS—None.

Senate Bill No. 377 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 384.

Bill read third time.

Roll call on Senate Bill No. 384:

YEAS—21.

NAYS—None.

Senate Bill No. 384 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 385.

Bill read third time.

Remarks by Senators Horsford and Lee.

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

SENATOR HORSFORD:

Thank you, Mr. President. Will anything in this bill allow for local governments to impose a tax?

SENATOR LEE:

No, that is restricted. They have no opportunity to ask for any taxes at all or apply it toward any taxes that do not come through us first.

Roll call on Senate Bill No. 385:

YEAS—15.

NAYS—Brower, Cegavske, Gustavson, Halseth, Roberson, Settlemeyer—6.

Senate Bill No. 385 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 405.

Bill read third time.

Roll call on Senate Bill No. 405:

YEAS—21.

NAYS—None.

Senate Bill No. 405 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 414.

Bill read third time.

Roll call on Senate Bill No. 414:

YEAS—21.

NAYS—None.

Senate Bill No. 414 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 420.

Bill read third time.

Roll call on Senate Bill No. 420:

YEAS—21.

NAYS—None.

Senate Bill No. 420 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 487.

Bill read third time.

Roll call on Senate Bill No. 487:

YEAS—21.

NAYS—None.

Senate Bill No. 487 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Joint Resolution No. 12.

Resolution read third time.

Remarks by Senator Rhoads.

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

Senate Joint Resolution No. 12 urges the Secretary of the Interior to rescind Secretarial Order No. 3310, which directs the Bureau of Land Management to designate certain areas of public lands with wilderness characteristics as "Wild Lands" and to manage them to protect their wilderness characteristics. The resolution urges Congress to honor the long-standing commitment it has to manage the multiple use of public lands in Nevada.

There are three categories of wilderness. One is wilderness areas, another, wilderness study areas and now, Wild Lands. Our objection to this is that the others have had Congressional authorization. This one is just a secretarial order and we do not believe that is the proper way to go.

Roll call on Senate Joint Resolution No. 12:

YEAS—19.

NAYS—Leslie, Manendo—2.

Senate Joint Resolution No. 12 having received a constitutional majority, Mr. President declared it passed.

Resolution ordered transmitted to the Assembly.

Assembly Joint Resolution No. 9.

Resolution read third time.

Remarks by Senators Leslie and Settelmeyer.

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

SENATOR LESLIE:

Thank you, Mr. President. This bill was introduced in Congress on February 17, 2011. Currently, it is being discussed. We are in the midst of a severe budget crisis. This bill has the ability to relieve some of that. Should this bill pass in Congress, the interest savings from extending our interest forgiveness through December, 2012, would be \$64 million for Nevada. The potential principal forgiveness, which is 60 percent of the loan balance on December 31, 2011, would be \$512 million. The Federal Unemployment Tax Act (FUTA) savings for employers for 2011 to 2017 would total \$180 million. For the good of the State, I urge my colleagues to support this resolution.

SENATOR SETTELMAYER:

Thank you, Mr. President. I rise in support of this resolution. I would like to ask what it means where it says, "return for implementing measures to increase the solvency of its unemployment trust fund." What type of law are they asking us to enact in the future? It is on the third page, number 3, "allowing the state to enter into an agreement with the United States Department of Labor to reduce up to 60 percent of its federal loan balance in return for implementing measures to increase the solvency of its unemployment trust fund."

SENATOR LESLIE:

I believe that has to do with taking measures to make certain that we are assessing the appropriate amount of money from employers to rebuild the unemployment fund over time. I am not certain of that, however.

Roll call on Assembly Joint Resolution No. 9:

YEAS—21.

NAYS—None.

Assembly Joint Resolution No. 9 having received a constitutional majority, Mr. President declared it passed.

Resolution ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Lee moved that Senate Bill No. 42 be taken from the Secretary's desk and placed on the General File for the next legislative day.

Motion carried.

Senator Horsford announced that upon adjournment from the Joint Session with the Assembly to hear United States Representative Joe Heck's speech, the Senate will resolve itself into a Committee of the Whole for the purpose of considering K-12 and Nevada System of Higher Education Budget.

Motion carried.

Mr. President announced that if there were no objections, the Senate would recess until 4:45 p.m.

Motion carried.

Senate in recess at 4:16 p.m.

SENATE IN SESSION

At 4:50 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

The Sergeant at Arms announced that Assemblymen Anderson and Hardy were at the bar of the Senate. Assemblyman Anderson invited the Senate to meet in Joint Session with the Assembly to hear Representative Joe Heck.

The President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 5:03 p.m.

IN JOINT SESSION

At 5:09 p.m.

President Krolicki presiding.

The Secretary of the Senate called the Senate roll.

All present.

The Chief Clerk of the Assembly called the Assembly roll.

All present.

The President appointed a Committee on Escort consisting of Senator Hardy and Assemblywoman Diaz to wait upon the Honorable Joe Heck and escort him to the Assembly Chamber.

Representative Heck delivered his message as follows.

MESSAGE TO THE LEGISLATURE OF NEVADA
SEVENTY-SIXTH SESSION, 2011

Governor Sandoval, Speaker Ocegüera, Majority Leader Horsford, Minority Leaders Goicoechea and McGinness, distinguished constitutional officers, honorable members of the Judiciary, my fellow Nevadans. It is an honor and a privilege to stand here before you today as a former member of this legislative body and as your federal representative for the Third Congressional District.

As a doctor, I learned that you can not cure an illness until you understand the cause. The recession gripping Nevada is largely the result of a badly broken federal government, because far too often political expediency has trumped sound policy as decisions were made. That lack of leadership seeped into our daily lives and rotted America's economic foundations to its core.

Rebuilding our economy will not be easy, and it will not happen overnight. This is an especially difficult reality for Nevada because we have been hit harder than any other state. We must work together to get people back to work; we must work together to make sure our children have better opportunities than we do; and we must work together to maintain a strong national defense, because without our freedom, very few of the policy issues that our nation faces today will even matter.

I know firsthand that today's elections are far from unanimous. I represent the most populous district in the nation, more than one million people, and I won by two-thirds of one percent-1,922 votes. But I do not only represent the people that voted for me, I represent those who did not and the ones who could not. Two months ago, just a few weeks into my term, two votes came up on the House Floor of whether or not to terminate two housing programs. These programs were very unpopular among many conservatives, and I received information telling me just how terrible these programs were and that they had not lived up to their potential. And the truth is they have not.

I knew that many of the people who voted for me in November probably wanted me to vote to terminate these programs. I believe in cutting government waste, and I have been a vocal advocate of eliminating programs that have outlived their purpose or have lost sight of their original mission. But I also know that government has a limited role in helping people help themselves.

Now I have to admit, I was a bit surprised that I was the only Republican voting to protect these programs on one vote and only one of two on the other, and it has generated a bit of unfriendly criticism from some conservatives, and I understand that. Some asked if I regretted my vote, others if my vote was a mistake, but most wanted to know why I voted against my party. Seventeen thousand Nevadans are the reason that I voted against my party.

These two housing programs have helped more than 17,000 Nevadans stay in their homes. They help the very people the government should be helping; those who are trying to do the right thing: the folks who are trying hard to make their mortgages but because of the dire economy in Nevada might be teetering on the edge of foreclosure; our friends, our neighbors, and even family members who have lost their jobs through no fault of their own; Democrats, Independents, and yes, even Republicans who have come to my office asking for assistance.

I will continue to fight to cut government spending in Washington, but I will never lose sight of the fact that I was sent to Washington to fight for Nevada first, even if it means voting against the majority of my party and incurring the ire of some of those who voted for me. I not only represent the people who voted for me; but I also represent those who did not and those who could not.

I often recall what I learned early in my career as a doctor—that you can not cure an illness until you understand the cause. We will not cure the disease of foreclosure and unemployment until we understand the cause. Both parties have been guilty of overspending, and politicians from both sides have failed to prioritize, demand accountability, and make difficult decisions.

They have failed to lead. To pretend otherwise simply perpetuates the status quo and guarantees an America defined by debt instead of by greatness. It guarantees an America tied to the fortunes of other nations and binds our children and grandchildren to a debt that we can not pay. And it creates national security challenges that risk the very safety of our nation and our people. Thomas Jefferson warned against great undertakings on slender majorities. Rebuilding our economy is too great an undertaking to ignore this advice.

Both sides have sinned. We do not have to agree on everything, but we must view each idea, each suggestion, and each piece of legislation with an eye toward the future of our nation instead of the impact on the next election. The hundreds of constituents that I have met with since being sworn in told me that they want to get back on their path to the American dream, and that path begins with a good job—knowing that if they have a job and work hard, they can live their American dream.

Ninety-five percent of Nevada businesses are small businesses, and they employ 43 percent of Nevada's workers. Just under half of employed Nevadans work for small businesses. I used to own a small business myself, and I know many of you are small business owners as well. For those of you who are—or were—you know how gratifying it is to see an idea that you had and saw through was good enough not just to sustain, but to thrive, and you know how gratifying it was to offer someone a job and give him or her the opportunity to grow, to shine and earn, and be fulfilled.

When I visit with small business owners and ask them the number one reason they are not hiring and ask what is preventing a recovery, nearly all say there is too much uncertainty at the moment—uncertainty in the economy, uncertainty in their government, and uncertainty about how they can compete in an evolving global economy. That is a showstopper for small businesses.

The number one rule of running a successful business is to assess your risk, plan for the worst, and hope for the best. Uncertainty increases risk and when risk increases, more small business owners say, "Maybe I will wait to hire that new person until things clear up." What we need to do is cure the disease of uncertainty. When we do that, entrepreneurs will take risks, small business owners will hire that extra employee, add more space, and grow their businesses. The way to give them that certainty begins with a single word—*listen*.

Listen to the people who operate 95 percent of Nevada's businesses. They know what they need to get their businesses back on track and back to hiring. I put together an economic advisory council that had getting the answer to what is causing uncertainty as its singular goal. The council consists of the elements that constitute a small business: entrepreneurs, lenders, and labor, and includes people from all across the political spectrum. Despite a wide variety of personal and political views, the problem was easy to diagnose: a government that spends your money, gets in your way, regulates your business, raises your taxes, requires almost no accountability, and runs up a debt that its citizens cannot afford to pay. This group worries that if the government's spending continues at its current level, taxes will have to go up to sustain that spending. They worry about how new government regulations will affect their competitiveness; their ability to grow, thrive, and provide good jobs.

We must work together to address these causes of uncertainty our small business owners have said are preventing their recovery. Businesses openly support less government spending, which would alleviate their concern about immediate new taxes and future taxes to pay for debt-financed spending. Government has spent without accountability for years, under both Republicans and Democrats. If elected leaders choose to maintain or increase current spending levels, it is not a question of if taxes must go up it is a question of when. Taxes will either be increased immediately to pay for the spending now, or will be increased in the future to pay for the interest on the money the government borrows, or both.

We must work together to return government spending to responsible levels. That means making difficult decisions to bring government in line with the private sector; it means demanding accountability and performance; and it means forcing government to do more with less. That is what our families have done. It is what our businesses have done, and it is what our government must do.

I applaud Governor Sandoval for having the courage to put forward a balanced budget that does not raise taxes, and I applaud those of you who have agreed to stand with him. Senator

Horsford and Speaker Ocegüera, I thank you for your willingness to work with Governor Sandoval and Lt. Governor Krolicki to further enhance Nevada's economic development efforts. I want each of you to know that I will do all I can to help you make Nevada the most business friendly state in America.

Nevadans have talked about economic diversification for decades, and I would guess that Nevada's first governor, Henry Blasdel, and the first legislature probably talked about it as well. I am sure our state leaders thought they solved the issue when we moved from a one-industry economy—mining—to a two-industry economy with the addition of gaming and tourism. But as we have seen twice in the last decade, as important as mining and tourism are to our State's fiscal health, we must expand our horizons and look to the future. Many have talked about our State's potential to be a leader in renewable energy, and I agree. That is why I supported the continuation of the federal loan guarantees for renewable energy projects, so Nevada can continue to build and grow in this area. Projects from Eldorado to Armargosa Valley to Tonopah and beyond would bring desperately needed jobs to the surrounding communities.

But we must also look past the energy production side of the equation. We must have serious discussions about bringing the research and development, as well as the manufacturing components of this industry, to Nevada. That is where the sustainable, good-paying jobs will materialize. I will continue to support research and development tax credits and work to streamline the bureaucracy to access Nevada's lands that remain under federal control and to expedite the federal permitting process while protecting the environment and maintaining safety.

The recession has touched every corner of our nation—every region, every demographic, every industry, and every person; we have all felt the pain. But there are some reasons to be encouraged as we look at some success stories in other places. In fact, a number of states have begun to recover more quickly because they listened to their small business owners. They listened to the people who create jobs and they reduced government spending without increasing taxes. They did this to inspire confidence and establish predictability.

Between 2008 and 2009, Virginia lost nearly 150,000 jobs. Yet since early 2010, they have created nearly 100,000 new jobs. They are on the way back. Virginia's Governor Bob McDonnell was providing testimony before Congress on January 26, 2011. During his testimony I asked him, "How did you do it? How is your state recovering so quickly from this recession?" Governor McDonnell explained that he worked with state legislators to close their entire \$2 billion budget gap by reducing government spending without raising taxes. Yes, there were painful reductions to programs people cherished, but I would trade the criticism resulting from cutting or eliminating a handful of programs if it meant 100,000 more jobs in Nevada right now. People want a paycheck, not a government check.

In addition to the harm government overspending is having on our economy, government regulations are just as culpable. Government regulations are being created at a historic rate, and often without regard to the regulation's impact on the economy. That is why I am a cosponsor of the REINS Act, which requires any regulation with a fiscal impact of more than \$100 million to come back before Congress for review. Small businesses are often left in the dark and do not know when a regulation is coming out or how they will be impacted by that new regulation until the last minute.

The new health care law is 2,700 pages; the U.S. tax code, 74,000 pages; the regulations recently released by the Department of Health and Human Services on the health care for just one section of the health care law, 500 pages. Now 500 pages are significant, but the biggest problem is the unknown. When businesses see that those 500 pages cover only 6 pages of the law, you can begin to understand why they're concerned. If that ratio holds true, health care regulations just from the health care law alone will total 225,000 pages, making the tax code look like a pamphlet.

Despite these challenges, we have an opportunity to remake Nevada for the future. That future is through education. You can't cure an illness until you understand the cause. We will not fulfill our economic potential as a state or a nation unless we fix our educational system. We will not successfully recruit high tech industries and research and development opportunities to Nevada without providing a world-class education for our children. Education will ensure our children have the tools they need to compete in the global economy.

As a member of the House Committee on Education and the Workforce, we have started debate on the reauthorization of the Elementary and Secondary Education Act. America's educational system is not doing our children justice. It has become stagnant and full of red tape. As many of you know, my undergraduate degree was in education. I first went to school thinking I was going to be a teacher. The people I studied with were deeply passionate about teaching our children. It is not our teachers who are holding our students back, it is the system. The federal government's one-size-fits-all approach is a disservice to our children.

We must explore ways to give more local control over education. That is why I am committed to returning control to parents, teachers, and the states. Finding ways to provide increased local control will benefit our children, and Nevada's long-term economy. We must embrace and support career and technical education as well as science, technology, engineering, and math programs to prepare our students for the global marketplace.

I recently attended the first robotics competition at the Thomas and Mack Arena. High schools from around the world, including eight from Congressional District 3, competed. Two local schools, Cimarron Memorial and Boulder City, advance to the World Finals to be held in St. Louis, Missouri, next month. I was incredibly impressed by the ingenuity of these high school teams. We must ensure that all children have the same opportunities to harness their greatest potential. Those opportunities include the ability for parents to choose where their child is educated, whether it is public, charter, private, or home schools.

I have talked a lot tonight about sacrifice—about working together to do what is right. We could learn a lot from the men and women in our armed forces who lay it all on the line every day to protect our freedom. Every day they put aside their personalities, their ideologies, and their individual goals to advance the cause of our nation.

Last week I visited our troops in Iraq and Afghanistan. There I met two Las Vegas—two Marines—Lance Corporal Jacob Swanson and Hospital Corpsman Jose Padilla, at a dusty combat outpost outside the village of Marjeh in Afghanistan. I am proud of them and all our serving men and women. I admire them and I know how much we all appreciate them. I am proud to represent those who wear the uniform, past and present, their families and survivors. We can't lose sight of the fact that Nevada plays a key role in America's national defense. From Nellis to Fallon, Creech to Hawthorne, Nevada is critical to maintaining America's freedom.

And because in many ways we are an international symbol of capitalism's risk, reward, and success, we are a potential target. We must keep America safe, and more specifically we must keep Nevada safe. Never before has it been more clear that our freedom is what separates us from so many countries around the world, many of which would like to rob us of that freedom. As a member of the House Armed Services Committee and a member of the House Intelligence Committee, I am working to make sure that our local and national security is maintained and that our military men and women have the tools they need to get the job done.

When our parents talked about the American dream, part of that goal revolved around knowing that everyone—everyone—has the opportunity to improve their own life and create their own success. That is important to all of us, but what makes so many of us work so hard is the belief that we can give our children a better starting point than we had.

We have the chance, right now, to be an example for our children. We can show them that sometimes our problems are too big to hold grudges; they are too large to let personalities or ideologies get in the way. Sometimes they are so large, they can bring the greatest nation that the world has ever known to its knees. But our problems are never too big to tackle with hard work, discipline, and a willingness to tap the best of the American spirit. When we forego what is easy for what is right and when we accept responsibility instead of pointing fingers, we will have taken a significant step toward reviving our economy and putting Nevadans back to work. These are critical ingredients to ensuring our children have a better future.

Ladies and gentlemen, Governor Sandoval, thank you for allowing me to address you today. I sat in this Chamber as a senator a few years ago and recognize the extraordinary dedication that all of you have to Nevada and the extraordinary challenges that you all have lying ahead. From balancing the budget to ensuring a quality education for our children, from managing essential services to passing a fair redistricting plan that puts the people of Nevada above partisan politics, you have a lot of work ahead.

I look forward to working with each of you, regardless of party or ideology, to get our spending under control and our government back on track. I am honored to be your guest today and wish you the best of luck, the spirit of cooperation, and the dedication and discipline to do what is right. The people of Nevada need your best, and I have every confidence that when the final bell sounds, you will have given them your best.

It is in that spirit of cooperation that we will return our State and our nation to prosperity, restore America's exceptionalism, and in words used by both a Democrat and Republican president, have our "rendezvous with destiny."

Senator Lee moved that the Senate and Assembly in Joint Session extend a vote of thanks to Representative Heck for his timely, able and constructive message.

Motion carried.

The Committee on Escort escorted Representative Heck to the bar of the Assembly.

Senator Denis moved that the Joint Session be dissolved.

Motion carried.

Joint Session dissolved at 5:36 p.m.

SENATE IN SESSION

At 5:44 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering K-12 and Nevada System of Higher Education Budget, with Senator Horsford as Chair and Senator Leslie as the Vice chair.

Motion carried.

The President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 5:45 p.m.

IN COMMITTEE OF THE WHOLE

At 6:17 p.m.

Senator Horsford presiding.

Consider K-12 and Nevada System of Higher Education Budget.

The Committee of the Whole was addressed by Senator Horsford; Senator Kieckhefer; Senator Denis; Senator McGinness; Senator Roberson; Senator Leslie; Senator Hardy; Senator Brower; Senator Parks; Senator Halseth; Senator Schneider; Senator Settlemeyer; Senator Wiener; Mark Krmpotic, Senate Fiscal Analyst; Senator Kihuen; Senator Manendo.

SENATOR HORSFORD:

There are 442 State budgets. The Senate Committee on Finance and the Assembly Committee on Ways and Means have been meeting for the last two weeks to close these budgets. Many have

been closed at the level the Governor recommended. Sometimes additional cuts have been made. Sometimes the Committees have disagreed with the amounts in the budgets and closed them at higher levels. In general, we have been able to agree with the Governor's proposed budget. In those areas where there is not agreement, we must determine the major discussion items and which of these items have majority support. We will have to close these budgets no later than May 15, 2011, to remain on schedule.

SENATOR KIECKHEFER:

Will you be referring to any documents we can follow?

SENATOR HORSFORD:

I do not have a new document. I am working from the documents distributed by Staff last week.

The first item for discussion is the Distributive School Account (DSA) in the K-12 Education budget. The *Executive Budget* reduces per pupil spending by \$518 from the 2009 75th legislatively approved level and \$315 per student based on the level approved during the Twenty-sixth Special Session. Additionally, appropriations for the class-size reduction program are reduced by \$20 million. Does the Senate support measures that would lay-off teachers and add students to classrooms in the schools throughout the State?

SENATOR DENIS:

My concern with this part of the budget is the combination of the per pupil spending reductions along with the reduction of \$20 million from a dedicated class-size reduction account. Increasing class sizes is inevitable with this level of funding reduction. I have visited high school government classes with 40 students, some of whom are sitting on the Floor. I cannot support this level of spending cuts.

SENATOR HORSFORD:

By a show of hands, how many Senators support the Governor's recommendation to reduce per pupil spending by \$518?

SENATOR MCGINNESS:

When we started this process, I asked if this would be a voting exercise. You indicated it would not be. The Floor of the Senate is the place for voting, not taking a poll. We are willing to listen to the discussion, but I would have a difficult time endorsing a blanket vote or poll on this item.

SENATOR HORSFORD:

I appreciate that, however we must get an indication of what the support of the Senate is for these large topic areas. I am open to suggestions about other ways to achieve this, but without input and discussion, I have to get some indication of where the body stands.

SENATOR ROBERSON:

This is an incomplete discussion. We are talking only about cuts. None of us wants to cut funding from schools. There is a finite amount of money with which to fund all State services. If we do not also talk about how we will get more revenue into the system, our only alternative is to cut.

SENATOR HORSFORD:

I respect that position. However, the rules of the Senate, the *Constitution of the State of Nevada* and the *Nevada Revised Statutes* require the Finance and Ways and Means Committees to determine the level of support for State programs. Following that determination, the Revenue Committees can discuss how to fund them. Ninety-three percent of what we spend is in Education, Health and Human Services and Public Safety. As you indicate, if cuts are necessary, they will have to be made in these three areas. While none of us wants to make cuts, that is the scenario we face unless the members of this body say otherwise.

SENATOR ROBERSON:

I do not need to go through a line item process. I support the Governor's budget.

SENATOR LESLIE:

The Washoe County Superintendent of Education held a press conference indicating the impacts of the *Executive Budget* on the Washoe County School District. These impacts include an increase of approximately 6 students in K-12 classrooms and the loss of 463 positions, including teachers and administrators. These cuts are too deep.

I agree we need to have a revenue discussion. I hope we meet as the Committee of the Whole to debate where to find the revenue.

I do not support the Governor's budget for K-12 Education.

SENATOR HORSFORD:

If it is possible to restore per-pupil funding, does this body have an opinion about whether it should be restored to the 2009 or the 2010 level?

Are there any opinions about whether or not we want to restore to a certain level?

SENATOR HARDY:

I support the Governor's recommended budget. It is a complete plan that accounts for expenditures and revenues throughout the budget. If there are funds in the plan we would like to move into some other area, the Governor is not averse to those kinds of changes. We will have a better idea of the revenue expectations after the Economic Forum meeting on Monday, May 2, 2011. I agree this is not the place for the revenue discussion, because this is the budgeting process. However, we do not have another budget plan.

SENATOR HORSFORD:

Without another, better way to create a budget plan, I have to get some indication of what direction this body wishes to take. We must close these budgets in three weeks. If they are closed by a majority vote, that is how they will be closed.

SENATOR BROWER:

We all understand and appreciate the Chair's attempt to allow the full body of the Senate to hear the details about these various budgets. However, the traditional way of closing budgets works. The Finance Committee is a subset of the Senate, whose members hear the budgets and bills relating to the budgets, makes decisions and brings those decisions to the full body. Now that the Committee of the Whole has heard the testimony, and many of the presentations that have been made to the Finance Committee, the business of closing the budget can be returned to the Finance Committee. The full Senate will vote on the budget bills when the committee work is done.

SENATOR HORSFORD:

We discussed what approach to take with the minority leadership in both houses. The budget shortfall for this biennium is so great, and the issues to be decided are so broad, we agreed that leaving the decision to only 7, or 3, members out of the 21 member body would not be in our best interests, or the public's best interests. We cannot have debate about why decisions were made in the final days of the session. The ultimate decision about how to close budgets is continuing in the joint Committee on Finance and Ways and Means, but we need input from the Committee of the Whole.

SENATOR BROWER:

I agree with the Minority Leader. A straw poll on the Floor is not the correct way to conduct business. Discussions should occur in committees. We should lobby one another in the hallways and in our offices. We should then vote officially on the Floor of the Senate.

SENATOR KIECKHEFER:

Revenue and expenditures are two legs of a three-legged stool for education. I have concerns about investing in an education system that is not producing the results we want. We must have a policy discussion in addition to the fiscal discussion. I will support the Governor's budget because the existing system does not instill the confidence in me to go beyond his recommendation.

SENATOR LESLIE:

I am not one of the three Finance Committee Senators who sit on the Education Subcommittee. I appreciate the opportunity to hear this testimony and provide input. The budget in front of us destroys K-12 education. I will not vote for the Governor's recommended budget for education. I suggest we target the 2009 appropriation level of per pupil funding.

SENATOR HORSFORD:

Is there any discussion about this option?

SENATOR PARKS:

I rise in support of Senator Leslie's comments. The 2009 per pupil funding level seems reasonable. I do not support continuing to lower education spending. Economic diversification requires a well-educated workforce.

SENATOR MCGINNESS:

When we spoke a couple of weeks ago regarding the Committee of the Whole, I had hoped it would be more productive. All are struggling to do more with less. We must look at how much money is available. The *Executive Budget* must be balanced. I will entertain suggestions regarding education funds, but I will not support a tax increase.

SENATOR HORSFORD:

Is that the Republican caucus' position?

Can you indicate that with a show of hands?

SENATOR MCGINNESS:

My remarks speak for the caucus.

SENATOR HORSFORD:

If there are any Republican caucus members who do not agree, please speak up.

The next item for discussion is the pay for teachers. The Governor proposes to reduce teacher pay by 5 percent and to deduct another 5.3 percent for an increase in their Public Employees' Retirement System (PERS) contribution. Does the Senate support reducing compensation of K-12 teachers at the cost of reducing the ability to attract and retain quality teachers?

SENATOR HALSETH:

I do not have a copy of the budget the Finance Committee is looking at. May I have a copy of that?

SENATOR HORSFORD:

This was provided to you at a previous meeting. Did you not bring it with you?

SENATOR HALSETH:

Can staff make a copy and bring it to me?

SENATOR HORSFORD:

It was provided to all the members previously.

SENATOR HALSETH:

If you do not want to provide it to me that is okay.

SENATOR HORSFORD:

It is also available on the Nevada Electronic Legislative Information System (NELIS) if you have access to NELIS.

SENATOR LESLIE:

On this point, it is important to be open. It is difficult to consider reducing teacher salaries by over 10 percent when you combine direct salary decreases and increased Public Employee's Retirement System (PERS) contributions. However, all State workers are being asked to take 5 percent salary reductions. Washoe County employees have been asked to take a 10 to 12 percent pay reduction. As much as we all want to pay teachers well and to attract the best teachers

possible, we must accept there will be reductions in pay. I would like to hear more discussion about the PERS reductions.

SENATOR KIECKHEFER:

The total General Fund reduction in the Distributive School Account according to a document prepared by Fiscal Staff is \$849.5 million. There are also cuts of \$121 million in room tax revenues and \$302 million in debt reserve. Adding the 5 percent salary cut, the PERS reductions and equalizations and the suspension in merit pay, the total reduction is \$599.8 million. That leaves only \$249.7 million in General Fund reductions for the entire K-12 system. I support these proposals.

SENATOR HORSFORD:

My concern is the cumulative nature of these cuts on the individual teacher's take-home pay. The average teacher salary is \$50,000 a year; a starting teacher salary is approximately \$32,000 a year. Deducting 12 percent from the average salary equals \$100 a week, or \$400 a month. I respect the position that the private sector is hurting and cannot afford to pay more, but the people we represent are hurting and cannot afford less out of their paychecks. The total cuts in this area place too large of a burden on our teachers alone to solve the majority of the budget reduction to K-12 education. There was a time when teachers contributed toward PERS. That changed when they took a pay reduction in lieu of contributing to PERS. Asking teachers to contribute again in these difficult economic times is reasonable. The Governor's budget requests a 25 percent contribution. I am willing to consider that. I do not think all the cuts should be made, however.

SENATOR PARKS:

I worked in the public service sector from the early 1970s through the 1990s. In 1971, employees paid 50 percent towards their retirement. In the late 1970s, when revenues did not meet expectations, governmental organizations agreed to assume full responsibility for retirement benefits in lieu of a pay raise. The employer paid PERS benefit was a result of concessions made by public employees during negotiations.

SENATOR SCHNEIDER:

Other committees are also making decisions about public education. There have been discussions about extending the length of the school day. The funding in the *Executive Budget* will increase class size, thereby increasing workload. The State of Nevada is losing good teachers. Morale is low. Half of newly hired teachers quit in the first five years. I cannot accept these cuts tonight.

SENATOR HORSFORD:

Is there any other input on this item? Senator McGinness or Senator Cegavske do you have anything to offer toward the discussion?

SENATOR MCGINNESS:

I am not on the Finance Committee. I am on the Revenue Committee. The taxes passed during the last biennium that will sunset on June 30, 2011, have been proposed as part of the solution. Someone must pay every one of these taxes. If these taxes are not allowed to expire, the payroll tax will continue to keep 0.5 percent of the first \$250,000 of payroll. The modified business tax will not go down by 1.17 percent for payroll over the first \$250,000. Business license fees will remain at \$200 rather than \$100. Sales and use tax will stay at 0.35 percent. Registration fees for vehicles older than nine years will remain higher. I am not sure whom we choose to continue to pay. Public employees cannot be held harmless while the rest of the State is coming up short.

SENATOR HORSFORD:

I respect that. I agree that teachers cannot be exempt from making sacrifices, but all of it together may be too much. I do not know why taking money out of the paychecks of teachers is not a tax if taking money through revenue on other stakeholders is a tax. Someone is paying. Currently, the burden of the education budget is largely on teachers. The largest expense in the

districts is payroll because a teacher is required in every classroom. Something must be asked of school district employees or we will not approach the cooperation necessary to close these budgets.

SENATOR SETTELMAYER:

From my research online, only 17 states have not had to make cuts in education. Can you explain to me how not getting a step increase is a cut in pay?

SENATOR HORSFORD:

Is that question directed to me?

I have not advocated restoring the step increases. The 2009 75th Legislature suspended longevity and merit pay. The Governor assumes there is agreement to suspend it again. To continue the policy to suspend longevity and merit pay requires a majority vote. That is why this discussion is so important. We cannot have one side refusing to have the discussion.

I am not going to process the Governor's budget as proposed. I am trying to create a discussion, to be open and transparent about these decisions. These decisions, Senator Brower, used to be made in conference rooms, not in the committee rooms. These decisions were then presented to the public as a fait accompli.

This responsibility is too great for any one individual or group of individuals to carry alone. We all ran on some platform dealing with education. Each of us will have to make a decision about this budget and we will be accountable to our constituents.

The State of Nevada has offered merit increases as an incentive for teachers to continue their education and increase their classroom skills. There may be other ways to find quality teachers. Other states have taken different approaches. However, Nevada has taken this approach. Individuals have returned to college to obtain master's degrees because of the promise of better pay.

I agree with Senator Kieckhefer. We should demand better outcomes from our education systems. However, we first have to honor the commitments we have made to current teachers.

SENATOR KIECKHEFER:

As Senator Schneider stated, class sizes will increase if there is a reduction in force (RIF). The concessions that are asked for and included in the *Executive Budget* significantly reduce the need for RIFs. Passing the budget will not drive up class sizes dramatically.

When I was a State employee, I was subject to the pay cut through the furlough system. I did not consider it a tax; it was a cut in my pay. Private sector employees throughout my district also experienced pay cuts, often at a more significant level. The line in the sand between private and public employees is artificial.

SENATOR HORSFORD:

The third item to consider in the K-12 education budgets is the student achievement block grant. The Governor proposes distribution of the block grant as a lump sum in the second year of the biennium. This grant encompasses funding for programs such as early childhood education (ECE), class-size reduction, full-day kindergarten, English language learner (ELL) programs, and career and technical programs among others. The first year the Governor has agreed to work with the Superintendents to maintain the category of funding without reductions. In the second year of the biennium, the appropriations will be reduced by 5.7 percent and will be allocated as a block grant. The distribution of the funds into the various programs would be at the discretion of the individual districts. Does the Senate support the policy of reducing the funding for these fundamental programs in the second year of the biennium? Does the Senate support the policy of allowing the districts to determine toward which programs they will direct the funding?

SENATOR WIENER:

When I decided to run for public office, I visited the children of Wiener Elementary School and had my picture taken with a group of kindergarten students. I promised them I would look out for them when I went to the Legislature. I keep this photograph on my desk to remind me of that promise every time I vote.

I visit with the teachers and students often. This school is dedicated to young children. I have learned the value of full-day kindergarten. Many of the children in the photograph have gone onto college. Many of them have returned to Wiener Elementary to share their stories about what higher learning means to them. Many have credited their experience at Wiener Elementary with their success. Full-day kindergarten is one of the programs.

SENATOR DENIS:

When my daughter started kindergarten 20 years ago, I wanted to do what was best for my child. I subsequently had four more children and I became involved in trying to find out what works in our education system. We have discussed education reform in the Legislature and there have been some great advances. Class-size reduction and full-day kindergarten are success stories. Yet, when we make cuts in difficult economic times, we make cuts to those programs that are working. I like the idea of giving choice to the districts, but if we reduce the amount of money allocated to these programs overall, there are no choices to be made.

SENATOR MCGINNESS:

Block grants are supported. Give the districts flexibility and the ability to decide what will work best for them. We all feel guilty we are even talking about these cuts. Many states across the country are facing the same fiscal challenges we are. They all have unique tax bases. There is no recession proof tax scheme. The members of my caucus firmly support the *Executive Budget*. We will not override the Governor's veto on a budget that raises taxes.

SENATOR HORSFORD:

What do you say if the Governor's recommended budget cannot be approved because there is not a willingness to work toward a compromise or cooperation to find a balance to get enough votes on the other side to support the *Executive Budget*?

SENATOR MCGINNESS:

I guess we would cut cards.

SENATOR HORSFORD:

I do not want my children's education determined by a high-card draw between Senator McGinness and me. I know we are a gambling State, but we need to stop gambling on our children's future.

The Governor has said he wants to end social promotion. I think there is agreement that we need to do that. Children who do not read by the third grade have less chance to succeed; they are less likely to complete either middle school or high school. Class-size reduction, ECE, ELL, full-day kindergarten, career and technical programs are the kinds of programs that help students achieve.

While some states are reducing expenditures on education, there are states that are increasing their investments in education. Florida specifically funds ECE, full-day kindergarten and a number of other innovative practices that produce results. Virginia, Georgia and Kansas have also increased education spending; Republican Governors lead all four states. In some cases, they also have Republican Legislative branches. Funding education is not a partisan issue.

How will we end social promotion without offering incentives to teachers to help their students achieve? Does anyone have an answer to that question?

SENATOR LESLIE:

The answer is you cannot. You cannot expect education to improve when you cut funding for programs that work.

My objection to the block grants is the reduction in funding that accompanies them. I could support the idea of a block grant which give districts the flexibility to determine which programs work best for their students if the funding was not reduced.

Regarding Nevada's fiscal situation, while it is true that every state is struggling, Nevada is struggling more than most. Almost every other state has a corporate income tax. Almost every other state has a personal income tax. Nevada does not. The Nevada tax system does not support the needs we have in this State.

I do not support the block grant if it means we are cutting millions of dollars out of these programs.

SENATOR KIECKHEFER:

The reduction for this item is \$7.37 million out of an appropriation of almost \$162 million. We may have invested \$1.7 billion in class-size reduction but we have not done a comprehensive study statewide to determine the impact. I am not going to argue about whether these programs work. Smaller class sizes are generally good as long as there is a good teacher in the front of the class. We have heard from school districts that they want the flexibility to use these funds for the programs best suited to the needs of their students.

SENATOR HORSFORD:

Class size has evolved over the years. I approach this issue as a parent. Two of my three children are currently enrolled in public schools. Because it was mandated, my second grader had a smaller class size. In 2009, the 75th Legislature gave districts the flexibility to respond to fluctuating enrollments in individual schools. Because of this, when my fifth grader showed up to a class of over 30 students, the principal was able to make modifications and reduce the class size to 27 students.

Districts have been given authority to make locally based decisions. The block grants give them the authority to choose whether or not to have smaller classes. If we know smaller class sizes are better, if private schools promote small class sizes as one of the attractions of a private school education, why is it okay for those who can afford private school but it is not okay for my children who attend public school? We are deciding that smaller class size is not worth the money anymore. Is that because we are trying to choose between those who can have it and those who cannot? Or because we do not believe small classes matter?

SENATOR BROWER:

In a perfect world, smaller classes are obviously a good thing. Given limited resources, not only should these issues be decided district by district, they should be decided school by school. Some schools have a more significant need for smaller class sizes than others do. At-risk schools must be treated differently. The district, led by a professional and competent superintendent, can make these decisions as guided by the elected school board. The Legislature does not need to micromanage the allocation of special program funding.

It is clear some other states are investing more money in education. We would all like to be doing the same. However, the states that are investing more in education are doing so without raising taxes. They are reprioritizing their expenditures. This body, to a person, would like to spend more money on education. We do not have all the money we want to have in this biennium.

I appreciated the colloquy between Senators Horsford and Roberson. It revealed part of the disconnect that is making this discussion less robust than the Chair thought it could be: it does not make sense to look at expenditures before revenues. We need to determine how to spend the finite amount of money to best accomplish the goals we have as a State. One of the key goals is to have a quality education system. The debate should focus on how we are going to spend the money we have. Not all of us agree with every line item in the Governor's budget. However, what my caucus agrees on is we must live within our means.

SENATOR HORSFORD:

The next item for discussion is related to the DSA budget. The Governor proposes to redirect money from the school districts' capital reserve accounts to offset the DSA shortfall. I could agree with the premise that we should live within our means, if the Governor was not proposing a \$1.1 billion revenue enhancement. Does the Senate support the amount of sweeps from the school districts' capital reserves?

SENATOR BROWER:

Sweeps sounds like a pejorative term. The reality is, the money is in the capital reserve accounts. It can be used in the classroom which we all agree needs to be funded. The Governor has simply added that amount of money to the means for funding. It may be a temporary way of

funding classroom operations, but without it, we cannot fund classroom operations. There is not much of a dilemma for me. The money may only be spent on the children in the classrooms.

SENATOR MCGINNESS:

I agree with Senator Brower. In the last session, we used the revenues from the local government investment pool to help fund the budget. That, too, was controversial. In the end, we did not use those funds. I hope it will be the same with these funds.

SENATOR HORSFORD:

To clarify what we are discussing, this is the \$302.1 million over the biennium, a portion of which is moved from capital reserve accounts and the remainder from the government services tax (GST).

SENATOR LESLIE:

I have an opposite view. The people in my district are angry that the Governor vetoed the bond reserve bill from the Assembly because their schools need repairs. I think this is a risky proposition. For many school districts, it reduces the reserves to a dangerously low level. In Clark County, we heard testimony it could result in a property tax increase. Most importantly, they wanted these bond funds to be used to rehabilitate schools.

I think the Governor absolutely intends to use these funds. I think what they are hoping not to have to use is the \$190 million in securitization funds.

We have heard only negative testimony about this revenue. It is not good revenue. I do not support it. We may have to accept part of it to close the budget during negotiations, but it is my hope it will be as little as possible.

SENATOR HORSFORD:

These funds will be redirected as an offset for the DSA funds, dollar for dollar. They will be used. It is not a budget-balancing tactic. Staff, what is the GST portion of the \$302.1 million total? How many districts are included in the GST sweep?

MARK KRMPOTIC (Senate Fiscal Analyst):

Based on the information gathered by Staff to date, the portion of the debt reserves that represent GST in Washoe County is \$5.7 million and in Clark County is \$124 million.

SENATOR HORSFORD:

Are those the only two counties? I thought there were other counties. White Pine County testified that if funds were swept from their capital reserves account they would not be able to make necessary improvements to their school buildings.

MR. KRMPOTIC:

The amounts just provided are the amounts the counties propose to transfer to their debt service reserve. Fiscal Staff is continuing to evaluate the rural counties. I understand their debt service reserves include GST, but we do not know how much that represents.

SENATOR HORSFORD:

The Budget Office, Fiscal Staff and the Districts are working together to reconcile these accounts. Do we know when this will be done? How is it the Governor submitted an amendment if that was not reconciled in advance?

MR. KRMPOTIC:

Fiscal Staff received information from the Budget Office. We are going through a due diligence process to verify what is available for transfer to the debt service reserves. Once we complete this process, the Legislature can make final decisions regarding what can be used to support K-12 education and DSA.

SENATOR HORSFORD:

Once the due diligence is completed, we will get that information to the members of the Senate so you can see the breakdown by county. I assumed this had been done prior to the submission of the budget amendment.

The final item for discussion is the proposal to reduce State support for the Nevada System of Higher Education (NSHE) by 27.3% or \$323 million over the biennium. We heard testimony regarding the impact on institutional programs and access. Does the Senate endorse these cuts that lead to loss of faculty and closure of academic programs?

SENATOR WIENER:

The NSHE offers diversity of opportunity to students, the youth of Nevada. Choosing which programs to cut is similar to choosing which of your children you love the best. Some of the programs at the University of Nevada, Reno (UNR) and the University of Nevada, Las Vegas (UNLV) do not sustain. The legislature has made the difficult decision to cut budgets and pass along the decision to NSHE Regents to cut programs. How deeply can we cut the programs without decimating the entire system of higher education in our State? The NSHE testified that the proposed budget would require them to make cuts to entire programs, possibly even entire campuses. Students will not be able to get the classes they need to graduate. For those who have their futures invested in staying in Nevada and contributing to the State's growth, lack of access to diverse higher education programs may drive them out of the State. These cuts are too deep. I do not support them.

SENATOR LESLIE:

I also oppose this level of cuts. The Desert Research Institute (DRI) is the arm of NSHE that attracts top niche scientists. The professors at DRI attract research dollars and employ graduate students. Many of those researchers have already left Nevada. More will leave. When they go, they will take the millions of dollars in research money with them. We will lose not only their expertise and leadership in the field of science, we will lose those jobs.

When I got a master's degree at UNR, it was possible to get degrees in German, French and Spanish. The German program has already been eliminated. French is on the cut list. Is this what we expect from a top-rate university?

There are things that can be made more efficient in higher education. However, if we accept this level of cuts we need to be very clear about the impact on the future citizens of Nevada.

SENATOR HORSFORD:

The Social Work program at UNLV is on the list to be eliminated, as is the Advanced Mathematics program at UNR. Rural community college campuses may be closed. Due to the difficult economic situation, more people are returning to college to improve their skills and reequip themselves for the workforce. The percentage of Nevadans without a college degree is high. It is one of the reasons we do not attract some of the major industries we say we want to bring to the State. At the Nevada 2.0 conference, we learned that IKEA chooses locations for its stores based on the percentage of the population with advanced degrees. IKEA chose a location in Arizona. Under a Republican governor, Arizona increased their sales tax to fund some of their basic education needs.

I do not think anyone is suggesting funding education at a level higher than that provided for in the 2009 75th legislatively approved budget. Every two years, a budget must be decided.

SENATOR KIHUEN:

I stand in opposition to further cuts in higher education. We heard testimony last week that approximately 20,000 students would be rejected if we pursued these cuts to the NSHE budgets.

I work at the College of Southern Nevada (CSN). I see first hand the impact of the budget cuts from 2009, not only at CSN, but also at other institutions. Students cannot graduate because the courses are not being offered, or the professor has been laid off. Enrollment is up at the colleges and universities. We cannot diversify our economy without a well-trained and well-educated workforce. If we do not provide sufficient classes and highly qualified professors, our economy will not improve in either the short-term or the long-term.

Education is not a Republican or a Democrat issue. Most of us care about education and want to improve our system so it is one of the best in the country. If we do not invest the resources, we will not retain or attract the teachers we need to make our education system the best it can be.

I urge every one of you to think of the schools you visited on the campaign trail. Think of the children you spoke to or read a book to; think of the promises you made to their parents to support education.

SENATOR KIECKHEFER:

There are fundamental problems with NSHE. We do not demand excellence out of our system of higher education.

Neither the ACT or the SAT are required for admission to UNR or UNLV. Thirty percent of students entering UNR or UNLV take at least one remedial class. Low expectations are indicative of a problem in the way NSHE is funded.

The NSHE is funded based on enrollment. There are no expectations regarding achievement. The NSHE has requested an interim study on its funding mechanism. I strongly support that.

I share the concerns of my colleagues about the students who will be turned away. As a Republican, I believe self-sufficiency is what people should strive for and higher education is a great way to attain that.

I would be interested in potentially redirecting the nine cents in local government property tax revenue back to the community colleges.

SENATOR HORSFORD:

The Western Interstate Commission for Higher Education (WICHE) has been examining the issue of the enrollment funding formula. The trend of WICHE members going forward is to have a mixture of performance based and enrollment funding. First, the change must be studied. Then a mechanism to track the outcomes must be created. Finally, a bridge from the current system to the desired system must be put in place.

I agree we must develop a different funding formula. In the meantime, do we gut the system we have by 30 percent?

Are the cuts to education about cutting the systems without regard to the 20,000 students who cannot get into college classes or the K-12 students who will have larger classes?

We have talked about vouchers in K-12 education. The Governor proposes to establish a block grant for higher education and a flat level of funding from the State regardless of enrollment or outcomes. This approach privatizes our public higher education system.

Do we value the role of public education and the common good it affords our citizens? Is the motivation for the cuts to weaken our public systems and replace them with private education?

SENATOR KIECKHEFER:

My goal is not to weaken the public education system. It is the backbone of our country. The effort is to recognize the realities of our economy and to craft our budget in a way that will not choke economic growth through an additional tax burden, but will continue to provide a basis for the education system. If you look at a gross number in terms of funding that is cut, it can be daunting. If you break it down in terms of how it can be implemented, it is not as daunting. The effort is not to undermine the value of public education. However, if a school system needs to adapt to a lower amount of revenue, they will.

We have heard testimony that lower revenues will lead to layoffs of the most recently hired, not necessarily the person most deserving of being fired. A person on probation for a crime who has seniority will be retained over a recently hired person. This system needs to be evaluated. Let us discuss an incentive program for teachers.

I do not believe these cuts will make the education system in this State a lot worse.

SENATOR BROWER:

I echo Senator Kieckhefer's comments.

Part of the frustration of many people, in this body and in general, is that more and more money has been allocated to the K-12 education system. Despite that, the high school graduation rate and other indicators have declined.

I am a product of the public school system in Las Vegas. My wife has been a public school teacher for over two decades. I am as concerned about the public school system in this State as anyone is. I have spoken to the Superintendents of Education about the declining graduation rates, but they do not know why it is occurring.

It is difficult to put more money into education when we have the money. When we do not have the money, it is impossible to get a consensus on putting more money into education in the absence of real efforts to fix the system.

SENATOR MCGINNESS:

The answer to the question is of course not. I do not think anyone on this Floor wants to dismantle any education system, whether it is public or private. Is the fact that you even phrased the question meant as a scare tactic?

Education is 53 percent of the total budget. When trying to balance a budget, it must be part of the equation.

I am a product of the public school system as is my wife and our three children. We know what the university system can do. I have faith in our school systems. Whatever we give them when we leave this building; they will provide quality education for our students. It is disingenuous to phrase the question that we are out to dismantle the public school system.

SENATOR HORSFORD:

Let me be clear. I asked the question for understanding. There have been bills this session providing for a voucher system. The Governor's proposal is to block grant a level of funding for higher education with no increases in future biennia. I am trying to understand it because these are the questions I receive from teachers, from constituents who do not understand why we are so willing to cut more from education.

Senators Brower and Kieckhefer gave honest answers about their opinions. Reasonable people can disagree. I would not say Nevada has put a lot of money into education. We have been at the bottom of education funding for decades.

I do not know why graduation rates are lower. When I talk to the teachers in my district, the circumstances in which they teach are different from those when I was in school. I remember my educational experience at Clark High School, and the ability for teachers to teach then versus now is completely different. Are we expecting the same resources we have provided over the last decade will produce a different result? I do not know. It is our job as a Legislature to determine that answer.

I do not mean to offend. I am trying to understand. There are those who have said they do not care what these cuts mean to education. I was trying to understand if that was a position held by anyone in this body.

SENATOR MANENDO:

This past weekend I visited one of my constituents. I was unable to reach him directly because he was at work at the community college. I talked to his wife. He works all the time. Earlier in the session, one of my constituents called to express his disappointment about all the cuts to higher education. We talked about the classes he was teaching. He teaches one class and makes \$70,000 a year. There is something broken in the system that such a disparity can exist in workload and compensation.

I do not know if it is an administrative issue, or a counseling issue to ensure students get the last class they need to graduate. Some of the problem may be funding, but some of it is proper management skills.

Based on what I am hearing today, we will see some cuts. However, there are teachers in the K-12 schools who work long hours for \$32,000 a year, they care about the kids in their classes, and we are considering reducing their pay by 20 percent.

We will have to determine areas in this State to service the masses. How much the cuts will be is a debate we need to have.

SENATOR LESLIE:

We have had a good dialogue. I understand better what the other caucus is saying. Although I do disagree with Senator Kieckhefer when he says these cuts will not make anything worse. If you are a Philosophy student in higher education it will be worse because there will not be a Philosophy Department. If you are a Social Work student in Las Vegas, you will be moving to Reno or you are not going to study Social Work. We need to be honest about what these cuts will mean.

That does not mean that the status quo is acceptable. Where there is crisis, as there is now, there is opportunity for change. However, I hope we do not shortchange our students and the future of our State by enacting cuts that will take us decades to recover from.

Let us think carefully over the next few days as we move forward with these budgets. As we look at the possibility of adding revenue, so we do not damage our State beyond repair. Let us continue talking as we have tonight. These conversations occur outside of this room, but it has been important and valuable to have this conversation in public to begin to understand one another. We cannot leave here without a solution.

SENATOR HORSFORD:

I would like to end this session. I know it is painstaking. Everyone says they want to understand the impacts and the implications. I commit to continue to work with the Governor and any Legislator who wants to find a balanced solution for this budget. I have appreciated the dialogue and the opportunity to vet some of the questions as a body so we are talking to each other and not at each other. We may not agree. People may not change their positions. But, if we don't afford the citizens of this State the opportunity to witness the discussion that shapes why each of us takes the position we have taken, I believe we shortchange the people we represent.

These Committee of the Whole meetings will allow the Finance and Ways and Means Committees to have a better understanding of where people stand and to bring forward options as we find them.

On the motion of Senator Wiener and second by Senator Schneider, the Committee did rise, and report back to the Senate.

Motion carried.

SENATE IN SESSION

At 8:26 p.m.

President Krolicki presiding.

Quorum present.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Concurrent Resolution No. 7.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to the following students from the Ester Bennett Elementary School: Bailey Wood, Emily Styberski, Alyssa Ibarra, Jose Pintor, Colette Joliff, Brandon Valazquez, Joe Collins, Kylee Ryan, Jordan Hutchinson, Richard Talavera, Nico Murillo, Ricky Mondragon, Margarita Flores, Ashley Cruz, Andres Reyes, Francisco Gonzalez, Destiny Flores, Chance Stockford, Alexis Bustos, Oscar Gonzales, Samuel Morey, Dakota Melenke, Chris Bonney, Obed Robles, Giovanni Gonzales, Jose Medina, Jesse Barker, Nicholai Gastelum, Samantha Rendon Diaz, Julianna Durante, Jaidynn Matinez, Pamela Kiss, Makenna Suratt, Conner Puiliti, Jesus Alvarez, Naelia Pinedo, Jonathan Hernandez, Sarai Velazquez, Alan Chavez, Hannah Cay, Jazmyn Vanderney, Yadira Villalpando, Hannah Bishop, Sierra Ziegler, Joey Duron, Cesar Jovani Aldana-Perez, Jesus Zamudio, Luka Murillo, Alexander Jacinto-Torres, Juan Jimenez, Kasey Reisinger, Levi Williams-Smith, Amando Aguilar, Leslie Cordero, Nayeli

Cuevas, Joanna Deleon, Anthony Gonzalez, Elayne Guillen, Cristian Hernandez, Kaci Hitt, Logan Irwin, Jason Livernash, Sean McCall, Monica Moreno, Yesenia Puentes, Hector Robles, Donovan Sepulveda and Bryan Williams.

On request of Senator Hardy, the privilege of the Floor of the Senate Chamber for this day was extended to Alana Woodbury and Danica Pierce.

Senator Horsford moved that the Senate adjourn until Tuesday, April 26, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 8:27 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE SEVENTY-NINTH DAY

CARSON CITY (Tuesday), April 26, 2011

Senate called to order at 11:18 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Bruce Henderson.

Mother Goose reminds us that Tuesday's child is full of grace. Well, Lord, today is Tuesday, and that is what we need—grace. We need it from You. We need it from each other. And we need it from those we serve.

Please help us. In the Name of the Author and Provider of grace and all other good things.

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 Finance, to which were referred Senate Bills Nos. 73, 436, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

STEVEN A. HORSFORD, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 137, 362, 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 Judiciary, to which was referred Senate Bill No. 185, 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 Legislative Operations and Elections, to which were referred Senate Bills Nos. 98, 133, 170, 269, 390, 391, 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 Legislative Operations and Elections, to which was referred Senate Bill No. 188, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and re-refer to the Committee on Finance.

DAVID R. PARKS, *Chair*

Mr. President:

Your Committee on Transportation, to which were referred Senate Bills Nos. 48, 51, 151, 177, 214, 302, 321, 322, 323, 407, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHIRLEY A. BREEDEN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 25, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 237, 244, 564.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 6, 13, 29, 31, 37, 42, 45, 46, 56, 57, 59, 61, 68, 72, 73, 107, 110, 130, 135, 141, 145, 146, 149, 154, 179, 192, 196, 198, 213, 226, 228, 238, 246, 249, 253, 254, 260, 273, 276, 283, 284, 289, 290, 291, 294, 308, 317, 321, 328, 346, 352, 362, 368, 384, 389, 396, 400, 408, 410, 413, 433, 441, 454, 463, 472, 501, 538, 544, 545.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 86, Amendment No. 109, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 51 to Assembly Bill No. 144.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that for this legislative day, that all necessary rules be suspended, and that all Senate Bills and Joint Resolutions just reported out of committee with amendments be immediately placed on the Second Reading File, on the next Agenda, time permitting.

Motion carried.

Senator Horsford moved that for this legislative day, that all necessary rules be suspended, and that all Senate Bills be declared emergency measures under the Constitution, and that reprinting be dispensed with, and the Secretary be authorized to insert the amendments adopted by the Senate, and the bills be immediately placed on the General File for Third Reading and final passage, on the next Agenda.

Motion carried.

Senator Horsford moved that for this legislative day, that all necessary rules be suspended, and that all Senate Bills and Joint Resolutions amended on Second Reading or read second time be placed on Third Reading and Final Passage on the next Agenda.

Motion carried.

Senator Horsford moved that all Assembly Bills listed on today's agenda be moved to the next legislative day for introduction: Assembly Bills Nos. 6, 31, 37, 42, 46, 56, 57, 61, 72, 73, 110, 130, 145, 146, 154, 192, 196, 198, 213, 226, 228, 237, 238, 244, 246, 249, 253, 254, 260, 289, 290, 291, 294, 317, 321, 328, 346, 352, 362, 368, 384, 389, 396, 400, 408, 410, 413, 433, 441, 454, 472, 501, 538, 544, 545, 564.

Motion carried.

Senator Parks moved that Senate Bill No. 233 be taken from the Secretary's desk and placed on the Second Reading File.

Motion carried.

Senator Horsford moved that the Senate recess until 12 p.m.

Motion carried.

Senate in recess at 11:27 a.m.

SENATE IN SESSION

At 1:22 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that for this legislative day, the Secretary of the Senate dispense with reading of the histories of all bills and resolutions.

Motion carried.

Senator Denis moved that Senate Bill No. 365 be taken from the Secretary's desk and placed on the bottom of the General File.

Motion carried.

Senator Copening moved that Senate Bill No. 52 be taken from the Second Reading File and placed on the Secretary's desk.

Motion carried.

Senator Rhoads moved that Senate Bill No. 287 be taken from the Second Reading File and placed on the Secretary's desk.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 36.

Bill read second time.

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

Amendment No. 2.

"SUMMARY—Revises provisions governing the State Board of Podiatry. (BDR 54-502)"

"AN ACT relating to podiatry; requiring each person licensed by the State Board of Podiatry to maintain a permanent mailing address with the Board; requiring each licensee to provide the Board with written notification of any change in his or her permanent address; requiring the Board to impose a fine if a licensee fails to notify the Board of a change in his or her permanent address; requiring a licensee who closes his or her office in this State to notify the Board of the location and custodian of the medical records of the patients of the licensee for a certain period; ~~requiring~~ **codifying in statutory form the requirement in administrative regulation that** an applicant for a license ~~to practice podiatry or to practice as a podiatry hygienist to~~ **issued by the Board** submit to a criminal background check; ~~authorizing the Board to charge certain fees;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the State Board of Podiatry to license and regulate the conduct of podiatrists and podiatry hygienists. (NRS 635.050-635.180) **Section 2** of this bill requires a licensee to maintain a permanent mailing address with the Board and notify the Board in writing of any change in the licensee's permanent address. **Section 2** also requires the Board to impose a fine against any licensee who fails to notify the Board of a change in his or her permanent address. Additionally, **section 2** requires a licensee who changes the location of his or her office to notify the Board of the new location and requires a licensee who closes his or her office to notify the Board of the closure within 14 days after closing the office. **Section 2** further requires a licensee who closes his or her office to keep the Board apprised of the location and custodian of the medical records of the licensee's patients for a minimum of 5 years.

~~{Section 3 of this bill}~~ **Existing regulation** requires each applicant for licensure by the Board to submit to the Board a complete set of fingerprints and written permission authorizing the Board to submit the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. ~~{Section 3 also authorizes the Board to charge and collect a fee to cover the cost of obtaining the report from the Federal Bureau of Investigation.}~~ **(NAC 635.023) Section 3 of this bill codifies in statute this existing requirement in regulation.**

Section 4 of this bill provides that a licensee is subject to disciplinary action if he or she fails to notify the Board in writing of a change in permanent mailing address in the manner required by **section 2** of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 635 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. Each licensee shall:

(a) Maintain a permanent mailing address with the Board; and
(b) If the licensee changes his or her permanent mailing address, notify the Board in writing of the new permanent mailing address within 30 days after the change of address.

2. If a licensee fails to provide the written notice required by paragraph (b) of subsection 1, the Board shall, in addition to any disciplinary action taken or fine imposed pursuant to NRS 635.130, impose upon the licensee a fine not to exceed \$250.

3. A licensee who changes the location of his or her office in this State shall notify the Board in writing of the change in location before practicing at the new location.

4. A licensee who closes his or her office in this State shall:

(a) Notify the Board in writing of the closure within 14 days after closing the office; and

(b) For a period of 5 years thereafter, unless a longer period of retention is provided by federal law, keep the Board apprised in writing of the location and custodian of the medical records of the patients of the licensee.

Sec. 3. ~~Each applicant for a license to practice podiatry or to practice as a podiatry hygienist in this State shall~~, including, without limitation, a limited or provisional license, must submit to the Board:

~~(a)~~ 1. A complete set of fingerprints; and

~~(b)~~ 2. Written permission authorizing the Board to forward the fingerprints submitted pursuant to ~~paragraph (a)~~ subsection 1 to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

~~2. The Board may charge and collect a fee to cover the cost of the investigation associated with obtaining the report identified in paragraph (b) of subsection 1. Any fees charged by the Board pursuant to this section are not refundable.~~

Sec. 4. NRS 635.130 is hereby amended to read as follows:

635.130 1. The Board, after notice and a hearing as required by law, and upon any cause enumerated in subsection 2, may take one or more of the following disciplinary actions:

- (a) Deny an application for a license or refuse to renew a license.
- (b) Suspend or revoke a license.
- (c) Place a licensee on probation.
- (d) Impose a fine not to exceed \$5,000.

2. The Board may take disciplinary action against a licensee for any of the following causes:

(a) The making of a false statement in any affidavit required of the applicant for application, examination or licensure pursuant to the provisions of this chapter.

(b) Lending the use of the holder's name to an unlicensed person.

(c) If the holder is a podiatric physician, permitting an unlicensed person in his or her employ to practice as a podiatry hygienist.

(d) Habitual indulgence in the use of alcohol or any controlled substance which impairs the intellect and judgment to such an extent as in the opinion of the Board incapacitates the holder in the performance of his or her professional duties.

(e) Conviction of a crime involving moral turpitude.

(f) Conviction of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

(g) Conduct which in the opinion of the Board disqualifies the licensee to practice with safety to the public.

(h) The commission of fraud by or on behalf of the licensee regarding his or her license or practice.

(i) Gross incompetency.

(j) Affliction of the licensee with any mental or physical disorder which seriously impairs his or her competence as a podiatric physician or podiatry hygienist.

(k) False representation by or on behalf of the licensee regarding his or her practice.

(l) Unethical or unprofessional conduct.

(m) *Failure to comply with the requirements of subsection 1 of section 2 of this act.*

(n) Willful or repeated violations of this chapter or regulations adopted by the Board.

~~{(n)}~~ (o) Willful violation of the regulations adopted by the State Board of Pharmacy.

~~{(o)}~~ (p) Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(1) The license of the facility is suspended or revoked; or

(2) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➤ This paragraph applies to an owner or other principal responsible for the operation of the facility.

Sec. 5. This act becomes effective upon passage and approval.

Senator Roberson moved the adoption of the amendment.

Remarks by Senator Roberson.

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

Amendment No. 2 to Senate Bill No. 36 codifies the existing provision in regulation that requires an applicant for licensure by the State Board of Podiatry to submit to a criminal background check.

The amendment also deletes the provision relating to collection of a fee to process fingerprints.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 43.

Bill read second time.

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

Amendment No. 219.

"SUMMARY—Makes various changes relating to electronic health records. (BDR 40-443)"

"AN ACT relating to health care; requiring the Director of the Department of Health and Human Services to establish a **statewide** health information exchange system in accordance with federal law; requiring the Director to establish or contract with ~~one or more~~ a nonprofit ~~entities~~ **entity** to govern the ~~administration of the~~ **statewide** health information exchange system; requiring the Director to prescribe standards to ensure the security and confidentiality of electronic health records; requiring the Director to take

action necessary to comply with federal law concerning electronic health records and the statewide health information exchange ~~systems~~ system; making various changes relating to electronic health records; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The American Recovery and Reinvestment Act of 2009 includes the Health Information Technology for Economic and Clinical Health Act of 2009, otherwise known as the "HITECH Act." (Public Law 111-5, ~~Division A, Title XIII~~) 42 U.S.C. §§ 300jj et seq. and 17901 et seq. The HITECH Act establishes various requirements with respect to electronic health records and health information exchange systems. This bill requires the establishment of a system that allows the exchange of electronic health information in accordance with the requirements of the HITECH Act and other federal law, authorizes the State to make use of electronic records and health information exchange systems, and requires protection of individual privacy and prevention of unauthorized access to health records.

Section 5 of this bill requires the Director of the Department of Health and Human Services to establish a statewide health information exchange system and specifies the Director's powers and duties. **Section 6** of this bill requires the Director to establish or contract with not more than one ~~for more~~ nonprofit ~~entities~~ entity to govern the ~~administration of the~~ statewide health information exchange system. Section 6 requires the governing entity to have a governing body and authorizes the governing entity to hire or contract with a public or private entity to administer the statewide health information exchange system. Section 6 further requires the Director to certify health information exchanges who may then participate in the statewide health information exchange system. Section 6 requires the governing body to hold public meetings which are conducted in accordance with the Open Meeting Law.

Section 7 of this bill requires the Director to prescribe standards for the security and confidentiality of electronic health records , health-related information and the statewide health information exchange system. Such standards must include the manner in which a person may remove or exclude health records or any portion thereof from the statewide health information exchange system. **Section 8** of this bill imposes requirements upon persons who transmit electronic health records or participate in the statewide health information exchange system and makes it a misdemeanor to commit certain acts related to electronic health records , health information exchanges and the statewide health information exchange system. Section 8 further provides that a health care provider may not be required to participate in the statewide health information exchange system and may not be subject to disciplinary action for electing not to participate. Section 8 requires the Director to adopt regulations establishing the manner in which a person may file a complaint of violations with the Director and requires the Director to post that

information as well as information about how to file a complaint involving a violation of federal law on the Internet website of the Department.

Section 9 of this bill provides immunity from liability to a health care provider for certain acts in connection with electronic health records and the statewide health information exchange system. Section 9.5 of this bill similarly provides immunity from liability to the governing entity of the statewide health information exchange system, the administrator of the system and health information exchanges for information which they include or cause to be included in the statewide health information exchange system in certain circumstances. Section 11 of this bill requires a patient's consent for electronic transmittal of health care records or participation in the statewide health information exchange system, and specifies the rights of a patient. Section 12 of this bill ensures that electronic health records maintained in accordance with these provisions comply with other laws concerning written health care records and directives, access to health care records and confidentiality of health care records.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. *As used in sections 2 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 ~~and 4~~ to 4.9, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Electronic health record" ~~means a health care record, as that term is defined in NRS 629.021, that is maintained in an electronic format which allows the exchange of health-related information and the integration of such information with information from other sources.~~ has the meaning ascribed to it in 42 U.S.C. § 17921(5).*

Sec. 4. *~~"Health information exchange system" means the system established pursuant to sections 2 to 12, inclusive, of this act for the electronic movement and exchange of health-related information and electronic health records.~~ (Deleted by amendment.)*

Sec. 4.2. *"Health care provider" has the meaning ascribed to it in 45 C.F.R. § 160.103.*

Sec. 4.4. *"Health information exchange" means an organization that provides for the electronic movement of health-related information across and among disparate organizations according to nationally recognized standards.*

Sec. 4.6. *"Person" means:*

- 1. A natural person.*
- 2. Any form of business or social organization and any other nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust or unincorporated organization.*

3. A government, a political subdivision of a government or an agency or instrumentality of a government or of a political subdivision of a government.

Sec. 4.8. "Statewide health information exchange system" means the system established pursuant to sections 2 to 12, inclusive, of this act for the electronic movement, storage, analysis and exchange of electronic health records, health-related information and related data.

Sec. 5. 1. The Director is the state authority for health information technology. The Director shall:

(a) Establish a statewide health information exchange system ~~[which must comply]~~, including, without limitation, establishing or contracting with a governing entity for the system pursuant to section 6 of this act, and ensuring the system complies with the specifications and protocols for exchanging electronic health records, health-related information and related data prescribed pursuant to the provisions of the Health Information Technology for Economic and Clinical Health Act of 2009, ~~[Public Law 111-5, Division A, Title XIII,]~~ 42 U.S.C. §§ 300jj et seq. and 17901 et seq., and other applicable federal and state law;

(b) ~~Coordinate the development of the statewide infrastructure to support the health information exchange system and to allow the connection of electronic health records to the infrastructure;~~

~~— (c) Develop a statewide plan for technology to guide the development of the health information exchange system and the exchange of electronic health records within this State and nationally;~~

~~— (d) Encourage the use of the statewide health information exchange system by ~~[providers of]~~ health care ~~[,]~~ providers, payers and patients; ~~and~~~~

~~(e) (c) Prescribe by regulation standards for the electronic transmittal of electronic health records, prescriptions, health-related information, ~~and~~ electronic signatures and requirements for electronic equivalents of written entries or written approvals in accordance with federal law ~~[,]~~;~~

(d) Prescribe by regulation rules governing the ownership, management and use of electronic health records, health-related information and related data in the statewide health information exchange system; and

(e) Prescribe by regulation, in consultation with the State Board of Pharmacy, standards for the electronic transmission of prior authorizations for prescription medication using a health information exchange.

2. The Director may enter into contracts, apply for and accept available gifts, grants and donations, and adopt such regulations as are necessary to carry out the provisions of sections 2 to 12, inclusive, of this act.

Sec. 6. 1. The Director shall establish or contract with not more than one ~~[or more]~~ nonprofit ~~[entities]~~ entity to govern ~~[the administration of]~~ the statewide health information exchange system. The Director shall by regulation prescribe the requirements for ~~[such an]~~ that governing entity. ~~[, including, without limitation, the governing body of such an entity.]~~

2. ~~4.~~ The governing entity established or contracted with pursuant to this section:

(a) Must comply with all federal and state laws governing such entities and health information ~~exchange systems.~~ exchanges.

(b) Must have a governing body which complies with all relevant requirements of ~~the~~ federal law and ~~must consist~~ which consists of representatives of ~~providers of~~ health care ~~and~~ providers, insurers, patients, employers and others who represent interests related to electronic health records and health information ~~exchange systems.~~ exchanges.

(c) Shall oversee and govern the exchange of electronic health records ~~and~~ and health-related information within the statewide health information exchange system.

(d) May, with the approval of the Director, hire or contract with a public or private ~~entities~~ entity to administer the statewide health information exchange system.

(e) May enter into contracts with any health information exchange which is certified by the Director pursuant to subsection 4 to participate in the statewide health information exchange system. The governing entity shall not enter into a contract with a health information exchange that is not certified.

~~(f)~~ (f) Is accountable to the Director, in his or her capacity as the state authority for health information technology, for carrying out the provisions of ~~the~~ a contract entered into pursuant to this section.

~~(g)~~ (g) May apply for and accept available gifts, grants and donations for the support of the governing entity and the statewide health information exchange system.

3. The governing body of the governing entity shall hold public meetings at such times as required by the Director. Such meetings must be conducted in accordance with the provisions of chapter 241 of NRS.

4. The Director shall by regulation establish the manner in which a health information exchange may apply for certification and the requirements for granting such certification, which must include, without limitation, that the health information exchange demonstrate its financial and operational sustainability.

Sec. 7. 1. The Director shall by regulation prescribe standards:

(a) To ensure that electronic health records and the statewide health information exchange system are secure;

(b) To maintain the confidentiality of electronic health records ~~and~~ and health-related information, including, without limitation, standards to maintain the confidentiality of electronic health records relating to a child who has received health care services without the consent of a parent or guardian and which ensure that a child's right to access such health care services is not impaired;

(c) To ensure the privacy of individually identifiable health information ~~and~~, including, without limitation, standards to ensure the privacy of

information relating to a child who has received health care services without the consent of a parent or guardian;

(d) For obtaining consent from a patient before transmitting the patient's health records to the health information exchange system ~~+~~, including, without limitation, standards for obtaining such consent from a child who has received health care services without the consent of a parent or guardian;

(e) For making any necessary corrections to information or records included in the statewide health information exchange system; and

(f) ~~Notifying~~ For notifying a patient if the confidentiality of information contained in an electronic health record of the patient is breached.

2. The standards prescribed pursuant to this section must include ~~+~~, without limitation:

(a) Training requirements for persons who work with electronic health records or the statewide health information exchange system;

(b) Requirements for the creation, maintenance and transmittal of electronic health records;

(c) Requirements for protecting confidentiality, including control over, access to and the collection, organization and maintenance of electronic health records, health-related information and individually identifiable health information;

(d) Requirements for the manner in which the statewide health information exchange system will remove or exclude health records or any portion thereof upon the request of a person about whom the record pertains and the requirements for a person to make such a request;

(e) A secure and traceable electronic audit system for identifying access points and trails ~~+~~ to electronic health records and health information exchanges; and

~~(e)~~ (f) Any other requirements necessary to comply with all applicable federal laws relating to electronic health records, health-related information, health information ~~exchange systems~~ exchanges and the security and confidentiality of such records and ~~systems~~ exchanges.

Sec. 8. 1. A ~~provider of~~ health care ~~+~~ provider, insurer or other payer that elects to participate in the statewide health information exchange system ~~established pursuant to sections 2 to 12, inclusive, of this act~~ must agree to comply with all requirements prescribed by the Director and imposed by ~~an~~ the governing entity established or contracted with pursuant to section 6 of this act.

2. A health care provider may not be required to participate in the statewide health information exchange system and may not be subject to any disciplinary action for electing not to participate in the system.

3. The Director may prohibit a person from participating in ~~a~~ the statewide health information exchange system if the person does not comply with the provisions of sections 2 to 12, inclusive, of this act, or the

requirements prescribed by the Director and imposed by ~~any~~ the governing entity established or contracted with pursuant to section 6 of this act.

~~3. A~~

4. Except as otherwise authorized by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, a person shall not use, release or publish:

(a) Individually identifiable health information from an electronic health record or the statewide health information exchange system for a purpose unrelated to the treatment, care, well-being or billing of the ~~patient~~ person who is the subject of the information; or

(b) Any information contained in an electronic health record or the statewide health information exchange system for a marketing purpose.

~~A person who violates the provisions of this subsection is guilty of a misdemeanor and liable to the patient for any damages caused by the violation.~~

~~4.7~~ 5. Individually identifiable health information obtained from an electronic health record or the statewide health information exchange system concerning health care services received by a child without the consent of a parent or guardian of the child must not be disclosed to the parent or guardian of the child without the consent of the child which is obtained in the manner established pursuant to section 7 of this act.

~~6. A person who accesses an electronic health record for a~~ 6. A person who accesses an electronic health record or the statewide health information exchange system or a health information exchange without authority to do so is guilty of a misdemeanor and liable for any damages to any person that result from the unauthorized access.

7. The Director shall adopt regulations establishing the manner in which a person may file a complaint with the Director regarding a violation of the provisions of this section. The Director shall also post on the Internet website of the Department and publish in any other manner the Director deems necessary and appropriate information concerning the manner in which to file a complaint with the Director and the manner in which to file a complaint of a violation of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

Sec. 9. A ~~provider of~~ health care provider who ~~in good faith~~ with reasonable care relies upon an apparently genuine electronic health record accessed through ~~a~~ the statewide health information exchange system ~~established pursuant to sections 2 to 12, inclusive, of this act~~ to make a decision concerning the provision of health care to a patient is immune from civil or criminal liability for the decision if:

1. The electronic health record is inaccurate;
 2. The inaccuracy was not caused by the health care provider;
 3. The inaccuracy resulted in an inappropriate health care decision;
- and

4. The health care decision was appropriate based upon the information contained in the inaccurate electronic health record.

Sec. 9.5. The governing entity established or contracted with pursuant to section 6 of this act, a public or private entity with whom the governing entity contracts to administer the statewide health information system pursuant to section 6 of this act, and any health information exchange with which the governing entity contracts pursuant to section 6 of this act that with reasonable care includes or causes to be included in the statewide health information exchange system apparently genuine health-related information that was provided to the governing entity, administrator or health information exchange, as applicable, is immune from civil and criminal liability for including the information in the statewide health information exchange system if reliance on that information by a health care provider results in an undesirable or adverse outcome if:

1. The information in the statewide health information exchange system mirrors the information that was provided to the governing entity, administrator or health information exchange;

2. The health care provider was informed of known risks associated with the quality and accuracy of information included in the statewide health information exchange system;

3. Any inaccuracy in the information included in the statewide health information exchange system was not caused by the governing entity, administrator or the health information exchange; and

4. The information in the statewide health information exchange system:

(a) Was incomplete, if applicable, because a health care provider elected not to participate in the system; or

(b) Was not available, if applicable, because of operational issues with the system, which may include, without limitation, maintenance or inoperability of the system.

Sec. 10. Providing information to an electronic health record or participating in a health information exchange ~~{system}~~ in accordance with sections 2 to 12, inclusive, of this act does not constitute an unfair trade practice pursuant to chapter 598A or 686A of NRS.

Sec. 11. 1. Except as otherwise provided in subsection 2 of NRS 439.538, a patient must not be required to participate in a health information exchange ~~or {system}~~. Before a patient's health care records may be transmitted electronically or included in a health information exchange ~~or {system}~~, the patient must be fully informed and consent, in the manner prescribed by the Director, to the transmittal or inclusion.

2. A patient must be notified in the manner prescribed by the Director of any breach of the confidentiality of electronic health records of the patient or ~~the~~ a health information exchange ~~or {system}~~.

3. A patient who consents to the inclusion of his or her electronic health record in a health ~~{insurance}~~ information exchange ~~{system}~~ may

~~at any time request access [that] to his or her electronic health record [A provider of health care who participates in the system shall provide access to an electronic health record of a patient to the patient upon request. If the patient determines that there is an error in the record, the provider shall make any necessary corrections.]~~ in accordance with the provisions of 45 C.F.R. § 164.526.

Sec. 12. 1. *Except as otherwise prohibited by federal law:*

(a) If a statute or regulation requires that a health care record, prescription, medical directive or other health-related document be in writing, or that such a record, prescription, directive or document be signed, an electronic health record, an electronic signature or the transmittal of health information in accordance with the provisions of sections 2 to 12, inclusive, of this act, and the regulations adopted pursuant thereto shall be deemed to comply with the requirements of the statute or regulation.

(b) If a statute or regulation requires that a health care record or information contained in a health care record be kept confidential, maintaining or transmitting that information in an electronic health record or the statewide health information exchange system in accordance with the provisions of sections 2 to 12, inclusive, of this act and the regulations adopted pursuant thereto concerning the confidentiality of records shall be deemed to comply with the requirements of the statute or regulation.

2. As used in this section, "health care record" has the meaning ascribed to it in NRS 629.021.

Sec. 13. NRS 439.005 is hereby amended to read as follows:

439.005 As used in this chapter, unless the context requires otherwise:

1. "Administrator" means the Administrator of the Health Division.
2. "Department" means the Department of Health and Human Services.
3. "Director" means the Director of the Department.
4. "Health authority" means the officers and agents of the Health Division or the officers and agents of the local boards of health.
5. "Health Division" means the Health Division of the Department.

6. "Individually identifiable health information" has the meaning ascribed to it in 45 C.F.R. § 160.103.

Sec. 14. NRS 439.010 is hereby amended to read as follows:

439.010 ~~[The]~~ *Except as otherwise provided in sections 2 to 12, inclusive, of this act, the* provisions of this chapter must be administered by the Administrator and the Health Division, subject to administrative supervision by the Director.

Sec. 15. NRS 439.538 is hereby amended to read as follows:

439.538 1. If a covered entity transmits electronically individually identifiable health information in compliance with the provisions of ~~[the]~~ :

(a) The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ~~[; and~~

(b) Sections 2 to 12, inclusive, of this act and the regulations adopted pursuant thereto,

↪ which govern the electronic transmission of such information, the covered entity is, for purposes of the electronic transmission, exempt from any state law that contains more stringent requirements or provisions concerning the privacy or confidentiality of individually identifiable health information.

2. A covered entity that makes individually identifiable health information available electronically pursuant to subsection 1 shall allow any person to opt out of having his or her individually identifiable health information disclosed electronically to other covered entities, except:

(a) As required by the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

(b) As otherwise required by a state law.

(c) That a person who is a recipient of Medicaid or insurance pursuant to the Children's Health Insurance Program may not opt out of having his or her individually identifiable health information disclosed electronically.

3. As used in this section f:

—(a) "~~Covered~~", "**covered** entity" has the meaning ascribed to it in 45 C.F.R. § 160.103.

~~{(b) "Individually identifiable health information" has the meaning ascribed to it in 45 C.F.R. § 160.103.}~~

Sec. 16. NRS 439.580 is hereby amended to read as follows:

439.580 1. Any local health officer or a deputy of a local health officer who neglects or fails to enforce the provisions of this chapter in his or her jurisdiction, or neglects or refuses to perform any of the duties imposed upon him or her by this chapter or by the instructions and directions of the Health Division shall be punished by a fine of not more than \$250.

2. Each person who violates any of the provisions of this chapter or refuses or neglects to obey any lawful order, rule or regulation of the :

(a) State Board of Health or violates any rule or regulation approved by the State Board of Health pursuant to NRS 439.350, 439.366, 439.410 and 439.460 ; **or**

(b) Director adopted pursuant to NRS 439.538 or sections 2 to 12, inclusive, of this act,

↪ is guilty of a misdemeanor.

Sec. 17. NRS 453.385 is hereby amended to read as follows:

453.385 1. Each prescription for a controlled substance must comply with the regulations of the Board adopted pursuant to subsection 2.

2. The Board shall, by regulation, adopt requirements for:

(a) The form and content of a prescription for a controlled substance. The requirements may vary depending upon the schedule of the controlled substance.

(b) Transmitting a prescription for a controlled substance to a pharmacy. The requirements may vary depending upon the schedule of the controlled substance.

(c) The form and contents of an order for a controlled substance given for a patient in a medical facility and the requirements for keeping records of such orders.

3. Except as otherwise provided in this subsection, the regulations adopted pursuant to subsection 2 must ~~ensure~~ :

(a) *Ensure* compliance with, but may be more stringent than required by, applicable federal law governing controlled substances and the rules, regulations and orders of any federal agency administering such law. The regulations adopted pursuant to paragraph (b) of subsection 2 for the electronic transmission or transmission by a facsimile machine of a prescription for a controlled substance must not be more stringent than federal law governing the electronic transmission or transmission by a facsimile machine of a prescription for a controlled substance or the rules, regulations or orders of any federal agency administering such law ~~+~~ ; and

(b) *Be consistent with the provisions of sections 2 to 12, inclusive, of this act and the regulations adopted pursuant thereto.*

Sec. 18. NRS 454.223 is hereby amended to read as follows:

454.223 1. ~~Each~~ *Except as otherwise provided in subsection 4, each* prescription for a dangerous drug must be written on a prescription blank or as an order on the chart of a patient. A chart of a patient may be used to order multiple prescriptions for that patient.

2. A written prescription must contain:

(a) The name of the practitioner, the signature of the practitioner if the prescription was not transmitted orally and the address of the practitioner if not immediately available to the pharmacist;

(b) The classification of his or her license;

(c) The name of the patient, and the address of the patient if not immediately available to the pharmacist;

(d) The name, strength and quantity of the drug or drugs prescribed;

(e) The symptom or purpose for which the drug is prescribed, if included by the practitioner pursuant to NRS 639.2352;

(f) Directions for use; and

(g) The date of issue.

3. Directions for use must be specific in that they must indicate the portion of the body to which the medication is to be applied, or, if to be taken into the body by means other than orally, the orifice or canal of the body into which the medication is to be inserted or injected.

4. The Board shall adopt regulations concerning the electronic transmission of a prescription for a dangerous drug, which must be consistent with federal law and the provisions of sections 2 to 12, inclusive, of this act and the regulations adopted pursuant thereto.

Sec. 19. NRS 433.332 is hereby amended to read as follows:

433.332 1. If a patient in a division facility is transferred to another division facility or to a medical facility, a facility for the dependent or a physician licensed to practice medicine, the division facility shall forward a copy of the medical records of the patient, on or before the date the patient is transferred, to the facility or physician. Except as otherwise required by 42 U.S.C. §§ 290dd, 290dd-1 or 290dd-2 or NRS 439.538 ~~††~~ ***or section 11 of this act***, the division facility is not required to obtain the oral or written consent of the patient to forward a copy of the medical records.

2. As used in this section, "medical records" includes a medical history of the patient, a summary of the current physical condition of the patient and a discharge summary which contains the information necessary for the proper treatment of the patient.

Sec. 20. NRS 603A.100 is hereby amended to read as follows:

603A.100 1. ***The provisions of this chapter do not apply to the maintenance or transmittal of information in accordance with sections 2 to 12, inclusive, of this act and the regulations adopted pursuant thereto.***

2. Any waiver of the provisions of this chapter is contrary to public policy, void and unenforceable.

Sec. 21. NRS 629.051 is hereby amended to read as follows:

629.051 1. Except as otherwise provided in this section and in regulations adopted by the State Board of Health pursuant to NRS 652.135 with regard to the records of a medical laboratory and unless a longer period is provided by federal law, each provider of health care shall retain the health care records of his or her patients as part of his or her regularly maintained records for 5 years after their receipt or production. Health care records may be retained in written form, or by microfilm or any other recognized form of size reduction, including, without limitation, microfiche, computer disc, magnetic tape and optical disc, which does not adversely affect their use for the purposes of NRS 629.061. Health care records may be created, authenticated and stored in a computer system which ~~limits access to those records.~~ ***meets the requirements of sections 2 to 12, inclusive, of this act and the regulations adopted pursuant thereto.***

2. A provider of health care shall post, in a conspicuous place in each location at which the provider of health care performs health care services, a sign which discloses to patients that their health care records may be destroyed after the period set forth in subsection 1.

3. When a provider of health care performs health care services for a patient for the first time, the provider of health care shall deliver to the patient a written statement which discloses to the patient that the health care records of the patient may be destroyed after the period set forth in subsection 1.

4. If a provider of health care fails to deliver the written statement to the patient pursuant to subsection 3, the provider of health care shall deliver to the patient the written statement described in subsection 3 when the provider of health care next performs health care services for the patient.

5. In addition to delivering a written statement pursuant to subsection 3 or 4, a provider of health care may deliver such a written statement to a patient at any other time.

6. A written statement delivered to a patient pursuant to this section may be included with other written information delivered to the patient by a provider of health care.

7. A provider of health care shall not destroy the health care records of a person who is less than 23 years of age on the date of the proposed destruction of the records. The health care records of a person who has attained the age of 23 years may be destroyed in accordance with this section for those records which have been retained for at least 5 years or for any longer period provided by federal law.

8. The provisions of this section do not apply to a pharmacist.

9. The State Board of Health shall adopt:

(a) Regulations prescribing the form, size, contents and placement of the signs and written statements required pursuant to this section; and

(b) Any other regulations necessary to carry out the provisions of this section.

Sec. 22. NRS 639.0745 is hereby amended to read as follows:

639.0745 1. The Board may adopt regulations concerning the transfer of information between pharmacies relating to prescriptions.

2. The Board shall adopt regulations concerning the electronic transmission and the transmission by a facsimile machine of a prescription from a practitioner to a pharmacist for the dispensing of a drug. The regulations must ***be consistent with sections 2 to 12, inclusive, of this act and the regulations adopted pursuant thereto and must*** establish procedures to:

(a) Ensure the security and confidentiality of the data that is transmitted between:

(1) The practitioner and the pharmacy;

(2) The practitioner and an insurer of the person for whom the prescription is issued; and

(3) The pharmacy and an insurer of the person for whom the prescription is issued.

(b) Protect the identity of the practitioner to prevent misuse of the identity of the practitioner or other fraudulent conduct related to the electronic transmission of a prescription.

(c) Verify the authenticity of a signature that is produced:

(1) By the computer or other electronic device; or

(2) Manually by the practitioner.

3. The Board shall adopt regulations governing the exchange of information between pharmacists and practitioners relating to prescriptions filled by the pharmacists for persons who are suspected of:

(a) Misusing prescriptions to obtain excessive amounts of drugs.

(b) Failing to use a drug in conformity with the directions for its use or taking a drug in combination with other drugs in a manner that could result in injury to that person.

➔ The pharmacists and practitioners shall maintain the confidentiality of the information exchanged pursuant to this subsection.

Sec. 23. NRS 639.2353 is hereby amended to read as follows:

639.2353 Except as otherwise provided in a regulation adopted pursuant to NRS 453.385 or 639.2357:

1. A prescription must be given:
 - (a) Directly from the practitioner to a pharmacist;
 - (b) Indirectly by means of an order signed by the practitioner;
 - (c) By an oral order transmitted by an agent of the practitioner; or
 - (d) Except as otherwise provided in subsection 5, by electronic transmission or transmission by a facsimile machine, including, without limitation, transmissions made from a facsimile machine to another facsimile machine, a computer equipped with a facsimile modem to a facsimile machine or a computer to another computer, pursuant to the regulations of the Board.
2. A written prescription must contain:
 - (a) Except as otherwise provided in this section, the name and signature of the practitioner, and the address of the practitioner if not immediately available to the pharmacist;
 - (b) The classification of his or her license;
 - (c) The name of the patient, and the address of the patient if not immediately available to the pharmacist;
 - (d) The name, strength and quantity of the drug prescribed;
 - (e) The symptom or purpose for which the drug is prescribed, if included by the practitioner pursuant to NRS 639.2352;
 - (f) Directions for use; and
 - (g) The date of issue.
3. The directions for use must be specific in that they indicate the portion of the body to which the medication is to be applied or, if to be taken into the body by means other than orally, the orifice or canal of the body into which the medication is to be inserted or injected.
4. Each written prescription must be written in such a manner that any registered pharmacist would be able to dispense it. A prescription must be written in Latin or English and may include any character, figure, cipher or abbreviation which is generally used by pharmacists and practitioners in the writing of prescriptions.
5. A prescription for a controlled substance must not be given by electronic transmission or transmission by a facsimile machine unless authorized by federal law ~~{ }~~ **and sections 2 to 12, inclusive, of this act and the regulations adopted pursuant thereto.**
6. A prescription that is given by electronic transmission is not required to contain the signature of the practitioner if:

(a) It contains a facsimile signature, security code or other mark that uniquely identifies the practitioner; ~~for~~

(b) A voice recognition system, biometric identification technique or other security system approved by the Board is used to identify the practitioner ~~for~~ ;
or

(c) It complies with the provisions of sections 2 to 12, inclusive, of this act and the regulations adopted pursuant thereto.

Sec. 24. NRS 639.2583 is hereby amended to read as follows:

639.2583 1. Except as otherwise provided in this section, if a practitioner has prescribed a drug by brand name and the practitioner has not indicated, by a method set forth in subsection 5, that a substitution is prohibited, the pharmacist who fills or refills the prescription shall dispense, in substitution, another drug which is available to him or her if the other drug:

- (a) Is less expensive than the drug prescribed by brand name;
- (b) Is biologically equivalent to the drug prescribed by brand name;
- (c) Has the same active ingredient or ingredients of the same strength, quantity and form of dosage as the drug prescribed by brand name; and
- (d) Is of the same generic type as the drug prescribed by brand name.

2. If the pharmacist has available to him or her more than one drug that may be substituted for the drug prescribed by brand name, the pharmacist shall dispense, in substitution, the least expensive of the drugs that are available to him or her for substitution.

3. Before a pharmacist dispenses a drug in substitution for a drug prescribed by brand name, the pharmacist shall:

(a) Advise the person who presents the prescription that the pharmacist intends to dispense a drug in substitution; and

(b) Advise the person that he or she may refuse to accept the drug that the pharmacist intends to dispense in substitution, unless the pharmacist is being paid for the drug by a governmental agency.

4. If a person refuses to accept the drug that the pharmacist intends to dispense in substitution, the pharmacist shall dispense the drug prescribed by brand name, unless the pharmacist is being paid for the drug by a governmental agency, in which case the pharmacist shall dispense the drug in substitution.

5. A pharmacist shall not dispense a drug in substitution for a drug prescribed by brand name if the practitioner has indicated that a substitution is prohibited using one or more of the following methods:

(a) By oral communication to the pharmacist at any time before the drug is dispensed.

(b) By handwriting the words "Dispense as Written" on the form used for the prescription, including, without limitation, any form used for transmitting the prescription from a facsimile machine to another facsimile machine. The pharmacist shall disregard the words "Dispense as Written" if they have been

placed on the form used for the prescription by preprinting or other mechanical process or by any method other than handwriting.

(c) By including the words "Dispense as Written" in any prescription that is given to the pharmacist by electronic transmission pursuant to the regulations of the Board ~~or~~ ***or in accordance with sections 2 to 12, inclusive, of this act and the regulations adopted pursuant thereto,*** including, without limitation, an electronic transmission from a computer equipped with a facsimile modem to a facsimile machine or from a computer to another computer pursuant to the regulations of the Board.

6. The provisions of this section also apply to a prescription issued to a person by a practitioner from outside this State if the practitioner has not indicated, by a method set forth in subsection 5, that a substitution is prohibited.

7. The provisions of this section do not apply to:

(a) A prescription drug that is dispensed to any inpatient of a hospital by an inpatient pharmacy which is associated with that hospital;

(b) A prescription drug that is dispensed to any person by mail order or other common carrier by an Internet pharmacy which is certified by the Board pursuant to NRS 639.23288 and authorized to provide service by mail order or other common carrier pursuant to the provisions of this chapter; or

(c) A prescription drug that is dispensed to any person by a pharmacist if the substitution:

(1) Would violate the terms of a health care plan that maintains a mandatory, exclusive or closed formulary for its coverage for prescription drugs; or

(2) Would otherwise make the transaction ineligible for reimbursement by a third party.

Sec. 25. NRS 719.200 is hereby amended to read as follows:

719.200 1. Except as otherwise provided in subsection 2, the provisions of this chapter apply to electronic records and electronic signatures relating to a transaction.

2. The provisions of this chapter do not apply to a transaction to the extent it is governed by:

(a) A law governing the creation and execution of wills, codicils or testamentary trusts; ~~or~~

(b) The Uniform Commercial Code other than NRS 104.1306, 104.2101 to 104.2725, inclusive, and 104A.2101 to 104A.2532, inclusive ~~or~~ ***;***

(c) The provisions of sections 2 to 12, inclusive, of this act and the regulations adopted pursuant thereto.

3. The provisions of this chapter apply to an electronic record or electronic signature otherwise excluded from the application of this chapter under subsection 2 to the extent it is governed by a law other than those specified in subsection 2.

4. A transaction subject to the provisions of this chapter is also subject to other applicable substantive law.

Sec. 26. NRS 720.140 is hereby amended to read as follows:

720.140 1. ~~[The]~~ *Except as otherwise provided in this subsection, the provisions of this chapter apply to any transaction for which a digital signature is used to sign an electronic record. The provisions of this chapter do not apply to a digital signature that is used to sign an electronic health record in accordance with sections 2 to 12, inclusive, of this act and the regulations adopted pursuant thereto.*

2. As used in this section, "electronic record" has the meaning ascribed to it in NRS 719.090.

Sec. 26.5. The Director of the Department of Health and Human Services, the State Board of Pharmacy and any other state agency designated by either of them shall conduct a collaborative study to determine the manner in which to provide for standardization of the electronic transmission of prior authorizations for prescription medications using the statewide health information exchange system. The results of the study must be used by the Director in adopting appropriate regulations pursuant to section 5 of this act.

Sec. 27. This act becomes effective upon passage and approval. ~~For purposes of adopting regulations and on October 1, 2011, for all other purposes.]~~

Senator Copening moved the adoption of the amendment.

Remarks by Senators Copening and Hardy.

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

SENATOR COPENING:

Amendment No. 219 revises the following provisions to Senate Bill No. 43.

It distinguishes the "statewide health information exchange system" from individual health information exchanges.

It requires the governing entity to have a governing body and authorizes the governing entity to hire or contract with a public or private entity to administer the statewide health information exchange system.

It requires the Director to certify health information exchanges that may then participate in the statewide health information exchange system.

It requires the governing body to hold public meetings which are conducted in accordance with the Open Meeting Law.

It requires the standards for the security and confidentiality of electronic health records, health-related information, and the statewide health information exchange system to include the manner in which a person may remove or exclude certain health records from the statewide health information exchange system.

It provides that a health care provider may not be required to participate in the statewide health information exchange system and may not be subject to disciplinary action for electing not to participate.

It requires the Director to adopt regulations establishing the manner in which a person may file a complaint of violations and to post that information, as well as information about how to file a complaint involving a violation of federal law on the Department's Internet website.

It provides immunity from liability to the governing entity of the statewide health information exchange system, the administrator of the system and health information exchanges for information which they include or cause to be included in the statewide health information exchange system in certain circumstances.

SENATOR HARDY:

Senate Bill No. 43 requires the Department of Health and Human Services to establish a statewide health information exchange system. I am a physician, licensed to practice medicine in this State, who would be affected by this system. I serve as an unpaid member of the Board of Directors of HealthInsight which is a nonprofit entity currently involved in the development of a health information exchange system that intends to seek to be the governing entity should such a system be established in Nevada.

I have consulted with legal counsel and though I do not legally have a conflict pursuant to the provisions of Senate Standing Rule No. 23, because I do not have a pecuniary interest in this bill and I will not be affected any differently than any other physician in Nevada, but I will be abstaining on this vote to avoid any appearance of impropriety.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 59.

Bill read second time.

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

Amendment No. 300.

"SUMMARY—Increases the cumulative capacity of net metering systems operating ~~[within the service area of an electric utility.]~~ in this State. (BDR 58-408)"

"AN ACT relating to public utilities; increasing the cumulative capacity of net metering systems operating ~~[within the service area of an electric utility.]~~ in this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a public utility that supplies electricity in this State to offer net metering to the customer-generators operating within the service area of the utility until the cumulative capacity of net metering systems operating within the service area exceeds 1 percent of the peak capacity of the utility. (NRS 704.773) This bill requires a public utility that supplies electricity in this State to offer net metering to the customer-generators operating within the service area of the utility until the cumulative capacity of net metering systems operating ~~[within the service area exceeds 5]~~ in this State equals 2 percent of the total peak capacity of ~~[the utility.]~~ all utilities in this State.

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

Section 1. NRS 704.773 is hereby amended to read as follows:

704.773 1. A utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all ~~[such]~~ net metering systems operating in this State is equal to ~~[1] 5] 2~~ percent of the ~~[utility's]~~ total peak ~~[capacity.]~~ capacity of all utilities in this State.

2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than 100 kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) Shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.

3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than 100 kilowatts, the utility:

(a) May require the customer-generator to install at its own cost:

(1) An energy meter that is capable of measuring generation output and customer load; and

(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.

(b) Except as otherwise provided in paragraph (c), may charge the customer-generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.

(c) Shall not charge the customer-generator any standby charge.

➤ At the time of installation or upgrade of any portion of a net metering system, the utility must allow a customer-generator governed by this subsection to pay the entire cost of the installation or upgrade of the portion of the net metering system.

4. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:

(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:

(1) Metering equipment;

(2) Net energy metering and billing; and

(3) Interconnection,

➤ based on the allowable size of the net metering system.

(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.

(c) A timeline for processing applications and contracts for net metering applicants.

(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 2. This act becomes effective on July 1, 2011.

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. 300 to Senate Bill No. 59 changes the net metering cap to 2 percent of the total peak capacity of all utilities in the State.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 79.

Bill read second time.

The following amendment was proposed by the Committee on Revenue:

Amendment No. 198.

"SUMMARY—Makes various changes relating to the Tobacco Master Settlement Agreement. (BDR 32-291)"

"AN ACT relating to tobacco; revising provisions relating to the Tobacco Master Settlement Agreement; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

On November 23, 1998, leading United States tobacco product manufacturers entered into a settlement agreement, entitled the "Master Settlement Agreement," with the State of Nevada. The Master Settlement Agreement obligates these manufacturers, in return for a release of past, present and certain future claims against them as described in the Master Settlement Agreement, to pay substantial sums to the State, to fund a national foundation devoted to the interests of public health and to make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking. To prevent tobacco product manufacturers who determined not to enter into such a settlement from using a resulting cost advantage to derive large, short-term profits in the years before liability may arise without ensuring that the State would have an eventual source of recovery from those manufacturers if they are proven to have acted culpably, the Nevada Legislature, in 1999, enacted provisions requiring all manufacturers of tobacco products sold in this State to participate in the Master Settlement Agreement or to place money in escrow. (Chapter 370A of NRS) In 2005, the Legislature made a finding that violations of chapter 370A of NRS threatened the integrity of the Master Settlement Agreement, the fiscal soundness of the State and public health, and enacted procedural safeguards to aid in the enforcement of the provisions of chapter 370A of NRS and thereby safeguard the Master Settlement Agreement, the fiscal soundness of the State and public health. (NRS 370.600-370.705) This bill revises those procedural safeguards.

Section 2 of this bill makes a wholesale dealer of cigarettes liable for a proportionate share of the unpaid required escrow deposits of a nonparticipating manufacturer whose cigarettes were stamped or distributed in this State by the wholesale dealer, **exempts a wholesale dealer from that**

liability if the wholesale dealer requires the nonparticipating manufacturer to prepay those escrow deposits and the wholesale dealer obtains verification of the payment of those escrow deposits from the Attorney General. and provides the wholesale dealer with a claim against the nonparticipating manufacturer for the amount of any such ~~(payments)~~ **escrow deposits** made by the wholesale dealer. **Section 3** of this bill requires a nonparticipating manufacturer, under certain circumstances, to post a bond approved by the Attorney General for the benefit of the State of Nevada to ensure the payment of escrow amounts due. **Section 4** of this bill authorizes the suspension or revocation of the license of a wholesale dealer under certain circumstances if a similar license of the wholesale dealer is suspended or revoked in another state. Similarly, **section 4** also authorizes the removal of a **nonparticipating** manufacturer from the state directory of manufacturers that have provided current and accurate certifications conforming to the requirements of NRS 370.600-370.705, which is maintained by the Department of Taxation, if the manufacturer is removed from the directory of another state based on an act or omission that would, if ~~done,~~ **the act or omission had occurred** in this State, be grounds for the removal of the manufacturer from the directory in this State, and under certain other circumstances. **Section 5** of this bill creates the Account for Tobacco Enforcement in the State General Fund, provides permissible uses for the money in the Account and requires that the Account be administered by the Attorney General. **Section 6** of this bill authorizes the Attorney General to apply for available grants and to accept gifts, grants, appropriations and donations to carry out certain enforcement duties. **Sections 7 and 8** of this bill provide civil penalties for certain violations of the provisions of chapters 370 and 370A of NRS and set forth additional penalties that may be imposed if the civil penalties are not paid timely.

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

Section 1. Chapter 370 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. 1. Except as otherwise provided in subsection 5:

(a) A wholesale dealer is liable for escrow deposits required pursuant to this chapter and chapter 370A of NRS if ~~the~~ :

(1) The wholesale dealer receives notice from the Attorney General or the Department that there is a shortfall in a qualified escrow fund with respect to cigarettes of a nonparticipating manufacturer that were stamped or distributed by the wholesale dealer ~~+~~ ; and

(2) The shortfall is not cured by the wholesale dealer or nonparticipating manufacturer within 90 calendar days after the wholesale dealer receives that notice.

↗ The liability of the wholesale dealer for the escrow deposits must be calculated pursuant to ~~subsection 2:~~

—2— paragraph (b).

(b) If there is a shortfall in the qualified escrow fund of a nonparticipating manufacturer for a calendar quarter, each wholesale dealer that sold or distributed cigarettes of that nonparticipating manufacturer during that calendar quarter shall deposit into an escrow account designated by the Attorney General an amount equal to the shortfall multiplied by a fraction, the numerator of which is the number of cigarettes of that nonparticipating manufacturer that were sold in or into this State by the wholesale dealer during that calendar quarter, and the denominator of which is the total number of cigarettes of that nonparticipating manufacturer that were sold or distributed by all wholesale dealers in or into this State during that calendar quarter. In making the calculation, any cigarettes of the nonparticipating manufacturer that were sold or distributed in or into this State by a wholesale dealer during the calendar quarter in which the wholesale dealer collected and deposited the required escrow deposit amount on or before the due date for deposits for that quarter must be excluded from both the numerator and the denominator of the fraction.

~~[3.]~~ 2. To the extent that a wholesale dealer makes any payment with respect to a shortfall pursuant to this section, the wholesale dealer has a claim against the nonparticipating manufacturer for the amount of the payment.

~~[4.]~~ 3. A wholesale dealer may require a nonparticipating manufacturer, as a condition of the agreement of the wholesale dealer to purchase the cigarettes of the nonparticipating manufacturer, to ~~[prepay]~~ :

(a) ~~Prepay the escrow deposit amount [to the wholesale dealer for deposit by the wholesale dealer on behalf] of the nonparticipating manufacturer into [an] the escrow account designated [by] in the certification of the nonparticipating manufacturer filed with the Attorney General [.] pursuant to NRS 370.665; and~~

(b) ~~Require the escrow agent to provide to the wholesale dealer and the Attorney General proof of that prepayment.~~

4. Upon the request of a wholesale dealer who requires a nonparticipating manufacturer to comply with the provisions of paragraphs (a) and (b) of subsection 3, the Attorney General shall provide to the wholesale dealer a written verification of whether the nonparticipating manufacturer has made the escrow deposits required from the nonparticipating manufacturer pursuant to this chapter and chapter 370A of NRS for a calendar quarter.

5. If a wholesale dealer requires a nonparticipating manufacturer to comply with the provisions of paragraph (a) of subsection 3 and receives a written verification from the Attorney General that the nonparticipating manufacturer has made the escrow deposits required from the nonparticipating manufacturer pursuant to this chapter and chapter 370A of NRS for a calendar quarter:

(a) The wholesale dealer is not liable for any of those escrow deposits required for that calendar quarter;

(b) The provisions of subsection 1 do not apply to the wholesale dealer with respect to any cigarettes of the nonparticipating manufacturer that were sold or distributed in or into this State during that calendar quarter; and

(c) The cigarettes of the nonparticipating manufacturer that were sold or distributed in or into this State by the wholesale dealer during that calendar quarter must be excluded entirely from the calculations required by subsection 1.

Sec. 3. 1. A nonparticipating manufacturer shall post a bond approved by the Attorney General for the benefit of the State of Nevada if:

(a) The cigarettes of the nonparticipating manufacturer have not been sold in this State during any of the 4 immediately preceding calendar quarters;

(b) The nonparticipating manufacturer or an affiliate failed to make a full and timely escrow deposit due under this chapter or chapter 370A of NRS during any of the immediately preceding 5 calendar years, unless the failure was neither knowing nor reckless and was promptly cured upon notice; or

(c) The nonparticipating manufacturer or an affiliate, or any of the brand families of the nonparticipating manufacturer or an affiliate, were removed from the directory of this or any other state during any of the immediately preceding 5 calendar years, unless the removal is determined to have been erroneous or illegal.

2. The bond must be posted not less than 10 days before the beginning of each calendar quarter as a condition of the nonparticipating manufacturer and its brand families being included in the directory for that quarter. The amount of the bond must be the greater of \$25,000 or the largest required escrow amount due from the nonparticipating manufacturer or its predecessor for any of the immediately preceding 12 calendar quarters.

3. If a nonparticipating manufacturer that posted a bond has failed to make or have made on its behalf escrow deposits equal to the full amount due for a calendar quarter within 15 business days after the due date for that calendar quarter, the State of Nevada may execute upon the bond in an amount equal to any remaining escrow amount due.

4. Any amount that the State of Nevada collects on a bond posted by a nonparticipating manufacturer pursuant to this section:

(a) Must be deposited into a special escrow account established and maintained by the State of Nevada and used for purposes authorized for the use of money in the qualified escrow fund of the nonparticipating manufacturer pursuant to this chapter and chapter 370A of NRS; and

(b) Reduces the escrow amount due from the nonparticipating manufacturer in the dollar amount collected.

5. Escrow obligations above the amount collected on the bond remain due from the nonparticipating manufacturer and, as provided in section 2 of this act, from wholesale dealers that sold the cigarettes of the nonparticipating manufacturer during that calendar quarter.

6. The withholding, use or return of amounts deposited into the special escrow account must be handled in the same manner as amounts deposited in the qualified escrow fund of the nonparticipating manufacturer pursuant to the provisions of this chapter and chapter 370A of NRS.

7. As used in this section, "affiliate" has the meaning ascribed to it in NRS 370A.030.

Sec. 4. 1. The license of a wholesale dealer may be suspended or revoked if a similar license of the wholesale dealer is suspended or revoked in any other state based on an act or omission that would, if the act or omission had occurred in this State, be grounds for the suspension or revocation of the license of the wholesale dealer pursuant to NRS 370.379, unless the wholesale dealer demonstrates that the suspension or revocation of its license in the other state was effected without due process. A wholesale dealer whose license is suspended or revoked in this State pursuant to this subsection is eligible for reinstatement upon the earlier of the date on which the violation in the other state is cured or the date on which the license of the wholesale dealer is reinstated in the other state.

2. A nonparticipating manufacturer and ~~the~~ its brand families ~~of a manufacturer~~ may be denied listing in the directory or removed from the directory for any of the following reasons:

(a) The nonparticipating manufacturer is removed from the directory of another state based on an act or omission that would, if ~~done~~ the act or omission had occurred in this State, be grounds for the removal of the nonparticipating manufacturer from the directory of this State pursuant to NRS 370.675, unless the nonparticipating manufacturer demonstrates that its removal from the directory of the other state was effected without due process. A nonparticipating manufacturer that is removed from the directory of this State pursuant to this paragraph is eligible for reinstatement to the directory upon the earlier of the date on which the violation in the other state is cured or the date on which the nonparticipating manufacturer is reinstated to the directory of the other state.

(b) The nonparticipating manufacturer is ~~under investigation for committing~~ convicted of any crime relating to the manufacture, sale or distribution of tobacco products in this State or another state . ~~f, or the reporting of any matter relating thereto. A manufacturer that is removed from the directory of this State pursuant to this paragraph is eligible for reinstatement to the directory upon the earlier of the date on which all such criminal investigations are terminated without the filing of criminal charges or the date on which the manufacturer is exonerated by a court of competent jurisdiction of all criminal charges arising from any such investigation.~~

(c) The nonparticipating manufacturer fails to report the existence or result, including any conviction, of any investigation of the nonparticipating manufacturer which is known to the nonparticipating manufacturer regarding the commission of any crime relating to the manufacture, sale or distribution of tobacco products in this State or another state.

(d) The nonparticipating manufacturer fails to report any investigation of the nonparticipating manufacturer which is known to the nonparticipating manufacturer regarding any violation of the laws of any other state based on an act or omission that would, if the act or omission had occurred in this State, be grounds for the removal of the nonparticipating manufacturer from the directory of this State pursuant to NRS 370.675.

(e) The nonparticipating manufacturer knowingly makes a false, material statement in any report, filing or other communication provided to this State pursuant to this chapter or chapter 370A of NRS.

3. The provisions of NRS 233B.121 to 233B.150, inclusive, apply to:

(a) The suspension or revocation of the license of a wholesale dealer pursuant to subsection 1; and

(b) The removal of a nonparticipating manufacturer and its brand families from the directory pursuant to subsection 2.

Sec. 5. 1. The Account for Tobacco Enforcement is hereby created in the State General Fund. The Attorney General shall administer the Account.

2. The money in the Account must only be used to enforce the provisions of NRS 370.600 to 370.705, inclusive, and sections 2 to 8, inclusive, of this act and to pay the expenses incurred by the Attorney General in the discharge of his or her duties, including, without limitation, expenses relating to the provision of training and the payment of the salaries and benefits of employees.

3. Money in the Account must remain in the Account and does not revert to the State General Fund at the end of any fiscal year.

Sec. 6. 1. ~~[The]~~ Except as otherwise provided in subsection 2, the Attorney General may apply for any available grant and may accept any gift, grant ~~[, appropriation]~~ or donation to assist in carrying out his or her duties pursuant to NRS 370.600 to 370.705, inclusive, and sections 2 to 8, inclusive, of this act.

2. The Attorney General shall not accept any gift, grant or donation from any manufacturer of tobacco products or any other manufacturer, as that term is defined in NRS 370.0315.

3. Any money received by the Attorney General pursuant to this section must be deposited in the Account for Tobacco Enforcement.

Sec. 7. 1. In addition to or in lieu of any other penalty or remedy provided by law, the Attorney General may seek a civil penalty in an amount not to exceed \$1,000 per day for the failure of a wholesale dealer

timely or accurately to comply with any provision of this chapter or chapter 370A of NRS. The license of the wholesale dealer may be suspended or revoked if the wholesale dealer fails to pay such a civil penalty within 30 days after it is imposed.

2. In addition to or in lieu of any other penalty or remedy provided by law, the Attorney General may seek a civil penalty in an amount not to exceed \$1,000 per day for the failure of a nonparticipating manufacturer timely or accurately to comply with any provision of this chapter or chapter 370A of NRS. A nonparticipating manufacturer and the brand families of a nonparticipating manufacturer may be denied listing in the directory or removed from the directory if the nonparticipating manufacturer fails to pay such a civil penalty within 30 days after it is imposed.

3. Any civil penalty collected pursuant to this section must be deposited in the Account for Tobacco Enforcement.

Sec. 8. In addition to or in lieu of any other penalty or remedy provided by law, the Attorney General may seek a civil penalty in an amount not to exceed \$20,000 against any wholesale dealer or nonparticipating manufacturer that makes a certification pursuant to this chapter or chapter 370A of NRS which asserts the truth of any material matter that the wholesale dealer or nonparticipating manufacturer knows to be false or inaccurate. Any civil penalty collected pursuant to this section must be deposited in the Account for Tobacco Enforcement. If such a civil penalty is not paid within 30 days after it is imposed against:

1. A wholesale dealer, the license of the wholesale dealer may be suspended or revoked.

2. A nonparticipating manufacturer, the nonparticipating manufacturer and the brand families of the nonparticipating manufacturer may be denied listing in the directory or removed from the directory.

Sec. 9. NRS 370.257 is hereby amended to read as follows:

370.257 1. Each manufacturer, wholesale dealer and retail dealer shall provide to the Executive Director and his or her designees and to the Secretary or his or her designee, upon request, access to all the reports and records required by NRS 370.001 to 370.430, inclusive. The Department at its sole discretion may share the records and reports required by those sections with law enforcement officials of the Federal Government, this State, other states, Indian tribes or international authorities.

2. Except as otherwise provided in this subsection, the reports submitted by licensees pursuant to NRS 370.001 to 370.430, inclusive, are public records. ~~Any~~ **Unless otherwise directed or ordered by a court of competent jurisdiction, any** information contained in those reports about quantities of cigarettes by brand must not be released to anyone other than persons permitted access to those reports pursuant to subsection 1.

3. The Department may audit the records of each dealer to determine whether the manufacturer, wholesale dealer or retail dealer has complied with the provisions of NRS 370.001 to 370.430, inclusive.

Sec. 10. NRS 370.379 is hereby amended to read as follows:

370.379 1. The Department may suspend or revoke the license of a retail or wholesale dealer who violates the provisions of NRS 370.371 to 370.379, inclusive, or any regulation adopted thereunder, after notice to the licensee and a hearing as prescribed by the Department.

2. The Department, upon a finding that the licensee has failed to comply with any provision of NRS 370.371 to 370.379, inclusive, or any regulation adopted by the Executive Director, shall, in the case of a first offender, suspend the license of the licensee for not less than 5 nor more than 20 consecutive business days. If the Department finds the offender has been guilty of willful and persistent violations, it may suspend for not more than 6 months or revoke the person's license.

3. ~~{A}~~ ***Except as otherwise provided in section 4 of this act***, a person whose license has been revoked may apply to the Department at the end of 1 year for a reinstatement of the license. The Department may reinstate the license if the Department determines that the licensee will comply with the provisions of this chapter and the regulations adopted by the Department.

4. A person whose license has been suspended or revoked shall not sell cigarettes or permit cigarettes to be sold during the period of suspension or revocation on the premises occupied by the person or upon other premises controlled by the person. The expiration, transfer, surrender, continuance, renewal or extension of a license issued pursuant to this chapter does not bar or abate any disciplinary proceedings or action.

Sec. 11. NRS 370.605 is hereby amended to read as follows:

370.605 As used in NRS 370.600 to 370.705, inclusive, ***and sections 2 to 8, inclusive, of this act***, unless the context otherwise requires, the words and terms defined in NRS 370.610 to 370.660, inclusive, have the meanings ascribed to them in those sections.

Sec. 12. NRS 370.690 is hereby amended to read as follows:

370.690 1. To promote compliance with the provisions of NRS 370A.140, the Department may adopt regulations requiring a manufacturer of tobacco products to make the escrow deposits required by NRS 370A.140 in quarterly installments during the year in which the sales covered by those deposits are made. The Department may require the production of information sufficient to enable the Department to determine the adequacy of the amount of each quarterly installment.

2. The Department may adopt such regulations as it deems necessary to carry out the provisions of NRS 370.600 to 370.705, inclusive ~~{ }~~ , ***and sections 2 to 8, inclusive, of this act***.

Sec. 13. NRS 370.700 is hereby amended to read as follows:

370.700 1. The Attorney General, on behalf of the Department, may bring an action in the district court of this State to:

(a) Enjoin any threatened or actual violation of the provisions of NRS 370.600 to 370.705, inclusive, **and sections 2 to 8, inclusive, of this act** by a distributor **or manufacturer** and to compel the distributor **or manufacturer** to comply with those provisions; or

(b) Enforce any of the provisions of NRS 370.600 to 370.705, inclusive ~~††~~, **and sections 2 to 8, inclusive, of this act.**

2. In any action brought by the State to enforce the provisions of NRS 370.600 to 370.705, inclusive, **and sections 2 to 8, inclusive, of this act**, the State is entitled to recover any costs of investigation, expert witness fees, costs of the action and reasonable attorney's fees.

3. If a court determines that a person has violated any provision of NRS 370.600 to 370.705, inclusive, **and sections 2 to 8, inclusive, of this act**, the court shall order any profits, gain, gross receipts or other benefit from the violation to be disgorged and paid to the State Treasurer for deposit in the State General Fund.

4. The remedies and penalties provided in NRS 370.600 to 370.705, inclusive, **and sections 2 to 8, inclusive, of this act** are cumulative to each other and to the remedies and penalties available under any other law of this State.

Sec. 14. NRS 370.705 is hereby amended to read as follows:

370.705 1. If a court of competent jurisdiction finds that the provisions of NRS 370.600 to 370.705, inclusive, **and sections 2 to 8, inclusive, of this act** conflict and cannot be harmonized with the provisions of chapter 370A of NRS, then the provisions of chapter 370A of NRS shall be deemed to control.

2. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of NRS 370.600 to 370.705, inclusive, **and sections 2 to 8, inclusive, of this act** causes chapter 370A of NRS to no longer constitute a qualifying or model statute, as those terms are defined in the Master Settlement Agreement, then that portion of NRS 370.600 to 370.705, inclusive, **and sections 2 to 8, inclusive, of this act** shall be deemed to be invalid.

3. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of ~~[NRS 370.600 to 370.705, inclusive,]~~ **this chapter** is for any reason held to be invalid, unlawful or unconstitutional, that decision shall be deemed not to affect the validity of the remaining portions of ~~[NRS 370.600 to 370.705, inclusive,]~~ **this chapter** or any part thereof.

Senator Leslie moved the adoption of the amendment.

Remarks by Senator Leslie.

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

Amendment No. 198 to Senate Bill No. 79 makes the following changes to the bill:

The amendment establishes that before a wholesale dealer may be made liable for a shortfall of the escrow payments required to be made by a non-participating manufacturer, either the wholesale dealer or the non-participating manufacturer has 90 days after notification to cure the shortfall.

The amendment also exempts a wholesale dealer from this liability if an agreement is executed to require the non-participating manufacturer to prepay the escrow deposit and the wholesale dealer receives written verification of the prepayment from the Attorney General.

The amendment establishes that a non-participating manufacturer can be denied listing or removed from the State's tobacco directory based on a conviction of certain crimes or the failure to report known investigations regarding those crimes.

Finally, the amendment specifies that any gift, grant or donation accepted by the Attorney General for deposit to the Account for Tobacco Enforcement may not be accepted from a tobacco manufacturer or any other manufacturer as defined in *Nevada Revised Statutes* (NRS) 370.0315.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 83.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 416.

"SUMMARY—Revises provisions relating to transportation. (BDR 35-484)"

"AN ACT relating to transportation; authorizing the Department of Transportation to enter into a public-private partnership to plan, design, construct, improve, finance, operate and maintain an eligible transportation facility; authorizing the Board of Directors of the Department of Transportation to establish user fees, administrative fines and other penalties and charges relating to the use of such a facility; **providing for the disposition of money which is received and is to be retained by the Department of Transportation pursuant to a public-private partnership; providing that such money must first be used to defray the obligations of the Department of Transportation under the public-private partnership;** making provisions regarding taxation of leasehold interests, possessory interests, beneficial interests and beneficial use of exempt property inapplicable to property used by a public-private partnership; requiring the Department of Motor Vehicles to place a hold on the renewal of the registration of a motor vehicle of a registered owner who fails to pay such a user fee; authorizing the Department of Motor Vehicles to establish certain administrative fees; revising provisions governing design-build projects of the Department of Transportation; authorizing the Department of Transportation to approve, upon request, the construction of a toll bridge or toll road by a person; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 12 of this bill authorizes the Department of Transportation to enter into one or more public-private partnerships for planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights-of-way for certain transportation facilities. **Section 18 of this bill provides that a public-private partnership entered into pursuant to the provisions of section 12 may authorize the charging of user fees in**

certain circumstances and sets forth specific exceptions to the charging of user fees. **Section 19** of this bill authorizes the Board of Directors of the Department to establish: (1) a schedule or methodology for charging user fees for the use of ~~such~~ a transportation facility; and (2) administrative fines and other penalties and charges for nonpayment of user fees. **Section 19** also authorizes the Board to approve exemptions from the user fees for certain motor vehicles. **Section 20 of this bill requires the Department to adopt regulations establishing a privacy policy regarding the collection and use of personal identifying information necessary for the collection and enforcement of user fees.** **Section 22** of this bill provides administrative fines, late charges and other penalties and charges for failure to pay a required user fee. **Section 23** of this bill requires the Department of Motor Vehicles to place a hold on the renewal of the registration of a motor vehicle if the Department of Transportation or a private partner provides notice to the Department of Motor Vehicles that the registered owner of the motor vehicle has failed to pay a required user fee.

Section 25 of this bill requires that all money which is received and is to be retained by the Department of Transportation ~~in connection with a transportation facility that~~ pursuant to a public-private partnership and which is derived from the imposition of any charge with respect to the operation of any motor vehicle upon any public highway in Nevada be deposited in the State Highway Fund, accounted for separately and, except for costs of administration, be used exclusively for the design, construction, operation, maintenance, financing and repair of the public highways of Nevada. In addition, **section 25** requires that the money ~~received by the Department from the eligible transportation facility~~ the obligations of the Department under the public-private partnership, including, without limitation, the costs of administration, design, construction, operation, maintenance, financing and repair of the eligible transportation facility, ~~it~~ from which the money is derived. **Section 26** of this bill authorizes certain financing of a transportation facility. **Section 29** of this bill requires a private partner to pay prevailing wages for facility construction. **Section 30** of this bill authorizes the Department to adopt regulations to carry out the provisions of this bill. **Section 31** of this bill requires the Board of Directors to submit a report concerning any transportation facilities completed to the Legislative Commission on or before February 1 of each even-numbered year and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature on or before February 1 of each odd-numbered year.

Under existing law, the Department is authorized to enter into contracts with a design-build team to design and construct highway projects for which the estimated cost exceeds \$20 million and which meet certain conditions. Once each fiscal year, the Department is authorized to contract with a design-build team for a project the estimated cost of which is at least \$5 million but less than \$20 million. (NRS 408.388) **Section 38** of this bill

removes the monetary thresholds that limit the number of projects of the Department that may be constructed pursuant to the design-build method and, therefore, allows the Department to contract with a design-build team for any highway project if the conditions set forth in existing law are met.

A design-build team that submits a final proposal to the Department on a project is required under existing law to submit, as part of the proposal, certain information about the subcontractors who will provide a portion of the work on the project. (NRS 408.3886) **Section 39** of this bill eliminates the requirement that a design-build team provide this information regarding subcontractors.

Upon request, the Department is allowed under existing law to authorize a person to develop, construct, improve, maintain or operate certain transportation projects except a toll bridge or toll road. (NRS 408.5471, 408.5473) **Section 40** of this bill eliminates the exclusion of toll bridges and toll roads and, therefore, allows the Department to approve requests or proposals for toll bridge and toll road projects.

WHEREAS, The Legislature finds that the State of Nevada is faced with growing traffic congestion and the limited ability to expand freeway capacity because of financial, environmental and physical constraints; and

WHEREAS, The Legislature finds that it is beneficial to evaluate alternative approaches to managing the use of existing and planned transportation facilities; and

WHEREAS, The Legislature finds that public-private partnerships have been demonstrated to be an effective means of providing motorists with more reliable travel opportunities and more choices within congested freeway corridors; and

WHEREAS, The Legislature finds that public-private partnerships are an effective means of financing the development, operation and maintenance of a transportation facility; and

WHEREAS, It is the intent of the Legislature to maximize the effectiveness and efficiency of the State's highway system; and

WHEREAS, It is the intent of the Legislature to authorize the Department of Transportation to establish and carry out transportation facilities to increase highway efficiency, enhance mobility, improve the effectiveness of transit, and facilitate the feasibility of financing improvements through user fees and public-private partnerships; now, therefore,

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

Section 1. Chapter 408 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 32, inclusive, of this act.

Sec. 2. *As used in sections 2 to 32, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 11, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Authorized emergency vehicle" has the meaning ascribed to it in NRS 484A.020.*

Sec. 4. *"Concession" means any lease, ground lease, franchise, easement, permit, right of entry, operating agreement or other binding agreement transferring rights for the use or control, in whole or in part, of an eligible transportation facility by the Department to a private partner.*

Sec. 5. 1. *"Eligible transportation facility" means a facility, including an enhanced, improved, expanded, extended, upgraded or new facility, used or useful for the safe transport of people or goods via one or more modes of transport, whether involving highways, railways, airports, monorails, transit, bus systems, guided rapid transit, fixed guideways, ferries, vessels, intermodal or multimodal systems or any other mode of transport, as well as facilities, structures, parking, rest areas, maintenance yards, rail yards or storage facilities, vehicles, rolling stock or other related equipment, items or property.*

2. *The term includes, without limitation, highways, roads, bridges, on-ramps, off-ramps, direct connectors to or from other highways or arterials, tunnels, connectors to an airport, pavement, shoulders, structures, culverts, curbs, toll gantries and systems, drains, rights-of-way, buildings, communication facilities, equipment appurtenances, lighting, signage, service centers, operations centers, rest areas, services, personal property and works incidental to, related to or desirable for highway design, construction, improvement, operation or maintenance.*

Sec. 6. *"Managed lanes" means a highway facility or a set of lanes in which operational and traffic management strategies, including, without limitation, access control, vehicle eligibility and pricing, are implemented and managed in response to changing conditions, traffic and usage and which may include the assessment of a user fee. The term includes, without limitation, express lanes.*

Sec. 7. *"Motor vehicle" has the meaning ascribed to it in NRS 484A.130.*

Sec. 8. *"Private partner" means a person with whom the Department enters into a public-private partnership.*

Sec. 9. *"Public-private partnership" means a contract entered into by the Department with a private partner under which the private partner:*

1. *Assists the Department in defining a potential project concerning an eligible transportation facility and negotiates terms for potentially carrying out the planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights-of-way for, or any combination thereof, the eligible transportation facility, or any portion thereof; or*

2. *Assumes responsibility for planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights-of-way for, or any combination thereof, an eligible transportation facility, or any portion thereof.*

Sec. 10. *"Registered owner" means a person whose name appears in the records of the Department of Motor Vehicles as the person to whom a motor vehicle is registered.*

Sec. 11. *"User fee" means a fee, toll, fare or other similar charge, including, without limitation, any incidental, account maintenance, administrative, credit card or video tolling fee or charge authorized by a public-private partnership and imposed on a person for his or her use of an eligible transportation facility.*

Sec. 12. 1. *The Department, subject to the approval of the Board, may enter into a public-private partnership to plan, finance, design, construct, improve, maintain, operate or acquire the rights-of-way for, or any combination thereof, an eligible transportation facility.*

2. A public-private partnership may include, without limitation:

(a) A predevelopment agreement leading to another implementing agreement that is described in this subsection;

(b) A design-build agreement;

(c) A design-build agreement that includes the financing, maintenance or operation, or any combination thereof, of the eligible transportation facility;

(d) A concession;

(e) A construction agreement that includes the financing, maintenance or operation, or any combination thereof, of the eligible transportation facility;

(f) An agreement for the operation and maintenance of the eligible transportation facility;

(g) Any other method or agreement for completion of the eligible transportation facility, or any combination thereof, that the Department determines will serve the public interest; or

(h) Any combination of paragraphs (a) to (g), inclusive.

3. Except as otherwise provided in subsection 4, notwithstanding any other law to the contrary, a public-private partnership may be for a term of not more than 55 years after:

(a) The opening of the eligible transportation facility to the public and the commencement of its full operations and collection of revenue, if the public-private partnership involves an eligible transportation facility that charges user fees;

(b) The opening of the eligible transportation facility and the commencement of its full operations; or

(c) The commencement of the public-private partnership, if the public-private partnership involves a facility or service that is not generally open to or used by the public.

4. A public-private partnership may be extended:

(a) As a result of an event in the nature of force majeure;

(b) As a means to compensate the private partner for events set forth in the public-private partnership that entitle the private partner to compensation; or

(c) For additional terms upon the mutual agreement of the private partner and the Department, as authorized by the Board.

5. *An eligible transportation facility must be owned by the Department and remain:*

- (a) A public highway;*
- (b) A public use; and*
- (c) A public facility.*

Sec. 13. *The Department may do such things as are necessary and appropriate to carry out a public-private partnership entered into pursuant to section 12 of this act, including, without limitation:*

1. *Retain legal, financial, technical and other consultants to assist the Department concerning the eligible transportation facility.*

2. *Apply for, accept and expend money from any lawful source, including, without limitation, any public or private fundings, loan, grant, line of credit, loan guarantee, credit instrument, private activity bond allocation, credit assistance from the Federal Government or other type of assistance that is available to carry out the eligible transportation facility.*

3. *Accept from any source any grant, donation, gift or other form of conveyance of land, money, other real or personal property or other thing of value made to the Department to carry out the eligible transportation facility.*

4. *Enter into a bond indenture, loan agreement, interest rate swap, hedge agreement, financing agreement, security agreement, pledge agreement, credit facility, trust agreement or other financial agreement in connection with the financing of the eligible transportation facility pursuant to sections 2 to 32, inclusive, of this act.*

Sec. 14. 1. *To enter into a public-private partnership with the Department pursuant to section 12 of this act, a person must:*

(a) Obtain a performance bond, payment bond, letter of credit, parent company guarantee or other security acceptable to the Department, or any combination thereof, in amounts determined by the Department;

(b) Obtain insurance covering general liability and liability for errors and omissions in amounts determined by the Department;

(c) Not have been found liable for breach of contract with respect to a previous project with the Department, other than a breach for legitimate cause, during the 5 years immediately preceding the date of commencement of the solicitation of the public-private partnership; and

(d) Not be disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333.

2. *A private partner is not required to hold the licenses and certifications required to undertake the work for the eligible transportation facility as a condition of eligibility to be a private partner, but must ensure that any work which requires a license or certification is performed by a person that possesses the required license or certification.*

3. *Any private entity that wishes to enter into a public-private partnership pursuant to section 12 of this act must provide satisfactory*

evidence to the Board that the entity is in compliance with the requirements of title 7 of NRS.

Sec. 15. 1. *A public-private partnership entered into pursuant to section 12 of this act must be awarded through one or more solicitations. The Department may solicit a public-private partnership through a process involving:*

(a) A request for statements of qualifications and a request for proposals; or

(b) A request for proposals.

2. *If a request for qualifications is issued by the Department, the Department may select a certain number of persons who submitted a statement of qualifications to receive and respond to a request for proposals.*

3. *For any solicitation in which the Department issues a request for statements of qualifications, request for proposals or similar request, the Department may determine the method of evaluation and which factors the Department will consider, and the relative weight of those factors, in the evaluation process to obtain the best value for the Department, including, without limitation, such factors as qualifications, experience, cost, price, financial plan, financial commitment, innovative financing and technology, technical approach and management approach. The Department shall set forth in the request for statements of qualifications, request for proposals or other request, as applicable, the methodology, the factors that will be used, and the relative weight of those factors, for the evaluation process.*

4. *Each request for proposals issued for an eligible transportation facility must require each person submitting a proposal to include with the proposal an executive summary. The executive summary must address the major elements of the proposal but must not include the financial terms of the proposal, the financing plan or other confidential or proprietary information or trade secrets that the person submitting the proposal intends to be exempt from disclosure.*

5. *The executive summary may be released to the public by the Department at any time.*

6. *After evaluation of the proposals submitted in response to a request for proposals, the Department shall enter into negotiations with the applicant whose proposal appeared to have the best value to enter into a public-private partnership. If the Department is unable to negotiate a public-private partnership with that applicant upon such terms and conditions that the Department determines to be in the best interest of the public, the Department shall suspend or terminate negotiations with that applicant. The Department may then undertake negotiations with the next highest-ranked applicant in sequence until a public-private partnership is entered into or a determination is made by the Department to reject all applicants that submitted proposals.*

7. *After the award and execution of the public-private partnership, the Department shall make available to the applicants and the public the results of the evaluations of proposals and the final rankings of the applicants.*

8. *Notwithstanding any other law to the contrary, to maximize competition and to obtain the best value for the public, no part of a proposal other than the executive summary may be released or disclosed by the Department before the award and execution of the public-private partnership and the conclusion of any specified period to protest or otherwise challenge the award, except pursuant to an administrative or judicial order requiring release or disclosure of any part of the proposal.*

Sec. 16. 1. *The Department may reimburse a person who submitted a proposal but with whom the Department did not enter into a public-private partnership for a portion of the cost of preparing the proposal or best and final offer, or both, if the Department determines that the proposal was responsive to the request for proposals and met all the requirements set by the Department for the eligible transportation facility.*

2. *If the Department intends to make such a reimbursement, the Department shall set forth the terms, conditions and estimated amount of the reimbursement in the request for qualifications or in the request for proposals, as applicable, for the eligible transportation facility.*

3. *In exchange for the reimbursement, the Department shall require the recipient to grant to the Department the nonexclusive right to use any work product contained in the proposal, including, without limitation, technologies, techniques, methods, processes and information contained in the design. Such use by the Department is at the sole risk of the Department, and the recipient does not have any responsibility for such use.*

Sec. 17. 1. *Except as otherwise provided in this subsection, information obtained by or disclosed to the Department during the procurement or negotiation of a public-private partnership may be kept confidential until the public-private partnership is executed. The Department may exempt from release to the public any confidential or proprietary information obtained by or disclosed to the Department during the procurement or negotiation.*

2. *To make confidential and proprietary information exempt from disclosure pursuant to subsection 1, the person who submits a proposal or other response to a solicitation for an eligible transportation facility must:*

(a) *Invoke the request for exclusion upon submission of the information or other materials for which protection is sought;*

(b) *Identify the data or other materials for which protection is sought with conspicuous labeling;*

(c) *State the reasons why protection is necessary for each document for which protection is sought;*

(d) Fully comply with any applicable state law with respect to information that the person contends should be exempt from disclosure; and

(e) Defend any action seeking release of records that the person submitting the proposal or response believes are protected from disclosure, and indemnify, defend and hold harmless the State, the Department, its agents and its employees from any judgments awarded against the State or the Department in favor of the party requesting the records, including any and all costs connected with that defense. Under no circumstances will the Department be responsible or liable to the person submitting the proposal or response or any other person for the disclosure of any such labeled materials, whether the disclosure is required by law or court order or occurs through inadvertence, mistake or negligence on the part of the Department or its officers, employees, contractors or consultants.

Sec. 18. 1. A public-private partnership entered into pursuant to section 12 of this act may include provisions that:

(a) ~~Authorize~~ Except as otherwise provided in subsection 3, authorize the Department and the private partner to charge, collect, use, enforce and retain user fees, including, without limitation, provisions that:

(1) Specify the technology to be used in the eligible transportation facility;

(2) Establish circumstances under which the Department may receive the revenues or a share of the revenues from such user fees; and

(3) State that the user fees may be collected directly by the Department, the private partner or by a third party engaged for that purpose.

(4) Prescribe a formula, indexation or mechanism for the adjustment of user fees during the term of the public-private partnership.

(5) Allow a variety of strategies to be employed to manage traffic on the eligible transportation facility, including, without limitation:

(I) High-occupancy vehicle lanes where single- or low-occupancy vehicles may use higher-occupancy vehicle lanes by paying a toll.

(II) Managed lanes or facilities in which the tolls may vary during the course of the day or week or according to the levels of congestion that are anticipated or experienced.

(III) Any combination of, or variation on, the strategies set forth in sub-subparagraphs (I) and (II), or any other strategy that the Department determines is appropriate based on the specific circumstances of the eligible transportation facility.

(6) Govern the enforcement of user fees, including, without limitation, provisions for the use of cameras or other mechanisms to ensure that users have paid user fees which are due and provisions that allow the Department of Transportation and private partner access to relevant databases, including, without limitation, databases of the Department of Motor Vehicles, for enforcement purposes. The Department of

Transportation may impose a civil penalty of not more than \$10,000 per violation for misuse of the data contained in such databases, including, without limitation, negligence in securing the data properly. Any civil penalty collected pursuant to this subparagraph must be deposited in the State General Fund.

(b) Allow for payments to be made by this State to the private partner, including, without limitation, periodic payments, construction payments, payments for attaining milestones, progress payments, payments based on availability or other performance-based payments, payments relating to events for which the public-private partnership requires payment of compensation and payments relating to or arising out of the termination of the public-private partnership.

(c) Allow the Department to accept payments of money from, and share revenues with, the private partner. The Department shall deposit such money in the State Highway Fund.

(d) Address the manner in which the Department and the private partner will share management of the risks of the eligible transportation facility.

(e) Specify the manner in which the Department and the private partner will share the costs of any development of the eligible transportation facility.

(f) Allocate financial responsibility for any costs that exceed the amount specified in the public-private partnership.

(g) Establish applicable liquidated or stipulated damages to be assessed for nonperformance by the private partner.

(h) Establish performance criteria or incentives, or both.

(i) Address the acquisition of rights-of-way and other property interests that may be required for the eligible transportation facility, including, without limitation, provisions that address the exercise of eminent domain by the Department in the manner authorized pursuant to chapters 37 and 408 of NRS.

(j) Establish recordkeeping, accounting and auditing standards to be used for the project.

(k) Upon termination of the public-private partnership, address responsibility for repair, rehabilitation, reconstruction or renovations that are required for an eligible transportation facility to meet all applicable standards set forth in the public-private partnership upon reversion of the eligible transportation facility to this State.

(l) Provide for security and law enforcement.

(m) Identify any specifications of the Department that must be satisfied, including, without limitation, provisions allowing the private partner to request and receive authorization to deviate from the specifications on making a showing satisfactory to the Department.

(n) Specify remedies available and procedures for dispute resolution, including, without limitation, the right of the private partner to institute legal proceedings to obtain an enforceable judgment or award against the

Department in the event of a default by the Department and procedures for use of dispute review boards, mediation, facilitated negotiation, nonbinding and binding arbitration and other alternative dispute resolution procedures.

2. A public-private partnership must contain a provision by which the private partner expressly agrees to be barred from seeking injunctive or other equitable relief to delay, prevent or otherwise hinder the Department from developing or constructing a facility which was planned at the time the public-private partnership was executed and which may impact the revenue that the private partner derives from the eligible transportation facility developed under the public-private partnership. The public-private partnership may provide for reasonable compensation to the private partner for the adverse effect on revenue from the eligible transportation facility developed under the public-private partnership resulting from the development or construction of another facility by the Department.

3. A public-private partnership entered into pursuant to section 12 of this act must not include a provision that authorizes the Department and the private partner to charge, collect, use, enforce and retain user fees for any highway or portion of a highway:

(a) Which exists as of the effective date of this act, except that user fees may be authorized for the use of any new lanes that are constructed and added to the existing highway by the public-private partnership so long as the number of lanes on the highway that are not subject to user fees is not reduced;

(b) Which includes any portion of Interstate Highway No. 15; or

(c) Unless, as of the date the highway or portion of a highway is open to public use and user fees are charged, there is available an alternative highway which:

(1) Is substantially similar in route, distance and quality to the portion of the highway that is subject to the user fees;

(2) Can accommodate the same classes of vehicles as the portion of the highway that is subject to the user fees; and

(3) Does not charge user fees.

Sec. 19. 1. If the Department enters into a public-private partnership pursuant to section 12 of this act and the eligible transportation facility involves user fees, the Board:

(a) Shall establish a schedule or methodology for the charging of user fees by the Department or the private partner for the use of the eligible transportation facility. Such a schedule or methodology may include, without limitation, provisions for adjusting the user fees based on the type of motor vehicle, time of day, traffic conditions or other factors determined necessary by the Department or the private partner to implement, finance or improve the performance of the eligible transportation facility;

(b) Shall, consistent with the provisions of section 22 of this act, establish the schedule of administrative fines, late charges and other

penalties or charges which may be imposed against any person who violates any regulation or rule governing the use of the eligible transportation facility or who fails to pay a user fee; and

(c) In addition to the exemptions provided in subsection 2, may provide for exemptions from the payment of a user fee and may authorize the private partner to provide for such exemptions.

2. The following motor vehicles are exempt from any user fee established by the Board:

(a) A preregistered vehicle transporting a number of occupants that is specified in the public-private partnership or otherwise specified by the Board;

(b) A transit bus or vanpool vehicle owned or operated by an agency or political subdivision of this State or the United States, to the extent that such vehicles are exempted pursuant to an agreement between the agency or political subdivision and the Department or the private partner;

(c) An authorized emergency vehicle if:

(1) It is responding to an emergency and its emergency lights are in use; or

(2) It is enforcing traffic laws; and

(d) A vehicle that is exempt pursuant to the terms of the public-private partnership.

3. The Board may review annually any fee schedule or methodology established pursuant to this section and any adjustments to the user fees made by the Department or the private partner to determine whether the user fees effectively manage travel times, speed and reliability with regard to the eligible transportation facility. Such a review does not entitle the Department to modify the terms of a binding public-private partnership.

Sec. 20. 1. The Department or private partner may use any method that it determines appropriate to charge, assess and collect a user fee, including, without limitation, the issuance of invoices, collection by means of toll booths, prepayment requirements and the use of an electronic, video or automated collection system. An electronic, video or automated collection system may be used to verify payment or to charge or assess the user fee to:

(a) The account of a person whose vehicle is equipped with a transponder or other automated payment technology approved by the Department;

(b) The account of a person who otherwise registers to use the collection system for the eligible transportation facility; or

(c) The registered owner of a motor vehicle.

2. Except as otherwise provided in this subsection, the name, address, other personal identifying information and trip data of a user of an eligible transportation facility is confidential and the Department, a private partner, consultant, contractor or representative thereof shall not release, sell or distribute such information without the express written consent of

the user. The Department and the private partner may use and release such information:

(a) As is necessary for the purpose of charging, assessing and collecting a user fee and enforcing any administrative fines, late charges or other penalties and charges imposed pursuant to the public-private partnership; and

(b) To a law enforcement agency pursuant to a subpoena.

3. The Department or the private partner may solicit and contract with a person to provide services relating to the enforcement and collection of a user fee and any administrative fines, late charges or other penalties and charges imposed pursuant to the public-private partnership.

4. The Department or the private partner may:

(a) Accept cash payment of user fees at each toll booth or similar fixed collection facility for user fees;

(b) Allow a person to establish and deposit money into an account for use in an automated collection system; or

(c) Allow a person to establish an anonymous account that is not linked to a specific vehicle for use in an automated collection system.

5. The Department shall adopt regulations establishing a privacy policy regarding the collection and use of personal identifying information pursuant to this section. The regulations must include, without limitation, provisions:

(a) Requiring that any personal identifying information used to collect and enforce user fees be destroyed not later than 30 days after the person has paid the user fee, administrative fines, late fees or other penalties and charges imposed;

(b) Requiring that any personal identifying information collected for the establishment of an account for the use of an automated collection system be:

(1) Stored longer than 30 days only if the information is required to perform account functions, including, without limitation, billing and other activities directly related to the use of the account; and

(2) Destroyed within 30 days after receiving written notice that the person who established the account wants to close the account; and

(c) Requiring that each person establishing an account for use in an automated collection system be provided a copy, in a clear and conspicuous manner, of the privacy policy required by this section and all other applicable privacy laws, including, without limitation, sections 18 and 21 of this act.

Sec. 21. 1. The Department or a private partner may use a photo-monitoring, video, image capture or other automated or technology-based system to detect the failure of the driver or registered owner of a motor vehicle to pay a user fee or to verify the payment of a user fee.

2. *The data, including, without limitation, photographs, images, videotapes and other information about the motor vehicle and its owner generated and obtained by a system described in subsection 1, may only be used by the Department or the private partner to establish the nonpayment of a user fee and to enforce collection of a user fee and any administrative fines, late charges and other penalties or charges imposed pursuant to the public-private partnership and for no other purpose.*

Sec. 22. 1. *Except as otherwise provided in subsection 3, the registered owner of a motor vehicle who fails to pay a user fee is subject to an administrative fine for nonpayment and is liable to the Department or private partner for the payment of the user fee, the administrative fine, late charge and any other penalties or charges established by the Board or pursuant to the public-private partnership.*

2. *If a driver or registered owner fails to pay a user fee, the Department or the private partner shall provide notice of the nonpayment to the registered owner. The notice must describe the claimed nonpayment and the amount due, including, without limitation, any administrative fines, late charges or other penalties or charges, and explain that the registered owner must, within 20 days after receiving the notice, pay the full amount due or contest the claim in the manner described in the notice. A registered owner who does not pay the full amount due or contest the claim within 20 days after receiving the notice cannot challenge the claim in any proceeding or action brought by the Department or the private partner.*

3. *A long-term or short-term lessor of a motor vehicle that is the registered owner of a vehicle is not liable to the Department or the private partner for any failure to pay a user fee arising out of the use of a leased or rented motor vehicle during any period that the motor vehicle is not in the possession of the lessor if, within ~~20~~ 45 days after receiving the written notice from the Department or the private partner, the lessor provides to the Department or the private partner the name, address, driver's license number and other identifying information of the person to whom the motor vehicle was rented or leased at the time of the use of the eligible transportation facility. If the lessor provides such information, the person to whom the motor vehicle was rented or leased at the time of the use of the eligible transportation facility is liable for the user fee or administrative fee, or both, and any late charges or other penalties or charges resulting from the person's failure to pay the user fee.*

Sec. 23. 1. *If a registered owner of a motor vehicle fails to respond to the notice of nonpayment provided pursuant to section 22 of this act, the Department of Transportation or the private partner may file a notice with the Department of Motor Vehicles. The notice must include:*

(a) *The place, time and date of the use of the eligible transportation facility;*

(b) *The number of the license plate and, if available, the make and model year of the motor vehicle; and*

(c) The total amount owed to the Department of Transportation or the private partner, including, without limitation, any administrative fines, late charges or other penalties and charges resulting from the person's failure to pay the user fee.

2. Upon receipt of the notice described in subsection 1, the Department of Motor Vehicles shall place a hold on the renewal of the registration of the motor vehicle described in the notice. The Department of Motor Vehicles shall not renew the registration of the motor vehicle unless the registered owner:

(a) Pays to the Department of Motor Vehicles the total amount owed to the Department of Transportation or a private partner, which amount the Department of Motor Vehicles shall forward, as directed by the Department of Transportation pursuant to the applicable terms of the public-private partnership, to the Department of Transportation or the private partner, along with an accounting indicating the amount paid, from whom, for which motor vehicle and the corresponding license plate number of the motor vehicle; or

(b) Presents proof to the Department of Motor Vehicles of payment or satisfaction issued by the Department of Transportation or the private partner.

3. In addition to any administrative fine, late charge or other penalty or charge for nonpayment of a user fee established pursuant to a public-private partnership, the Department of Motor Vehicles may impose an additional administrative fee of not more than \$15 upon any person who applies for the renewal of the registration of a motor vehicle subject to a hold placed on the renewal pursuant to this section.

4. In addition to any other remedy provided by this section, the Department of Transportation or a private partner may recover in a civil action any user fee, administrative fine, late charge or other penalty or charge authorized pursuant to section 22 of this act, as well as the costs of collection and enforcement.

Sec. 24. 1. The Department of Motor Vehicles shall work cooperatively with the Department of Transportation and any private partner to establish a timely and efficient manner for providing information concerning motor vehicles, including, without limitation, the name, address and driver's license number of the registered owner and the registration number of the vehicle, to the Department of Transportation and any private partner for the purposes of collecting and enforcing user fees and any administration fines, late charges and other penalties and charges imposed pursuant to sections 22 and 23 of this act. To the extent practicable, such information must be transmitted electronically.

2. The Department of Motor Vehicles shall work cooperatively with departments of motor vehicles and similar agencies of other jurisdictions and states to:

(a) Assist the Department of Transportation and the private partner with the collection and enforcement of user fees charged against a motor vehicle operated on the eligible transportation facility by a person from such other jurisdiction or state; and

(b) Assist such other departments of motor vehicles and similar agencies with the collection and enforcement of user fees charged against a motor vehicle operated on the toll facilities of such other jurisdiction or state by a motor vehicle registered in this State.

↪ *The cooperation must include providing information concerning motor vehicles, including, without limitation, the name, address and driver's license number of the registered owner and the registration number of the vehicle, to such departments of motor vehicles and similar agencies of other jurisdictions and states and forwarding such information received from such other departments of motor vehicles and similar agencies of other jurisdictions and states to the Department of Transportation or the private partner.*

Sec. 25. 1. *All money that is received and is to be retained by the Department pursuant to a public-private partnership which is derived from the imposition of any charge with respect to the operation of any motor vehicle upon any public highway in this State must be deposited in the State Highway Fund, accounted for separately and, except for costs of administration, be used exclusively for the design, construction, operation, maintenance, financing and repair of the public highways of this State. The money must first be used to defray the obligations of the Department under the public-private partnership, including, without limitation, the costs of administration, design, construction, operation, maintenance, financing and repair of the eligible transportation facility from which the money is derived.*

2. Any other money received by the Department pursuant to sections 2 to 32, inclusive, of this act or any policies or procedures established by the Department or set forth in the public-private partnership must be deposited in the State Highway Fund and accounted for separately. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. The money in the account may be used for:

(a) The payment of the costs of planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights-of-way for, or any combination thereof, the eligible transportation facility;

(b) The payment of the costs of administering the eligible transportation facility and enforcing the collection of user fees;

(c) Satisfaction of any obligations of the Department pursuant to a public-private partnership; and

(d) The costs of administration, construction, maintenance and repair of the public highways located in the county or counties from which the money was obtained.

Sec. 26. 1. *An eligible transportation facility and any improvement to property in connection with an eligible transportation facility determined by the Department to be necessary or desirable therefor may, as determined by the Department, be financed:*

(a) By the private partner using equity, debt, bonds or other financing or money or any combination thereof, for the eligible transportation facility.

(b) By the issuance of revenue bonds or notes of the State which are payable from and secured by:

(1) Revenues from the eligible transportation facility, including, without limitation, user fees and payments established, due and collected pursuant to sections 22 and 23 of this act, other than subsection 3 of section 23 of this act;

(2) Payments from the Department to the private partner pursuant to a public-private partnership;

(3) Payments from the private partner as described in section 18 of this act;

(4) Guarantees or other forms of financial assistance from the private partner or any other person;

(5) Any grants, donations or other sources of money mentioned in subsection 2 or 3 of section 13 of this act, if use of the money for the purpose of paying and securing the payment of the principal of and interest on those bonds or notes is consistent with and not prohibited by the instrument, law or regulation under which the money is received;

(6) Interest or other gain accruing on any of the money deposited in the State Highway Fund pursuant to section 25 of this act; or

(7) Any combination thereof,

↪ as described in the resolution authorizing the issuance of the bonds or notes. The bonds or notes must be authorized and issued under the procedure described in NRS 408.273, but the bonds or notes must be secured as provided in this section and may have a maturity of up to 40 years after the date of issuance. Any bonds or notes authorized by this paragraph are special, limited obligations of the State payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for the issuance of the bonds or notes, and do not create a debt of the State for the purposes of Section 3 of Article 9 of the Nevada Constitution.

(c) By the issuance of revenue bonds or notes of the State, to finance the eligible transportation facility directly or by making a loan to the private partner, pursuant to a financing agreement entered into between the State and the private partner for the purpose of securing the bonds or notes and providing for their payment. Any bonds or notes issued pursuant to this paragraph must be payable solely from and secured by payments made by and property of and other security provided by the private partner, including, without limitation, any payments made to the private partner by the Department pursuant to the public-private partnership. Any bonds or

notes issued pursuant to this paragraph must be authorized and issued under the procedure described in NRS 408.273, but the bonds or notes must be secured as provided in this paragraph and may have a maturity of up to 40 years from the date of issuance. Any bonds or notes as authorized by this paragraph are special, limited obligations of the State payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for the issuance of the bonds or notes, and do not create a debt of the State for the purposes of Section 3 of Article 9 of the Nevada Constitution.

(d) By the issuance of private activity bonds or notes of the State or other eligible issuer, to finance the eligible transportation facility directly or by making a loan to the private partner, pursuant to a financing agreement entered into between the State and the private partner for the purpose of securing the bonds or notes and providing for their payment. Any bonds or notes issued pursuant to this paragraph must be payable solely from and secured by payments made by and property of and other security provided by the private partner, including, without limitation, any payments made to the private partner by the Department pursuant to the public-private partnership. Any bonds or notes issued pursuant to this paragraph must be authorized and issued under the procedure described in NRS 408.273 but the bonds or notes must be secured as provided in this paragraph and may have a maturity of up to 40 years from the date of issuance. Any bonds or notes as authorized by this paragraph are special, limited obligations of the State payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for the issuance of the bonds or notes, and do not create a debt of the State for the purposes of Section 3 of Article 9 of the Nevada Constitution.

(e) By any loan, grant, line of credit, loan guarantee, credit instrument, private activity bond allocation, credit assistance from the Federal Government or other type of assistance that is available to carry out the eligible transportation facility.

(f) With any grant, donation, gift or other form of conveyance of land, money or other real or personal property or other thing of value made to the Department to carry out the eligible transportation facility.

(g) With available money from any other source, including a source described in subsections 2 and 3 of section 13 of this act or from user fees.

(h) By any combination of paragraphs (a) to (g), inclusive.

2. If so determined by the Department, any bonds or notes issued as described in paragraph (b) of subsection 1 may also be payable from and secured by taxes which are credited to the State Highway Fund that would not cause the bonds or notes to create a public debt under the provisions of Section 3 of Article 9 of the Nevada Constitution. In addition, the Department may pledge those taxes to and use those taxes for the payment of any of its obligations under a public-private partnership.

Sec. 27. The Department may acquire, condemn or hold real property and related appurtenances under fee title, lease, easement, dedication or license for an eligible transportation facility or otherwise in connection with a public-private partnership in any manner in which the Department is authorized by law.

Sec. 28. 1. The Department may grant to a private partner in connection with a public-private partnership a lease, easement, operating agreement, license, permit or right of entry for such real property and related appurtenances and such grant and use shall be deemed for all purposes:

(a) A public use;

(b) A public facility; or

(c) A public highway,

↪ or any combination thereof.

2. The Department may include authority in a public-private partnership or otherwise authorize a private partner to remove any encroachments or relocate any utility from the right-of-way of an eligible transportation facility.

Sec. 29. A private partner who enters into a contract for construction work pursuant to a public-private partnership shall pay the prevailing wage required pursuant to NRS 338.020 to 338.090, inclusive, and, solely for the purposes of those provisions, the eligible transportation facility shall be deemed to be a public work and the Department shall be deemed to be a party to the contract and to be the public body advertising for bids for the eligible transportation facility and awarding the contract for the eligible transportation facility.

Sec. 30. 1. The Department may adopt regulations to carry out the provisions of sections 2 to 32, inclusive, of this act.

2. Any public-private partnership entered into pursuant to sections 2 to 32, inclusive, of this act must include a provision which states that the regulations adopted by the Department pursuant to subsection 1 and the provisions of sections 2 to 32, inclusive, of this act shall be deemed incorporated as terms of the public-private partnership.

Sec. 31. If the Department enters into a public-private partnership pursuant to section 12 of this act:

1. The Department shall report annually to the Board on the status of the eligible transportation facility.

2. On or before February 1 of each year, the Board shall prepare a written report concerning the eligible transportation facility. The report must include, without limitation:

(a) The current status of the eligible transportation facility.

(b) If the eligible transportation facility involves user fees, the amount of user fees collected by the Department and the private partner.

(c) The amount of money received by the Department in connection with the eligible transportation facility from sources other than user fees.

(d) The amount paid by the Department under a public-private partnership.

(e) Such other information as the Board determines appropriate.

3. *On or before February 1 of each even-numbered year, the Board shall submit the report prepared pursuant to subsection 2 to the Legislative Commission. On or before February 1 of each odd-numbered year, the Board shall submit the report to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.*

Sec. 32. *To the extent practicable, the provisions of sections 2 to 32, inclusive, of this act are intended to supplement other statutory provisions governing the administration of highways in this State and such other provisions must be given effect to the extent that those provisions do not conflict with the provisions of sections 2 to 32, inclusive, of this act. If there is a conflict between such other provisions and the provisions of sections 2 to 32, inclusive, of this act, the provisions of sections 2 to 32, inclusive, of this act control.*

Sec. 33. NRS 408.327 is hereby amended to read as follows:

408.327 Except as otherwise provided in NRS 408.3875 to 408.3887, inclusive ~~{-}~~, **and sections 2 to 32, inclusive, of this act:**

1. Whenever the provisions of NRS 408.323 do not apply, the Director shall advertise for bids for such work according to the plans and specifications prepared by the Director.

2. The advertisement must state the place where the bidders may obtain or inspect the plans and specifications and the time and place for opening the plans and specifications.

3. Publication of the advertisement must be made at least once a week for 2 consecutive weeks for a total of at least two publications in a newspaper of general circulation in the county in which the major portion of the proposed improvement or construction is to be made, and the advertisement must also be published at least once a week for 2 consecutive weeks for a total of at least two publications in one or more daily papers of general circulation throughout the State. The first publication of the advertisement in the daily newspapers having general circulation throughout the State must be made not less than 15 days before the time set for opening bids.

Sec. 34. NRS 408.333 is hereby amended to read as follows:

408.333 Except as otherwise provided in NRS 408.3875 to 408.3887, inclusive ~~{-}~~, **and sections 2 to 32, inclusive, of this act:**

1. Before furnishing any person proposing to bid on any advertised work with the plans and specifications for such work, the Director shall require from the person a statement, verified under oath, in the form of answers to questions contained in a standard form of questionnaire and financial statement, which must include a complete statement of the person's financial ability and experience in performing public work of a similar nature.

2. Such statements must be filed with the Director in ample time to permit the Department to verify the information contained therein in advance of furnishing proposal forms, plans and specifications to any person proposing to bid on the advertised public work, in accordance with the regulations of the Department.

3. Whenever the Director is not satisfied with the sufficiency of the answers contained in the questionnaire and financial statement, the Director may refuse to furnish the person with plans and specifications and the official proposal forms on the advertised project. Any bid of any person to whom plans and specifications and the official proposal forms have not been issued in accordance with this section must be disregarded, and the certified check, cash or undertaking of such a bidder returned forthwith.

4. Any person who is disqualified by the Director, in accordance with the provisions of this section, may request, in writing, a hearing before the Director and present again the person's check, cash or undertaking and such further evidence with respect to the person's financial responsibility, organization, plant and equipment, or experience, as might tend to justify, in his or her opinion, issuance to him or her of the plans and specifications for the work.

5. Such a person may appeal the decision of the Director to the Board no later than 5 days before the opening of the bids on the project. If the appeal is sustained by the Board, the person must be granted the rights and privileges of all other bidders.

Sec. 35. NRS 408.337 is hereby amended to read as follows:

408.337 Except as otherwise provided in NRS 408.3875 to 408.3887, inclusive ~~{-}~~, ***and sections 2 to 32, inclusive, of this act:***

1. All bids must be accompanied by an undertaking executed by a corporate surety authorized to do business in the State, or by cash or a certified check in an amount equal to at least 5 percent of the amount bid. Such undertaking, cash or check furnished to accompany a bid submitted on-line pursuant to NRS 408.343 must be furnished in accordance with the procedures set forth by the Director.

2. If the successful bidder fails to execute the contract in accordance with his or her bid and give any bond required by law and the contract and bond are not postmarked or delivered to the Department within 20 days after award of the contract, the undertaking, cash or certified check is forfeited and the proceeds must be paid into the State Highway Fund.

3. The failure of the successful bidder to furnish any bond required of the bidder by law within the time fixed for his or her execution of the contract constitutes a failure to execute the contract.

4. If the Director deems it is for the best interests of the State, the Director may, on refusal or failure of the successful bidder to execute the contract, award it to the second lowest responsible bidder. If the second lowest responsible bidder fails or refuses to execute the contract, the Director may likewise award it to the third lowest responsible bidder. On the failure or

refusal to execute the contract of the second or third lowest bidder to whom a contract is so awarded, their bidder's security is likewise forfeited to the State.

5. The bidder's security of the second and third lowest responsible bidders may be withheld by the Department until the contract has been finally executed and the bond given as required under the provisions of the contract, at which time the security must be returned. The bidder's security submitted by all other unsuccessful bidders must be returned to them within 10 days after the contract is awarded.

Sec. 36. NRS 408.343 is hereby amended to read as follows:

408.343 1. Except as otherwise provided in NRS 408.3875 to 408.3887, inclusive ~~{ }~~, ***and sections 2 to 32, inclusive, of this act:***

(a) All bids must be submitted:

(1) Under sealed cover and received at the address in Nevada stated in the advertisement for bids and must be opened publicly and read at the time stated in the advertisement; or

(2) Pursuant to the process of on-line bidding established by the Director.

(b) No bids may be received after the time stated in the advertisement even though bids are not opened exactly at the time stated in the advertisement. No bid, whether submitted in accordance with subparagraph (1) or (2) of paragraph (a), may be opened before that time.

(c) Any bid may be withdrawn by request at any time before the time stated in the advertisement. The withdrawal must be filed with the Director and executed by the bidder or the bidder's duly authorized representative. The withdrawal may be filed electronically. The withdrawal of a bid does not prejudice the right of the bidder to file a new bid before the time stated in the advertisement.

(d) The Department may reject any bid or all bids if, in the opinion of the Department, the bids are unbalanced, incomplete, contain irregularities of any kind or for any good cause.

(e) Until the final award of the contract, the Department may reject or accept any bids and may waive technical errors contained in the bids, as may be deemed best for the interests of the State.

(f) In awarding a contract, the Department shall make the award to the lowest responsible bidder who has qualified and submitted his or her bid in accordance with the provisions of this chapter.

2. The Director may adopt regulations to carry out the provisions of this section.

3. As used in this section, "on-line bidding" means a process:

(a) That is established by the Director; and

(b) By which bidders submit proposals or bids for contracts on a secure website on the Internet or its successor, if any, which is established and maintained by the Department for that purpose.

Sec. 37. NRS 408.357 is hereby amended to read as follows:

408.357 1. Except as otherwise provided in NRS 408.354, **and sections 2 to 32, inclusive, of this act**, every contract must provide for the filing and furnishing of one or more bonds by the ~~{successful bidder,}~~ **person to whom the contract is awarded** with corporate sureties approved by the Department and authorized to do business in the State, in a sum equal to the full or total amount of the contract awarded. The bond or bonds must be performance bonds or labor and material bonds, or both.

2. The performance bonds must:

(a) Guarantee the faithful performance of the contract in accordance with the plans, specifications and terms of the contract.

(b) Be maintained for 1 year after the date of completion of the contract.

3. The labor and material bonds must:

(a) Secure payment of state and local taxes relating to the contract, premiums under the Nevada Industrial Insurance Act, contributions under the Unemployment Compensation Law, and payment of claims for labor, materials, provisions, implements, machinery, means of transportation or supplies furnished upon or used for the performance of the contract; and

(b) Provide that if the contractor or his or her subcontractors, or assigns, fail to pay for such taxes, premiums, contributions, labor and materials required of, and used or consumed by, the contractor or his or her subcontractors, the surety shall make the required payment in an amount not exceeding the total sum specified in the bond together with interest at a rate of 8 percent per annum.

↪ All such bonds must be otherwise conditioned as required by law or the Department.

4. No person bidding for work or submitting proposals under the provisions of this chapter may be accepted as surety on any bond.

5. Whenever the Department has cause to believe that the sureties or any of them have become insufficient, it may demand in writing of the contractor such further bonds or additional sureties, in a total sum not exceeding that originally required, as are necessary, considering the extent of the work remaining to be done. Thereafter no payment may be made upon the contract to the contractor or any assignee of the contractor until the further bonds or additional sureties have been furnished.

6. The Department in every contract may require the furnishing of proof by the successful bidder of public liability and insurance coverage for damage to property.

Sec. 38. NRS 408.388 is hereby amended to read as follows:

408.388 ~~{-}~~ Except as otherwise provided in NRS 408.5471 to 408.549, inclusive, the Department may contract with a design-build team for the design and construction of a project if ***the Director determines that the design-build process is appropriate and in the best interests of this State*** and the Department determines that ~~{-~~

—(a) Except as otherwise provided in subsection 2, the estimated cost of the project exceeds \$20,000,000; and

~~—(b) Contracting~~ **contracting** with a design-build team will enable the Department to:

~~{(1)}~~ **1.** Design and construct the project at a cost that is significantly lower than the cost that the Department would incur to design and construct the project using a different method;

~~{(2)}~~ **2.** Design and construct the project in a shorter time than would be required to complete the project using a different method, if exigent circumstances require that the project be designed and constructed within a short time; or

~~{(3)}~~ **3.** Ensure that the design and construction of the project is properly coordinated, if the project is unique, highly technical and complex in nature. ~~†~~

~~—2. Notwithstanding the provisions of subsection 1, the Department may, once in each fiscal year, contract with a design-build team for the design and construction of a project the estimated cost of which is at least \$5,000,000 but less than \$20,000,000 if the Department makes the determinations otherwise required pursuant to paragraph (b) of subsection 1.†~~

Sec. 39. NRS 408.3886 is hereby amended to read as follows:

408.3886 1. After selecting the finalists pursuant to NRS 408.3885, the Department shall provide to each finalist a request for final proposals for the project. The request for final proposals must:

(a) Set forth the factors that the Department will use to select a design-build team to design and construct the project, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the Department.

2. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the Department shall assign, without limitation, a relative weight of 5 percent to the possession of a certificate of eligibility to receive a preference in bidding on public works and a relative weight of at least 30 percent for the proposed cost of design and construction of the project. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular project because of the provisions of this subsection relating to preference in bidding on public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that project.

3. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly ~~†~~ **and** be responsive to the criteria that the Department will use to select a design-build team to design and construct the project described in subsection 1. ~~{and comply with the provisions of NRS 338.141.†}~~

4. After receiving the final proposals for the project, the Department shall:

(a) Select the most cost-effective and responsive final proposal, using the criteria set forth pursuant to subsections 1 and 2;

(b) Reject all the final proposals; or

(c) Request best and final offers from all finalists in accordance with subsection 5.

5. If the Department determines that no final proposal received is cost-effective or responsive and the Department further determines that requesting best and final offers pursuant to this subsection will likely result in the submission of a satisfactory offer, the Department may prepare and provide to each finalist a request for best and final offers for the project. In conjunction with preparing a request for best and final offers pursuant to this subsection, the Department may alter the scope of the project, revise the estimates of the costs of designing and constructing the project, and revise the selection factors and relative weights described in paragraph (a) of subsection 1. A request for best and final offers prepared pursuant to this subsection must set forth the date by which best and final offers must be submitted to the Department. After receiving the best and final offers, the Department shall:

(a) Select the most cost-effective and responsive best and final offer, using the criteria set forth in the request for best and final offers; or

(b) Reject all the best and final offers.

6. If the Department selects a final proposal pursuant to paragraph (a) of subsection 4 or selects a best and final offer pursuant to paragraph (a) of subsection 5, the Department shall hold a public meeting to:

(a) Review and ratify the selection.

(b) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (f) of subsection 3 of NRS 408.3883. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(c) Make available to the public a summary setting forth the factors used by the Department to select the successful design-build team and the ranking of the design-build teams who submitted final proposals and, if applicable, best and final offers. The Department shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

7. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive; and

(b) Must specify:

(1) An amount that is the maximum amount that the Department will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the Department will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

8. A design-build team to whom a contract is awarded pursuant to this section shall:

(a) Assume overall responsibility for ensuring that the design and construction of the project is completed in a satisfactory manner; and

(b) Use the workforce of the prime contractor on the design-build team to construct at least 15 percent of the project.

Sec. 40. NRS 408.5471 is hereby amended to read as follows:

408.5471 As used in NRS 408.5471 to 408.549, inclusive, unless the context otherwise requires, "transportation facility" means a road, railroad, bridge, tunnel, overpass, airport, mass transit facility, parking facility for vehicles or similar commercial facility used for the support of or the transportation of persons or goods, including, without limitation, any other property that is needed to operate the facility. ~~{The term does not include a toll bridge or toll road.}~~

Sec. 41. NRS 408.5473 is hereby amended to read as follows:

408.5473 ~~{The}~~ *In addition to the provisions of sections 2 to 32, inclusive, of this act, the* Department may authorize a person to develop, construct, improve, maintain or operate, or any combination thereof, a transportation facility pursuant to NRS 408.5475 or 408.548.

Sec. 42. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

- (a) NRS 338.1377 to 338.139, inclusive;
- (b) NRS 338.143 to 338.148, inclusive;
- (c) NRS 338.169 to 338.1699, inclusive; or
- (d) NRS 338.1711 to 338.1727, inclusive.

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142, 338.169 to 338.1699, inclusive, and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive ~~{ }~~, *and sections 2 to 32, inclusive, of this act.*

Sec. 43. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9 and NRS 338.1906 and 338.1907, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to

chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 and, with respect to the State, NRS 338.1384 to 338.13847, inclusive.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the bidder who has submitted the lowest responsive and responsible bid.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to ~~{NRS 408.323 or 408.327;}~~ ***the provisions of chapter 408 of NRS;***

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive.

Sec. 44. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 8 and NRS 338.1907, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 and 338.1446.

(c) Divide a project work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not responsive or responsible;

(b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(c) The public interest would be served by such a rejection.

6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall

prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to ~~{NRS 408.323 or 408.327;}~~ ***the provisions of chapter 408 of NRS;***

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive.

Sec. 45. NRS 361.157 is hereby amended to read as follows:

361.157 1. When any real estate or portion of real estate which for any reason is exempt from taxation is leased, loaned or otherwise made available to and used by a natural person, association, partnership or corporation in connection with a business conducted for profit or as a residence, or both, the leasehold interest, possessory interest, beneficial interest or beneficial use of the lessee or user of the property is subject to taxation to the extent the:

(a) Portion of the property leased or used; and

(b) Percentage of time during the fiscal year that the property is leased by the lessee or used by the user, in accordance with NRS 361.2275,

↳ can be segregated and identified. The taxable value of the interest or use must be determined in the manner provided in subsection 3 of NRS 361.227 and in accordance with NRS 361.2275.

2. Subsection 1 does not apply to:

(a) Property located upon a public airport, park, market or fairground, or any property owned by a public airport, unless the property owned by the public airport is not located upon the public airport and the property is leased, loaned or otherwise made available for purposes other than for the purposes of a public airport, including, without limitation, residential, commercial or industrial purposes;

(b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;

(c) Property of any state-supported educational institution, except any part of such property located within a tax increment area created pursuant to NRS 278C.155;

(d) Property leased or otherwise made available to and used by a natural person, private association, private corporation, municipal corporation, quasi-municipal corporation or a political subdivision under the provisions of the Taylor Grazing Act or by the United States Forest Service or the Bureau of Reclamation of the United States Department of the Interior;

(e) Property of any Indian or of any Indian tribe, band or community which is held in trust by the United States or subject to a restriction against alienation by the United States;

(f) Vending stand locations and facilities operated by persons who are blind under the auspices of the Bureau of Services to Persons Who Are Blind or Visually Impaired of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation, whether or not the property is owned by the federal, state or a local government;

(g) Leases held by a natural person, corporation, association, municipal corporation, quasi-municipal corporation or political subdivision for development of geothermal resources, but only for resources which have not been put into commercial production;

(h) The use of exempt property that is leased, loaned or made available to a public officer or employee, incident to or in the course of public employment;

(i) A parsonage owned by a recognized religious society or corporation when used exclusively as a parsonage;

(j) Property owned by a charitable or religious organization all, or a portion, of which is made available to and is used as a residence by a natural person in connection with carrying out the activities of the organization;

(k) Property owned by a governmental entity and used to provide shelter at a reduced rate to elderly persons or persons having low incomes;

(l) The occasional rental of meeting rooms or similar facilities for periods of less than 30 consecutive days; ~~for~~

(m) The use of exempt property to provide day care for children if the day care is provided by a nonprofit organization ~~H~~ ; or

(n) Any lease, easement, operating agreement, license, permit or right of entry for any exempt State property granted by the Department of Transportation pursuant to section 28 of this act.

3. Taxes must be assessed to lessees or users of exempt real estate and collected in the same manner as taxes assessed to owners of other real estate, except that taxes due under this section do not become a lien against the property. When due, the taxes constitute a debt due from the lessee or user to the county for which the taxes were assessed and, if unpaid, are recoverable by the county in the proper court of the county.

Sec. 46. 1. This act becomes effective on July 1, 2011.

2. Sections 43 and 44 of this act expire by limitation on April 30, 2013.

Senator Schneider moved the adoption of the amendment.

Remarks by Senators Schneider and Roberson.

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

SENATOR SCHNEIDER:

Amendment No. 416 to Senate Bill No. 83 provides that the Department of Transportation may not enter into a contract with a private partner that includes user fees if the project is constructed for any highway or portion of a highway which is in existence on the effective date of the bill, exceptions for construction of new lanes added to the existing highway so long as the number of lanes on the highway not subject to user fees is not reduced. Which includes any portion of Interstate Highway No. 15, or unless there is an available alternative highway that is not charged which is substantially similar in route, distance, and quality and can accommodate the same classes of vehicles as the portion of the highway that is subject to user fees.

The amendment also makes changes to protect the personal identifying information of highway users. It extends from 20 to 45 the number of days a vehicle leasing company has to provide certain information to the Department of Transportation regarding lessors.

Mr. President, this is a toll-road, better known in Texas as a "pick-pocket partnership" and the State of Nevada is now entering into "pick-pocket partnerships."

Thank you.

SENATOR ROBERSON:

I disagree with my colleague from Clark County regarding his commentary on public-private partnerships.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 88.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 31.

"SUMMARY—Enacts the Uniform Real Property Transfer on Death Act. (BDR 10-59)"

"AN ACT relating to real property; enacting the Uniform Real Property Transfer on Death Act; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill replaces the provisions of existing law authorizing a person to convey real property in a deed which becomes effective upon his or her death with the provisions of the Uniform Real Property Transfer on Death Act. **In this bill, the language of the Uniform Real Property Transfer on Death Act as drafted by the Uniform Law Commission has been modified with language specific to Nevada.**

Section 12 of this bill **maintains a provision of existing law which** authorizes a person to ~~{transfer}~~ **create a deed that transfers** his or her real property pursuant to a ~~{transfer on death}~~ deed ~~{and provides that the transfer of the property occurs at the transferor's}~~ **which becomes effective upon the person's death.** Section 15 of this bill **maintains a provision of existing law which** provides that, to make a ~~{transfer on death}~~ deed, ~~{}~~ **upon death**, a person must have the same capacity as required for the making of a will, and section 16 of this bill ~~{provides for the contents and recording of a transfer on death}~~ **maintains the requirement of existing law that the deed, upon death be recorded.** Section 17 of this bill provides that the ~~{transfer on death}~~ deed **upon death** is effective without consideration and without notice or delivery to, or acceptance by, the ~~{designated}~~ beneficiary during the lifetime of the person making the deed. Section 24 of this bill provides a form that ~~{may}~~ **must** be used to create a ~~{transfer on death}~~ deed, ~~{}~~ **upon death which is substantially the same as the form contained in existing law.**

Under ~~{section}~~ **sections 13 and 25** of this bill, the person making a ~~{transfer on death}~~ deed **upon death** retains the power to revoke the deed. Section ~~{15}~~ of this bill provides that, to revoke the deed, the person must have the capacity required to make a valid will, and section 18 of this bill ~~{provides the manner in which a person may revoke a transfer on death deed.}~~ **13 keeps the provisions of existing law concerning the circumstances under which a deed upon death is void.** Section 25 ~~{of this bill.}~~ **(1) provides a form that may be used to revoke a {transfer on death} deed {** ~~— Sections 14 and }~~ **upon death which is substantially the same as the form contained in existing law; and (2) maintains the requirement in existing law that the revocation of a deed upon death be recorded.** **Sections 19-23 , 28 and 29** of this bill ~~{provide for}~~ **enact provisions governing** the effect of a ~~{transfer on death}~~ deed ~~{~~ ~~— Section 14 provides that a transfer on death deed is nontestamentary.}~~ **upon death which are substantially similar to existing law governing deeds upon death.** Section 19 limits the effect of a ~~{transfer on death}~~ deed **upon death** during the life of the person making ~~{a transfer on death}~~ **the** deed. ~~{Section 20 provides that, subject to certain exceptions, upon the death of the person making a transfer on death deed, the interest in the property is transferred to the designated beneficiary and that the beneficiary takes the property subject to properly recorded encumbrances on the property. Section}~~ **Sections 21 {provides} , 28 and 29 provide** for the disclaimer of a beneficiary's interest

~~It~~ **by recording a disclaimer in the office of the county recorder of the county in which the property is located.** Section 22 provides that a decedent's property which is transferred pursuant to a ~~{transfer on death}~~ deed **upon death** may be subject to the claims of his or her creditors under certain circumstances. Section 23 **maintains a provision of existing law which** prohibits a ~~{transfer on death}~~ deed **upon death** from limiting the recovery of Medicaid benefits.

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

Section 1. Chapter 111 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 27, inclusive, of this act.

Sec. 2. *Sections 2 to 27, inclusive, of this act may be cited as the Uniform Real Property Transfer on Death Act.*

Sec. 3. *As used in sections 2 to 27, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Beneficiary" means a person that receives property under a ~~{transfer on death}~~ deed ~~It~~ upon death.*

Sec. 4.5. *"Deed upon death" means a deed authorized under sections 2 to 27, inclusive, of this act.*

Sec. 5. *"Designated beneficiary" means a person designated to receive property in a ~~{transfer on death}~~ deed ~~It~~ upon death.*

Sec. 5.5. *"Grantor" means an individual who makes a deed upon death.*

Sec. 6. ~~*"Joint owner" means an individual who owns property concurrently with one or more other individuals with a right of survivorship. The term includes:*~~

~~*1. A joint tenant; and*~~

~~*2. An owner of community property with a right of survivorship.*~~

~~*The term does not include a tenant in common or owner of community property without a right of survivorship.*~~ **(Deleted by amendment.)**

Sec. 7. *"Person" means an individual, corporation, business trust, estate, trust, partnership, limited-liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.*

Sec. 8. *"Property" means an interest in real property located in this State which is transferable on the death of the owner.*

Sec. 9. ~~*"Transfer on death deed" means a deed authorized under sections 2 to 27, inclusive, of this act.*~~ **(Deleted by amendment.)**

Sec. 10. ~~*"Transferor" means an individual who makes a transfer on death deed.*~~ **(Deleted by amendment.)**

Sec. 11. ~~*{Sections 2 to 27, inclusive, of this act do not affect any method of transferring property otherwise permitted under the law of this State.}*~~ **(Deleted by amendment.)**

Sec. 12. ~~[An individual may transfer property to one or more beneficiaries effective at the transferor's death by a transfer on death deed.]~~
The owner of an interest in property may create a deed which conveys his or her interest in property to a beneficiary or multiple beneficiaries and which becomes effective upon the death of the owner. A deed created pursuant to this section must be known as a deed upon death.

Sec. 12.3. The owner of an interest in property who creates a deed upon death may designate in the deed:

1. Multiple beneficiaries who will take title to the property upon his or her death as joint tenants with right of survivorship, tenants in common, husband and wife as community property, community property with right of survivorship or any other tenancy that is recognized in this State.

2. The beneficiary or beneficiaries who will take title to the property upon his or her death as the sole and separate property of the beneficiary or beneficiaries without the necessity of the filing of a quitclaim deed or disclaimer by the spouse of any beneficiary.

Sec. 12.7. If the owner of the property which is the subject of a deed upon death holds the interest in the property as a joint tenant with right of survivorship or as community property with the right of survivorship and:

1. The deed includes a conveyance of the interest from each of the other owners, the deed becomes effective on the date of the death of the last surviving owner.

2. The deed does not include a conveyance of the interest from each of the other owners, the deed becomes effective on the date of the death of the owner who created the deed only if that owner is the last surviving owner.

Sec. 13. ~~[A transfer on death deed is revocable even if the deed or another instrument contains a contrary provision.]~~

1. If an owner of an interest in property who creates a deed upon death transfers his or her interest in the property to another person during his or her lifetime, the deed upon death is void.

2. If an owner of an interest in property who creates a deed upon death executes and records more than one deed upon death concerning the same property, the deed upon death that is last recorded before the death of the owner is the effective deed.

Sec. 14. ~~[A transfer on death deed is nontestamentary.]~~ (Deleted by amendment.)

Sec. 15. The capacity required to make or revoke a [transfer on] deed upon death [deed] is the same as the capacity required to make a will.

Sec. 16. A [transfer on death] deed [

~~—1. Except as otherwise provided in subsection 2, must contain the essential elements and formalities of a properly recordable inter vivos deed;~~

~~—2. Must state that the transfer to the designated beneficiary is to occur at the transferor's death; and~~

~~—3. Must be recorded before the transferor's death in the public records.]~~
upon death is valid only if executed and recorded as provided by law in the

office of the county recorder of the county where the property is located ~~and~~ before the death of the owner or the death of the last surviving owner.

Sec. 17. *A ~~transfer on death~~ deed upon death is effective without:*

1. Notice or delivery to or acceptance by the ~~designated~~ beneficiary ~~during the transferor's life;~~ or beneficiaries; or

2. Consideration.

Sec. 18. *~~1. Subject to subsection 2, an instrument is effective to revoke a recorded transfer on death deed, or any part of it, only if the instrument:~~*

~~— (a) Is one of the following:~~

~~— (1) A transfer on death deed that revokes the deed or part of the deed expressly or by inconsistency;~~

~~— (2) An instrument of revocation that expressly revokes the deed or part of the deed; or~~

~~— (3) An inter vivos deed that expressly revokes the transfer on death deed or part of the deed; and~~

~~— (b) Is acknowledged by the transferor after the acknowledgment of the deed being revoked and recorded before the transferor's death in the public records in the office of the county recorder of the county where the deed is recorded.~~

~~2. If a transfer on death deed is made by more than one transferor:~~

~~— (a) Revocation by a transferor does not affect the deed as to the interest of another transferor; and~~

~~— (b) A deed of joint owners is revoked only if it is revoked by all of the living joint owners.~~

~~3. After a transfer on death deed is recorded, it may not be revoked by a revocatory act on the deed.~~

*~~4. This section does not limit the effect of an inter vivos transfer of the property.~~ **(Deleted by amendment.)***

Sec. 19. *During ~~a transferor's life,~~ the owner's lifetime, a ~~transfer on death~~ deed upon death does not:*

1. Affect an interest or right of the ~~transferor or any other~~ owner, including, without limitation, the right to transfer or encumber the property;

2. Affect any method of transferring property otherwise permitted under the laws of this State;

3. Affect an interest or right of a ~~transferee,~~ designated beneficiary, even if the ~~transferee~~ designated beneficiary has actual or constructive notice of the deed;

~~3.~~ 4. Affect an interest or right of a secured or unsecured creditor or future creditor of the ~~transferor,~~ owner, even if the creditor has actual or constructive notice of the deed;

~~4.~~ 5. Affect the ~~transferor's~~ owner's or the designated beneficiary's eligibility for any form of public assistance;

~~§5.7~~ **6.** *Create a legal or equitable interest in favor of the designated beneficiary; or*

~~§6.7~~ **7.** *Subject the property to claims or process of a creditor of the designated beneficiary.*

Sec. 20. ~~1. Except as otherwise provided in the transfer on death deed, this section, chapter 41B of NRS, NRS 133.115 or chapter 135 of NRS, on the death of the transferor, the following rules apply to property that is the subject of a transfer on death deed and owned by the transferor at death:~~

~~— (a) Subject to paragraph (b), the interest in the property is transferred to the designated beneficiary in accordance with the deed.~~

~~— (b) The interest of a designated beneficiary is contingent on the designated beneficiary surviving the transferor. The interest of a designated beneficiary that fails to survive the transferor lapses.~~

~~— (c) Subject to paragraph (d), concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship.~~

~~— (d) If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one which lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.~~

~~2. Subject to this chapter, a beneficiary takes the property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens and other interests to which the property is subject at the transferor's death. For purposes of this chapter, the recording of the transfer on death deed is deemed to have occurred at the transferor's death.~~

~~3. If a transferor is a joint owner and is:~~

~~— (a) Survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or~~

~~— (b) The last surviving joint owner, the transfer on death deed is effective.~~

~~4. A transfer on death deed transfers property without covenant or warranty of title even if the deed contains a contrary provision.~~ **(Deleted by amendment.)**

Sec. 21. *A beneficiary may disclaim all or part of the beneficiary's interest under a deed upon death by recording a disclaimer in the office of the county recorder of the county in which the property is located, as provided by chapter 120 of NRS.*

Sec. 22. 1. *To the extent the ~~transferor's~~ grantor's probate estate is insufficient to satisfy an allowed claim against the estate or a statutory allowance to a surviving spouse or child, the estate may enforce the liability against property transferred ~~at the transferor's death by a transfer on death~~ pursuant to a deed ~~upon death~~.*

2. *If more than one property is transferred ~~by~~ pursuant to one or more ~~transfer on death~~ deeds ~~upon death~~, the liability ~~under~~*

~~subsection 1 is~~ for any claim must be apportioned among the properties in proportion to their net values at the ~~transferor's~~ grantor's death.

3. A proceeding to enforce the liability under this section must be commenced not later than 18 months after the ~~transferor's~~ grantor's death.

Sec. 22.5. A beneficiary or beneficiaries under a deed upon death inherit the property subject to any liens on the property in existence on the date of the death of the grantor.

Sec. 23. The provisions of sections 2 to 27, inclusive, of this act must not be construed to limit the recovery of benefits paid for Medicaid.

Sec. 24. ~~[The]~~ A deed upon death must be in substantially the following form ~~[may be used to create a transfer on death deed. The provisions of sections 2 to 27, inclusive, of this act other than this section govern the effect of this or any other instrument used to create a transfer on death deed.]~~

(front of form)

REVOCABLE TRANSFER ON DEATH DEED

NOTICE TO OWNER

~~—You should carefully read all information on the other side of this form. You May Want to Consult a Lawyer Before Using This Form.~~

~~—This form must be recorded before your death, or it will not be effective.~~

IDENTIFYING INFORMATION

Owner or Owners Making This Deed:

Printed name _____ Mailing address _____

Printed name _____ Mailing address _____

Legal description of the property: _____

PRIMARY BENEFICIARY

~~—I designate the following beneficiary if the beneficiary survives me.~~

Printed name _____ Mailing address, if available _____

~~ALTERNATE BENEFICIARY—Optional~~

~~—If my primary beneficiary does not survive me, I designate the following alternate beneficiary if that beneficiary survives me.~~

Printed name _____ Mailing address, if available _____

TRANSFER ON DEATH

~~—At my death, I transfer my interest in the described property to the beneficiaries as designated above.~~

~~—Before my death, I have the right to revoke this deed.~~

~~SIGNATURE OF OWNER OR OWNERS MAKING THIS DEED~~

Signature _____ *Date* _____

Signature _____ *Date* _____

ACKNOWLEDGMENT

(insert acknowledgment for deed here)

(back of form)

COMMON QUESTIONS ABOUT THE USE OF THIS FORM

~~—What does the Transfer on Death (TOD) deed do? When you die, this deed transfers the described property, subject to any liens or mortgages (or other encumbrances) on the property at your death. Probate is not required. The TOD deed has no effect until you die. You can revoke it at any time. You are also free to transfer the property to someone else during your lifetime. If you do not own any interest in the property when you die, this deed will have no effect.~~

~~—How do I make a TOD deed? Complete this form. Have it acknowledged before a notary public or other individual authorized by law to take acknowledgments. Record the form in each county where any part of the property is located. The form has no effect unless it is acknowledged and recorded before your death.~~

~~—Is the "legal description" of the property necessary? Yes.~~

~~—How do I find the "legal description" of the property? This information may be on the deed you received when you became an owner of the property. This information may also be available in the office of the county recorder for the county where the property is located. If you are not absolutely sure, consult a lawyer.~~

~~—Can I change my mind before I record the TOD deed? Yes. If you have not yet recorded the deed and want to change your mind, simply tear up or otherwise destroy the deed.~~

~~—How do I "record" the TOD deed? Take the completed and acknowledged form to the office of the county recorder of the county where the property is located. Follow the instructions given by the county recorder to make the form part of the official property records. If the property is in more than one county, you should record the deed in each county.~~

~~—Can I later revoke the TOD deed if I change my mind? Yes. You can revoke the TOD deed. No one, including the beneficiaries, can prevent you from revoking the deed.~~

~~—How do I revoke the TOD deed after it is recorded? There are three ways to revoke a recorded TOD deed: (1) Complete and acknowledge a revocation form, and record it in each county where the property is located. (2) Complete and acknowledge a new TOD deed that disposes of the same property, and record it in each county where the property is located. (3) Transfer the property to someone~~

~~else during your lifetime by a recorded deed that expressly revokes the TOD deed. You may not revoke the TOD deed by will.~~

~~—I am being pressured to complete this form. What should I do?— Do not complete this form under pressure. Seek help from a trusted family member, friend or lawyer.~~

~~—Do I need to tell the beneficiaries about the TOD deed?— No, but it is recommended. Secrecy can cause later complications and might make it easier for others to commit fraud.~~

~~—I have other questions about this form. What should I do?— This form is designed to fit some but not all situations. If you have other questions, you are encouraged to consult a lawyer.} :~~

DEED UPON DEATH

I (We) (here insert name of owner(s)) hereby convey to (here insert name of beneficiary or beneficiaries), effective on my (our) death, all right, title and interest in the real property commonly known as, City of, County of, State of Nevada, or located in the County of, State of Nevada, and more particularly described as: (Legal Description)

Together with all improvements, tenements, hereditaments and appurtenances, including easements and water rights, if any, thereto belonging or appertaining, and any reversions, remainders, rents, issues or profits thereof.

THIS DEED IS REVOCABLE. THIS DEED DOES NOT TRANSFER ANY OWNERSHIP UNTIL THE DEATH OF THE GRANTOR(S). THIS DEED REVOKES ALL PRIOR DEEDS BY THE GRANTOR(S) WHICH CONVEY THE SAME REAL PROPERTY PURSUANT TO SECTIONS 2 TO 27, INCLUSIVE, OF THIS ACT, REGARDLESS OF WHETHER THE PRIOR DEEDS FAILED TO CONVEY THE ENTIRE INTEREST OF THE GRANTOR(S) IN THE SAME REAL PROPERTY.

THE UNDERSIGNED HEREBY AFFIRMS THAT THIS DOCUMENT SUBMITTED FOR RECORDING DOES NOT CONTAIN A SOCIAL SECURITY NUMBER.

..... (Date)
 (Signature)

State of Nevada }
 } ss.

County of }

Subscribed and sworn to on this day of, in the year, before me, ... (here insert name of notary public), by (here insert name of principal).

On this day of, in the year before me, ... (here insert name of notary public), personally appeared (here insert name of principal) personally known to me

(or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it.

..... (Signature of Notary Public)

NOTARY SEAL

~~Sec. 25. [The following form may be used to create an instrument of revocation under sections 2 to 27, inclusive, of this act. The provisions of sections 2 to 27, inclusive, of this act other than this section govern the effect of this or any other instrument used to revoke a transfer on death deed.~~

~~(front of form)~~

~~REVOCATION OF TRANSFER ON DEATH DEED~~

~~NOTICE TO OWNER~~

~~— This revocation must be recorded before you die or it will not be effective. This revocation is effective only as to the interests in the property of owners who sign this revocation.~~

~~IDENTIFYING INFORMATION~~

~~Owner or Owners of Property Making This Revocation:~~

~~Printed name _____ Mailing address _____~~

~~Printed name _____ Mailing address _____~~

~~Legal description of the property: _____~~

~~REVOCATION~~

~~— I revoke all my previous transfers of this property by transfer on death deed.~~

~~SIGNATURE OF OWNER OR OWNERS MAKING THIS REVOCATION~~

~~Signature _____ Date _____~~

~~Signature _____ Date _____~~

~~ACKNOWLEDGMENT~~

~~(insert acknowledgment here)~~

~~(back of form)~~

~~COMMON QUESTIONS ABOUT THE USE OF THIS FORM~~

~~— How do I use this form to revoke a Transfer on Death (TOD) deed? Complete this form. Have it acknowledged before a notary public or other individual authorized to take acknowledgments. Record the form in the public records in the office of the county recorder of each county where the property is located. The form must be acknowledged and recorded before your death or it has no effect.~~

~~— How do I find the "legal description" of the property? This information may be on the TOD deed. It may also be available in the~~

~~office of the county recorder for the county where the property is located. If you are not absolutely sure, consult a lawyer.~~

~~How do I "record" the form? Take the completed and acknowledged form to the office of the county recorder of the county where the property is located. Follow the instructions given by the county recorder to make the form part of the official property records. If the property is located in more than one county, you should record the form in each of those counties.~~

~~I am being pressured to complete this form. What should I do? Do not complete this form under pressure. Seek help from a trusted family member, friend or lawyer.~~

~~I have other questions about this form. What should I do? This form is designed to fit some but not all situations. If you have other questions, consult a lawyer.]~~ **A deed upon death may be revoked at any time by the owner or, if there is more than one owner, by any of the owners who created the deed even if the deed or other instrument contains a contrary provision. The revocation is valid only if executed and recorded as provided by law in the office of the county recorder of the county in which the property is located before the death of the owner who executes the revocation. A deed upon death may not be revoked by a revocatory act on the deed. If the property is held as joint tenants with right of survivorship or as community property with the right of survivorship and the revocation is not executed by all the owners, the revocation does not become effective unless the revocation is executed and recorded by the last surviving owner. The revocation of deed must be in substantially the following form:**

REVOCATION OF DEED UPON DEATH

The undersigned hereby revoke(s) the deed upon death recorded on (date), as document or file number, book, at page, records of County, Nevada, listing as beneficiary or beneficiaries.

THE UNDERSIGNED HEREBY AFFIRMS THAT THIS DOCUMENT SUBMITTED FOR RECORDING DOES NOT CONTAIN A SOCIAL SECURITY NUMBER.

..... (Date)

..... (Signature)

State of Nevada }

} ss.

County of }

Subscribed and sworn to on this day of, in the year, before me, ... (here insert name of notary public), by (here insert name of principal).

On this day of, in the year, before me, ... (here insert name of notary public), personally appeared

..... (here insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it.

..... (Signature of Notary Public)

NOTARY SEAL

Sec. 25.5. Upon the death of the last grantor of a deed upon death, a declaration of value of property pursuant to NRS 375.060 and a copy of the death certificate of each grantor must be attached to a Death of Grantor Affidavit and recorded in the office of the county recorder where the deed was recorded. The Death of Grantor Affidavit must be in substantially the following form:

DEATH OF GRANTOR AFFIDAVIT

..... (here insert name of affiant), being duly sworn, deposes and says that (here insert name of deceased), the decedent mentioned in the attached certified copy of the Certificate of Death, is the same person as (here insert name of grantor), named as the grantor or as one of the grantors in the deed upon death recorded on (date), as document or file number, book, at page, records of County, Nevada, covering the real property commonly known as, City of, County of, State of Nevada, or located in the County of, State of Nevada, and more particularly described as:

(Legal Description)

..... (here insert name of affiant) is the beneficiary or at least one of the beneficiaries to whom the real property is conveyed upon the death of the grantor (here insert name of deceased) or is the authorized representative of the beneficiary or at least one of the beneficiaries. The beneficiary or beneficiaries listed in the deed upon death are

THE UNDERSIGNED HEREBY AFFIRMS THAT THIS DOCUMENT SUBMITTED FOR RECORDING CONTAINS A SOCIAL SECURITY NUMBER OF A PERSON OR PERSONS.

..... (Date)

..... (Signature)

State of Nevada }

} ss.

County of }

Subscribed and sworn to on this day of, in the year, before me, ... (here insert name of notary public), by (here insert name of principal).

..... (Signature of Notary Public)

NOTARY SEAL

Sec. 26. ~~{In applying and construing sections 2 to 27, inclusive, of this act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.}~~ **(Deleted by amendment.)**

Sec. 27. ~~{Sections 2 to 27, inclusive, of this act modify, limit and supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq., but do not modify, limit or supersede section 101(e) of that act, 15 U.S.C. § 7001(e), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. § 7003(b).}~~ **(Deleted by amendment.)**

Sec. 28. NRS 120.290 is hereby amended to read as follows:

120.290 1. Subject to subsections 2 to 11, inclusive, delivery of a disclaimer may be effected by personal delivery, first-class mail or any other method likely to result in its receipt.

2. In the case of an interest created under the law of intestate succession or an interest created by will, other than an interest in a testamentary trust:

(a) A disclaimer must be delivered to the personal representative of the decedent's estate; or

(b) If no personal representative is then serving, it must be filed with a court having jurisdiction to appoint the personal representative.

3. In the case of an interest in a testamentary trust:

(a) A disclaimer must be delivered to the trustee then serving or, if no trustee is then serving, to the personal representative of the decedent's estate; or

(b) If no personal representative is then serving, it must be filed with a court having jurisdiction to enforce the trust.

4. In the case of an interest in an inter vivos trust:

(a) A disclaimer must be delivered to the trustee then serving;

(b) If no trustee is then serving, it must be filed with a court having jurisdiction to enforce the trust; or

(c) If the disclaimer is made before the time the instrument creating the trust becomes irrevocable, it must be delivered to the settlor of a revocable trust or the transferor of the interest.

5. In the case of an interest created by a beneficiary designation ~~{made}~~ ***which is disclaimed*** before ~~{the time}~~ the designation becomes irrevocable, ~~{a}~~ ***the*** disclaimer must be delivered to the person making the beneficiary designation.

6. In the case of an interest created by a beneficiary designation ~~{made}~~ ***which is disclaimed*** after ~~{the time}~~ the designation becomes irrevocable ~~{a}~~ :

(a) ***The disclaimer of an interest in personal property*** must be delivered to the person obligated to distribute the interest ~~{a}~~ ; ***and***

(b) ***The disclaimer of an interest in real property must be recorded in the office of the county recorder of the county where the real property that is the subject of the disclaimer is located.***

7. In the case of a disclaimer by a surviving holder of jointly held property, the disclaimer must be delivered to the person to whom the disclaimed interest passes.

8. In the case of a disclaimer by an object or taker in default of exercise of a power of appointment at any time after the power was created:

(a) The disclaimer must be delivered to the holder of the power or to the fiduciary acting under the instrument that created the power; or

(b) If no fiduciary is then serving, it must be filed with a court having authority to appoint the fiduciary.

9. In the case of a disclaimer by an appointee of a nonfiduciary power of appointment:

(a) The disclaimer must be delivered to the holder, the personal representative of the holder's estate or to the fiduciary under the instrument that created the power; or

(b) If no fiduciary is then serving, it must be filed with a court having authority to appoint the fiduciary.

10. In the case of a disclaimer by a fiduciary of a power over a trust or estate, the disclaimer must be delivered as provided in subsection 2, 3 or 4, as if the power disclaimed were an interest in property.

11. In the case of a disclaimer of a power by an agent, the disclaimer must be delivered to the principal or the principal's representative.

12. As used in this section, "beneficiary designation" means an instrument, other than an instrument creating a trust, naming the beneficiary of:

(a) An annuity or insurance policy;

(b) An account with a designation for payment on death;

(c) A security registered in beneficiary form;

(d) A pension, profit-sharing, retirement or other employment-related benefit plan; or

(e) Any other nonprobate transfer at death.

Sec. 29. NRS 120.320 is hereby amended to read as follows:

120.320 If an instrument transferring an interest in or power over property subject to a disclaimer is required or permitted by law to be filed, recorded or registered, the disclaimer may be so filed, recorded or registered.

~~[Failure]~~ ***Except as otherwise provided in paragraph (b) of subsection 6 of NRS 120.290, failure*** to file, record or register the disclaimer does not affect its validity as between the disclaimant and persons to whom the property interest or power passes by reason of the disclaimer.

Sec. 30. NRS 253.0415 is hereby amended to read as follows:

253.0415 1. The public administrator shall:

(a) Investigate:

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

(2) Whether there is any qualified person who is willing and able to serve as administrator of the estate of an intestate decedent to determine whether he or she is eligible to serve in that capacity.

(3) Whether there are beneficiaries named on any asset of the estate or whether any ~~transfer-on-death~~ deed upon death executed pursuant to ~~[NRS 111.109]~~ ***sections 2 to 27, inclusive, of this act*** is on file with the county recorder.

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

(c) Upon court order, act as administrator of the estate of an intestate decedent, regardless of the amount of assets in the estate of the decedent if no other qualified person is willing and able to serve.

2. The public administrator shall not administer any estate:

(a) Held in joint tenancy unless all joint tenants are deceased;

(b) For which a beneficiary form has been registered pursuant to NRS 111.480 to 111.650, inclusive; or

(c) For which a ~~transfer-on-death~~ deed upon death has been executed pursuant to ~~[NRS 111.109]~~ ***sections 2 to 27, inclusive, of this act***.

3. As used in this section, "intestate decedent" means a person who has died without leaving a valid will, trust or other estate plan.

Sec. 31. NRS 375.090 is hereby amended to read as follows:

375.090 The taxes imposed by NRS 375.020, 375.023 and 375.026 do not apply to:

1. A mere change in identity, form or place of organization, such as a transfer between a business entity and its parent, its subsidiary or an affiliated business entity if the affiliated business entity has identical common ownership.

2. A transfer of title to the United States, any territory or state or any agency, department, instrumentality or political subdivision thereof.

3. A transfer of title recognizing the true status of ownership of the real property, including, without limitation, a transfer by an instrument in writing pursuant to the terms of a land sale installment contract previously recorded and upon which the taxes imposed by this chapter have been paid.

4. A transfer of title without consideration from one joint tenant or tenant in common to one or more remaining joint tenants or tenants in common.

5. A transfer, assignment or other conveyance of real property if the owner of the property is related to the person to whom it is conveyed within the first degree of lineal consanguinity or affinity.

6. A transfer of title between former spouses in compliance with a decree of divorce.

7. A transfer of title to or from a trust without consideration if a certificate of trust is presented at the time of transfer.

8. Transfers, assignments or conveyances of unpatented mines or mining claims.

9. A transfer, assignment or other conveyance of real property to a corporation or other business organization if the person conveying the property owns 100 percent of the corporation or organization to which the conveyance is made.

10. A conveyance of real property by deed which becomes effective upon the death of the grantor pursuant to ~~{NRS 111.109.}~~ **sections 2 to 27, inclusive, of this act.**

11. The making, delivery or filing of conveyances of real property to make effective any plan of reorganization or adjustment:

(a) Confirmed under the Bankruptcy Act, as amended, 11 U.S.C. §§ 101 et seq.;

(b) Approved in an equity receivership proceeding involving a railroad, as defined in the Bankruptcy Act; or

(c) Approved in an equity receivership proceeding involving a corporation, as defined in the Bankruptcy Act,

↪ if the making, delivery or filing of instruments of transfer or conveyance occurs within 5 years after the date of the confirmation, approval or change.

12. ~~{The making or delivery of conveyances of real property to make effective any order of the Securities and Exchange Commission if:~~

—(a) ~~The order of the Securities and Exchange Commission in obedience to which the transfer or conveyance is made recites that the transfer or conveyance is necessary or appropriate to effectuate the provisions of section 11 of the Public Utility Holding Company Act of 1935, 15 U.S.C. § 79k;~~

—(b) ~~The order specifies and itemizes the property which is ordered to be transferred or conveyed; and~~

—(c) ~~The transfer or conveyance is made in obedience to the order.~~

~~—13.}~~ A transfer to an educational foundation. As used in this subsection, "educational foundation" has the meaning ascribed to it in subsection 3 of NRS 388.750.

~~{14.}~~ **13.** A transfer to a university foundation. As used in this subsection, "university foundation" has the meaning ascribed to it in subsection 3 of NRS 396.405.

Sec. 32. NRS 388.750 is hereby amended to read as follows:

388.750 1. An educational foundation:

(a) Shall comply with the provisions of chapter 241 of NRS;

(b) Except as otherwise provided in subsection 2, shall make its records public and open to inspection pursuant to NRS 239.010; and

(c) Is exempt from the taxes imposed by NRS 375.020, 375.023 and 375.026 pursuant to subsection ~~{13}~~ **12** of NRS 375.090.

2. An educational foundation is not required to disclose the names of the contributors to the foundation or the amount of their contributions. The educational foundation shall, upon request, allow a contributor to examine,

during regular business hours, any record, document or other information of the foundation relating to that contributor.

3. As used in this section, "educational foundation" means a nonprofit corporation, association or institution or a charitable organization that is:

(a) Organized and operated exclusively for the purpose of supporting one or more kindergartens, elementary schools, junior high or middle schools or high schools, or any combination thereof;

(b) Formed pursuant to the laws of this State; and

(c) Exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 33. NRS 396.405 is hereby amended to read as follows:

396.405 1. A university foundation:

(a) Shall comply with the provisions of chapter 241 of NRS;

(b) Except as otherwise provided in subsection 2, shall make its records public and open to inspection pursuant to NRS 239.010;

(c) Is exempt from the taxes imposed by NRS 375.020, 375.023 and 375.026 pursuant to subsection ~~H4~~ 13 of NRS 375.090; and

(d) May allow a president or an administrator of the university, state college or community college which it supports to serve as a member of its governing body.

2. A university foundation is not required to disclose the name of any contributor or potential contributor to the university foundation, the amount of his or her contribution or any information which may reveal or lead to the discovery of his or her identity. The university foundation shall, upon request, allow a contributor to examine, during regular business hours, any record, document or other information of the foundation relating to that contributor.

3. As used in this section, "university foundation" means a nonprofit corporation, association or institution or a charitable organization that is:

(a) Organized and operated primarily for the purpose of fundraising in support of a university, state college or a community college;

(b) Formed pursuant to the laws of this State; and

(c) Exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 34. NRS 111.109 is hereby repealed.

Sec. 35. The amendatory provisions of this act apply to a ~~transfer on death~~ deed upon death made before, on or after October 1, 2011, by a ~~transferor~~ grantor dying on or after October 1, 2011.

TEXT OF REPEALED SECTION

111.109 Conveyance by deed which becomes effective upon death of grantor.

1. The owner of an interest in real property may create a deed that conveys his or her interest in real property to a grantee which becomes effective upon the death of the owner. Such a conveyance is subject to liens on the property in existence on the date of the death of the owner.

2. The owner of an interest in real property who creates a deed pursuant to subsection 1 may designate in the deed:

(a) Multiple grantees who will take title to the property upon the death of the owner as joint tenants with right of survivorship, tenants in common, husband and wife as community property, community property with right of survivorship or any other tenancy that is recognized in this State.

(b) A grantee or multiple grantees who will take title to the property upon the death of the owner as the sole and separate property of the grantee or grantees without the necessity of the filing of a quitclaim deed or disclaimer by the spouse of any grantee.

3. If the owner of the real property which is the subject of a deed created pursuant to subsection 1 holds the interest in the property as a joint tenant with right of survivorship or as community property with the right of survivorship and:

(a) The deed includes a conveyance of the interest from each of the other owners, the deed becomes effective on the date of the death of the last surviving owner; or

(b) The deed does not include a conveyance of the interest from each of the other owners, the deed becomes effective on the date of the death of the owner who created the deed only if the owner who conveyed his or her interest in real property to the grantee is the last surviving owner.

4. If an owner of an interest in real property who creates a deed pursuant to subsection 1 transfers his or her interest in the real property to another person during his or her lifetime, the deed created pursuant to subsection 1 is void.

5. If an owner of an interest in real property who creates a deed pursuant to subsection 1 executes and records more than one deed concerning the same real property, the deed that is last recorded before the death of the owner is the effective deed.

6. A deed created pursuant to subsection 1 is valid only if executed and recorded as provided by law in the office of the county recorder of the county in which the property is located before the death of the owner or the death of the last surviving owner. The deed must be in substantially the following form:

DEED

I (We) (owner) hereby convey to (grantee), effective on my (our) death, the following described real property:

(Legal Description)

THIS DEED IS REVOCABLE. THIS DEED DOES NOT TRANSFER ANY OWNERSHIP UNTIL THE DEATH OF THE GRANTOR. THIS DEED REVOKES ALL PRIOR DEEDS BY THE GRANTOR WHICH CONVEY THE SAME REAL PROPERTY PURSUANT TO SUBSECTION 1 OF NRS 111.109 REGARDLESS OF WHETHER THE PRIOR DEEDS FAILED TO CONVEY THE GRANTOR'S ENTIRE INTEREST IN THE SAME REAL PROPERTY.

.....
(Signature of Grantor)

7. A deed created pursuant to subsection 1 may be revoked at any time by the owner or, if there is more than one owner, by any of the owners who created the deed. The revocation is valid only if executed and recorded as provided by law in the office of the county recorder of the county in which the property is located before the death of the owner who executes the revocation. If the property is held as joint tenants with right of survivorship or as community property with the right of survivorship and the revocation is not executed by all of the owners, the revocation does not become effective unless the revocation is executed and recorded by the last surviving owner. The revocation of deed must be in substantially the following form:

REVOCATION OF DEED

The undersigned hereby revokes the deed recorded on (date), in docket or book, at page, or instrument number, records of County, Nevada.

.....
(Date)

.....
(Signature)

8. Upon the death of the last grantor of a deed created pursuant to subsection 1, a declaration of value of real property pursuant to NRS 375.060 and a copy of the death certificate of each grantor must be attached to a Death of Grantor Affidavit and recorded in the office of the county recorder where the deed was recorded. The Death of Grantor Affidavit must be in substantially the following form:

DEATH OF GRANTOR AFFIDAVIT

..... (affiant name), being duly sworn, deposes and says that (name of deceased), the decedent mentioned in the attached certified copy of the Certificate of Death, is the same person as (name of grantor), named as the grantor or as one of the grantors in the deed recorded on (date), in docket or book, at page, or instrument number, records of County, Nevada, covering the following described property:

(Legal Description)

..... (affiant name) is the grantee or at least one of the grantees to whom the real property is conveyed upon the death of the grantor (name of deceased) or is the authorized representative of the grantee or at least one of the grantees.

.....
(Date)

.....
(Signature)

9. The provisions of this section must not be construed to limit the recovery of benefits paid for Medicaid.

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. 31 to Senate Bill No. 88 modifies the Uniform Act to better reflect the needs

and procedures in Nevada. For example, the amendment adopts existing Nevada terminology including Deeds upon Death in place of Transfer on Death Deeds. It provides for creating Deeds upon Death and their effect on property ownership, including transfer to multiple beneficiaries and the transfer of whole or partial interest by joint owners. It sets forth details for recording documents, providing ownership rights during the lifetime of the property owner, and recording disclaimers. Finally, the amendment reduces from 18 to 12 months after the grantor's death, the period in which to commence a proceeding to enforce liability.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 100.

Bill read second time.

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

Amendment No. 255.

"SUMMARY—Makes changes to provisions governing local improvement districts. (BDR 21-392)"

"AN ACT relating to local improvement districts; authorizing certain modifications after a local improvement project has begun and assessments have been levied; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes counties, cities and towns to initiate, levy assessments and issue bonds for local improvement projects under certain conditions. (NRS 271.265, 271.270) After a governing body passes an ordinance ordering such a project, modifications may be made to the project by amending the ordinance provided that no construction contracts have yet been entered. (NRS 271.325) ~~[[This] Section 4 of this bill allows certain modifications to be made after the project has begun and assessments have been levied . I provided that such modifications do not increase assessments or, if assessments are increased, the affected property owners have requested such modifications and increased assessments in writing.] Sections 6 and 7 of this bill provide procedures for a governing body to modify such a project without holding a hearing if, after receiving a report on the proposed modification from the municipal engineer or a competent engineer or an engineering firm hired by the governing body, the governing body determines that the magnitude of the changes to the original project do not exceed certain thresholds. Sections 8-13 of this bill provide procedures, including notice, hearing and judicial review, for a governing body to modify such an agreement if those thresholds are exceeded. Sections 14 and 15 of this bill provide further requirements for a governing body that modifies a local improvement project, and section 16 of this bill authorizes a governing body that begins procedures to modify a local improvement project at the request of a person to require that person to pay any expenses incurred by the governing body in connection with the modification. Sections 3 and 18 of~~

this bill authorize the payment, repayment or defeasance of certain obligations as a type of local improvement project.

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

Section 1. ~~{Chapter 271 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~— 1. After a project ordered pursuant to NRS 271.325 has begun and any special assessment thereon has been levied and divided into installments, the governing body may by ordinance modify the project if the modification:~~

~~— (a) Reduces the total amount of the assessment;~~

~~— (b) Makes no change in the total amount of the assessment and causes no increase or decrease in the amount of money assessed on each tract and parcel of land included in the assessment;~~

~~— (c) Eliminates a portion of the project or provides a substitution therein without increasing the cost of any assessment or substantially affecting the distribution of benefits from the work;~~

~~— (d) Eliminates a portion of the assessment district without increasing the amount of any assessment or substantially affecting the distribution of benefits from the work; or~~

~~— (e) Excludes from the project and the assessment property which will not be benefited by the project without increasing the amount of any assessment.~~

~~— 2. A modification made pursuant to subsection 1 which provides for the elimination, addition or substitution of some part of the project and which may result in an increase in some assessments may be approved by the governing body by ordinance if the owners of the assessable property affected by the increased assessments request in writing the modification and the increased assessments.~~

~~— 3. Any modification made pursuant to this section must not release or discharge the sureties upon any bond issued pursuant to this chapter.}~~
(Deleted by amendment.)

Sec. 2. **Chapter 271 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 16, inclusive, of this act.**

Sec. 3. **"Defeasance district project" means the financing of amounts necessary to:**

1. Eliminate any assessment levied pursuant to this chapter; or

2. Pay, repay or defease any obligation to pay any indebtedness secured by any assessment levied pursuant to this chapter within the area of an improvement district or to pay debt service on such indebtedness.

Sec. 4. **After the acquisition or improvement of a project ordered pursuant to NRS 271.325 has begun and any special assessment thereon has been levied and divided into installments, the governing body may modify the project subject to the provisions of sections 4 to 16, inclusive, of this act by:**

1. Eliminating a portion of the project;

2. Making changes or additions to the project;

3. Modifying the assessments to reflect the changes or additions to the project; and

4. Modifying the assessment installments and the due dates of the assessment installments.

Sec. 5. Whenever the governing body determines that a modification authorized pursuant to section 4 of this act is warranted, the engineer shall prepare and file with the clerk a report showing:

1. The proposed modification of the project;

2. If the modified portion of the project is, as modified, functionally equivalent to that portion of the project before modification, a statement to that effect;

3. The estimated cost of the project, as modified;

4. The amount of maximum special benefits estimated to be derived from the project, as modified, by each tract in the improvement district;

5. The modification, if any, of the assessment on each tract in the improvement district resulting from the modification of the project;

6. The modification, if any, of the assessment installments and the due dates of the assessment installments;

7. A revised map showing the location of the project, as modified;

8. If the assessments on each tract in the improvement district are proposed to be modified, an assessment plat with the modified assessments, apportioned based on the project, as modified; and

9. Whether, upon modification of the project the assessment on each tract in the improvement district will exceed the estimated maximum special benefits to be derived by each such tract from the project.

Sec. 6. 1. After receipt of the report required pursuant to section 5 of this act, the governing body may, by ordinance and without a protest hearing, modify the project, the assessments on each tract in the improvement district, the assessment installments and the due dates of the assessment installments as provided in the report pursuant to the provisions of this section if the governing body determines that:

(a) The public convenience and necessity require the modification;

(b) The modified portion of the project, as modified, will be functionally equivalent to that portion of the project before modification;

(c) The cost of the modified portion of the project, as modified, will be no greater than the cost of that portion of the project before modification;

(d) No assessment on any tract in the project will be increased as a result of the modification of the project; and

(e) Upon the modification of the project and, if applicable, the assessments, the amount assessed against each tract in the improvement district will not exceed the maximum special benefits to be derived by each such tract from the project.

2. A determination that is made pursuant to this section is conclusive in the absence of fraud or gross abuse of discretion.

3. An ordinance adopted pursuant to this section may be adopted as if an emergency existed.

Sec. 7. 1. After receipt of the report required pursuant to section 5 of this act, the governing body may, by ordinance and without a protest hearing, modify the project, the assessments on each tract in the improvement project, the assessment installments and the due dates of the assessment installments as provided in the report pursuant to the provisions of this section if:

(a) The governing body determines that the public convenience and necessity require the modification;

(b) The owner of each tract in the improvement district which is proposed to have its assessment modified or which derives benefits from the portion of the project proposed to be eliminated or modified or from the additions proposed to be made to the project has filed written consent to the modification with the clerk;

(c) There has been filed with the clerk:

(1) Evidence that the modification has been consented to by the owners of the bonds for the improvement district which are payable from the assessments in the manner as provided in the ordinance or in the indenture, fiscal agent agreement, resolution or other instrument pursuant to which the bonds are issued; or

(2) An opinion from independent bond counsel stating that the modification does not materially or adversely affect the interests of the owners of the bonds; and

(d) The governing body determines that, upon modification of the project and, if applicable, the assessments, the amount assessed against each tract in the improvement district does not exceed the maximum special benefits to be derived by each such tract from the project.

2. A determination that is made pursuant to this section is conclusive in the absence of fraud or gross abuse of discretion.

3. An ordinance adopted pursuant to this section may be adopted as if an emergency existed.

Sec. 8. 1. After receipt of the report required pursuant to section 5 of this act, if the governing body does not proceed pursuant to section 6 or 7 of this act, the governing body may make a provisional order by resolution to the effect that the project will be modified.

2. In a provisional order made pursuant to subsection 1, the governing body shall set a time, at least 20 days thereafter, and a place at which the owner of each tract in the improvement district, or any other interested person, may appear before the governing body and be heard as to the propriety and advisability of modifying the project and, if applicable, the assessments, the assessment installments and the due dates of the assessment installments. If a mobile home park is located on a tract in the improvement district, the notice must be given to the owner of the tract and each tenant of the mobile home park.

3. Notice must be given:
 - (a) By publication.
 - (b) By mail.
 - (c) By posting.
4. Proof of publication must be by affidavit of the publisher.
5. Proof of mailing and proof of posting must be by affidavit of the engineer, clerk, or any deputy mailing the notice and posting the notice, respectively.
6. Proof of publication, proof of mailing and proof of posting must be maintained in the records of the municipality until all the assessments appertaining to the project have been paid in full, including principal, interest, penalties and any collection costs.
7. The notice must be prepared by the engineer, ratified by the governing body and state:
 - (a) In general terms, the proposed modification of the project.
 - (b) The estimated cost of the project, as modified, and the amount by which that cost is greater or less than the original cost of the project, as reflected in the ordinance creating the improvement district and ordering the project to be acquired or improved.
 - (c) The time and place of the hearing where the governing body will consider all objections to the modification of the project and, if applicable, the assessments, the assessment installments and the due dates of the assessment installments.
 - (d) That all written objections to the modification of the project and, if applicable, the assessments, the assessment installments and the due dates of the assessment installments must be filed with the clerk at least 3 days before the time set for the hearing.
 - (e) That if the owners of tracts in the improvement district which:
 - (1) Are proposed to have assessments modified or which derive benefits from the portion of the project proposed to be eliminated or changed or from the additions proposed to be made to the project; and
 - (2) Upon the modification of the project and, if applicable, the assessments, will in the aggregate have assessments greater than 50 percent of the aggregate amount of the assessments on the tracts in the improvement district which are proposed to have assessments modified or which derive benefits from the portion of the project proposed to be eliminated or changed or from the additions proposed to be made to the project,
- ☞ object in writing, within the time stated in paragraph (d), such modification of the project and, if applicable, the assessments, the assessment installments and the due dates of the installments will not be made.
- (f) That if the assessment on any tract is increased as a result of the modification of the project, the modification of the project and, if applicable, the assessments, the assessment installments and the due dates

of the assessment installments will not be made unless the owner of each such tract has consented in writing to the increase.

(g) That the modification of the project and, if applicable, the assessments, the assessment installments and the due dates of the assessment installments will not be made unless there has been filed with the clerk:

(1) Evidence that the modification is consented to:

(I) By the owners of the bonds for the improvement district which are payable from the assessments; and

(II) In the same manner as amendments to the ordinance creating the improvement district and ordering the project to be acquired or improved, as provided in the ordinance or in the indenture, fiscal agent agreement, resolution or other instrument pursuant to which the bonds are issued; or

(2) An opinion from an independent bond counsel stating that the modification does not materially adversely affect the interests of the owners of the bonds.

(h) That all proceedings regarding and records of the following are available for inspection at the office of the clerk:

(1) The amount of maximum special benefits estimated to be derived from the project, as modified, by each tract in the improvement district;

(2) If applicable, the modified assessment on each tract in the improvement district resulting from the modification of the project; and

(3) If applicable, the modified assessment installments and the due dates of the assessment installments.

(i) That a person may object to the modification of the project and, if applicable, the assessments, the assessment installments and the due dates of the assessment installments using the procedure outlined in the notice.

(j) That if a person objects to the amount of maximum special benefits estimated to be derived from the project, as modified, or to the legality of the proposed modification in any respect:

(1) The person is entitled to be represented by counsel at the hearing;

(2) Any evidence the person wants to present must be presented at the hearing; and

(3) Evidence that is not presented at the hearing may not be presented in an action brought pursuant to section 11 of this act.

8. No substantial change in the proposed modification of the project or, if applicable, the assessments, the assessment installments or the due dates of the assessment installments may be made after the first publication, posting or mailing of notice to property owners, whichever occurs first.

Sec. 9. A modification may not be made pursuant to the provisions of section 7 of this act if, within the time specified in the notice pursuant to paragraph (d) of subsection 7 of section 8 of this act, the owners of tracts in the improvement district which:

1. Are proposed to have assessments modified or which derive benefits from the portion of the project proposed to be eliminated or changed or from the additions proposed to be made to the project; and

2. Upon the modification of the project and, if applicable, the assessments, will in the aggregate have assessments greater than 50 percent of the aggregate amount of the assessments on the tracts in the improvement district which are proposed to have assessments modified or which derive benefits from the portion of the project proposed to be eliminated or changed or from the additions proposed to be made to the project,

↳ file a written objection to the modification with the clerk.

Sec. 10. 1. On the date and at the place fixed for the hearing, any and all property owners and other interested persons may present their views to the governing body with respect to the proposed modification. The governing body may adjourn the hearing from time to time.

2. After the hearing has been concluded, all written complaints, protests and objections have been read and considered, and all persons desiring to be heard in person have been heard, the governing body shall consider the arguments, if any, and any other relevant material put forth, and shall by resolution or ordinance, as the governing body determines, pass upon the merits of each such complaint, protest or objection.

3. If the governing body determines that it is not in the public interest that the proposed modification of the project and, if applicable, the assessments, the assessment installments and the due dates of the assessment installments be made, the governing body shall make an order by resolution to that effect, and thereupon the proceedings for the modification of the project and, if applicable, the assessments, the assessment installments and the due dates of the assessment installments determined against by the order must stop and must not be begun again until the adoption of a new resolution.

4. Any complaint, protest or objection to:

(a) The modification of the project or, if applicable, the assessments, the assessment installments or the due dates of the assessment installments;

(b) The estimated cost of the project, as modified;

(c) The method used to estimate the special benefits to be derived from the project, as modified, generally or by any tract in the improvement district;

(d) The basis established for the apportionment of the assessments based on the project, as modified; or

(e) The regularity, validity and correctness of any other proceedings or instruments taken, adopted or made before the date of the hearing,

↳ shall be deemed waived unless presented at the hearing described in section 10 of this act or in writing at the time and in the manner provided by section 9 of this act.

Sec. 11. 1. Any person filing a written complaint, protest or objection as provided in section 9 of this act, within 30 days after the governing body has finally passed on the complaint, protest or objection by resolution or ordinance as provided in subsection 2 of section 10 of this act, may commence an action or suit in any court of competent jurisdiction to correct or set aside the determination, but thereafter all actions or suits attacking the validity of the proceedings and the amount of special benefits are perpetually barred.

2. Any person who brings an action pursuant to this section must plead with particularity and prove the facts upon which he or she relies to establish:

(a) That the estimate of the cost of the project, as modified, the special benefits to be derived from the project, as modified, or the method used to apportion the cost of the project, as modified, is fraudulent, arbitrary or unsupported by substantial evidence; or

(b) That a provision of sections 4 to 16, inclusive, of this act has been violated.

3. Conclusory allegations of fact or law are insufficient to comply with the requirements of subsections 1 and 2.

4. In any action brought pursuant to this section, judicial review of the proceedings is confined to the record before the governing body. Evidence that has not been presented to the governing body must not be considered by the court.

Sec. 12. 1. After the hearing and the governing body has:

(a) Disposed of all verbal and written complaints, protests and objections;

(b) Determined that no assessment on a tract in the improvement district is increased as a result of the modification or, if any such assessment is increased, that the written consent described in paragraph (f) of subsection 7 of section 8 of this act has been filed with the clerk;

(c) Determined that the written consent described in paragraph (g) of subsection 7 of section 8 of this act has been filed with the clerk; and

(d) Determined that no written objections to the modification were filed pursuant to section 9 of this act,

➡ and the governing body has jurisdiction to proceed, the governing body shall determine whether to proceed with the modification of the project and, if applicable, the assessments, the assessment installments and the due dates of the assessment installments.

2. Any determination made pursuant to this section is conclusive in the absence of fraud or gross abuse of discretion.

Sec. 13. 1. If the governing body determines pursuant to section 12 of this act to proceed with the modification of the project and, if applicable, the assessments, the assessment installments and the due dates of the assessment installments, the governing body may, by ordinance, modify the project and, if applicable, the assessments, the assessment installments and

the due dates of the assessment installments as provided in the report of the engineer filed pursuant to section 5 of this act if:

(a) The governing body determines that the public convenience and necessity require the modification; and

(b) The governing body finds and determines that, upon the modification, the amount assessed against each tract in the improvement district does not exceed the maximum special benefits to be derived by such tract from the project, as modified.

2. Any determination or finding made by the governing body pursuant to this section is conclusive in the absence of fraud or gross abuse of discretion.

3. An ordinance adopted pursuant to this section may be adopted as if an emergency existed.

Sec. 14. 1. If assessments are modified pursuant to an ordinance adopted pursuant to section 6, 7 or 13 of this act, upon adoption of the ordinance, the governing body shall cause to be recorded in the office of the county recorder a certified copy of a list of the tracts in the improvement district, the amount of the assessment on each such tract and the amount of maximum special benefits to be derived from the project, as modified, by each tract in the improvement district, as shown on the assessment plat provided by the engineer pursuant to section 5 of this act.

2. Neither the failure to record the list as provided in this subsection nor any defect or omission in the list regarding any parcel or parcels within the district affects the validity of any assessment, the lien for the payment thereof or the priority of that lien.

Sec. 15. 1. If assessments are reduced pursuant to an ordinance adopted pursuant to section 6, 7 or 13 of this act, the governing body shall adopt an ordinance establishing a fair procedure for providing payment or credit to any person who has paid assessments that would have been reduced pursuant to the ordinance which reduces assessments.

2. A determination regarding the fairness of the procedure established by an ordinance adopted pursuant to this section is conclusive in the absence of fraud or gross abuse of discretion.

3. An ordinance adopted pursuant to this section may be adopted as if an emergency existed.

Sec. 16. If a governing body begins proceedings to modify a project pursuant to the provisions of sections 4 to 16, inclusive, of this act at the request of a person, before beginning those proceedings, the governing body may require the person requesting the modification to pay any expenses incurred by the governing body in connection with the proceedings.

Sec. 17. NRS 271.030 is hereby amended to read as follows:

271.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 271.035 to 271.250, inclusive, and section 3 of this act have the meanings ascribed to them in those sections.

Sec. 18. NRS 271.265 is hereby amended to read as follows:

271.265 1. The governing body of a county, city or town, upon behalf of the municipality and in its name, without any election, may from time to time acquire, improve, equip, operate, ~~and~~ maintain ~~it~~ **and finance**, within or without the municipality, or both within and without the municipality:

- (a) A commercial area vitalization project;
- (b) A curb and gutter project;
- (c) A drainage project;
- (d) An energy efficiency improvement project;
- (e) An off-street parking project;
- (f) An overpass project;
- (g) A park project;
- (h) A public safety project;
- (i) A renewable energy project;
- (j) A sanitary sewer project;
- (k) A security wall;
- (l) A sidewalk project;
- (m) A storm sewer project;
- (n) A street project;
- (o) A street beautification project;
- (p) A transportation project;
- (q) An underpass project;
- (r) A water project; ~~and~~
- (s) **A defeasance district project; and**
- (t)** Any combination of such projects.

2. In addition to the power specified in subsection 1, the governing body of a city having a commission form of government as defined in NRS 267.010, upon behalf of the municipality and in its name, without any election, may from time to time acquire, improve, equip, operate and maintain, within or without the municipality, or both within and without the municipality:

- (a) An electrical project;
- (b) A telephone project;
- (c) A combination of an electrical project and a telephone project;
- (d) A combination of an electrical project or a telephone project with any of the projects, or any combination thereof, specified in subsection 1; and
- (e) A combination of an electrical project and a telephone project with any of the projects, or any combination thereof, specified in subsection 1.

3. In addition to the power specified in subsections 1 and 2, the governing body of a municipality, on behalf of the municipality and in its name, without an election, may finance an underground conversion project with the approval of each service provider that owns the overhead service facilities to be converted.

4. In addition to the power specified in subsections 1, 2 and 3, if the governing body of a municipality in a county whose population is less than

400,000 complies with the provisions of NRS 271.650, the governing body of the municipality, on behalf of the municipality and in its name, without any election, may from time to time acquire, improve, equip, operate and maintain, within or without the municipality, or both within and without the municipality:

- (a) An art project; and
- (b) A tourism and entertainment project.

~~{Sec. 2.}~~ **Sec. 19.** NRS 271.305 is hereby amended to read as follows:

271.305 1. In the provisional order the governing body shall set a time, at least 20 days thereafter, and a place at which the owners of the tracts to be assessed, or any other interested persons, may appear before the governing body and be heard as to the propriety and advisability of acquiring or improving, or acquiring and improving, the project or projects provisionally ordered. If a mobile home park is located on one or more of the tracts to be assessed, the notice must be given to the owner of the tract and each tenant of that mobile home park.

2. Notice must be given:

- (a) By publication.
- (b) By mail.
- (c) By posting.

3. Proof of publication must be by affidavit of the publisher.

4. Proof of mailing and proof of posting must be by affidavit of the engineer, clerk, or any deputy mailing the notice and posting the notice, respectively.

5. Proof of publication, proof of mailing and proof of posting must be maintained in the records of the municipality until all the assessments appertaining to the project have been paid in full, including principal, interest, any penalties, and any collection costs.

6. The notice may be prepared by the engineer and ratified by the governing body, and, except as otherwise provided in subsection 7, must state:

- (a) The kind of project proposed.
- (b) The estimated cost of the project, and the portion, if any, to be paid from sources other than assessments.

- (c) The basis for apportioning the assessments, which assessments must be in proportion to the special benefits derived to each of the several tracts comprising the assessable property and on a front foot, area, zone or other equitable basis.

- (d) The number of installments and time in which the assessments will be payable.

- (e) The maximum rate of interest on unpaid installments of assessments.

- (f) The extent of the improvement district to be assessed, by boundaries or other brief description.

- (g) The time and place of the hearing where the governing body will consider all objections to the project.

(h) That all written objections to the project must be filed with the clerk of the municipality at least 3 days before the time set for the hearing.

(i) If the project is not a commercial area vitalization project, that pursuant to NRS 271.306, if a majority of the property owners to be assessed for a project proposed by a governing body object in writing within the time stated in paragraph (h), the project must not be acquired or improved unless:

(1) The municipality pays one-half or more of the total cost of the project, other than a park project, with money derived from other than the levy or assessments; or

(2) The project constitutes not more than 2,640 feet, including intersections, remaining unimproved in any street, including an alley, between improvements already made to either side of the same street or between improvements already made to intersecting streets.

(j) That the description of the tracts to be assessed, the maximum amount of benefits estimated to be conferred on each such tract and all proceedings in the premises are on file and can be examined at the office of the clerk.

(k) Unless there will be no substantial change, that a substantial change in certain existing street elevations or grades will result from the project, without necessarily including any statement in detail of the extent or location of any such change.

(l) That a person should object to the formation of the district using the procedure outlined in the notice if the person's support for the district is based upon a statement or representation concerning the project that is not contained in the language of the notice.

(m) That if a person objects to the amount of maximum benefits estimated to be assessed or to the legality of the proposed assessments in any respect:

(1) The person is entitled to be represented by counsel at the hearing;

(2) Any evidence the person desires to present on these issues must be presented at the hearing; and

(3) Evidence on these issues that is not presented at the hearing may not thereafter be presented in an action brought pursuant to NRS 271.315.

(n) If the project is a commercial area vitalization project, that:

(1) A person who owns or resides within a tract in the proposed improvement district and which is used exclusively for residential purposes may file a protest to inclusion in the assessment plat pursuant to NRS 271.392; and

(2) Pursuant to NRS 271.306, if written remonstrances by the owners of tracts constituting one-third or more of the basis for the computation of assessments for the commercial area vitalization project are presented to the governing body, the governing body shall not proceed with the commercial area vitalization project.

7. The notice need not state either or both of the exceptions stated in subsection 2 of NRS 271.306 unless either or both of the exceptions are determined by the governing body or the engineer to be relevant to the proposed improvement district to which the notice appertains.

8. All proceedings may be modified or rescinded wholly or in part by resolution adopted by the governing body, or by a document prepared by the engineer and ratified by the governing body, at any time before the passage of the ordinance adopted pursuant to NRS 271.325, creating the improvement district, and authorizing the project.

9. No substantial change in the improvement district, details, preliminary plans or specifications or estimates may be made after the first publication, posting or mailing of notice to property owners, whichever occurs first, except ~~for~~ :

(a) *As otherwise provided in ~~section 4~~ sections 4 to 16, inclusive, of this act; or*

(b) *For the deletion of a portion of a project and property from the proposed program and improvement district or any assessment unit.*

10. The engineer may make minor changes in time, plans and materials entering into the work at any time before its completion.

11. If the ordinance is for a commercial area vitalization project, notice sent pursuant to this section must be sent by mail to each person who owns real property which is located within the proposed improvement district and to each tenant who resides or owns a business located within the proposed improvement district.

~~{Sec. 3}~~ **Sec. 20.** NRS 271.320 is hereby amended to read as follows:
271.320 1. After the hearing and after the governing body has:

(a) Disposed of all complaints, protests and objections, oral and in writing;

(b) Determined that it is not prevented from proceeding pursuant to subsection 3 or 4 of NRS 271.306; and

(c) Determined that:

(1) Either or both exceptions stated in subsection 2 of NRS 271.306 apply; or

(2) There were not filed with the clerk complaints, protests and objections in writing and signed by the owners of tracts constituting a majority of the frontage, of the area, of the zone, or of the other basis for the computation of assessments stated in the notice, of the tracts to be assessed in the improvement district or in the assessment unit, if any,

➤ and the governing body has jurisdiction to proceed, the governing body shall determine whether to proceed with the improvement district, and with each assessment unit, if any, except as otherwise provided in this chapter.

2. ~~{H}~~ ***Except as otherwise provided in ~~section 4~~ sections 4 to 16, inclusive, of this act, if*** the governing body desires to proceed and desires any modification, by motion or resolution it shall direct the engineer to prepare and present to the governing body:

(a) A revised and detailed estimate of the total cost, including, without limiting the generality of the foregoing, the cost of acquiring or improving each proposed project and of each of the incidental costs. The revised estimate does not constitute a limitation for any purpose.

(b) Full and detailed plans and specifications for each proposed project designed to permit and encourage competition among the bidders, if any project is to be acquired by construction contract.

(c) A revised map and assessment plat showing respectively the location of each project and the tracts to be assessed therefor, not including any area or project not before the governing body at a provisional order hearing.

3. That resolution, a separate resolution, or the ordinance creating the improvement district may combine or divide the proposed project or projects into suitable construction units for the purpose of letting separate and independent contracts, regardless of the extent of any project constituting an assessment unit and regardless of whether a portion or none of the cost of any project is to be defrayed other than by the levy of special assessments. Costs of unrelated projects must be segregated for assessment purposes as provided in this chapter.

~~{Sec. 4.}~~ **Sec. 21.** NRS 271.325 is hereby amended to read as follows:

271.325 1. When an accurate estimate of cost, full and detailed plans and specifications and map are prepared, are presented and are satisfactory to the governing body, it shall, by resolution, make a determination that:

(a) Public convenience and necessity require the creation of the district; and

(b) The creation of the district is economically sound and feasible.

➤ This determination may be made part of the ordinance creating the district adopted pursuant to subsection 2 and is conclusive in the absence of fraud or gross abuse of discretion.

2. The governing body may, by ordinance, create the district and order the proposed project to be acquired or improved. This ordinance may be adopted and amended as if an emergency existed.

3. The ordinance must prescribe:

(a) The extent of the improvement district to be assessed, by boundaries or other brief description, and similarly of each assessment unit therein, if any.

(b) The kind and location of each project proposed, without mentioning minor details.

(c) The amount or proportion of the total cost to be defrayed by assessments, the method of levying assessments, the number of installments and the times in which the costs assessed will be payable.

(d) The character and extent of any construction units.

4. The engineer may further revise the cost, plans and specifications and map from time to time for all or any part of any project, and the ordinance may be appropriately amended . ~~{before}~~ ***Except as otherwise provided in ~~{section 17}~~ sections 4 to 16, inclusive, of this act, such amendment must take place before*** letting any construction contract therefor and before any work being done other than by independent contract let by the municipality.

5. The ordinance, if amended, must order the work to be done as provided in this chapter.

6. Upon adoption or amendment of the ordinance, the governing body shall cause to be recorded in the office of the county recorder a certified copy of a list of the tracts to be assessed and the amount of maximum benefits estimated to be assessed against each tract in the assessment area, as shown on the assessment plat as revised and approved by the governing body pursuant to NRS 271.320. Neither the failure to record the list as provided in this subsection nor any defect or omission in the list regarding any parcel or parcels to be included within the district affects the validity of any assessment, the lien for the payment thereof or the priority of that lien.

7. The governing body may not adopt an ordinance creating or modifying the boundaries of an improvement district for a commercial area vitalization project if the boundaries of the improvement district overlap an existing improvement district created for a commercial area vitalization project.

~~{Sec. 5.}~~ **Sec. 22.** NRS 271.367 is hereby amended to read as follows:

271.367 Because the protection afforded by a security wall benefits each tract in the subdivision, in addition to any other basis for apportioning the assessments authorized in NRS 271.010 to 271.360, inclusive, ***and ~~{section 1}~~ sections 4 to 16, inclusive, of this act,*** the governing body may apportion the assessments for a security wall on the basis that all tracts in the subdivision share equally in the cost and maintenance of the project.

~~{Sec. 6.}~~ **Sec. 23.** This act becomes effective on July 1, 2011.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

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

As a brief background, existing law only authorizes changes to Local Improvement Projects (LIPs) if no construction contracts have been entered into. This bill sets forth the circumstances under which these projects can be adjusted after that time and is particularly helpful during the current economic downturn when projects take longer to complete and needed adjustments arise.

Amendment No. 255 to Senate Bill No. 100 sets forth the types of changes that may be made to an LIP.

It requires the engineer on the LIP to prepare a report showing the proposed LIP modification; the cost of the project (as modified); modifications, if any, of assessments; and a revised map of the LIP.

It sets forth three different mechanisms under which the LIP can be modified.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that upon return from reprint, Senate Bills Nos. 43, 83, be re-referred to the Committee on Finance.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 128.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 182.

"SUMMARY—Revises provisions governing guardianships. (BDR 13-156)"

"AN ACT relating to guardianships; revising provisions governing the appointment, powers and duties of guardians; requiring certain guardians to ~~submit to~~ **undergo** a background investigation ~~as a condition of their appointment; requiring the Aging and Disability Services Division of the Department of Health and Human Services to adopt certain regulations;~~ **at their own cost and expense;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law governs the appointment, powers and duties of guardians. (Chapter 159 of NRS) ~~{Section 2 of this bill authorizes the court, as a condition of the appointment of a guardian, to require the guardian to complete any available training concerning guardianships. Section 3 of this bill requires a guardian to present certain documentation to a bank or other financial institution before the guardian may access an account or other asset of a ward that is held by the bank or other financial institution. Section 4 of this bill revises the provisions governing the qualifications, appointment, powers and duties of a guardian ad litem, including a requirement that a guardian ad litem who is not an attorney submit to a background investigation as a condition of his or her appointment. Section 5 of this bill revises the provisions governing payment of the compensation and expenses of an attorney who is appointed to represent an adult ward or proposed adult ward, including a requirement that generally such compensation and expenses be paid from the estate of the ward or proposed ward. Section 6 of this bill requires the Aging and Disability Services Division of the Department of Health and Human Services to adopt regulations prescribing certain forms that must be used when a proposed ward is unable to attend the hearing for the appointment of a guardian.}~~ **Section 7 of this bill requires** ~~{that}~~ a private professional guardian ~~{agree to comply with certain standards of practice and ethics and requires that such a guardian who is not an attorney submit to a background investigation as a condition of his or her appointment.}~~ **to undergo a background investigation at his or her own cost and expense and to present the results of the background investigation to the court upon request.** **Section 8 of this bill requires every guardian to file a verified acknowledgment of the duties and responsibilities of a guardian before performing any duties as a guardian. The acknowledgment must set forth certain provisions, including certain specific duties of the guardian. The court may exempt a public guardian or private professional guardian from filing an acknowledgment in each case and may instead require the guardian to file a general acknowledgment which covers all guardianships to which the guardian may be appointed.** Section 13 of this bill prohibits the removal of a

guardian by the court if the sole reason for removal is the lack of money to pay the compensation and expenses of the guardian.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. 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 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 certified guardian involved in the day-to-day operation or management of the entity.

3. ~~{Before a person who is not an attorney may be appointed as a private professional guardian, the person seeking appointment as a private professional guardian must submit to the court completed fingerprint cards and a form authorizing an investigation of the person's background and the submission of a complete set of the person's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The fingerprint cards and authorization form submitted must be those which are provided to the person by the court. The person's fingerprints must be taken by an agency of law enforcement.~~

~~—4. The person seeking appointment as a private professional guardian shall pay the cost of a background investigation required by subsection 3 and, except as otherwise provided in NRS 239.0115, the court shall keep the results of the investigation confidential.}~~ **A private professional guardian shall, at his or her own cost and expense:**

(a) Undergo a background investigation which requires the submission of a complete set of his or her fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(b) Present the results of the background investigation to the court upon request.

~~{5.}~~ **4.** As used in this section:

(a) "Certified guardian" means a person who is certified by the Center for Guardianship Certification or any successor organization, ~~{and who agrees to comply with the most recent version of the Standards of Practice for Guardians and the Model Code of Ethics for Guardians that have been adopted by the National Guardianship Association or its successor.}~~

(b) "Entity" includes, without limitation, a corporation, whether or not for profit, a limited-liability company and a partnership.

(c) "Person" means a natural person.

Sec. 8. NRS 159.073 is hereby amended to read as follows:

159.073 **1.** Every guardian, ~~{shall,}~~ before entering upon his or her duties as guardian and before letters of guardianship may issue ~~;~~

~~—1.}~~ **, shall:**

(a) Take and subscribe the official oath which must:

~~{(a)}~~ (1) Be endorsed on the letters of guardianship; and

~~{(b)}~~ (2) State that the guardian will well and faithfully perform the duties of guardian according to law.

~~{2.}~~ (b) File in the proceeding the appropriate documents which include, without limitation, the full legal name of the guardian and the residence and post office addresses of the guardian.

(c) *Except as otherwise required in subsection 2, make and file in the proceeding a verified acknowledgment of the duties and responsibilities of a guardian. The acknowledgement must set forth:*

(1) *A summary of the duties, functions and responsibilities of a guardian, including, without limitation, the duty to ~~{act}~~ :*

(I) Act in the best interest of the ward at all times . ~~;~~ to protect the interests of the ward above the interests of the guardian and to protect the ward from any foreseeable harm caused by any person.

(II) Provide the ward with medical, surgical, dental, psychiatric, psychological, hygienic or other care and treatment as needed, with adequate food and clothing and with safe and appropriate housing.

(III) Protect, preserve and manage the income, assets and estate of the ward and utilize the income, assets and estate of the ward solely for the benefit of the ward.

(IV) Maintain the assets of the ward in the name of the ward or the name of the guardianship. Except when the spouse of the ward is also his or her guardian, the assets of the ward must not be commingled with the assets of any third party.

(2) *A summary of the statutes, regulations, rules and standards governing the ~~{management of the assets and income of the ward,}~~ duties of a guardian.*

(3) *A list of actions regarding the ward that require the prior approval of the court . ~~;~~*

(4) *A statement of the need for accurate recordkeeping and the filing of ~~{inventories, accountings and}~~ annual reports with the court ~~;~~*

~~—(5) Any additional information required by the court; and~~

~~—(6) A signature paragraph that is in substantially the following form:~~

~~— I hereby certify that I have read and reviewed this acknowledgment of the duties and responsibilities of a guardian and that I understand the terms and conditions under which the guardianship must be managed. I agree to comply with the laws of the State of Nevada governing~~

~~guardianships and understand that failure to comply with any such law or with any order of the court may result in my removal as guardian and may subject me to such penalties as provided by law.] **regarding the finances and well-being of the ward.**~~

2. The court may exempt a public guardian or private professional guardian from filing an acknowledgment in each case and, in lieu thereof, require the public guardian or private professional guardian to file a general acknowledgment covering all guardianships to which the guardian may be appointed by the court.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. NRS 159.183 is hereby amended to read as follows:

159.183 1. Subject to the discretion and approval of the court and except as otherwise provided in subsection 4, a guardian must be allowed:

- (a) Reasonable compensation for the guardian's services;
- (b) Necessary and reasonable expenses incurred in exercising the authority and performing the duties of a guardian; and
- (c) Reasonable expenses incurred in retaining accountants, attorneys, appraisers or other professional services.

2. Reasonable compensation and services must be based upon similar services performed for persons who are not under a legal disability. In determining whether compensation is reasonable, the court may consider:

- (a) The nature of the guardianship;
- (b) The type, duration and complexity of the services required; and
- (c) Any other relevant factors.

3. In the absence of an order of the court pursuant to this chapter shifting the responsibility of the payment of compensation and expenses, the payment of compensation and expenses must be paid from the estate of the ward. In evaluating the ability of a ward to pay such compensation and expenses, the court may consider:

- (a) The nature, extent and liquidity of the ward's assets;
- (b) The disposable net income of the ward;
- (c) Any foreseeable expenses; and
- (d) Any other factors that are relevant to the duties of the guardian pursuant to NRS 159.079 or 159.083.

4. A private professional guardian is not allowed compensation or expenses for services incurred by the private professional guardian as a result of a petition to have him or her removed as guardian if the court removes the private professional guardian pursuant to the provisions of ***paragraph (b), (d), (e), (f) or (h) of subsection [2, 4, 5, 6 or 8] 1*** of NRS 159.185.

~~***[5.— The court shall give the needs of the ward priority over the payment of the compensation and expenses of the guardian.]***~~

Sec. 13. NRS 159.185 is hereby amended to read as follows:

159.185 *I.* The court may remove a guardian if the court determines that:

~~{1-}~~ (a) The guardian has become mentally incompetent, unsuitable or otherwise incapable of exercising the authority and performing the duties of a guardian as provided by law;

~~{2-}~~ (b) The guardian is no longer qualified to act as a guardian pursuant to NRS 159.059;

~~{3-}~~ (c) The guardian has filed for bankruptcy within the previous 5 years;

~~{4-}~~ (d) The guardian of the estate has mismanaged the estate of the ward;

~~{5-}~~ (e) The guardian has negligently failed to perform any duty as provided by law or by any order of the court and:

~~{a-}~~ (1) The negligence resulted in injury to the ward or the estate of the ward; or

~~{b-}~~ (2) There was a substantial likelihood that the negligence would result in injury to the ward or the estate of the ward;

~~{6-}~~ (f) The guardian has intentionally failed to perform any duty as provided by law or by any lawful order of the court, regardless of injury;

~~{7-}~~ (g) The best interests of the ward will be served by the appointment of another person as guardian; or

~~{8-}~~ (h) The guardian is a private professional guardian who is no longer qualified as a private professional guardian pursuant to NRS 159.0595.

2. A guardian may not be removed if the sole reason for removal is the lack of money to pay the compensation and expenses of the guardian.

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

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. 182 to Senate Bill No. 128 deletes much of the original bill but retains and revises Sections 7, 8, and 13.

It requires a professional guardian to undergo a background investigation at his or her own expense and to present the results of the investigation to the court upon request.

It provides that the acknowledgment filed by a guardian as provided in the measure must include specific provisions, and allows a general acknowledgment to be filed for multiple guardianships.

It retains Section 13, which prohibits the court from removing a guardian for certain financial reasons.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 135.

Bill read second time.

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

Amendment No. 401.

"SUMMARY—Revises provisions governing the presumption of eligibility for coverage for certain occupational diseases. (BDR 53-717)"

"AN ACT relating to occupational diseases; revising provisions governing the presumption that certain occupational diseases arise out of the employment of certain persons; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides a presumption that certain occupational diseases, including heart disease, lung disease, cancer and hepatitis, diagnosed after the termination of the employment of a person in certain occupations, including as a police officer, firefighter or arson investigator, arose out of the employment of the person if the person was employed full-time, continuously for 5 years or more. (NRS 617.453, 617.455, 617.457, 617.485, 617.487) This bill limits the ~~applicability of the presumption that~~ **benefits available for** certain occupational diseases **that** arose out of such employment ~~and provides~~ **by providing** that the ~~presumption applies if:~~ **benefits are only available until the person is eligible for Medicare unless the person began receiving benefits while employed or the person ceased employment before reaching an age at which the person is eligible for an unreduced retirement benefit.**

Additionally, sections 2 and 3 of this bill limit the ability of a person to file for benefits for certain diseases of the lungs and heart. Under sections 2 and 3, a person must file a claim for benefits within 5 years of ceasing employment if the person ceases employment before reaching an age at which the person is eligible for an unreduced retirement benefit.

The provisions of this bill apply only to a person hired on or after July 1, 2011.

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

Section 1. NRS 617.453 is hereby amended to read as follows:

617.453 1. Notwithstanding any other provision of this chapter, cancer, resulting in either temporary or permanent disability, or death, is an occupational disease and compensable as such under the provisions of this chapter if:

(a) The cancer develops or manifests itself out of and in the course of the employment of a person who, for 5 years or more, has been:

(1) Employed in this State in a full-time salaried occupation of fire fighting for the benefit or safety of the public; or

(2) Acting as a volunteer firefighter in this State and is entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145; and

(b) It is demonstrated that:

(1) The person was exposed, while in the course of the employment, to a known carcinogen as defined by the International Agency for Research on Cancer or the National Toxicology Program; and

(2) The carcinogen is reasonably associated with the disabling cancer.

2. With respect to a person who, for 5 years or more, has been employed in this State in a full-time salaried occupation of fire fighting for the benefit or safety of the public, the following substances shall be deemed, for the purposes of paragraph (b) of subsection 1, to be known carcinogens that are reasonably associated with the following disabling cancers:

(a) Diesel exhaust, formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with bladder cancer.

(b) Acrylonitrile, formaldehyde and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with brain cancer.

(c) Diesel exhaust and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with colon cancer.

(d) Formaldehyde shall be deemed to be a known carcinogen that is reasonably associated with Hodgkin's lymphoma.

(e) Formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with kidney cancer.

(f) Chloroform, soot and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with liver cancer.

(g) Acrylonitrile, benzene, formaldehyde, polycyclic aromatic hydrocarbon, soot and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with lymphatic or haematopoietic cancer.

(h) Diesel exhaust, soot, aldehydes and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with basal cell carcinoma, squamous cell carcinoma and malignant melanoma.

(i) Acrylonitrile, benzene and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with prostate cancer.

(j) Diesel exhaust, soot and polychlorinated biphenyls shall be deemed to be known carcinogens that are reasonably associated with testicular cancer.

(k) Diesel exhaust, benzene and X-ray radiation shall be deemed to be known carcinogens that are reasonably associated with thyroid cancer.

3. The provisions of subsection 2 do not create an exclusive list and do not preclude any person from demonstrating, on a case-by-case basis for the purposes of paragraph (b) of subsection 1, that a substance is a known carcinogen that is reasonably associated with a disabling cancer.

4. Compensation awarded to the employee or his or her dependents for disabling cancer pursuant to this section must include:

(a) Full reimbursement for related expenses incurred for medical treatments, surgery and hospitalization in accordance with the schedule of fees and charges established pursuant to NRS 616C.260 or, if the insurer has contracted with an organization for managed care or with providers of health care pursuant to NRS 616B.527, the amount that is allowed for the treatment or other services under that contract; and

(b) The compensation provided in chapters 616A to 616D, inclusive, of NRS for the disability or death.

5. Disabling cancer is presumed to have developed or manifested itself out of and in the course of the employment of any firefighter ~~{described in this section.}~~ *who has been employed in a full-time continuous, uninterrupted and salaried occupation as a firefighter for 5 years or more before the date of the diagnosis.* This rebuttable presumption applies to disabling cancer diagnosed ~~{after}~~ :

(a) *During the person's employment; or*

(b) *After the termination of the person's employment if the diagnosis occurs within a period, not to exceed ~~{60 months,}~~ 5 years after the termination of the person's employment,* which begins with the last date the employee actually worked in the qualifying capacity . ~~{and extends for a period calculated by multiplying 3 months by the number of full years of his or her employment.}~~

➡ This rebuttable presumption must control the awarding of benefits pursuant to this section unless evidence to rebut the presumption is presented.

6. The provisions of this section do not create a conclusive presumption.

7. *Except as otherwise provided in subsection 8, if a person qualifies for medical benefits pursuant to this section, the person may:*

(a) *Begin receiving those medical benefits only if, at the time the person is to begin receiving those medical benefits, the person is not eligible for Medicare or any successor program; and*

(b) *Continue receiving those medical benefits only until the person is eligible for Medicare or any successor program.*

8. *The provisions of subsection 7 do not apply to a person who:*

(a) *Filed a claim for benefits pursuant to this section that was filed and accepted while the person was employed in the position through which the person qualified for the benefits; or*

(b) *Ceased employment in the position through which the person qualified for benefits pursuant to this section if at the time the person ceased such employment the person had not reached the required age to retire pursuant to NRS 286.510 without a reduction pursuant to subsection 6 of NRS 286.510.*

9. *As used in this section, "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.*

Sec. 2. NRS 617.455 is hereby amended to read as follows:

617.455 1. Notwithstanding any other provision of this chapter, diseases of the lungs, resulting in either temporary or permanent disability or death, are occupational diseases and compensable as such under the provisions of this chapter if caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases, arising out of and in the course of the employment of a person who, for 2 years or more, has been:

(a) Employed in this State in a full-time salaried occupation of fire fighting or the investigation of arson for the benefit or safety of the public;

(b) Acting as a volunteer firefighter in this State and is entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145; or

(c) Employed in a full-time salaried occupation as a police officer in this State.

2. Except as otherwise provided in subsection 3, each employee who is to be covered for diseases of the lungs pursuant to the provisions of this section shall submit to a physical examination, including a thorough test of the functioning of his or her lungs and the making of an X-ray film of the employee's lungs, upon employment, upon commencement of the coverage, once every even-numbered year until the employee is 40 years of age or older and thereafter on an annual basis during his or her employment.

3. A thorough test of the functioning of the lungs is not required for a volunteer firefighter.

4. All physical examinations required pursuant to subsection 2 must be paid for by the employer.

5. A disease of the lungs is conclusively presumed to have arisen out of and in the course of the employment of a person who has been employed in a full-time continuous, uninterrupted and salaried occupation as a police officer, firefighter or arson investigator for 5 years or more before the date of disablement. ~~[This rebuttable presumption applies to diseases of the lungs diagnosed:~~

~~—(a) During the person's employment; or~~

~~—(b) After the termination of the person's employment if the diagnosis occurs within a period, not to exceed 5 years after the termination of the person's employment, which begins with the last date the employee actually worked in the qualifying capacity.]~~

6. Failure to correct predisposing conditions which lead to lung disease when so ordered in writing by the examining physician after the annual examination excludes the employee from the benefits of this section if the correction is within the ability of the employee.

7. A person who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a firefighter, police officer or arson investigator,

↳ may elect to receive the benefits provided under NRS 616C.440 for a permanent total disability.

8. Except as otherwise provided in subsection 9, if a person qualifies for medical benefits pursuant to this section, the person may:

(a) Begin receiving those medical benefits only if, at the time the person is to begin receiving those medical benefits, the person is not eligible for Medicare or any successor program; and

(b) Continue receiving those medical benefits only until the person is eligible for Medicare or any successor program.

9. The provisions of subsection 8 do not apply to a person who:

(a) Filed a claim for benefits pursuant to this section that was filed and accepted while the person was employed in the position through which the person qualified for the benefits; or

(b) Ceased employment in the position through which the person qualified for benefits pursuant to this section if at the time the person ceased such employment the person had not reached the required age to retire pursuant to NRS 286.510 without a reduction pursuant to subsection 6 of NRS 286.510.

10. Except as otherwise provided in subsection 11, a person may not file a claim for benefits pursuant to this section more than 5 years after ceasing employment in the position through which the person qualified for benefits pursuant to this section if at the time the person ceased such employment the person had not reached the required age to retire pursuant to NRS 286.510 without a reduction pursuant to subsection 6 of NRS 286.510.

11. The provisions of subsection 10 do not limit the ability of a person:

(a) Pursuant to any other provision of law to reopen a claim for benefits pursuant to this section if the original claim for benefits which is to be reopened was filed and accepted in accordance with the provisions of this section; or

(b) To file a claim pursuant to any provision of law other than this section, including, without limitation, NRS 617.440.

12. As used in this section, "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

Sec. 3. NRS 617.457 is hereby amended to read as follows:

617.457 1. Notwithstanding any other provision of this chapter, diseases of the heart of a person who, for 5 years or more, has been employed in a full-time continuous, uninterrupted and salaried occupation as a firefighter, arson investigator or police officer in this State before the date of disablement are conclusively presumed to have arisen out of and in the course of the employment. ~~[This rebuttable presumption applies to diseases of the heart diagnosed:~~

~~—(a) During the person's employment; or~~

~~—(b) After the termination of the person's employment if the diagnosis occurs within a period, not to exceed 5 years after the termination of the person's employment, which begins with the last date the employee actually worked in the qualifying capacity.]~~

2. Notwithstanding any other provision of this chapter, diseases of the heart, resulting in either temporary or permanent disability or death, are occupational diseases and compensable as such under the provisions of this chapter if caused by extreme overexertion in times of stress or danger and a causal relationship can be shown by competent evidence that the disability or death arose out of and was caused by the performance of duties as a volunteer firefighter by a person entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145 and who, for 5 years or more, has served continuously as a volunteer firefighter in this State by continuously maintaining an active status on the roster of a volunteer fire department.

3. Except as otherwise provided in subsection 4, each employee who is to be covered for diseases of the heart pursuant to the provisions of this section shall submit to a physical examination, including an examination of the heart, upon employment, upon commencement of coverage and thereafter on an annual basis during his or her employment.

4. A physical examination for a volunteer firefighter is required upon initial employment and once every 3 years after the initial examination until the firefighter reaches the age of 50 years. Each volunteer firefighter who is 50 years of age or older shall submit to a physical examination once each year.

5. The employer of the volunteer firefighter is responsible for scheduling the physical examination.

6. Failure to submit to a physical examination that is scheduled by his or her employer pursuant to subsection 5 excludes the volunteer firefighter from the benefits of this section.

7. The chief of a volunteer fire department may require an applicant to pay for any physical examination required pursuant to this section if the applicant:

(a) Applies to the department for the first time as a volunteer firefighter; and

(b) Is 50 years of age or older on the date of his or her application.

8. The volunteer fire department shall reimburse an applicant for the cost of a physical examination required pursuant to this section if the applicant:

(a) Paid for the physical examination in accordance with subsection 7;

(b) Is declared physically fit to perform the duties required of a firefighter; and

(c) Becomes a volunteer with the volunteer fire department.

9. Except as otherwise provided in subsection 7, all physical examinations required pursuant to subsections 3 and 4 must be paid for by the employer.

10. Failure to correct predisposing conditions which lead to heart disease when so ordered in writing by the examining physician subsequent to the annual examination excludes the employee from the benefits of this section if the correction is within the ability of the employee.

11. A person who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a firefighter, arson investigator or police officer,

➤ may elect to receive the benefits provided under NRS 616C.440 for a permanent total disability.

12. Claims filed under this section may be reopened at any time during the life of the claimant for further examination and treatment of the claimant upon certification by a physician of a change of circumstances related to the occupational disease which would warrant an increase or rearrangement of compensation.

13. Except as otherwise provided in subsection 14, if a person qualifies for medical benefits pursuant to this section, the person may:

(a) Begin receiving those medical benefits only if, at the time the person is to begin receiving those medical benefits, the person is not eligible for Medicare or any successor program; and

(b) Continue receiving those medical benefits only until the person is eligible for Medicare or any successor program.

14. The provisions of subsection 13 do not apply to a person who:

(a) Filed a claim for benefits pursuant to this section that was filed and accepted while the person was employed in the position through which the person qualified for the benefits; or

(b) Ceased employment in the position through which the person qualified for benefits pursuant to this section if at the time the person ceased such employment the person had not reached the required age to retire pursuant to NRS 286.510 without a reduction pursuant to subsection 6 of NRS 286.510.

15. Except as otherwise provided in subsection 16, a person may not file a claim for benefits pursuant to this section more than 5 years after ceasing employment in the position through which the person qualified for benefits pursuant to this section if at the time the person ceased such employment the person had not reached the required age to retire pursuant to NRS 286.510 without a reduction pursuant to subsection 6 of NRS 286.510.

16. The provisions of subsection 15 do not limit the ability of a person:

(a) Pursuant to subsection 12 or any other provision of law to reopen a claim for benefits pursuant to this section if the original claim for benefits which is to be reopened was filed and accepted in accordance with the provisions of this section; or

(b) To file a claim pursuant to any provision of law other than this section, including, without limitation, NRS 617.440.

17. As used in this section, "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

Sec. 4. NRS 617.485 is hereby amended to read as follows:

617.485 1. Notwithstanding any other provision of this chapter and except as otherwise provided in this section, if an employee has hepatitis, the disease is conclusively presumed to have arisen out of and in the course of his or her employment if the employee has been ~~continuously~~ employed for 5 years or more ~~as a police officer,~~ ***in a full-time continuous, uninterrupted and salaried occupation as a police officer,*** firefighter or emergency medical attendant in this State before the date of any temporary or permanent disability or death resulting from the hepatitis.

2. Compensation awarded to a police officer, firefighter or emergency medical attendant, or to the dependents of such a person, for hepatitis pursuant to this section must include:

(a) Full reimbursement for related expenses incurred for medical treatments, surgery and hospitalization; and

(b) The compensation provided in chapters 616A to 616D, inclusive, of NRS for the disability or death.

3. A police officer, salaried firefighter or emergency medical attendant shall:

(a) Submit to a blood test to screen for hepatitis C upon employment, upon the commencement of coverage and thereafter on an annual basis during his or her employment.

(b) Submit to a blood test to screen for hepatitis A and hepatitis B upon employment, upon the commencement of coverage and thereafter on an annual basis during his or her employment, except that a police officer, salaried firefighter or emergency medical attendant is not required to submit to a blood test to screen for hepatitis A and hepatitis B on an annual basis during his or her employment if he or she has been vaccinated for hepatitis A and hepatitis B upon employment or at other medically appropriate times during his or her employment. Each employer shall provide a police officer, salaried firefighter or emergency medical attendant with the opportunity to be vaccinated for hepatitis A and hepatitis B upon employment and at other medically appropriate times during his or her employment.

4. All blood tests required pursuant to this section and all vaccinations provided pursuant to this section must be paid for by the employer.

5. The provisions of this section:

(a) Except as otherwise provided in paragraph (b), do not apply to a police officer, firefighter or emergency medical attendant who is diagnosed with hepatitis upon employment.

(b) Apply to a police officer, firefighter or emergency medical attendant who is diagnosed with hepatitis upon employment if, during the employment

or within 1 year after the last day of the employment, he or she is diagnosed with a different strain of hepatitis.

(c) Apply to a police officer, firefighter or emergency medical attendant who is diagnosed with hepatitis after the termination of the employment if the diagnosis is made within 1 year after the last day of the employment.

6. A police officer, firefighter or emergency medical attendant who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a police officer, firefighter or emergency medical attendant,
 ➤ may elect to receive the benefits provided pursuant to NRS 616C.440 for a permanent total disability.

7. *Except as otherwise provided in subsection 8, if a person qualifies for medical benefits pursuant to this section, the person may:*

(a) *Begin receiving those medical benefits only if, at the time the person is to begin receiving those medical benefits, the person is not eligible for Medicare or any successor program; and*

(b) *Continue receiving those medical benefits only until the person is eligible for Medicare or any successor program.*

8. *The provisions of subsection 7 do not apply to a person who:*

(a) *Filed a claim for benefits pursuant to this section that was filed and accepted while the person was employed in the position through which the person qualified for the benefits; or*

(b) *Ceased employment in the position through which the person qualified for benefits pursuant to this section if at the time the person ceased such employment the person had not reached the required age to retire pursuant to NRS 286.510 without a reduction pursuant to subsection 6 of NRS 286.510.*

9. As used in this section:

(a) "Emergency medical attendant" means a person licensed as an attendant or certified as an emergency medical technician, intermediate emergency medical technician or advanced emergency medical technician pursuant to chapter 450B of NRS, whose primary duties of employment are the provision of emergency medical services.

(b) "Hepatitis" includes hepatitis A, hepatitis B, hepatitis C and any additional diseases or conditions that are associated with or result from hepatitis A, hepatitis B or hepatitis C.

(c) *"Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.*

(d) *"Police officer" means a sheriff, deputy sheriff, officer of a metropolitan police department or city police officer.*

Sec. 5. NRS 617.487 is hereby amended to read as follows:

617.487 1. Notwithstanding any other provision of this chapter and except as otherwise provided in this section, if an employee has hepatitis, the disease is conclusively presumed to have arisen out of and in the course of his or her employment if the employee has been ~~continuously~~ employed for 5 years or more ***in a full-time continuous, uninterrupted and salaried occupation*** as a police officer or a sheriff, deputy sheriff, officer of a metropolitan police department or city police officer in this State before the date of any temporary or permanent disability or death resulting from the hepatitis.

2. Compensation awarded to a police officer, or to the dependents of a police officer, for hepatitis pursuant to this section must include:

(a) Full reimbursement for related expenses incurred for medical treatments, surgery and hospitalization; and

(b) The compensation provided in chapters 616A to 616D, inclusive, of NRS for the disability or death.

3. A police officer shall:

(a) Submit to a blood test to screen for hepatitis C upon employment and upon the commencement of coverage.

(b) If the employer of the police officer provides screening for hepatitis C for police officers on an annual basis, submit to a blood test to screen for hepatitis C thereafter on an annual basis during his or her employment.

(c) If the employer of the police officer provides screening for hepatitis A and hepatitis B for police officers, submit to a blood test to screen for hepatitis A and hepatitis B upon employment, upon the commencement of coverage and thereafter on an annual basis during his or her employment, except that a police officer is not required to submit to a blood test to screen for hepatitis A and hepatitis B on an annual basis during his or her employment if he or she has been vaccinated for hepatitis A and hepatitis B upon employment or at other medically appropriate times during his or her employment. Each employer shall provide a police officer with the opportunity to be vaccinated for hepatitis A and hepatitis B upon employment and at other medically appropriate times during his or her employment.

4. All blood tests required pursuant to this section and all vaccinations provided pursuant to this section must be paid for by the employer.

5. The provisions of this section:

(a) Except as otherwise provided in paragraph (b), do not apply to a police officer who is diagnosed with hepatitis upon employment.

(b) Apply to a police officer who is diagnosed with hepatitis upon employment if, during the employment or within 1 year after the last day of the employment, the police officer is diagnosed with a different strain of hepatitis.

(c) Apply to a police officer who is diagnosed with hepatitis after the termination of the employment if the diagnosis is made within 1 year after the last day of the employment.

6. A police officer who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a police officer,

→ may elect to receive the benefits provided pursuant to NRS 616C.440 for a permanent total disability.

7. Except as otherwise provided in subsection 8, if a person qualifies for medical benefits pursuant to this section, the person may:

(a) Begin receiving those medical benefits only if, at the time the person is to begin receiving those medical benefits, the person is not eligible for Medicare or any successor program; and

(b) Continue receiving those medical benefits only until the person is eligible for Medicare or any successor program.

8. The provisions of subsection 7 do not apply to a person who:

(a) Filed a claim for benefits pursuant to this section that was filed and accepted while the person was employed in the position through which the person qualified for the benefits; or

(b) Ceased employment in the position through which the person qualified for benefits pursuant to this section if at the time the person ceased such employment the person had not reached the required age to retire pursuant to NRS 286.510 without a reduction pursuant to subsection 6 of NRS 286.510.

9. As used in this section:

(a) "Hepatitis" includes hepatitis A, hepatitis B, hepatitis C and any additional diseases or conditions that are associated with or result from hepatitis A, hepatitis B or hepatitis C.

(b) **"Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.**

(c) "Police officer" means any police officer other than a sheriff, deputy sheriff, officer of a metropolitan police department or city police officer.

Sec. 6. The amendatory provisions of this act apply only to a person hired on or after July 1, 2011.

~~{Sec. 6.}~~ **Sec. 7.** This act becomes effective on July 1, 2011.

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. 401 to Senate Bill No. 135 deletes the bill's original provisions relating to the conclusive presumption for work related heart and lung diseases.

The amendment provides that benefits for heart and lung diseases for police officers and firefighters are only available through the workers' compensation system until a worker is eligible for Medicare, unless the worker began receiving benefits while employed or ceased employment before reaching an age at which the worker is eligible for an unreduced retirement benefit.

The amendment also limits the period in which a worker may file for heart or lung disease to within five years of ceasing employment, if the person ceases employment before reaching an age at which they are eligible for an unreduced retirement benefit.

The amendment only applies to a person hired on or after July 1, 2011.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 138.

Bill read second time.

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

Amendment No. 210.

"SUMMARY—Revises provisions relating to ~~emergency medical services provided in certain counties;~~ **the use of unlicensed persons and privately owned equipment during an emergency or catastrophe.** (BDR 40-642)"

"AN ACT relating to emergency medical services; ~~authorizing the use in certain counties of unlicensed persons for the provision of emergency medical care under certain circumstances; revising provisions governing the operation of an ambulance or a vehicle of a fire-fighting agency which provides emergency medical care in certain counties;~~ **allowing counties to designate a person who is authorized to request assistance from unlicensed persons and to use equipment owned by another person during an emergency or catastrophe; providing that such unlicensed persons will be covered under any insurance pool of the county and the county will be responsible for any damage to such equipment;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires all persons who serve as attendants on any ambulance or air ambulance and certain firefighters who provide intermediate or advanced medical care to sick or injured persons at the scene of an emergency or while transporting those persons to a medical facility to hold valid licenses issued by a health authority. (NRS 450B.250) Existing law prohibits the owner, operator, director or chief officer of any ambulance, air ambulance or vehicle of a fire-fighting agency from offering to provide certain emergency care unless the licensed attendant or firefighter who is providing the care has successfully completed a program of training and meets other qualifications. (NRS 450B.1905, 450B.191, 450B.195) **Existing law provides an exemption from these requirements and prohibitions in certain circumstances. (NRS 450B.830)**

Section 1 of this bill ~~authorizes the holder of a permit for the operation of an ambulance or a vehicle of a fire-fighting agency to use a person other than a licensed attendant or firefighter to provide certain emergency care and assistance in a county whose population is less than 15,000 (currently Esmeralda, Eureka, Lander, Lincoln, Mineral, Pershing, Storey and~~

~~White Pine Counties) if the county health officer or any other person designated by the board of county commissioners of the county has determined that an insufficient number of attendants and firefighters are available and the health or safety of the public is in danger as a result of that insufficiency. Section 9 of this bill provides immunity from civil liability for an unlicensed person who provides emergency care and assistance pursuant to section 1 under certain circumstances.}~~ **provides that if a board of county commissioners designates in writing a person who is authorized to determine when to use the exemption during an emergency or catastrophic event, the county will include an unlicensed person who assists at the request of the designated person in any insurance pool of the county and the county will compensate the owner of any equipment used at the request of the designated person if the equipment is damaged, or the county will repair or replace the equipment. Section 1 further requires the designated person to submit a report to the State Health Officer when an exemption is used. The State Health Officer is authorized to review or appoint a review board to review the events and the decision to use the exemption and provide any recommendations to improve the response to any future emergency or catastrophe.**

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

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

~~1. The county health officer or any other person designated by the~~ **If the board of county commissioners in a county whose population is less than 15,000 may determine that the number of persons licensed as attendants and firefighters employed by or serving as volunteers with fire-fighting agencies available to respond to the scene of an emergency within the county:**

~~—(a) Is not sufficient to staff the number of ambulances and vehicles of fire fighting agencies available within the county;~~

~~—(b) Is not sufficient to respond to the scene of an emergency within the county; and~~

~~—(c) May result in a danger to the health or safety of the public because of such insufficiencies.~~

~~2. If the county health officer or other person designated by the board of county commissioners makes a determination pursuant to subsection 1, he or she may issue a declaration attesting to the insufficiency in the number of licensed attendants and firefighters available to respond to the scene of an emergency within the county and the reason for the insufficiency. A declaration issued pursuant to this section:~~

~~—(a) Must be issued only in circumstances in which the insufficiency in the number of licensed attendants and firefighters is unexpected; and~~

~~—(b) Is effective for not more than 72 hours after the declaration is issued.~~

~~3. If a declaration is issued pursuant to subsection 2, the holder of a permit for the operation of an ambulance or a vehicle of a fire-fighting agency may allow a person other than an attendant or firefighter to render emergency care or assistance in an emergency, including, without limitation, allowing the person to act as a driver of or as an unlicensed attendant on the ambulance or vehicle. The holder of a permit shall not allow persons other than attendants or firefighters to render emergency care or assistance pursuant to this section as routine practice for the provision of emergency medical services.~~

~~4. The holder of a permit for the operation of an ambulance or a vehicle of a fire-fighting agency is responsible for determining the persons other than attendants and firefighters who are able to render emergency care or assistance in an emergency.~~

~~5. Except as otherwise provided in this subsection, the health authority shall not suspend, revoke or refuse to renew a permit for the operation of an ambulance or a vehicle of a fire-fighting agency located in a county whose population is less than 15,000 on the ground that the holder of the permit failed adequately to staff the ambulance or vehicle by allowing a person other than a licensed attendant or firefighter to render emergency care or assistance in an emergency pursuant to this section, including, without limitation, allowing such a person to render emergency care or assistance without the presence or supervision of a licensed attendant or firefighter. The health authority may bring an action in a court of competent jurisdiction for an order suspending, revoking or refusing to renew such a permit if the holder of the permit allows a person other than an attendant or firefighter to render emergency care or assistance in an emergency in violation of this section.~~ of a county designates in writing a person who is authorized to determine when to use the exemption from the provisions of this chapter pursuant to NRS 450B.830 during a major catastrophe or emergency, the designated person may request assistance from a person who is not licensed to provide such assistance and may request the use of equipment belonging to a person or entity other than the county. When a designated person uses the exemption:

1. Any person who assists at the request of the designated person who is not employed by the county shall be deemed to be an employee of the county for purposes of coverage by any insurance pool of the county.

2. The county must compensate the owner of equipment that is used at the request of the designated person for any damage caused to the equipment during such use or the county must repair or replace the equipment.

3. The designated person shall submit a report to the State Health Officer not later than 48 hours after the conclusion of the catastrophe or emergency when the designated person uses the exemption pursuant to NRS 450B.830. The report must describe the reasons that the exemption was necessary. The State Health Officer may review or appoint

a review board to review the events and the decision to use the exemption. If such a review is conducted, the State Health Officer or review board shall determine whether any actions could have been taken to avoid using the exemption and provide any recommendations to improve the response to any future catastrophe or emergency.

Sec. 2. **(Deleted by amendment.)**

Sec. 3. **(Deleted by amendment.)**

Sec. 4. **(Deleted by amendment.)**

Sec. 5. **(Deleted by amendment.)**

Sec. 6. **(Deleted by amendment.)**

Sec. 7. **(Deleted by amendment.)**

Sec. 8. **(Deleted by amendment.)**

Sec. 9. **(Deleted by amendment.)**

Sec. 10. **(Deleted by amendment.)**

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 210 revises the provisions to Senate Bill No. 138 by replacing the previous provisions related to utilizing unlicensed personnel in an emergency and instead provides that a Board of County Commissioners may designate in writing a person who is authorized to determine when to use the current statutory exemption from the requirement that certain emergency personnel be licensed, successfully complete certain training, and meet other qualifications.

It provides that an unlicensed person who assists at the request of the designated person be included in any insurance pool of the county and the county will compensate the owner of any equipment used at the request of the designated person if the equipment is damaged, or the county will repair or replace the equipment.

It requires the designated person to submit a report to the State Health Officer when an exemption is used. The State Health Officer is authorized to review or appoint a review board to review the events and the decision to use the exemption and provide any recommendations to improve the response to any future emergency or catastrophe.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 164.

Bill read second time.

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

Amendment No. 486.

"SUMMARY—Revises provisions relating to **senior** claims examiners for third-party administrators ~~and vocational rehabilitation counselors.~~ (BDR 57-232)"

"AN ACT relating to persons involved in the administration of insurance; requiring **senior** claims examiners for third-party administrators to be licensed; ~~requiring vocational rehabilitation counselors for third-party administrators to be licensed;~~ providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a third-party administrator for an insurer to have a certificate of registration issued by the Commissioner of Insurance. (NRS 616B.500, 616B.503, 683A.085)

Section 7 of this bill prohibits a senior claims examiner ~~for a vocational rehabilitation counselor~~ from working for a third-party administrator without a license. ~~Sections 8 and 9~~ of this bill ~~provide~~ **provides** the application process for such a license. **Section 10** of this bill provides that such a license expires after ~~3~~ **5** years and may be renewed. **Sections 1 and 2** of this bill provide the fees for the application for and the renewal of such a license. **Section 11** of this bill provides for disciplinary action against a licensee. **Section 12** of this bill provides a penalty for working without such a license. **Section 13** of this bill provides a penalty for a third-party administrator for hiring or retaining an unlicensed senior claims examiner ~~for vocational rehabilitation counselor~~ or for failing to conduct a reasonable investigation as to whether a prospective employee is licensed.

Section 16.5 of this bill allows the Administrator of the Division of Industrial Relations of the Department of Business and Industry to determine whether a third-party administrator has adequate facilities in this State to administer claims and to conduct such investigations and examinations of third-party administrators as the Administrator deems reasonable. **Section 17** of this bill requires the Administrator ~~of the Division of Industrial Relations of the Department of Business and Industry~~ to prescribe by regulation the qualifications for a senior claims examiner ~~for vocational rehabilitation counselor.~~

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

Section 1. NRS 680B.010 is hereby amended to read as follows:

680B.010 The Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, fees and miscellaneous charges as follows:

1. Insurer's certificate of authority:
 - (a) Filing initial application\$2,450
 - (b) Issuance of certificate:
 -(1) For any one kind of insurance as defined in NRS 681A.010 to 681A.080, inclusive 283
 - (2) For two or more kinds of insurance as so defined.....578
 - (3) For a reinsurer 2,450
 - (c) Each annual continuation of a certificate 2,450
 - (d) Reinstatement pursuant to NRS 680A.180, 50 percent of the annual continuation fee otherwise required.
 - (e) Registration of additional title pursuant to NRS680A.240.....50
 - (f) Annual renewal of the registration of additional title pursuant to NRS 680A.240.....25

2. Charter documents, other than those filed with an application for a certificate of authority. Filing amendments to articles of incorporation, charter, bylaws, power of attorney and other constituent documents of the insurer, each document\$10
3. Annual statement or report. For filing annual statement or report.....\$25
4. Service of process:
 - (a) Filing of power of attorney.....\$5
 - (b) Acceptance of service of process 30
5. Licenses, appointments and renewals for producers of insurance:
 - (a) Application and license\$125
 - (b) Appointment fee for each insurer.....15
 - (c) Triennial renewal of each license 125
 - (d) Temporary license.....10
 - (e) Modification of an existing license 50
6. Surplus lines brokers:
 - (a) Application and license\$125
 - (b) Triennial renewal of each license.....125
7. Managing general agents' licenses, appointments and renewals:
 - (a) Application and license\$125
 - (b) Appointment fee for each insurer.....15
 - (c) Triennial renewal of each license 125
8. Adjusters' licenses and renewals:
 - (a) Independent and public adjusters:
 - (1) Application and license.....\$125
 - (2) Triennial renewal of each license.....125
 - (b) Associate adjusters:
 - (1) Application and license.....125
 - (2) Triennial renewal of each license.....125
9. Licenses and renewals for appraisers of physical damage to motor vehicles:
 - (a) Application and license\$125
 - (b) Triennial renewal of each license.....125
10. Additional title and property insurers pursuant to NRS 680A.240:
 - (a) Original registration\$50
 - (b) Annual renewal 25
11. Insurance vending machines:
 - (a) Application and license, for each machine\$125
 - (b) Triennial renewal of each license.....125
12. Permit for solicitation for securities:
 - (a) Application for permit.....\$100
 - (b) Extension of permit.....50
13. Securities salespersons for domestic insurers:
 - (a) Application and license\$25

(b) Annual renewal of license	15
14. Rating organizations:	
(a) Application and license	\$500
(b) Annual renewal	500
15. Certificates and renewals for administrators licensed pursuant to chapter 683A of NRS ~~{-}~~ and licenses and renewals for <u>senior claims examiners</u> ~~{and vocational rehabilitation counselors}~~ licensed pursuant to chapter 683A of NRS:	
(a) Application and certificate of registration for administrators	\$125
(b) Application and license for <u>senior claims examiners</u> ~~{and vocational rehabilitation counselors}~~	125
(c) Triennial renewal of certificate of registration ~~for license}~~	125
<u>(d) Quinquennial renewal of license</u>	125
16. For copies of the insurance laws of Nevada, a fee which is not less than the cost of producing the copies	
17. Certified copies of certificates of authority and licenses issued pursuant to the Code	\$10
18. For copies and amendments of documents on file in the Division, a reasonable charge fixed by the Commissioner, including charges for duplicating or amending the forms and for certifying the copies and affixing the official seal.	
19. Letter of clearance for a producer of insurance or other licensee if requested by someone other than the licensee	\$10
20. Certificate of status as a producer of insurance or other licensee if requested by someone other than the licensee	\$10
21. Licenses, appointments and renewals for bail agents:	
(a) Application and license	\$125
(b) Appointment for each surety insurer	15
(c) Triennial renewal of each license	125
22. Licenses and renewals for bail enforcement agents:	
(a) Application and license	\$125
(b) Triennial renewal of each license	125
23. Licenses, appointments and renewals for general agents for bail:	
(a) Application and license	\$125
(b) Initial appointment by each insurer	15
(c) Triennial renewal of each license	125
24. Licenses and renewals for bail solicitors:	
(a) Application and license	\$125
(b) Triennial renewal of each license	125
25. Licenses and renewals for title agents and escrow officers:	
(a) Application and license	\$125
(b) Triennial renewal of each license	125
(c) Appointment fee for each title insurer	15

(d) Change in name or location of business or in association.....	10
26. Certificate of authority and renewal for a seller of prepaid funeral contracts.....	\$125
27. Licenses and renewals for agents for prepaid funeral contracts:	
(a) Application and license	\$125
(b) Triennial renewal of each license.....	125
28. Licenses, appointments and renewals for agents for fraternal benefit societies:	
(a) Application and license	\$125
(b) Appointment for each insurer.....	15
(c) Triennial renewal of each license	125
29. Reinsurance intermediary broker or manager:	
(a) Application and license	\$125
(b) Triennial renewal of each license.....	125
30. Agents for and sellers of prepaid burial contracts:	
(a) Application and certificate or license	\$125
(b) Triennial renewal	125
31. Risk retention groups:	
(a) Initial registration	\$250
(b) Each annual continuation of a certificate of registration.....	250
32. Required filing of forms:	
(a) For rates and policies.....	\$25
(b) For riders and endorsements	10
33. Viatical settlements:	
(a) Provider of viatical settlements:	
(1) Application and license.....	\$1,000
(2) Annual renewal	1,000
(b) Broker of viatical settlements:	
(1) Application and license	500
(2) Annual renewal	500
(c) Registration of producer of insurance acting as a viatical settlement broker	250
34. Insurance consultants:	
(a) Application and license	\$125
(b) Triennial renewal	125
35. Licensee's association with or appointment or sponsorship by an organization:	
(a) Initial appointment, association or sponsorship, for each organization.....	\$50
(b) Renewal of each association or sponsorship	50
(c) Annual renewal of appointment	15
36. Purchasing groups:	
(a) Initial registration and review of an application.....	\$100
(b) Each annual continuation of registration.....	100

37. In addition to any other fee or charge, all applicable fees required of any person, including, without limitation, persons listed in this section, pursuant to NRS 680C.110.

Sec. 2. NRS 680C.110 is hereby amended to read as follows:

680C.110 1. In addition to any other fee or charge, the Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, the fees required by this section.

2. A fee required by this section must be:

(a) If an initial fee, paid at the time of an initial application or issuance of a license, as applicable;

(b) If an annual fee, paid on or before March 1 of every year;

(c) If a triennial or quinquennial fee, paid on or before the time of continuation, renewal or other similar action in regard to a certificate, license, permit or other type of authorization, as applicable; and

(d) Deposited in the Fund for Insurance Administration and Enforcement created by NRS 680C.100.

3. The fees required pursuant to this section are not refundable.

4. The following fees must be paid by the following persons to the Commissioner:

(a) Associations of self-insured private employers, as defined in NRS 616A.050:

(1) Initial fee\$1,300

(2) Annual fee\$1,300

(b) Associations of self-insured public employers, as defined in NRS 616A.055:

(1) Initial fee\$1,300

(2) Annual fee\$1,300

(c) External review organizations, as provided for in NRS 616A.469 or 683A.371, or both:

(1) Initial fee\$60

(2) Annual fee\$60

(d) Insurers not otherwise provided for in this subsection:

(1) Initial fee\$1,300

(2) Annual fee\$1,300

(e) Producers of insurance, as defined in NRS 679A.117:

(1) Initial fee\$60

(2) Triennial fee\$60

(f) Accredited reinsurers, as provided for in NRS 681A.160:

(1) Initial fee\$1,300

(2) Annual fee\$1,300

(g) Intermediaries, as defined in NRS 681A.330:

(1) Initial fee\$60

(2) Triennial fee\$60

(h) Reinsurers, as defined in NRS 681A.370:

(1) Initial fee\$1,300

(2) Annual fee	\$1,300
(i) Administrators, as defined in NRS 683A.025 ~~[-]~~ , <i>and senior claims examiners, as defined in section 5 of this act: [-, and vocational rehabilitation counselors, as defined in section 6 of this act:]</i>	
(1) Initial fee	\$60
(2) Triennial fee <i>for an administrator</i>	\$60
<i>(3) Quinquennial fee for a senior claims examiner.....</i>	<i>\$60</i>
(j) Managing general agents, as defined in NRS 683A.060:	
(1) Initial fee	\$60
(2) Triennial fee	\$60
(k) Agents who perform utilization reviews, as defined in NRS 683A.376:	
(1) Initial fee	\$60
(2) Annual fee	\$60
(l) Insurance consultants, as defined in NRS 683C.010:	
(1) Initial fee	\$60
(2) Triennial fee	\$60
(m) Independent adjusters, as defined in NRS 684A.030:	
(1) Initial fee	\$60
(2) Triennial fee	\$60
(n) Public adjusters, as defined in NRS 684A.030:	
(1) Initial fee	\$60
(2) Triennial fee	\$60
(o) Associate adjusters, as defined in NRS 684A.030:	
(1) Initial fee	\$60
(2) Triennial fee	\$60
(p) Motor vehicle physical damage appraisers, as defined in NRS 684B.010:	
(1) Initial fee	\$60
(2) Triennial fee	\$60
(q) Brokers, as defined in NRS 685A.030:	
(1) Initial fee	\$60
(2) Triennial fee	\$60
(r) Eligible surplus line insurers, as provided for in NRS 685A.070:	
(1) Initial fee	\$1,300
(2) Annual fee	\$1,300
(s) Companies, as defined in NRS 686A.330:	
(1) Initial fee	\$1,300
(2) Annual fee	\$1,300
(t) Rate service organizations, as defined in NRS 686B.020:	
(1) Initial fee	\$1,300
(2) Annual fee	\$1,300
(u) Brokers of viatical settlements, as defined in NRS 688C.030:	
(1) Initial fee	\$60
(2) Annual fee	\$60
(v) Providers of viatical settlements, as defined in NRS 688C.080:	

- (1) Initial fee.....\$60
- (2) Annual fee.....\$60
- (w) Agents for prepaid burial contracts subject to the provisions of chapter 689 of NRS:
 - (1) Initial fee.....\$60
 - (2) Triennial fee.....\$60
- (x) Agents for prepaid funeral contracts subject to the provisions of chapter 689 of NRS:
 - (1) Initial fee.....\$60
 - (2) Triennial fee.....\$60
- (y) Sellers of prepaid burial contracts subject to the provisions of chapter 689 of NRS:
 - (1) Initial fee.....\$60
 - (2) Triennial fee.....\$60
- (z) Sellers of prepaid funeral contracts subject to the provisions of chapter 689 of NRS:
 - (1) Initial fee.....\$60
 - (2) Triennial fee.....\$60
- (aa) Providers, as defined in NRS 690C.070:
 - (1) Initial fee.....\$1,300
 - (2) Annual fee.....\$1,300
- (bb) Escrow officers, as defined in NRS 692A.028:
 - (1) Initial fee.....\$60
 - (2) Triennial fee.....\$60
- (cc) Title agents, as defined in NRS 692A.060:
 - (1) Initial fee.....\$60
 - (2) Triennial fee.....\$60
- (dd) Captive insurers, as defined in NRS 694C.060:
 - (1) Initial fee.....\$250
 - (2) Annual fee.....\$250
- (ee) Fraternal benefit societies, as defined in NRS 695A.010:
 - (1) Initial fee.....\$1,300
 - (2) Annual fee.....\$1,300
- (ff) Insurance agents for societies, as provided for in NRS 695A.330:
 - (1) Initial fee.....\$60
 - (2) Triennial fee.....\$60
- (gg) Corporations subject to the provisions of chapter 695B of NRS:
 - (1) Initial fee.....\$1,300
 - (2) Annual fee.....\$1,300
- (hh) Health maintenance organizations, as defined in NRS 695C.030:
 - (1) Initial fee.....\$1,300
 - (2) Annual fee.....\$1,300
- (ii) Organizations for dental care, as defined in NRS 695D.060:
 - (1) Initial fee.....\$1,300
 - (2) Annual fee.....\$1,300

- (jj) Purchasing groups, as defined in NRS 695E.100:
 - (1) Initial fee\$250
 - (2) Annual fee\$250
- (kk) Risk retention groups, as defined in NRS 695E.110:
 - (1) Initial fee\$250
 - (2) Annual fee\$250
- (ll) Prepaid limited health service organizations, as defined in NRS 695F.050:
 - (1) Initial fee\$1,300
 - (2) Annual fee\$1,300
- (mm) Medical discount plans, as defined in NRS 695H.050:
 - (1) Initial fee\$1,300
 - (2) Annual fee\$1,300
- (nn) Club agents, as defined in NRS 696A.040:
 - (1) Initial fee\$60
 - (2) Triennial fee\$60
- (oo) Motor clubs, as defined in NRS 696A.050:
 - (1) Initial fee\$1,300
 - (2) Annual fee\$1,300
- (pp) Bail agents, as defined in NRS 697.040:
 - (1) Initial fee\$60
 - (2) Triennial fee\$60
- (qq) Bail enforcement agents, as defined in NRS 697.055:
 - (1) Initial fee\$60
 - (2) Triennial fee\$60
- (rr) Bail solicitors, as defined in NRS 697.060:
 - (1) Initial fee\$60
 - (2) Triennial fee\$60
- (ss) General agents, as defined in NRS 697.070:
 - (1) Initial fee\$60
 - (2) Triennial fee\$60

Sec. 3. Chapter 683A of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 13, inclusive, of this act.

Sec. 4. ~~As used in sections 4 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 5 and 6 of this act have the meanings ascribed to them in those sections.~~ **(Deleted by amendment.)**

Sec. 5. ~~["Claims"]~~ As used in sections 5 to 13, inclusive, of this act, unless the context otherwise requires, "senior claims examiner" means a person employed by an administrator to administer claims for compensation filed pursuant to NRS 616C.020 and 617.344 ~~+-~~, including, without limitation, performing, reviewing or approving an action relating to a claim on behalf of an administrator pursuant to NRS 616C.065, 616C.230, 616C.390, 616C.392, 616C.440, 616C.475, 616C.490, 616C.505, 616C.555, 616C.700 or 616C.710.

Sec. 6. ~~["Vocational rehabilitation counselor" means a person who works as a certified vocational rehabilitation counselor as defined in NRS 616A.080 or as a vocational rehabilitation counselor pursuant to NRS 616C.540.]~~ **(Deleted by amendment.)**

Sec. 7. ~~[1.]~~ No person may act as, offer to act as or hold himself or herself out to the public as a senior claims examiner for an administrator, unless the person has obtained a license as a senior claims examiner from the Commissioner pursuant to section 8 of this act.

~~[2. No person may act as, offer to act as or hold himself or herself out to the public as a vocational rehabilitation counselor for an administrator, unless the person has obtained a license as a vocational rehabilitation counselor from the Commissioner pursuant to section 9 of this act.]~~

Sec. 8. 1. Except as otherwise provided in subsection 2 or 3, the Commissioner shall issue a license as a senior claims examiner to an applicant who:

(a) Submits an application on a form prescribed by the Commissioner; and

(b) Pays the fee for the issuance of a license prescribed in NRS 680B.010 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

2. The Commissioner may refuse to issue a license as a senior claims examiner to an applicant if the Commissioner determines that the applicant:

(a) Is not competent to act as a senior claims examiner;

(b) Does not have a good personal or business reputation;

(c) Has had a license or certificate as a senior claims examiner denied for cause, suspended or revoked in this State or any other state; or

(d) Has failed to comply with any provision of this chapter.

3. The Commissioner shall submit the information supplied by an applicant pursuant to subsection 1 to the Division of Industrial Relations of the Department of Business and Industry for final approval in accordance with the regulations adopted pursuant to subsection 9 of NRS 616A.400. Unless the Division provides final approval for the applicant to the Commissioner, the Commissioner shall not issue a license as a senior claims examiner to the applicant.

Sec. 9. ~~[1. Except as otherwise provided in subsection 2 or 3, the Commissioner shall issue a license as a vocational rehabilitation counselor to an applicant who:~~

~~—(a) Submits an application on a form prescribed by the Commissioner; and~~

~~—(b) Pays the fee for the issuance of a license prescribed in NRS 680B.010 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.~~

~~2. The Commissioner may refuse to issue a license as a vocational rehabilitation counselor to an applicant if the Commissioner determines that the applicant:~~

- ~~(a) Is not competent to act as a vocational rehabilitation counselor;~~
- ~~(b) Does not have a good personal or business reputation;~~
- ~~(c) Has had a license or certificate as a vocational rehabilitation counselor denied for cause, suspended or revoked in this State or any other state; or~~
- ~~(d) Has failed to comply with any provision of this chapter.~~

~~3. The Commissioner shall submit the information supplied by an applicant pursuant to subsection 1 to the Division of Industrial Relations of the Department of Business and Industry for final approval in accordance with the regulations adopted pursuant to subsection 9 of NRS 616A.400. Unless the Division provides final approval for the applicant to the Commissioner, the Commissioner shall not issue a license as a vocational rehabilitation counselor to the applicant.~~ **(Deleted by amendment.)**

Sec. 10. 1. A license as a senior claims examiner ~~for vocational rehabilitation counselor~~ is valid for ~~3~~ 5 years after the date on which the Commissioner issues the license.

2. A senior claims examiner ~~for vocational rehabilitation counselor~~ may renew a license if the senior claims examiner ~~for vocational rehabilitation counselor~~ submits to the Commissioner:

- (a) An application on a form prescribed by the Commissioner; and**
- (b) The fee for the renewal of the license prescribed in NRS 680B.010 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.**

3. A license that is suspended or revoked must be surrendered immediately to the Commissioner.

Sec. 11. 1. The Commissioner may place conditions, limitations or restrictions on a senior claims examiner's ~~for vocational rehabilitation counselor's~~ license, suspend the license, revoke or refuse to renew the license, issue a public reprimand or accept the voluntary surrender of the license, or may impose an administrative fine of not more than \$1,000 or take any combination of the foregoing actions, if the Commissioner has determined, after notice and a hearing, that the senior claims examiner ~~for vocational rehabilitation counselor~~ has engaged in conduct which, if the senior claims examiner ~~for vocational rehabilitation counselor~~ were a third-party administrator to whom NRS 616D.120 applied, would violate the provisions of paragraphs (a) to (i), inclusive, of subsection 1 of NRS 616D.120 or subsection 2 of NRS 616D.120.

2. An order that imposes discipline pursuant to this section and the findings of fact and conclusions of law supporting that order are public records.

3. As used in this section, "third-party administrator" has the meaning ascribed to it in NRS 616A.335.

Sec. 12. ~~[Any]~~ ***If a person ~~[who]~~ acts as a senior claims examiner ~~for vocational rehabilitation counselor~~ for an administrator without having applied for and received from the Commissioner a license as a senior claims examiner ~~for vocational rehabilitation counselor~~, as applicable, shall be fined:***

~~—1. For a first offense \$1,000.~~

~~—2. For a second offense \$2,000.~~

~~—3. For a third or subsequent offense \$5,000.] , the Commissioner shall impose a fine of not less than \$500 and not more than \$2,500, and may deny the person's application for a license.~~

Sec. 13. ~~[Any]~~ ***If an administrator : ~~[who]~~***

1. Hires a senior claims examiner ~~for vocational rehabilitation counselor~~ who is not licensed pursuant to section 8 ~~for 9~~ of this act;

2. Fails to conduct a reasonable investigation as to whether a prospective employee is properly licensed; or

3. Allows a senior claims examiner ~~for vocational rehabilitation counselor~~ to remain employed as a senior claims examiner ~~for vocational rehabilitation counselor~~ after the expiration of his or her license,

↳ the Commissioner shall ~~be fined~~ impose a fine of not less than \$500 and not more than ~~[\$5,000.] \$2,500, and may revoke or refuse to renew the administrator's certificate of registration.~~

Sec. 14. NRS 683A.383 is hereby amended to read as follows:

683A.383 1. A natural person who applies for the issuance or renewal of a certificate of registration as an administrator or a license as a producer of insurance , ~~for~~ managing general agent ~~for~~ ***or senior claims examiner*** ~~for vocational rehabilitation counselor~~ shall submit to the Commissioner 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 Commissioner 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 certificate of registration or license; or

(b) A separate form prescribed by the Commissioner.

3. A certificate of registration as an administrator or a license as a producer of insurance , ~~for~~ managing general agent ~~for~~ ***or senior claims examiner*** ~~for vocational rehabilitation counselor~~ may not be issued or renewed by the Commissioner 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 or she 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 the applicant 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 Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 15. NRS 683A.385 is hereby amended to read as follows:

683A.385 1. If the Commissioner 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 certificate of registration as an administrator or a license as a producer of insurance , ~~for~~ managing general agent ~~+~~ or senior claims examiner , ~~for vocational rehabilitation counselor~~ the Commissioner shall suspend the certificate of registration or license issued to that person at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder of the certificate of registration or license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate of registration or license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Commissioner shall reinstate a certificate of registration as an administrator or a license as a producer of insurance , ~~for~~ managing general agent ~~+~~ or senior claims examiner ~~for vocational rehabilitation counselor~~ that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate of registration or license was suspended stating that the person whose certificate of registration or license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 16. NRS 683A.387 is hereby amended to read as follows:

683A.387 The application of a natural person who applies for the issuance of a certificate of registration as an administrator or a license as a producer of insurance , ~~for~~ managing general agent ~~+~~ or senior claims examiner ~~for vocational rehabilitation counselor~~ must include the social security number of the applicant.

Sec. 16.5. NRS 616A.400 is hereby amended to read as follows:

616A.400 The Administrator shall:

1. Prescribe by regulation the time within which adjudications and awards must be made.
2. Regulate forms of notices, claims and other blank forms deemed proper and advisable.

3. Prescribe by regulation the methods by which an insurer may approve or reject claims, and may determine the amount and nature of benefits payable in connection therewith.

4. Prescribe by regulation the method for reimbursing an injured employee for expenses necessarily incurred for travel more than 20 miles one way from the employee's residence or place of employment to his or her destination as a result of an industrial injury.

5. Determine whether an insurer or third-party administrator has provided adequate facilities in this State to administer claims and for the retention of a file on each claim.

6. Evaluate the services of private carriers provided to employers in:

(a) Controlling losses; and

(b) Providing information on the prevention of industrial accidents or occupational diseases.

7. Conduct such investigations and examinations of insurers or third-party administrators as the Administrator deems reasonable to determine whether any person has violated the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS or to obtain information useful to enforce or administer these chapters.

8. Prescribe by regulation the qualifications for final approval by the Division of an applicant for a certificate of registration as an administrator pursuant to subsection 3 of NRS 683A.08524. The regulations must set forth qualifications which provide for the final approval of those applicants whose approval is in the best interests of the people of this State.

9. Except with respect to any matter committed by specific statute to the regulatory authority of another person or agency, adopt such other regulations as the Administrator deems necessary to carry out the provisions of chapters 616A to 617, inclusive, of NRS.

Sec. 17. NRS 616A.400 is hereby amended to read as follows:

616A.400 The Administrator shall:

1. Prescribe by regulation the time within which adjudications and awards must be made.

2. Regulate forms of notices, claims and other blank forms deemed proper and advisable.

3. Prescribe by regulation the methods by which an insurer may approve or reject claims, and may determine the amount and nature of benefits payable in connection therewith.

4. Prescribe by regulation the method for reimbursing an injured employee for expenses necessarily incurred for travel more than 20 miles one way from the employee's residence or place of employment to his or her destination as a result of an industrial injury.

5. Determine whether an insurer or third-party administrator has provided adequate facilities in this State to administer claims and for the retention of a file on each claim.

6. Evaluate the services of private carriers provided to employers in:

- (a) Controlling losses; and
- (b) Providing information on the prevention of industrial accidents or occupational diseases.

7. Conduct such investigations and examinations of insurers or third-party administrators as the Administrator deems reasonable to determine whether any person has violated the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS or to obtain information useful to enforce or administer these chapters.

8. Prescribe by regulation the qualifications for final approval by the Division of an applicant for a certificate of registration as an administrator pursuant to subsection 3 of NRS 683A.08524. The regulations must set forth qualifications which provide for the final approval of those applicants whose approval is in the best interests of the people of this State.

9. ***Prescribe by regulation the qualifications for final approval by the Division of an applicant for a license as a senior claims examiner pursuant to section 8 of this act for a vocational rehabilitation counselor pursuant to section 9 of this act.*** **, including, without limitation, the consideration of the education or experience of the applicant. The regulations must set forth qualifications which provide for the final approval of those applicants whose approval is in the best interests of the people of this State and may provide for the administration of an examination to an applicant.**

10. Except with respect to any matter committed by specific statute to the regulatory authority of another person or agency, adopt such other regulations as the Administrator deems necessary to carry out the provisions of chapters 616A to 617, inclusive, of NRS.

Sec. 18. 1. This ~~act~~ section becomes effective upon passage and approval.

2. Section 16.5 of this act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.

~~2. Sections 14, 15 and 16 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:~~

~~— (a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or~~

~~— (b) Are in arrears in the payment for the support of one or more children,~~
~~→ are repealed by the Congress of the United States.~~

3. Sections 1 to 16, inclusive, and 17 of this act become effective upon passage and approval for the purpose of adopting regulations and on January 1, 2013, for all other purposes.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 486 to Senate Bill No. 164 deletes the provisions regarding vocational rehabilitation counselors. It also establishes and regulates the category of senior claims examiner.

The amendment authorizes the Division of Industrial Relations to audit third-party administrators.

It also makes changes to the effective dates of the bill.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 174.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 506.

"SUMMARY—Revises provisions relating to common-interest communities. (BDR 10-105)"

"AN ACT relating to common-interest communities; ~~authorizing appeals to the Commission for Common-Interest Communities and Condominium Hotels after certain actions by the Real Estate Division of the Department of Business and Industry;~~ revising provisions concerning the removal or abatement of a public nuisance on the exterior of a unit under certain circumstances; revising provisions relating to elections for members of an executive board; revising provisions concerning the removal of members of an executive board; revising provisions governing meetings of units' owners and meetings of an executive board; revising provisions governing the maintenance and repair of walls within a common-interest community; revising insurance and bond requirements for unit-owners' associations and community managers; revising provisions relating to the maintenance and investment of association funds; revising provisions concerning the assessment of certain common expenses against a unit's owner; revising provisions governing the withdrawal of money from the operating account of an association; revising provisions concerning liens on a unit for certain **assessments**, charges ~~for~~ and fees; prohibiting a unit's owner from engaging in certain threatening conduct or retaliatory actions; revising provisions governing the award of punitive damages in certain circumstances; revising provisions governing management agreements and community managers; exempting certain associations from the requirement to obtain a state business license; making various other changes relating to common-interest communities; **requiring the Legislative Commission to appoint a subcommittee to study the laws and regulations governing common-interest communities;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 1 of this bill authorizes a person who is aggrieved by certain written decisions of the Real Estate Division of the Department of Business and Industry to appeal to the Commission for Common-Interest Communities and Condominium Hotels.]~~

Section 3 of this bill revises the circumstances under which the employees or agents of a unit-owners' association may enter the grounds of a unit which is being foreclosed to abate a nuisance.

~~[Existing law authorizes the declaration of a common-interest community to provide for cumulative voting for the purpose of electing members of the executive board of the association. (NRS 116.2107) Sections 2 and 4 of this bill prohibit such use of cumulative voting.]~~ **Section 4** ~~[also]~~ revises the procedures for the election of members of the executive board when the number of nominations for such membership is equal to or less than the number of members to be elected.

Under existing law, a member of the executive board may be removed from the executive board if the number of votes cast equals at least 35 percent of the total number of voting members of the association and the majority of all votes cast are cast in favor of removal. (NRS 116.31036) **Section 5** of this bill requires the number of votes cast in favor of removal to be at least 35 percent of the total number of voting members of the association and a majority of the votes cast.

Section 6 of this bill revises provisions governing the responsibility to maintain or repair walls within a common-interest community.

Existing law requires notice of a meeting of the executive board to be provided to the units' owners, except in an emergency. (NRS 116.31083) Under **section 8** of this bill, if a meeting of the executive board will consist only of an executive session, the association is not required to provide notice of the meeting to the units' owners. **Such a meeting is subject to existing law governing executive sessions and, at its next regular meeting, the executive board must disclose that it met in executive session and must state the general subject matter of the meeting.** **Section 8** also authorizes an association to comply with the requirement to include an agenda with a notice of an executive board meeting by stating on the notice that the agenda will be sent at the request of a unit's owner to the electronic mail address of the unit's owner.

Existing law requires the minutes of meetings of the units' owners and the executive board to be provided to any unit's owner upon request and at no charge if those minutes are provided in electronic format. **Sections 7 and 8** of this bill require those minutes to be provided at no charge if provided by electronic mail.

Section 9 of this bill authorizes an executive board to meet in executive session: (1) to discuss the alleged misconduct ~~[,] or~~ professional competence ~~[, or physical or mental health]~~ of an association vendor; and (2) to discuss with the vendor the vendor's alleged misconduct, professional competence or failure to perform under a contract.

Existing law requires an applicant for a certificate as a community manager, or the employer of that applicant, to post a bond in a certain form and amount. (NRS 116A.410) **Sections 10 and 19** of this bill remove this requirement and require an association to provide crime insurance that includes coverage for dishonest acts by certain persons.

Section 11 of this bill: (1) ~~{authorizes an association to invest}~~ revises provisions governing the deposit, maintenance and investment of association funds; ~~{in any instrument or investment authorized by the governing documents or the investment policy established by the executive board.}~~ and (2) exempts petty cash and change funds from the requirement to deposit all association funds in certain financial institutions. **Section 13** of this bill requires the executive board to make available to each unit's owner the policy for the investment of association funds at the same time and in the same manner as the budget is made available to the units' owners.

~~{Section 12 of this bill authorizes an association to assess against a unit the legal fees and costs incurred by an association to enforce a violation of the association's governing documents by the unit's owner, a tenant or an invitee of the unit's owner or tenant.}~~ **Section 12** ~~{also}~~ of this bill amends provisions concerning the imposition of interest charges on late assessments to provide that: (1) interest may, but is not required to, accrue; and (2) interest may accrue at a rate less than the rate specified in statute.

Section 14 of this bill authorizes money in the operating account of an association to be withdrawn without the required signatures to make certain electronic transfers of money.

Existing law provides that an association has a lien on a unit for certain charges imposed against a unit's owner. (NRS 116.3116) ~~{Existing law also allows an association to charge reasonable fees to cover the costs of collecting past due obligations. (NRS 116.310313)}~~ **Section 15** of this bill ~~provides that the association has a lien on a unit for any fees to cover the costs of collecting a past due obligation which are imposed against the unit's owner and that the association has a lien on a unit for any other amounts due the association.}~~ **Section 15** ~~{also provides that a lien on a unit for any fees to cover the costs of collecting a past due obligation is included within the super priority lien for assessments for common expenses.}~~ of this bill revises provisions governing the amount of the association's lien which is entitled to priority over the first security interest on the unit.

Existing law prohibits a member of the executive board of an association, a community manager and officers, employees and agents of an association from taking, or directing or encouraging, retaliatory action against a unit's owner under certain circumstances. (NRS 116.31183) **Section 16** of this bill prohibits a unit's owner from taking, or directing or encouraging, retaliatory action against a member of the executive board, an officer, employee or agent of an association, or another unit's owner under certain circumstances. **Section 16** also prohibits a unit's owner from making certain threats against a

member of the executive board, an officer, agent or employee of the association or another unit's owner.

Section 18 of this bill adds community managers to a prohibition against punitive damages being awarded in certain circumstances.

Section 20 of this bill revises the requirements for management agreements entered into between an association and a community manager, including, without limitation, removing the requirement that the management agreement include provisions for dispute resolution. **Section 20** also requires a community manager to transfer the electronic books, records and papers of a client in a certain manner.

Section 21 of this bill revises the duty of a community manager to deposit, maintain and invest association funds so that such activities must be performed at the client's direction.

Existing law exempts nonprofit corporations from the requirement to obtain a state business license. (NRS 76.020, 76.100) **Sections 22 and 23** of this bill exempt from this requirement associations which are organized as certain other types of nonprofit or cooperative organizations.

Section 24 of this bill requires the Legislative Commission to appoint a subcommittee consisting of three members of the Senate and three members of the Assembly to conduct a study during the 2011-2013 interim concerning the laws and regulations governing common-interest communities.

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

Section 1. ~~{Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~—1. Any person who is aggrieved by a letter of instruction, advisory opinion, declaratory order or other written decision which the person has received from the Division may file a written notice of appeal with the Division not later than 30 days after receipt of the letter of instruction, advisory opinion, declaratory order or other written decision.~~

~~—2. If the next regularly scheduled meeting of the Commission is more than 30 days after the date on which the Division receives a notice of appeal pursuant to subsection 1, the Division must schedule a hearing before the Commission for the next regularly scheduled meeting of the Commission. If the next regularly scheduled meeting of the Commission is 30 days or less after the date on which the Division receives a notice of appeal pursuant to subsection 1, the Division must schedule a hearing before the Commission for the regularly scheduled meeting of the Commission which immediately follows the next regularly scheduled meeting.~~

~~—3. The Commission may continue a hearing scheduled pursuant to subsection 2 upon the written request of the appellant, for good cause shown.~~

~~—4. The Division shall give the appellant written notice of the date, time and place of the hearing on the appeal at least 30 days before the date of the hearing. The notice must be delivered personally to the appellant or mailed~~

~~to the appellant by certified mail, return receipt requested, to his or her last known address.~~

~~— 5. The appellant and the Division may be represented by an attorney at any hearing on an appeal pursuant to this section.~~

~~— 6. The Commission shall render a final decision on an appeal pursuant to this section not later than 20 days after the date of the hearing.~~

~~— 7. The Commission shall notify the appellant of its decision in writing by certified mail, return receipt requested, not later than 60 days after the date of the hearing. The written decision must include any changes to the letter of instruction, advisory opinion, declaratory order or other written decision which are ordered by the Commission.~~ **(Deleted by amendment.)**

Sec. 2. ~~[NRS 116.2107 is hereby amended to read as follows:~~

~~— 116.2107 1. The declaration must allocate to each unit:~~

~~— (a) In a condominium, a fraction or percentage of undivided interests in the common elements and in the common expenses of the association (NRS 116.3115) and a portion of the votes in the association;~~

~~— (b) In a cooperative, a proportionate ownership in the association, a fraction or percentage of the common expenses of the association (NRS 116.3115) and a portion of the votes in the association; and~~

~~— (c) In a planned community, a fraction or percentage of the common expenses of the association (NRS 116.3115) and a portion of the votes in the association.~~

~~— 2. The declaration must state the formulas used to establish allocations of interests. Those allocations may not discriminate in favor of units owned by the declarant or an affiliate of the declarant.~~

~~— 3. If units may be added to or withdrawn from the common-interest community, the declaration must state the formulas to be used to reallocate the allocated interests among all units included in the common-interest community after the addition or withdrawal.~~

~~— 4. The declaration may provide:~~

~~— (a) That different allocations of votes are made to the units on particular matters specified in the declaration; and~~

~~— (b) [For cumulative voting only for the purpose of electing members of the executive board; and~~

~~— (c)] For class voting on specified issues affecting the class if necessary to protect valid interests of the class.~~

~~➔ Except as otherwise provided in NRS 116.31032, a declarant may not utilize [cumulative or] class voting for the purpose of evading any limitation imposed on declarants by this chapter nor may units constitute a class because they are owned by a declarant.~~

~~— 5. Except for minor variations because of rounding, the sum of the liabilities for common expenses and, in a condominium, the sum of the undivided interests in the common elements allocated at any time to all the units must each equal one if stated as a fraction or 100 percent if stated as a percentage. In the event of discrepancy between an allocated interest and the~~

result derived from application of the pertinent formula, the allocated interest prevails.

~~6. In a condominium, the common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated is void.~~

~~7. In a cooperative, any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an ownership interest in the association made without the possessory interest in the unit to which that interest is related is void.~~ **(Deleted by amendment.)**

Sec. 3. NRS 116.310312 is hereby amended to read as follows:

116.310312 1. A person who holds a security interest in a unit must provide the association with the person's contact information as soon as reasonably practicable, but not later than 30 days after the person:

(a) Files an action for recovery of a debt or enforcement of any right secured by the unit pursuant to NRS 40.430; or

(b) Records or has recorded on his or her behalf a notice of a breach of obligation secured by the unit and the election to sell or have the unit sold pursuant to NRS 107.080.

2. If an action or notice described in subsection 1 has been filed or recorded regarding a unit and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association, including its employees, agents and community manager, may, but is not required to, enter the grounds of the unit, whether or not the unit is vacant, to take any of the following actions if the unit's owner refuses or fails to take any action or comply with any requirement imposed on the unit's owner within the time specified by the association as a result of the hearing:

(a) Maintain the exterior of the unit in accordance with the standards set forth in the governing documents, including, without limitation, any provisions governing maintenance, standing water or snow removal.

(b) Remove or abate a public nuisance on the exterior of the unit which ~~[-]~~ ***adversely affects the use and enjoyment of any nearby unit and:***

(1) Is visible from any common area of the community or public streets;

(2) Threatens the health or safety of the residents of the common-interest community; ***or***

(3) Results in blighting or deterioration of the unit or surrounding area . ~~[-]~~ ***and***

~~(4) Adversely affects the use and enjoyment of nearby units.~~

3. If a unit is vacant and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association, including its employees, agents and community manager, may enter the grounds of the unit to maintain the exterior of the unit or abate a public nuisance as described in subsection 2 if the unit's owner refuses or fails to do so.

4. The association may order that the costs of any maintenance or abatement conducted pursuant to subsection 2 or 3, including, without limitation, reasonable inspection fees, notification and collection costs and interest, be charged against the unit. The association shall keep a record of such costs and interest charged against the unit and has a lien on the unit for any unpaid amount of the charges. The lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

5. A lien described in subsection 4 bears interest from the date that the charges become due at a rate determined pursuant to NRS 17.130 until the charges, including all interest due, are paid.

6. Except as otherwise provided in this subsection, a lien described in subsection 4 is prior and superior to all liens, claims, encumbrances and titles other than the liens described in paragraphs (a) and (c) of subsection 2 of NRS 116.3116. If the federal regulations of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior and superior to other security interests shall be determined in accordance with those federal regulations. Notwithstanding the federal regulations, the period of priority of the lien must not be less than the 6 months immediately preceding the institution of an action to enforce the lien.

7. A person who purchases or acquires a unit at a foreclosure sale pursuant to NRS 40.430 or a trustee's sale pursuant to NRS 107.080 is bound by the governing documents of the association and shall maintain the exterior of the unit in accordance with the governing documents of the association. Such a unit may only be removed from a common-interest community in accordance with the governing documents pursuant to this chapter.

8. Notwithstanding any other provision of law, an association, its directors or members of the executive board, employees, agents or community manager who enter the grounds of a unit pursuant to this section are not liable for trespass.

9. As used in this section:

(a) "Exterior of the unit" includes, without limitation, all landscaping outside of a unit and the exterior of all property exclusively owned by the unit owner.

(b) "Vacant" means a unit:

- (1) Which reasonably appears to be unoccupied;
- (2) On which the owner has failed to maintain the exterior to the standards set forth in the governing documents the association; and
- (3) On which the owner has failed to pay assessments for more than 60 days.

Sec. 4. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least

three members, all of whom must be units' owners. The executive board shall elect the officers of the association. Unless the governing documents provide otherwise, the officers of the association are not required to be units' owners. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed 3 years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of the unit's owner's eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his or her name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. ~~{Before the secretary or other officer specified in the bylaws of the association causes notice to be given to each unit's owner of his or her eligibility to serve as a member of the executive board pursuant to subsection 4.}~~ **Unless** the executive board ~~{may determine that}~~ **determines otherwise**, if, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board at the election : ~~{, then the secretary or other officer specified in the bylaws of the association will cause notice to be given to each unit's owner informing each unit's owner that:}~~

(a) The association ~~{will}~~ ~~{must not}~~ **may** prepare or mail ~~{any}~~ ballots to units' owners pursuant to this section ~~{and the}~~ ;

(b) The nominated candidates shall be deemed to be duly elected to the executive board ~~{unless:~~

— (1) ~~A unit's owner who is qualified to serve on the executive board nominates himself or herself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection; and~~

— (2) ~~The number of units' owners who submit such a nomination causes the number of candidates nominated for membership on the executive board~~

to be greater than the number of members to be elected to the executive board.

~~—(b) Each unit's owner who is qualified to serve as a member of the executive board may nominate himself or herself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection.]~~ *effective at the beginning of the next regularly scheduled meeting of the executive board ~~f~~ and following the expiration of the terms of the previous members of the executive board;*

(c) The disclosures of the nominated candidates required by subsection 7 must be made available to a unit's owner upon his or her request at no charge; and

(d) Not less than 10 days before the next regularly scheduled meeting of the executive board, the association must send to each unit's owner notification that the candidates nominated have been elected to the executive board.

6. ~~If the notice described in subsection 5 is given and if, at the closing of the prescribed period for nominations for membership on the executive board described in subsection 5, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board, then:~~

~~—(a) The association will not prepare or mail any ballots to units' owners pursuant to this section;~~

~~—(b) The nominated candidates shall be deemed to be duly elected to the executive board not later than 30 days after the date of the closing of the period for nominations described in subsection 5; and~~

~~—(c) The association shall send to each unit's owner notification that the candidates nominated have been elected to the executive board.~~

~~—7.] If , {the notice described in subsection 5 is given and if,} at the closing of the prescribed period for nominations for membership on the executive board , {described in subsection 5,} the number of candidates nominated for membership on the executive board is greater than the number of members to be elected to the executive board, then the association {shall;} **must:**~~

(a) Prepare and mail ballots to the units' owners pursuant to this section; and

(b) Conduct an election for membership on the executive board pursuant to this section.

~~{8.}~~ 7. Each person who is nominated as a candidate for a member of the executive board pursuant to subsection 4 ~~{or 5}~~ must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

➔ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his or her candidacy information. Except as otherwise provided in this subsection, the association shall distribute the disclosures, on behalf of the candidate, to each member of the association with the ballot or, in the event ballots are not prepared and mailed pursuant to subsection ~~6.1~~ 5, in the next regular mailing of the association. The association is not obligated to distribute any disclosure pursuant to this subsection if the disclosure contains information that is believed to be defamatory, libelous or profane.

~~9.1~~ 8. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, the person's spouse or the person's parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, the person's spouse or the person's parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

~~10.1~~ 9. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, the person shall file proof in the records of the association that:

(a) The person is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

~~10. *Notwithstanding any provision of the declaration or bylaws to the contrary, cumulative voting may not be used by units' owners for the purpose of electing members of the executive board.*~~

~~11.1~~ Except as otherwise provided in subsection ~~6.1~~ 5 or NRS 116.31105, the election of any member of the executive board must be conducted by secret written ballot in the following manner:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by

United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

~~¶2.1~~ 11. An association shall not adopt any rule or regulation that has the effect of prohibiting or unreasonably interfering with a candidate in the candidate's campaign for election as a member of the executive board, except that the candidate's campaign may be limited to 90 days before the date that ballots are required to be returned to the association. A candidate may request that the secretary or other officer specified in the bylaws of the association send, 30 days before the date of the election and at the association's expense, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner a candidate informational statement. The candidate informational statement:

(a) Must be no longer than a single, typed page;

(b) Must not contain any defamatory, libelous or profane information; and

(c) May be sent with the secret ballot mailed pursuant to subsection ~~¶¶~~ 10 or in a separate mailing.

↪ The association and its directors, officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to this subsection.

~~¶3.1~~ 12. Each member of the executive board shall, within 90 days after his or her appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that the member has read and understands the governing documents of the association and the provisions of this chapter to the best of his or her ability. The Administrator may require the association to submit a copy of the certification of each member of the

executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 5. NRS 116.31036 is hereby amended to read as follows:

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section ~~†~~:

—(a) ~~The~~, *the* number of votes cast *in favor of removal* constitutes ~~†at†~~ :

(a) *At least 35 percent of the total number of voting members of the association; and*

(b) *At least a majority of all votes cast in that removal election . ~~†are cast in favor of removal.†~~*

2. A removal election may be called by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. To call a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this subsection and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If a removal election is called pursuant to this subsection and:

(a) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to this section:

(1) The secret written ballots for the removal election must be sent in the manner required by this section not less than 15 days or more than 60 days after the date on which the petition is received; and

(2) The executive board must set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots and not later than ~~†120†~~ 90 days after the date on which the petition was received.

(b) The voting rights of the owners of time shares will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board must set the date for the removal election so that the removal election is held not less than 15 days or more than ~~†120†~~ 90 days after the date on which the petition is received.

↪ The association shall not adopt any rule or regulation which prevents or unreasonably interferes with the collection of the required percentage of signatures for a petition pursuant to this subsection.

3. Except as otherwise provided in NRS 116.31105, the removal of any member of the executive board must be conducted by secret written ballot in the following manner:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the

common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

~~{3-}~~ 4. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his or her role as a member of the board, the association shall indemnify the member for his or her losses or claims, and undertake all costs of defense, unless it is proven that the member acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. ~~{Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against:~~

~~—(a) The association;~~

~~—(b) The members of the executive board for acts or omissions that occur in their official capacity as members of the executive board; or~~

~~—(c) The officers of the association for acts or omissions that occur in their capacity as officers of the association.~~

~~—4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.}~~

Sec. 6. NRS 116.31073 is hereby amended to read as follows:

116.31073 1. Except as otherwise provided in subsection 2 and NRS 116.31135, ~~{the association is responsible}~~ ***unless a person or governmental entity has accepted responsibility in writing*** for the maintenance, repair, restoration and replacement of ~~{any security}~~ ***a wall*** which is located within ~~{the}~~ ***a common-interest community*** ~~{-}~~

~~—2. The provisions of this section do not apply if the governing documents provide that a unit's owner or an entity other than the association}~~ ***or any part thereof, the unit's owner of the real property on which the wall is located or any other person specified in the governing documents of the common-interest community*** is responsible for the maintenance, repair, restoration and replacement of the ~~{security}~~ wall.

~~{3. — For the purpose of carrying out the}~~

2. *Any* maintenance, repair, restoration ~~{and}~~ *or* replacement of a ~~{security}~~ wall ~~{pursuant to this section:~~

— (a) ~~The association, the members of its executive board and its officers, employees, agents and community manager may enter the grounds of a unit after providing written notice and, notwithstanding any other provision of law, are not liable for trespass.~~

— (b) ~~Any such maintenance, repair, restoration and replacement of a security wall must be performed:~~

— (1) ~~During normal business hours;~~

— (2) ~~Within a reasonable length of time; and~~

— (3) ~~In a manner that does not adversely affect access to a unit or the legal rights of~~ *that is performed because of any damage caused by the willful or negligent act of a unit's owner* ~~{to enjoy the use of his or her unit.~~

— (c) ~~Notwithstanding any other provision of law, the executive board is prohibited from imposing an assessment without obtaining prior approval of the units' owners unless the total amount of the assessment is less than 5 percent of the annual budget of the association.~~

— 4. ~~As used in this section, "security wall" means any wall composed of stone, brick, concrete, concrete blocks, masonry or similar building material, including, without limitation, ornamental iron or other fencing material, together with footings, pilasters, outriggers, grillwork, gates and other appurtenances, constructed around the perimeter of a residential subdivision with respect to which a final map has been recorded pursuant to NRS 278.360 to 278.460, inclusive, to protect the several tracts in the subdivision and their occupants from vandalism.}~~ *, a tenant or an invitee of the unit's owner or tenant is the responsibility of the unit's owner.*

Sec. 7. NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.

2. Special meetings of the units' owners may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. ~~{The same number of units' owners may also call a removal election pursuant to NRS 116.31036.}~~ To call a special meeting, ~~{or a removal election,}~~ the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. ~~{If the petition calls for a special meeting, the}~~ *The* executive board shall set the

date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received ~~[. If the petition calls for a removal election and:~~

~~—(a) The voting rights of the owners of time shares will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or~~

~~—(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.~~

➤, *the request for a special meeting is received from the president or the vote of the majority of the executive board to call a special meeting, whichever is applicable.* The association shall not adopt any rule or regulation which prevents or unreasonably interferes with the collection of the required percentage of signatures for a petition pursuant to this subsection.

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request, ~~fin~~ **by** electronic ~~format~~ **mail** at no charge to the unit's owner or, if the association is unable to provide the copy or summary ~~fin~~ **by** electronic ~~format~~ **mail**, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any

proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.

6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. Except as otherwise provided in this subsection, a copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request, ~~in~~ **by** electronic ~~format~~ **mail** at no charge to the unit's owner or, if the association is unable to provide the copy or summary ~~in~~ electronic ~~format~~ **mail**, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:

(a) The date, time and place of the meeting;

(b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner at the meeting if the unit's owner requests that the minutes reflect his or her remarks or, if the unit's owner has prepared written remarks, a copy of his or her prepared remarks if the unit's owner submits a copy for inclusion.

8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before

recording the meeting, provides notice of his or her intent to record the meeting to the other units' owners who are in attendance at the meeting.

11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

- (a) Could not have been reasonably foreseen;
- (b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;
- (c) Requires the immediate attention of, and possible action by, the executive board; and
- (d) Makes it impracticable to comply with the provisions of subsection 3 or 4.

Sec. 8. NRS 116.31083 is hereby amended to read as follows:

116.31083 1. A meeting of the executive board must be held at least once every quarter, and not less than once every 100 days and must be held at a time other than during standard business hours at least twice annually.

2. Except *as otherwise provided in subsection 3 or* in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

- (a) Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;
- (b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or
- (c) Published in a newsletter or other similar publication that is circulated to each unit's owner.

3. *If a meeting of the executive board will consist only of the executive board meeting in executive session, the secretary or other officer specified in the bylaws of the association is not required to cause notice of the meeting to be given to the units' owners. Such a meeting is subject to the provisions of subsections 2 to 7, inclusive, of NRS 116.31085. At the next regular meeting of the executive board, the executive board shall disclose that the executive board met in executive session pursuant to this subsection and state the general subject matter of the meeting.*

4. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the

common-interest community or posted in a prominent place or places within the common elements of the association.

~~{4-}~~ 5. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting , ~~{or}~~ the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners ~~{-}~~ *or, if the association offers to send notice of a meeting of the executive board by electronic mail, a statement that an agenda will be sent by electronic mail at the request of a unit's owner to an electronic mail address designated in writing by the unit's owner.* The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the audio recording, the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request, ~~{in}~~ *by* electronic ~~{format}~~ *mail* at no charge to the unit's owner or, if the association is unable to provide the copy or summary ~~{in}~~ *by* electronic ~~{format,}~~ *mail*, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

~~{5-}~~ 6. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. A period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for both the beginning and the end of each meeting. During the period devoted to comments by the units' owners and discussion of those comments at the beginning of each meeting, comments by the units' owners and discussion of those comments must be limited to items listed on the agenda. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

~~{6-}~~ 7. At least once every quarter, and not less than once every 100 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

- (a) A current year-to-date financial statement of the association;
- (b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;
- (c) A current reconciliation of the operating account of the association;
- (d) A current reconciliation of the reserve account of the association;
- (e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and
- (f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

~~{7-}~~ 8. The secretary or other officer specified in the bylaws shall cause each meeting of the executive board to be audio recorded and the minutes to be recorded or otherwise taken at each meeting of the executive board, but if

the executive board is meeting in executive session, the meeting must not be audio recorded. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the audio recording of the meeting, the minutes of the meeting and a summary of the minutes of the meeting to be made available to the units' owners. Except as otherwise provided in this subsection, a copy of the audio recording, the minutes or a summary of the minutes must be provided to any unit's owner upon request, ~~fin~~ **by** electronic ~~format~~ **mail** at no charge to the unit's owner or, if the association is unable to provide the copy or summary ~~fin~~ **by** electronic ~~format~~ **mail**, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

~~{8-}~~ **9.** Except as otherwise provided in subsection ~~{9}~~ **10** and NRS 116.31085, the minutes of each meeting of the executive board must include:

- (a) The date, time and place of the meeting;
- (b) Those members of the executive board who were present and those members who were absent at the meeting;
- (c) The substance of all matters proposed, discussed or decided at the meeting;
- (d) A record of each member's vote on any matter decided by vote at the meeting; and
- (e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if the unit's owner requests that the minutes reflect his or her remarks or, if the unit's owner has prepared written remarks, a copy of his or her prepared remarks if the unit's owner submits a copy for inclusion.

~~{9-}~~ **10.** The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

~~{10-}~~ **11.** The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

~~{11-}~~ **12.** A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his or her intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.

~~{12-}~~ **13.** As used in this section, "emergency" means any occurrence or combination of occurrences that:

- (a) Could not have been reasonably foreseen;
- (b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;
- (c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 2 or 5.

Sec. 9. NRS 116.31085 is hereby amended to read as follows:

116.31085 1. Except as otherwise provided in this section, a unit's owner may attend any meeting of the units' owners or of the executive board and speak at any such meeting. The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting.

2. An executive board may not meet in executive session to open or consider bids for an association project as defined in NRS 116.31086, or to enter into, renew, modify, terminate or take any other action regarding a contract.

3. An executive board may meet in executive session only to:

(a) Consult with the attorney for the association on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115, inclusive.

(b) Discuss the character, alleged misconduct ~~or~~ *or* professional competence, ~~or physical or mental health~~ of a community manager, ~~or~~ an employee of the association ~~or~~ *or a vendor who has entered into a contract with the association.*

(c) Except as otherwise provided in subsection 4, discuss a violation of the governing documents, including, without limitation, the failure to pay an assessment.

(d) Discuss the alleged failure of a unit's owner to adhere to a schedule required pursuant to NRS 116.310305 if the alleged failure may subject the unit's owner to a construction penalty.

(e) Discuss with a vendor of the association the vendor's alleged misconduct, professional competence or failure to perform under a contract.

4. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the executive board. If the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted, the person:

(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses;

(b) Is entitled to due process, as set forth in the standards adopted by regulation by the Commission, which must include, without limitation, the right to counsel, the right to present witnesses and the right to present information relating to any conflict of interest of any member of the hearing panel; and

(c) Is not entitled to attend the deliberations of the executive board.

5. The provisions of subsection 4 establish the minimum protections that the executive board must provide before it may make a decision. The provisions of subsection 4 do not preempt any provisions of the governing documents that provide greater protections.

6. Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session must be generally noted in the minutes of the meeting of the executive board. The executive board shall maintain minutes of any decision made pursuant to subsection 4 concerning an alleged violation and, upon request, provide a copy of the decision to the person who was subject to being sanctioned at the hearing or to the person's designated representative.

7. Except as otherwise provided in subsection 4, a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.

Sec. 10. NRS 116.3113 is hereby amended to read as follows:

116.3113 1. Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available, ~~it both of fall the following:~~ **and subject to reasonable deductibles:**

(a) Property insurance on the common elements and, in a planned community, also on property that must become common elements, insuring against ~~fall~~ risks of direct physical loss commonly insured against ~~for, in the case of a converted building, against fire and extended coverage perils. The total amount of~~, **which** insurance after application of any deductibles must be not less than 80 percent of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies; ~~it~~

(b) ~~liability~~ **Commercial general liability** insurance, including insurance for medical payments, in an amount determined by the executive board but not less than any amount specified in the declaration, covering all occurrences commonly insured against for ~~death,~~ bodily injury ~~it~~ and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements and, in cooperatives, also of all units ~~it~~; **and**

(c) *Crime insurance which includes coverage for dishonest acts by members of the executive board and the officers, employees, agents, directors and volunteers of the association and which extends coverage to any business entity that acts as the community manager of the association and the employees of that entity. Such insurance may not contain a conviction requirement, and the minimum amount of the policy must be not less than an amount equal to 3 months of aggregate assessments on all units plus reserve funds.*

2. In the case of a building ~~that is part of a cooperative or~~ that contains units ~~having~~ **divided by** horizontal boundaries described in the declaration,

or vertical boundaries that comprise common walls between units, the insurance maintained under paragraph (a) of subsection 1, to the extent reasonably available, must include the units, but need not include improvements and betterments installed by units' owners.

3. If the insurance described in subsections 1 ~~f, and~~ 2 ~~and 3~~ is not reasonably available, the association promptly shall cause notice of that fact to be ~~hand delivered or sent prepaid by United States mail~~ given to all units' owners. The declaration may require the association to carry any other insurance, and the association ~~in any event~~ may carry any other insurance it considers appropriate to protect the association or the units' owners.

4. An insurance policy issued to the association does not prevent a unit's owner from obtaining insurance for the unit's owner's own benefit.

Sec. 11. NRS 116.311395 is hereby amended to read as follows:

116.311395 1. Except as otherwise provided in subsection 2, ~~subsections 2 and 3~~ an association ~~[- a member of the executive board, or a community manager]~~ shall deposit ~~for invest~~ and maintain all funds of the association ~~at~~ in a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or the Securities Investor Protection Corporation and which:

- (a) Is located in this State;
- (b) Is qualified to conduct business in this State; or
- (c) Has consented to be subject to the jurisdiction, including the power to subpoena, of the courts of this State and the Division.

2. ~~Except as otherwise provided by the governing documents, in addition to the requirements of~~ Funds held by the association as petty cash, imprest funds or change funds are not required to be deposited or maintained in accordance with subsection 1. The amount of petty cash, imprest funds and change funds held by the association must be set forth in the policy established by the executive board for the investment of the funds of the association.

3. ~~Funds deposited or maintained by an association pursuant to subsection 1~~ [- an association shall deposit, maintain and invest all funds of the association:] ~~may be invested in:~~

~~—(a) [In] Certificates of deposit issued by a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or the Securities Investor Protection Corporation;~~

~~—(b) [With a private insurer approved pursuant to NRS 678.755; or~~

~~—(c) In a] government security backed by the full faith and credit of the Government of the United States] [-~~

~~—3.] f; or~~

~~—(e) Any other instrument or investment authorized by the governing documents or the policy established by the executive board for the investment of the funds of the association.~~

~~—4.7~~ The Commission shall adopt regulations prescribing the contents of the declaration to be executed and signed by a financial institution located outside of this State to submit to consent to the jurisdiction of the courts of this State and the Division.

Sec. 12. NRS 116.3115 is hereby amended to read as follows:

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive:

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore are necessary. Notwithstanding any provision of the governing documents to the contrary, to establish adequate reserves pursuant to this paragraph, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common-interest community. Any such assessments imposed by the executive board must be based on the study of the reserves of the association conducted pursuant to NRS 116.31152.

3. Any assessment for common expenses or installment thereof that is 60 days or more past due ~~{bears}~~ **may bear** interest at a rate ~~{equal to}~~ **which may not exceed** the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case

may be, immediately preceding the date the assessment becomes past due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the balance is satisfied.

4. Except as otherwise provided in the governing documents:

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. **If any common expense is caused by the misconduct of any unit's owner, the** ~~the~~ association may assess **that** ~~that~~ ~~common~~ expense exclusively against **his or her** ~~an individual~~ unit, ~~if the common expense:~~

~~— (a) Is caused by the misconduct of a unit's owner, a tenant or an invitee of a unit's owner or tenant; or~~

~~— (b) Is for the legal fees and costs incurred by the association to enforce a violation of the governing documents.]~~

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

Sec. 13. NRS 116.31151 is hereby amended to read as follows:

116.31151 1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards,

the executive board shall, not less than 30 days or more than 60 days before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:

(a) The budget for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and any contributions to be made to the reserve account of the association.

(b) The budget to provide adequate funding for the reserves required by paragraph (b) of subsection 2 of NRS 116.3115. The budget must include, without limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(2) As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are ~~{necessary,}~~ ***required to adequately fund the reserves,*** and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more ~~{special}~~ ***reserve*** assessments will be necessary to repair, replace or restore any major component of the common elements or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore or to provide adequate funding for the reserves designated for that purpose; and

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of the reserves required by NRS 116.31152.

2. In lieu of distributing copies of the budgets of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, accompanied by a written notice that:

(a) The budgets are available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties but not to exceed 60 miles from the physical location of the common-interest community; and

(b) Copies of the budgets will be provided upon request.

3. Within 60 days after adoption of any proposed budget for the common-interest community, the executive board shall provide a summary of the proposed budget to each unit's owner and shall set a date for a meeting of the units' owners to consider ratification of the proposed budget not less than 14 days or more than 30 days after the mailing of the summaries. Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.

4. The executive board shall, at the same time and in the same manner that the executive board makes the budget available to a unit's owner pursuant to this section, make available to each unit's owner ~~the~~ :

(a) The policy established by the executive board for the ~~association~~ investment of the funds of the association; and

(b) The policy established by the executive board concerning the collection of any fees, fines, assessments or costs imposed against a unit's owner pursuant to this chapter. The policy must include, without limitation:

~~{(a)}~~ *(1) The responsibility of the unit's owner to pay any such fees, fines, assessments or costs in a timely manner; and*

~~{(b)}~~ *(2) The association's rights concerning the collection of such fees, fines, assessments or costs if the unit's owner fails to pay the fees, fines, assessments or costs in a timely manner.*

Sec. 14. NRS 116.31153 is hereby amended to read as follows:

116.31153 1. Money in the reserve account of an association required by paragraph (b) of subsection 2 of NRS 116.3115 may not be withdrawn without the signatures of at least two members of the executive board or the signatures of at least one member of the executive board and one officer of the association who is not a member of the executive board.

2. Except as otherwise provided in subsection 3, money in the operating account of an association may not be withdrawn without the signatures of at least one member of the executive board or one officer of the association and a member of the executive board, an officer of the association or the community manager.

3. Money in the operating account of an association may be withdrawn without the signatures required pursuant to subsection 2 to:

(a) Transfer money to the reserve account of the association at regular intervals; ~~{or}~~

(b) Make automatic payments for utilities ~~{}~~ ;

(c) Make an electronic transfer of money to a state agency pursuant to NRS 353.1467;

(d) Make an electronic transfer of money to the United States Government, or any agency thereof, pursuant to any federal law requiring transfers of money to be made by an electronic means authorized by the United States Government or the agency thereof; or

(e) Make an electronic transfer of money to make a payment to a vendor or community manager for goods or services provided by the vendor or community manager pursuant to a written agreement which requires the vendor or community manager to provide goods or services to the association during a period specified in the written agreement between the vendor or community manager and the association . ~~f, if:~~

~~—(1)}~~

4. An association may use electronic signatures to withdraw money in the operating account of the association if:

(a) The electronic transfer of money is made pursuant to a written agreement entered into between the association and the financial institution where the operating account of the association is maintained;

~~*(2)*~~ *(b) The executive board has expressly authorized the electronic transfer of money; and*

~~*(3)*~~ *(c) The association has established internal accounting controls to safeguard the assets of the association which comply with generally accepted accounting principles.*

~~*(4)*~~ *5. As used in this section, "electronic transfer of money" has the meaning ascribed to it in NRS 353.1467.*

Sec. 15. NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a ~~*statutory*~~ lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment **levied against** ~~*attributable to*~~ that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, ~~*reasonable attorney's fees and other fees to cover the cost of collecting a past due obligation which are imposed pursuant to NRS 116.310313,*~~ any **penalties**, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 ~~*and any other amounts due the association pursuant to the governing documents, this chapter or the decision of an arbitrator, mediator, court or administrative body*~~ are enforceable ~~*in the same manner*~~ as ~~*unpaid*~~ assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

~~*→ The*~~

3. A lien under this section is also prior to all security interests described in paragraph (b) **of subsection 2** to the extent of ~~*any*~~ :

(a) Any charges incurred by the association on a unit pursuant to NRS 116.310312 ~~*and to the extent of*~~

(b) An amount equal to the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115

which would have become due in the absence of acceleration during the 9 months immediately preceding ~~institution of an action to enforce the lien~~ ~~it~~ :

(1) The association's mailing of a notice of delinquent assessment in accordance with paragraph (a) of subsection 1 of NRS 116.31162 with respect to the association's lien; or

(2) A trustee's sale of the unit under NRS 107.080 or a foreclosure sale of the unit under NRS 40.430 to enforce the security interest described in paragraph (b) of subsection 2,

~~and [to the extent of any reasonable attorney's fees and other]~~ fees not to exceed \$1,950 to cover the cost of collecting a past due obligation which are imposed pursuant to NRS 116.310313, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien. If federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior to all security interests described in paragraph (b) of subsection 2 must be determined in accordance with those federal regulations, except that notwithstanding the provisions of the federal regulations, the period of priority for the lien must not be less than the 6 months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

~~3.1~~ This subsection supersedes any contrary provision in the governing documents of the association.

4. After a trustee's sale of a unit under NRS 107.080 or a foreclosure sale of a unit under NRS 40.430 to enforce a security interest described in paragraph (b) of subsection 2, upon payment to the association of the amounts described in subsection 3, any unpaid amounts for which subsection 1 creates a lien and which accrued before the trustee's sale or foreclosure sale are a personal obligation of the person who owned the unit at the time the amounts became due and the association does not have a lien on the unit for those amounts.

5. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

~~4.1~~ 6. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

~~5.1~~ 7. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

~~16.1~~ 8. This section does not prohibit actions ~~against a unit's owner~~ to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

~~17.1~~ 9. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

~~18.1~~ 10. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

~~19.1~~ 11. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

Sec. 16. NRS 116.31183 is hereby amended to read as follows:

116.31183 1. An executive board, a member of an executive board, a community manager or an officer, employee or agent of an association shall not take, or direct or encourage another person to take, any retaliatory action against a unit's owner because the unit's owner has:

(a) Complained in good faith about any alleged violation of any provision of this chapter or the governing documents of the association;

(b) Recommended the selection or replacement of an attorney, community manager or vendor; or

(c) Requested in good faith to review the books, records or other papers of the association.

2. ~~A unit's owner, a tenant or an invitee of a unit's owner or tenant shall not knowingly threaten:~~

~~—(a) To cause bodily injury to a member of the executive board, an officer, employee or agent of the association, or another unit's owner;~~

~~—(b) To cause physical damage to the property of a member of the executive board or an officer, employee or agent of the association;~~

~~—(c) To subject a member of the executive board, an officer, employee or agent of the association, or another unit's owner to physical confinement or constraint; or~~

~~—(d) To do any act which is intended to substantially harm a member of the executive board, an officer, employee or agent of the association, or another unit's owner with respect to his or her physical or mental health or safety, if the person by words or conduct places the person receiving the threat in reasonable fear that the threat will be carried out.~~

~~—3.]~~ **A unit's owner shall not take, or direct or encourage another person to take, any retaliatory action against a member of the executive board, an officer, employee or agent of the association, or another unit's owner because the member of the executive board, the officer, employee or agent, or the unit's owner has:**

(a) Performed his or her duties under the governing documents or the provisions of this chapter; or

(b) Exercised his or her rights under the governing documents or the provisions of this chapter.

~~4.]~~ **3.** In addition to any other remedy provided by law, upon a violation of this section, a ~~unit's owner~~ **person aggrieved by the violation** may bring a separate action to recover:

(a) Compensatory damages; and

(b) Attorney's fees and costs of bringing the separate action.

Sec. 17. NRS 116.4106 is hereby amended to read as follows:

116.4106 1. The public offering statement of a common-interest community containing any converted building must contain, in addition to the information required by NRS 116.4103 and 116.41035:

(a) A statement by the declarant, based on a report prepared by an independent registered architect or licensed professional engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the building;

(b) A list of any outstanding notices of uncured violations of building codes or other municipal regulations, together with the estimated cost of curing those violations; and

(c) The budget to maintain the reserves required pursuant to paragraph (b) of subsection 2 of NRS 116.3115 which must include, without limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements;

(2) As of the end of the fiscal year for which the budget was prepared, the current estimate of the amount of cash reserves that are necessary to repair, replace and restore the major components of the common elements and the current amount of accumulated cash reserves that are set aside for such repairs, replacements and restorations;

(3) A statement as to whether the declarant has determined or anticipates that the levy of one or more ~~special~~ **reserve** assessments will be required within the next 10 years to repair, replace and restore any major component of the common elements or to provide adequate reserves for that purpose;

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves described in subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of reserves required pursuant to NRS 116.31152; and

(5) The funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements over a period of years.

2. This section applies only to a common-interest community comprised of a converted building or buildings containing more than 12 units that may be occupied for residential use.

Sec. 18. NRS 116.4117 is hereby amended to read as follows:

116.4117 1. Subject to the requirements set forth in subsection 2, if a declarant, community manager or any other person subject to this chapter fails to comply with any of its provisions or any provision of the declaration or bylaws, any person or class of persons suffering actual damages from the failure to comply may bring a civil action for damages or other appropriate relief.

2. Subject to the requirements set forth in NRS 38.310 and except as otherwise provided in NRS 116.3111, a civil action for damages or other appropriate relief for a failure or refusal to comply with any provision of this chapter or the governing documents of an association may be brought:

(a) By the association against:

- (1) A declarant;
- (2) A community manager; or
- (3) A unit's owner.

(b) By a unit's owner against:

- (1) The association;
- (2) A declarant; or
- (3) Another unit's owner of the association.

(c) By a class of units' owners constituting at least 10 percent of the total number of voting members of the association against a community manager.

3. ***Members of the executive board are not personally liable to the victims of crimes occurring ~~for the property~~ within the common-interest community.***

4. Except as otherwise provided in ~~{NRS 116.31036,}~~ ***this subsection***, punitive damages may be awarded for a willful and material failure to comply with any provision of this chapter if the failure is established by clear and convincing evidence.

~~{4.}~~ ***Punitive damages may not be recovered against:***

- (a) ***The association;***
- (b) ***The members of the executive board for acts or omissions that occur in their official capacity as members of the executive board; or***
- (c) ***The officers of the association for acts or omissions that occur in their capacity as officers of the association.*** ~~, *for*~~

~~—(d) The community manager of an association for acts or omissions that occur in his or her capacity as the community manager of the association.—~~

5. The court may award reasonable attorney's fees to the prevailing party.

~~{5-}~~ 6. The civil remedy provided by this section is in addition to, and not exclusive of, any other available remedy or penalty.

7. *The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.*

Sec. 19. NRS 116A.410 is hereby amended to read as follows:

116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate. The regulations must include, without limitation, provisions that:

(1) Provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Holds a professional designation in the field of management of a common-interest community from a nationally recognized organization;

(II) Provides evidence that the person has been engaged in the management of a common-interest community for at least 5 years; and

(III) Has not been the subject of any disciplinary action in another state in connection with the management of a common-interest community.

(2) Except as otherwise provided in subparagraph (3), provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Receives an offer of employment as a community manager from an association or its agent; and

(II) Has management experience determined to be sufficient by the executive board of the association or its agent making the offer in sub-subparagraph (I). The executive board or its agent must have sole discretion to make the determination required in this sub-subparagraph.

(3) Require a temporary certificate described in subparagraph (2) to expire before the end of the 1-year period if the certificate holder ceases to be employed by the association, or its agent, which offered the person employment as described in subparagraph (2).

(4) Require a person who is issued a temporary certificate as described in subparagraph (1) or (2) to successfully complete not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act within the 1-year period.

(5) Provide for the issuance of a certificate at the conclusion of the 1 year period if the person:

(I) Has successfully completed not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act; and

(II) Has not been the subject of any disciplinary action pursuant to this chapter or chapter 116 of NRS or any regulations adopted pursuant thereto.

(6) Provide that a temporary certificate described in subparagraph (1) or (2) and a certificate described in subparagraph (5):

(I) Must authorize the person who is issued a temporary certificate described in subparagraph (1) or (2) or certificate described in subparagraph (5) to act in all respects as a community manager and exercise all powers available to any other community manager without regard to experience; and

(II) Must not be treated as a limited, restricted or provisional form of a certificate.

~~(b) [Must require an applicant or the employer of the applicant to post a bond in a form and in an amount established by regulation. The Commission shall, by regulation, adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control. In adopting the regulations establishing the form and sliding scale for the amount of a bond required to be posted pursuant to this paragraph, the Commission shall consider the availability and cost of such bonds.~~

~~—(e)~~ May require applicants to pass an examination in order to obtain a certificate other than a temporary certificate described in paragraph (a). If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

~~{(d)}~~ (c) Must establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new certificate without undergoing any period of supervision under another community manager, regardless of the length of time that has passed since the person last acted as a community manager.

~~{(e)}~~ (d) May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

~~{(f)}~~ (e) Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.

~~{(g)}~~ (f) Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.

3. As used in this section, "management experience" means experience in a position in business or government, including, without limitation, in the military:

(a) In which the person holding the position was required, as part of holding the position, to engage in one or more management activities,

including, without limitation, supervision of personnel, development of budgets or financial plans, protection of assets, logistics, management of human resources, development or training of personnel, public relations, or protection or maintenance of facilities; and

(b) Without regard to whether the person holding the position has any experience managing or otherwise working for an association.

Sec. 20. NRS 116A.620 is hereby amended to read as follows:

116A.620 1. Any management agreement must:

(a) Be in writing and signed by all parties;

(b) Be entered into between the client and the community manager or the employer of the community manager if the community manager is acting on behalf of a corporation, partnership, limited partnership, limited-liability partnership, limited-liability company or other entity;

(c) State the term of the management agreement;

(d) State the basic consideration for the services to be provided and the payment schedule;

(e) Include a complete schedule of all fees, costs, expenses and charges to be imposed by the community manager, whether direct or indirect, including, without limitation:

(1) The costs for any new ~~{client}~~ **association** or start-up costs;

(2) The fees for special or nonroutine services, such as the mailing of collection letters, the recording of liens and foreclosing of property;

(3) Reimbursable expenses;

(4) The fees for the sale or resale of a unit or for setting up the account of a new member; and

(5) The portion of fees that are to be retained by the client and the portion to be retained by the community manager;

(f) State the identity and the legal status of the contracting parties;

(g) State any limitations on the liability of each contracting party ~~{ }~~ , **including, without limitation, any provisions for indemnification of the community manager;**

(h) Include a statement of the scope of work of the community manager;

(i) State the spending limits of the community manager;

(j) Include provisions relating to the grounds and procedures for termination of the community manager;

(k) Identify the types and amounts of insurance coverage to be carried by each contracting party, including, without limitation:

(1) A ~~{requirement that}~~ **statement as to whether** the community manager ~~{or his or her employer shall}~~ **will** maintain insurance covering liability for errors ~~{or}~~ **and** omissions ~~{ }~~ **or** professional liability ; ~~{or a surety bond to compensate for losses actionable pursuant to this chapter in an amount of \$1,000,000 or more;}~~

(2) An indication of which contracting party will maintain fidelity bond coverage; ~~{and}~~

(3) A statement as to whether the client will maintain directors and officers liability coverage for the executive board; *and*

(4) A statement as to whether each contracting party must be named as an additional insured under any required insurance;

(l) ~~{i}~~ Include provisions for dispute resolution;

~~—(m)}~~ Acknowledge that all records and books of the client are the property of the client, except any proprietary information and software belonging to the community manager;

~~{(n)}~~ ***(m)*** State the physical location, including the street address, of the records of the client, which must be within 60 miles from the physical location of the common-interest community;

~~{(o)}~~ ***(n)*** State the frequency and extent of regular inspections of the common-interest community; and

~~{(p)}~~ ***(o)*** State the extent, if any, of the authority of the community manager to sign checks on behalf of the client in an operating account.

2. In addition to any other requirements under this section, a management agreement may:

(a) Provide for mandatory binding arbitration; ~~{or}~~

(b) Provide for indemnification of the community manager in accordance with and subject to the appropriate provisions of title 7 of NRS; and

(c) Allow the provisions of the management agreement to apply month to month following the end of the term of the management agreement, but the management agreement may not contain an automatic renewal provision.

3. Not later than 10 days after the effective date of a management agreement, the community manager shall provide each member of the executive board evidence of the existence of the required insurance, including, without limitation:

(a) The names and addresses of all insurance companies;

(b) The total amount of coverage; and

(c) The amount of any deductible.

4. After signing a management agreement, the community manager shall provide a copy of the management agreement to each member of the executive board. Within 30 days after an election or appointment of a new member to the executive board, the community manager shall provide the new member with a copy of the management agreement.

5. Any changes to a management agreement must be initialed by the contracting parties. If there are any changes after the execution of a management agreement, those changes must be in writing and signed by the contracting parties.

6. Except as otherwise provided in the management agreement, upon the termination or assignment of a management agreement, the community manager shall, within 30 days after the termination or assignment, transfer possession of all books, records and other papers of the client to the succeeding community manager, or to the client if there is no succeeding

community manager, regardless of any unpaid fees or charges to the community manager or management company. ***If any books, records or other papers of the client are in an electronic format, the community manager must transfer possession of the books, records or other papers in a shareable format which:***

- (a) Does not require a person seeking access to the books, records or other papers to enter a password to obtain such access; and***
- (b) Allows the client to immediately save, print and use the books, records or other papers.***

7. Notwithstanding any provision in a management agreement to the contrary, a management agreement may be terminated by the client without penalty upon 30 days' notice following a violation by the community manager of any provision of this chapter or chapter 116 of NRS.

Sec. 21. NRS 116A.630 is hereby amended to read as follows:

116A.630 In addition to any additional standards of practice for community managers adopted by the Commission by regulation pursuant to NRS 116A.400, a community manager shall:

1. Except as otherwise provided by specific statute, at all times:
 - (a) Act as a fiduciary in any client relationship; and
 - (b) Exercise ordinary and reasonable care in the performance of duties.
2. Comply with all applicable:
 - (a) Federal, state and local laws, regulations and ordinances; and
 - (b) Lawful provisions of the governing documents of each client.
3. Keep informed of new developments in the management of a common-interest community through continuing education, including, without limitation, new developments in law, insurance coverage and accounting principles.
4. Advise a client to obtain advice from an independent expert relating to matters that are beyond the expertise of the community manager.
5. Under the direction of a client, uniformly enforce the provisions of the governing documents of the association.
6. At all times ensure that:
 - (a) The financial transactions of a client are current, accurate and properly documented; and
 - (b) There are established policies and procedures that are designed to provide reasonable assurances in the reliability of the financial reporting, including, without limitation:
 - (1) Proper maintenance of accounting records;
 - (2) Documentation of the authorization for any purchase orders, expenditures or disbursements;
 - (3) Verification of the integrity of the data used in business decisions;
 - (4) Facilitation of fraud detection and prevention; and
 - (5) Compliance with all applicable laws and regulations governing financial records.

7. Prepare or cause to be prepared interim and annual financial statements that will allow the Division, the executive board, the units' owners and the accountant or auditor to determine whether the financial position of an association is fairly presented in accordance with all applicable laws and regulations.

8. Cause to be prepared, if required by the Division, a financial audit performed by an independent certified public accountant of the records of the community manager pertaining to the common-interest community, which must be made available to the Division.

9. Make the financial records of an association available for inspection by the Division in accordance with the applicable laws and regulations.

10. Cooperate with the Division in resolving complaints filed with the Division.

11. Upon written request, make the financial records of an association available to the units' owners electronically or during regular business hours required for inspection at a reasonably convenient location, which must be within 60 miles from the physical location of the common-interest community, and provide copies of such records in accordance with the applicable laws and regulations. As used in this subsection, "regular business hours" means Monday through Friday, 9 a.m. to 5 p.m., excluding legal holidays.

12. ~~[Maintain] At the direction of the client, deposit, maintain and invest association funds in [a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, National Credit Union Share Insurance Fund, Securities Investor Protection Corporation, or a private insurer approved pursuant to NRS 678.755, or in government securities that are backed by the full faith and credit of the United States Government.]~~
accordance with NRS 116.311395.

13. Except as required under collection agreements, maintain the various funds of the client in separate financial accounts in the name of the client and ensure that the association is authorized to have direct access to those accounts.

14. Provide notice to each unit's owner that the executive board is aware of all legal requirements pursuant to the applicable laws and regulations.

15. Maintain internal accounting controls, including, without limitation, segregation of incompatible accounting functions.

16. Ensure that the executive board develops and approves written investment policies and procedures.

17. Recommend in writing to each client that the client register with the Division, maintain its registration and file all papers with the Division and the Secretary of State as required by law.

18. Comply with the directions of a client, unless the directions conflict with the governing documents of the client or the applicable laws or regulations of this State.

19. Recommend in writing to each client that the client be in compliance with all applicable federal, state and local laws, regulations and ordinances and the governing documents of the client.

20. Obtain, when practicable, at least three qualified bids for any capital improvement project for the client.

21. Develop written collection policies, approved by the executive board, to comply with all applicable federal, state and local laws, regulations and ordinances relating to the collection of debt. The collection policies must require:

- (a) That the executive board approve all write-offs of debt; and
- (b) That the community manager provide timely updates and reports as necessary.

Sec. 22. NRS 76.020 is hereby amended to read as follows:

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

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

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

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

2. The term does not include:

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

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

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

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

(f) A business organized pursuant to chapter 82 or 84 of NRS ~~that~~ *or a unit-owners' association, as that term is defined in NRS 116.011 or 116B.030, that is organized pursuant to chapter 81 of NRS.*

Sec. 23. NRS 76.100 is hereby amended to read as follows:

76.100 1. A person shall not conduct a business in this State unless and until the person obtains a state business license issued by the Secretary of State. If the person is:

(a) An entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business license at the time of filing the initial or annual list.

(b) Not an entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business license before conducting a business in this State.

2. An application for a state business license must:

(a) Be made upon a form prescribed by the Secretary of State;

(b) Set forth the name under which the applicant transacts or intends to transact business, or if the applicant is an entity organized pursuant to this title and on file with the Secretary of State, the exact name on file with the Secretary of State, the entity number as assigned by the Secretary of State, if known, and the location in this State of the place or places of business;

(c) Be accompanied by a fee in the amount of \$100; and

(d) Include any other information that the Secretary of State deems necessary.

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

3. The application must be signed pursuant to NRS 239.330 by:

(a) The owner of a business that is owned by a natural person.

(b) A member or partner of an association or partnership.

(c) A general partner of a limited partnership.

(d) A managing partner of a limited-liability partnership.

(e) A manager or managing member of a limited-liability company.

(f) An officer of a corporation or some other person specifically authorized by the corporation to sign the application.

4. If the application for a state business license is defective in any respect or the fee required by this section is not paid, the Secretary of State may return the application for correction or payment.

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

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

(a) Is organized pursuant to this title, other than a business organized pursuant to chapter 82 or 84 of NRS ~~§~~ **or a unit-owners' association, as that term is defined in NRS 116.011 or 116B.030, that is organized pursuant to chapter 81 of NRS.**

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

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

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

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

Sec. 24. 1. The Legislative Commission shall appoint a subcommittee consisting of three members of the Senate and three members of the Assembly to conduct a study during the 2011-2013 interim concerning the laws and regulations governing common-interest communities in this State. The Legislative Commission shall designate a chair and vice-chair of the subcommittee.

2. Any recommendations for legislation proposed by the subcommittee must be approved by a majority of the members of the Senate and a majority of the members of the Assembly appointed to the subcommittee.

3. The Legislative Commission shall submit a copy of the final written report of the study and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmission to the 77th Session of the Nevada Legislature.

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. 506 makes the following changes to Senate Bill No. 174. It deletes Section 1 that would have allowed an appeal of a decision of the Real Estate Division to the Commission for Common-Interest Communities and Condominium Hotels.

It deletes the provisions in Sections 2 and 4 that would have prohibited cumulative voting, thereby retaining cumulative voting as it currently exists.

It requires that if an executive board meets only in executive session, the board cannot discuss the mental or physical health of a vendor and must disclose the topic that was discussed at the next regular board meeting.

It deletes the ability of an association to assess against a unit owner the legal fees and costs incurred by the association to enforce a violation by the unit owner.

It deletes Section 15 concerning liens to cover the costs of collecting past due obligations and reasonable attorneys fees, and replaces it with provisions limiting to \$1,950 the amount of the association's lien that is entitled to priority over certain other obligations.

It revises Section 16 by only prohibiting retaliatory action against a board member and deleting language concerning physical damage and bodily harm.

It adds a new Section 24 that requires the Legislative Commission to appoint a subcommittee to conduct a study during the upcoming interim concerning laws and regulations governing common-interest communities.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that upon return from reprint, Senate Bill No. 174 be re-referred to the Committee on Finance.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 184.

Bill read second time.

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

Amendment No. 476.

"SUMMARY—Requires the Public Utilities Commission of Nevada to establish the Renewable Energy Systems Development Program. (BDR 58-229)"

"AN ACT relating to energy; requiring the Public Utilities Commission of Nevada to establish the Renewable Energy Systems Development Program; requiring each provider of electric service in this State to participate in the Program; requiring the Commission to establish standard ~~offers~~ **contracts** for the purchase and resale of electricity generated by certain renewable energy systems; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill requires the Public Utilities Commission of Nevada to establish the Renewable Energy Systems Development Program. **Section 13** of this bill requires each provider of electric service in this State to participate in the Program. **Section 13** also requires the Commission to establish standard ~~offers~~ **contracts** for the purchase and resale of electricity from certain renewable energy systems and determine the ~~cumulative capacity of renewable energy systems that are authorized to participate in the Program.~~ Additionally, ~~section 13 requires the Commission to: (1) appoint one or more facilitators to engage in the purchase and resale of electricity from renewable energy systems in accordance with the standard offers; and (2) make the standard offers available until the cumulative system capacity of all renewable energy systems participating in the Program meets the cumulative capacity determined by the Commission.)~~ **price to be paid for electricity pursuant to such standard contracts.**

Section 14 of this bill provides that a **standard** contract ~~for a standard offer~~ is transferable ~~and requires the transferee to provide written notice to the facilitator of any transfer.~~ **Section 14** also requires the facilitator to ~~distribute the electricity purchased pursuant to contracts for standard offers and to allocate any associated costs among all providers of electric service on a pro rata basis.~~ **Section 13** provides that renewable energy systems owned and operated by a provider of electric service are not eligible for the standard offer, but **section 14** requires that a provider of electric service receive a credit toward its share of such associated costs for any renewable energy system which is owned and operated by the provider and which is ~~commissioned on or after January 1, 2012.)~~ **under certain circumstances.** **Section 14** ~~further~~ requires that a **standard** contract ~~for a standard offer~~ provide that any tradable renewable energy credits associated with a renewable energy system which accepts a standard ~~offer~~ **contract** are owned by the provider of electric service that purchases electricity from the

renewable energy system. Additionally, **section 14** provides that a **standard** contract ~~{for a standard offer}~~ entered into by a utility provider is deemed to be a prudent investment, and the utility provider may recover all just and reasonable costs associated with the **standard** contract.

Section 15 of this bill requires the Commission to ~~{make certain determinations concerning the reasonable expenses of facilitators and to allocate those expenses among the system owners and providers of electric service. Section 15 also requires the Commission to establish reporting requirements relating to the Program and to}~~ adopt regulations to carry out the Program.

Section 18 of this bill requires the **Public Utilities Commission of Nevada** to submit ~~{a biennial report}~~ **annual reports** to the Legislature **or the Legislative Commission** concerning the Program. **Section 19** of this bill requires the **Public Utilities Commission of Nevada** to open an investigatory docket to establish the initial prices for the purchase and resale of electricity under the Program.

Section 20 of this bill requires the regulations which must be adopted by the Commission to carry out the provisions of this bill to be adopted on or before December 31, 2011.

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

Section 1. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 18, inclusive, of this act.

Sec. 2. *As used in sections 2 to 18, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 12, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Commissioned" or "commissioning" means the first time a renewable energy system is put into operation following its initial construction or following its modernization if the costs of modernization are equal to 50 percent or more of the costs that would be required to build a new renewable energy system, including all buildings and structures technically required for the operation of a new renewable energy system. The term does not include activities necessary to establish operational readiness of the renewable energy system.*

Sec. 4. ~~{ "Facilitator" means a person appointed by the Commission pursuant to section 13 of this act. }~~ **(Deleted by amendment.)**

Sec. 5. *"Person" means a natural person, any form of business or social organization and any other nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust or unincorporated organization. The term ~~{does not include}~~ includes, without limitation, an Indian reservation or Indian colony, a government, governmental agency or political subdivision of a government.*

Sec. 6. *"Program" means the Renewable Energy Systems Development Program established by the Commission pursuant to section 13 of this act.*

Sec. 6.5. "Program year" means the period of July 1 to June 30 of the following year.

Sec. 7. "Provider of electric service" has the meaning ascribed to it in NRS 704.7808.

Sec. 8. "Renewable energy" has the meaning ascribed to it in NRS 704.7811.

Sec. 9. "Renewable energy system" means a facility or energy system that:

- 1. Uses renewable energy to generate electricity; and*
- 2. Has a system capacity that is 100 kilowatts or more but less than 3 megawatts.*

Sec. 9.5. "Standard contract" means a contract which is established by the Commission pursuant to section 13 of this act for the purchase and resale of electricity from qualifying renewable energy systems under the Program.

Sec. 10. "System capacity" means the nameplate capacity of a renewable energy system.

Sec. 11. "System owner" means the person who has the right to sell electricity generated by a renewable energy system.

Sec. 12. "Utility provider" has the meaning ascribed to it in NRS 704.7819.

Sec. 13. 1. The Commission shall establish the Renewable Energy Systems Development Program to carry out the provisions of sections 2 to 18, inclusive, of this act. Each provider of electric service in this State shall participate in the Program.

2. ~~{To carry out the Program, the}~~ The Commission shall {appoint one or more facilitators to engage in the purchase and resale of electricity generated by qualified renewable energy systems in accordance with the standard offers established by the Commission pursuant to paragraph (a) of subsection 3.} carry out the Program for each program year beginning on July 1, 2012, and ending on June 30, 2020.

3. The Commission shall ~~{~~
~~*— (a) Establish} establish standard {offers} contracts for the purchase and resale of electricity from qualifying renewable energy systems .{, and*~~
~~*— (b) Determine the cumulative system capacity for all renewable energy systems that participate in the Program.}*~~

4. ~~{The}~~ For each program year, the Commission shall make the standard {offers} contracts {established pursuant to paragraph (a) of subsection 3} available to renewable energy systems until the ~~{cumulative system capacity}~~ total amount of all incentives paid to renewable energy systems that have accepted a standard {offer} contract equals ~~for exceeds the cumulative system capacity determined by the Commission pursuant to paragraph (b) of subsection 3. A renewable energy system owned and operated by a provider of electric service is not eligible for the standard offers established pursuant to paragraph (a) of subsection 3, but the system~~

~~capacity of a renewable energy system owned and operated by a provider of electric service in this State may be included in calculating the cumulative system capacity determined by the Commission if the renewable energy system is commissioned on or after January 1, 2012.~~ one-half of 1 percent of the total revenues received by all providers of electric service in this State during the immediately preceding program year.

5. The term of a standard ~~offer established pursuant to paragraph (a) of subsection 3 must be 25~~ contract must not exceed 20 years.

6. For each program year, the Commission may determine the Program capacity that will be allocated for standard contracts for each type of renewable energy.

7. For each type of renewable energy used by a renewable energy system to generate electricity, the Commission shall determine the price that must be paid pursuant to a standard ~~offer~~ contract to a system owner for each kilowatt-hour of electricity generated by the renewable energy system. In determining the price, the Commission shall:

(a) ~~Determine a generic cost based on an economic analysis which includes a consideration of:~~

— (1) ~~The type of renewable energy used by the renewable energy system to generate electricity; and~~

— (2) ~~Different generic costs for renewable energy systems of different system capacities;~~

— (b) ~~Include a rate of return of not less than the highest rate of return received by an investor-owned utility provider under the rates approved by the Commission as of the date the standard offer goes into effect; and~~

— (c) ~~Include such adjustments as the Commission determines necessary to ensure that the price provides sufficient incentive for the rapid development and commissioning of renewable energy systems in this State and does not exceed the amount needed to provide such an incentive.~~

7. Except as otherwise provided in subsection 9, after benchmark price based on the weighted average price per kilowatt-hour of electricity generated by each type of renewable energy paid by providers of electric service pursuant to the renewable energy contracts executed pursuant to NRS 704.7821 for the purchase of electricity from that type of renewable energy; and

(b) Determine the amount of an incentive to be paid in addition to the benchmark price established pursuant to paragraph (a). The amount of the incentive established pursuant to this paragraph must be calculated to provide an economic incentive for the timely and steady development and commissioning of renewable energy systems in this State.

8. After the Commission determines the ~~generic cost and rate of return~~ benchmark price and incentive amount pursuant to subsection ~~6~~ 7, the price to be paid to a system owner under a subsequently executed standard contract ~~for a standard offer~~ must comply with those determinations.

~~§ 8.~~ 9. On or before ~~January 31,~~ March 1, 2013, and on or before ~~January 31~~ March 1 of each subsequent ~~odd-numbered~~ year, the Commission shall review the price determined pursuant to subsection ~~6~~ 7 and determine whether the price is providing sufficient incentive for the ~~rapid~~ timely and steady development and commissioning of renewable energy systems in this State. If the Commission determines that the price is inadequate or excessive, the Commission shall, in accordance with the requirements of subsection ~~6~~ 7, reestablish the price, and that price must be applied prospectively ~~beginning on March 1 of the following year.~~

~~9.~~ The Commission shall provide that the amount of any tax credits and other incentives provided by the Federal Government, the State or any local governmental entity to a renewable energy system must be subtracted from the price that would otherwise be paid to the system owner pursuant to a contract for a standard offer, to standard contracts executed during the next following program year.

10. A system owner who has executed a standard contract ~~for a standard offer~~ before the Commission makes a determination pursuant to subsection ~~6 or 8~~ 7 or 9 must continue to receive the price provided for in the standard contract.

Sec. 14. 1. A standard contract ~~for a standard offer is transferable.~~ may be transferred to another person:

(a) Not more than once before the construction or commissioning of the renewable energy system to which the standard contract is applicable; or

(b) If the renewable energy system to which the standard contract is applicable has been commissioned and has been in operation for not less than 90 days and ownership of the real property on which the renewable energy system is located is transferred to the other person.

→ The transferee shall provide written notice to the ~~facilitator~~ Commission of any transfer not later than 30 days after the transfer.

2. ~~Except as otherwise provided in subsection 3, the facilitator shall distribute the electricity purchased and allocate any associated costs among all providers of electric service based on their pro rata share of total retail sales of electricity in this State during the previous calendar year, and each provider of electric service shall pay its respective allocated costs determined by the facilitator.~~

~~3. A provider of electric service must receive a credit toward its share of the costs determined pursuant to subsection 2 for any renewable energy system which is commissioned on or after January 1, 2012. The amount of the credit is the amount that the system owner would otherwise be eligible to receive, if the owner were not a provider of electric service, pursuant to the standard offer in effect at the time the renewable energy system is commissioned. The amount of any such credit must be reallocated among all other providers of electric service on a basis such that all providers of electric service pay for a proportionate amount of system capacity up to the~~

~~cumulative system capacity determined by the Commission pursuant to paragraph (b) of subsection 3 of section 13 of this act.~~

~~—4.— A standard contract ~~for a standard offer~~ must provide that any tradable renewable energy credits associated with a renewable energy system which accepts a standard ~~offer~~ contract are owned by the provider of electric service that purchases electricity from the renewable energy system. ~~The facilitator shall transfer any tradable renewable energy credits attributable to electricity purchased pursuant to a contract for a standard offer to all providers of electric service in accordance with their pro rata share of the costs for such electricity as determined pursuant to this section.~~~~

~~—5.—~~ 3. If a provider of electric service is a utility provider, a standard contract ~~for a standard offer~~ entered into by the utility provider, including the terms and conditions, shall be deemed to be a prudent investment, and the utility provider may recover all just and reasonable costs associated with the standard contract.

Sec. 15. The Commission shall ~~be~~

~~—1.— Determine the reasonable expenses of each facilitator in carrying out his or her duties pursuant to the Program and allocate those expenses among the system owners and providers of electric service.~~

~~—2.— Determine the manner and timing of payments by a facilitator to each system owner for energy purchased pursuant to a contract for a standard offer.~~

~~—3.— Determine the manner and timing of payments to a facilitator by a provider of electric service for energy distributed to the provider of electric service pursuant to a contract for a standard offer.~~

~~—4.— Establish reporting requirements for facilitators, system owners and providers of electric service.~~

~~—5.— Adopt~~ adopt such regulations as the Commission determines necessary to carry out the Program.

Sec. 16. The existence of a standard ~~offer established pursuant to paragraph (a) of subsection 3 of section 13 of this act~~ contract does not preclude a voluntary contract between a system owner and a provider of electric service on terms that may be different from the terms required for a standard ~~offer~~ contract under the Program. A system owner who declines a voluntary contract may accept a standard ~~offer~~ contract under the Program.

Sec. 17. The State is not liable to any system owner or provider of electric service with respect to any matter relating to the Program, including, without limitation:

1. Any costs associated with a standard contract; ~~for a standard offer;~~

2. Any damages arising from the breach of a standard contract; ~~for a standard offer;~~

3. Any costs associated with the flow of electricity between a renewable energy system and the electricity grid; or

4. Any costs associated with the interconnection of a renewable energy system with the electricity grid.

Sec. 18. ~~1-1~~ On or before February 1, 2013, and on or before February 1 of each subsequent ~~odd-numbered~~ year, the Commission shall deliver a written report on the status of the Program to the Director of the Legislative Counsel Bureau for transmittal during each odd-numbered year to the next regular session of the Legislature ~~+~~

~~2. The report required by subsection 1 must include, without limitation:~~
~~— (a) An assessment of the progress made toward achieving the cumulative system capacity determined by the Commission pursuant to paragraph (b) of subsection 3 of section 13 of this act;~~

~~— (b) If the cumulative system capacity determined by the Commission pursuant to paragraph (b) of subsection 3 of section 13 of this act has not been achieved, identification of the barriers to achieving that goal and detailed recommendations for overcoming those barriers; and~~

~~— (c) If the cumulative system capacity determined by the Commission pursuant to paragraph (b) of subsection 3 of section 13 of this act has been achieved or is likely to be achieved within 1 year after the date of the report, a recommendation of whether the Program should continue and, if so, any recommended modifications to the Program.]~~ and for transmittal during each even-numbered year to the Legislative Commission.

Sec. 19. 1. As soon as practicable after the effective date of this act, the Public Utilities Commission of Nevada shall open an investigatory docket to determine just and reasonable prices for the purchase and resale of electricity pursuant to sections 2 to 18, inclusive, of this act.

2. The following parties may participate in the investigatory docket:

- (a) A provider of electric service as defined in section 7 of this act;
- (b) A system owner as defined in section 11 of this act;
- (c) A utility provider as defined in section 12 of this act;
- (d) The Regulatory Operations Staff of the Commission; and
- (e) Any other interested party.

Sec. 20. The Public Utilities Commission of Nevada shall, on or before December 31, 2011, adopt any regulations which are necessary to carry out the provisions of this act.

Sec. 21. 1. This act becomes effective:

~~1-1~~ (a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

~~1-2~~ (b) On ~~January~~ July 1, 2012, for all other purposes.

2. This act expires by limitation on June 30, 2020.

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. 476 to Senate Bill No. 184 makes changes to the feed-in tariff (FIT) program to be developed by the Public Utilities Commission of Nevada (PUCN).

The PUCN shall establish standard contracts for the FIT and determine the price to be paid for electricity under these contracts. The term of a contract must not exceed 20 years.

The PUCN may determine the program capacity that will be allocated each program year for each type of renewable energy.

The amendment deletes the provisions requiring the use of a facilitator in conjunction with the FIT program and changes the mechanism for calculating the maximum capacity for the program.

The amendment also requires the PUCN to file annual reports regarding the FIT's with the Legislature rather than biennial reports.

Senator Denis disclosed that he is an employee of the Public Utilities Commission.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 190.

Bill read second time.

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

Amendment No. 405.

"SUMMARY—Provides for the licensure of music therapists. (BDR 54-377)"

"AN ACT relating to music therapy; providing for the licensure of music therapists by the State Board of Health; authorizing the Board to establish a voluntary Music Therapy Advisory Group; prohibiting a person from engaging in the practice of music therapy without a license; prescribing the requirements for the issuance and renewal of a license as a music therapist; establishing the grounds for disciplinary action against a music therapist; providing the disciplinary actions the Board may take against a music therapist; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the licensure and regulation of certain professions, occupations and businesses. (Title 54 of NRS) This bill provides for the licensure and regulation of music therapists. **Section 12** of this bill makes it unlawful to practice music therapy or hold oneself out as a music therapist without a license. **Section 17** of this bill sets forth the authorized music therapy services that may be provided by a music therapist. **Sections 13 and 14** of this bill make the State Board of Health the licensing entity for music therapists and establishes the requirements and fee for licensure to practice as a music therapist. **Sections 15 and 16** of this bill provide for the renewal of a license to practice music therapy every 5 years as well as the requirements and fee for renewal. **Section 34** of this bill

provides that the State Board of Health may not increase the fee for issuing or renewing a license sooner than January 1, 2014.

Section 10 of this bill allows the State Board of Health to adopt any regulations it deems necessary to carry out the provisions of the bill. In addition, **section 10** requires the Board to enforce the provisions of the bill to the extent that money is available for that purpose. The Board is also required to maintain a list of applicants, licensees and persons whose licenses have been revoked or suspended and make those lists available upon request and payment of any fee. **Section 11** of this bill authorizes the State Board of Health to establish a Music Therapy Advisory Group that serves without compensation to assist the Board in carrying out its duties.

Sections 18-23 of this bill establish the grounds for disciplinary action against a music therapist and the procedures for addressing complaints and taking such disciplinary action. **Section 24** of this bill prohibits a person from requiring a music therapist to delegate certain services to another person in certain circumstances.

Section 25 of this bill adds music therapists to the definition of "provider of health care" as used in the chapter which addresses healing arts. That definition is also referred to and used in various sections of the NRS for various purposes. (See e.g. NRS 48.039, 162A.760, 391.208) **Section 26** of this bill adds music therapists to the list of persons required to report unprofessional conduct by a nurse or other person licensed or certified by the State Board of Nursing. **Sections 27-29** of this bill add music therapists to the list of persons required to report any known or suspected abuse, neglect, exploitation or isolation of an older or vulnerable person. **Section 30** of this bill adds music therapists to the list of persons required to report any known or suspected abuse or neglect of a child. **Section 31** of this bill makes the regulations of the State Board of Health relating to licensing music therapists subject to review of the Legislative Committee on Health Care. After any such review, the Committee would notify the Board of the advisability of adopting or revising the proposed regulation. (NRS 439B.225)

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

Section 1. Title 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 24, inclusive, of this act.

Sec. 2. *The practice of music therapy is hereby declared to be a learned profession, affecting public health, safety and welfare and subject to regulation to protect the public from the practice of music therapy by unqualified and unlicensed persons and from unprofessional conduct by persons who are licensed to practice music therapy.*

Sec. 3. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Board" means the State Board of Health.*

Sec. 5. "Client" means a person who receives music therapy services.

Sec. 6. "Licensee" means a music therapist who is licensed to practice music therapy pursuant to this chapter.

Sec. 7. "Music therapy" means the clinical ~~provision of music therapy services and~~ use of music interventions by a licensee to accomplish ~~specific~~ individualized goals ~~established for a client~~ within a therapeutic relationship by a credentialed professional who has completed a music therapy program approved by the Board. The term does not include:

1. The practice of psychology or medicine;
2. The psychological assessment or treatment of couples or families;
3. The prescribing of drugs or electroconvulsive therapy;
4. The medical treatment of physical disease, injury or deformity;
5. The diagnosis or psychological treatment of a psychotic disorder;
6. The use of projective techniques in the assessment of personality;
7. The use of psychological, neuropsychological, psychometric assessment or clinical tests designed to identify or classify abnormal or pathological human behavior or to determine intelligence, personality, aptitude, interests or addictions;
8. The use of individually administered intelligence tests, academic achievement tests or neuropsychological tests; or
9. The use of psychotherapy to treat the concomitants of organic illness.

Sec. 8. "Music therapy services" means the services a licensee is authorized to provide pursuant to section 17 of this act in order to achieve the goals of music therapy.

Sec. 9. The provisions of this chapter do not apply to:

1. A person who is employed by this State or the Federal Government and who provides music therapy services within the scope of that employment.
2. A person performing services or participating in activities as part of a supervised course of study in an accredited or approved educational or internship program while pursuing study leading to a degree or certificate in music therapy, if the person is designated by a title which clearly indicates his or her status as a student or intern.
3. A person who holds a professional license in this State or an employee who is supervised by a person who holds a professional license in this State and whose provision of music therapy services is incidental to the practice of his or her profession if the person does not hold himself or herself out to the public as a music therapist.

Sec. 10. 1. The Board may adopt such regulations as it deems necessary to carry out the provisions of this chapter. The regulations may include, without limitation, additional:

- (a) Standards of training for music therapists;
- (b) Requirements for continuing education for music therapists; and

(c) *Standards of practice for music therapists.*

2. *The Board shall:*

(a) *Enforce the provisions of this chapter and any regulations adopted pursuant thereto, to the extent that money is available for that purpose; and*

(b) *Maintain a list of:*

(1) *Applicants for a license;*

(2) *Licensees; and*

(3) *Persons whose licenses have been revoked or suspended by the Board.*

3. *The Board shall, upon request and payment of any fee, provide a copy of a list maintained pursuant to paragraph (b) of subsection 2. A fee charged for providing the copy must not exceed the actual cost incurred by the Board to make the copy.*

4. *The Board may accept gifts, grants, donations and contributions from any source to assist in carrying out the provisions of this chapter.*

Sec. 11. 1. *The Board may establish a Music Therapy Advisory Group consisting of persons familiar with the practice of music therapy to provide the Board with expertise and assistance in carrying out its duties pursuant to this chapter. If a Music Therapy Advisory Group is established, the Board must:*

(a) *Determine the number of members;*

(b) *Appoint the members;*

(c) *Establish the terms of the members; and*

(d) *Determine the duties of the Music Therapy Advisory Group.*

2. *Members of a Music Therapy Advisory Group established pursuant to subsection 1 serve without compensation.*

Sec. 12. 1. *A person who is not licensed to practice music therapy pursuant to this chapter, or a person whose license to practice music therapy has expired or has been suspended or revoked by the Board, shall not:*

(a) *Provide music therapy services;*

(b) *Use in connection with his or her name the words or letters "MT," "music therapist," "licensed , board-certified music therapist," "MT-BC," "Music Therapist - Board Certified," "MT - ~~[BL]~~ BC/L" or ~~["Music]~~ "Licensed Music Therapist - Board ~~[Licensed,]~~ Certified" or any other letters, words or insignia indicating or implying that he or she is licensed to practice music therapy, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the words "music therapy" or represent himself or herself as licensed or qualified to engage in the practice of music therapy; or*

(c) *List or cause to have listed in any directory, including, without limitation, a telephone directory, his or her name or the name of his or her company under the heading "Music Therapy" or "Music Therapist" or*

any other term that indicates or implies that he or she is licensed or qualified to practice music therapy.

2. A person who violates the provisions of this section is guilty of a misdemeanor.

Sec. 13. 1. The Board shall issue a license to practice music therapy to an applicant who:

- (a) Is at least 18 years of age;*
- (b) Is of good moral character; and*
- (c) Submits to the Board:*

(1) A completed application on a form provided by the Board;

(2) Proof that the applicant has successfully completed an academic program approved by the American Music Therapy Association or its successor organization with a bachelor's degree or higher degree in music therapy;

(3) A fee in the amount of \$200 or such other amount as prescribed by regulation by the Board;

(4) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(5) Proof that the applicant has passed the examination for board certification offered by the Certification Board for Music Therapists or its successor organization or is certified as a music therapist by that Board or its successor organization.

2. Any increase in the fees imposed pursuant to this section must not exceed the amount necessary for the Board to carry out the provisions of this chapter.

Sec. 14. 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license as a music therapist shall:

(a) Include the social security number of the applicant in the application submitted to the Board.

(b) Submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Board.

3. A license may not be issued or renewed by the Board if the applicant:

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

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

Sec. 15. 1. Each license to practice music therapy expires 5 years after the date on which it is issued and may be renewed if, before the license expires, the licensee submits to the Board:

(a) A completed application for renewal on a form prescribed by the Board;

(b) Proof that the applicant has continuously maintained for the previous 5 years his or her certification with and is currently certified as a music therapist by the Certification Board for Music Therapists or its successor organization;

(c) Proof that the applicant has completed not less than 100 units of continuing education approved by the Certification Board for Music Therapists or its successor organization; and

(d) A fee in the amount of \$200 or such other amount as prescribed by regulation by the Board.

2. Any increase in the fees imposed pursuant to this section must not exceed the amount necessary for the Board to carry out the provisions of this chapter.

Sec. 16. 1. A license that is not renewed on or before the date on which it expires is delinquent. The Board shall, within 30 days after the license becomes delinquent, send a notice to the licensee by certified mail, return receipt requested, to the address of the licensee as indicated in the records of the Board.

2. A licensee may renew a delinquent license within 60 days after the license becomes delinquent by complying with the requirements of section 15 of this act.

3. A license expires 60 days after it becomes delinquent if it is not renewed within that period.

Sec. 17. A licensee may:

1. Accept referrals for music therapy services from physicians, psychologists or other health and education professionals, family members, clients or caregivers. Before providing music therapy services to a client for a medical or mental health condition, the licensee shall collaborate with

the client's physician, psychologist or other primary care provider to review the client's diagnosis and treatment needs.

2. Conduct ~~an~~ a music therapy assessment of a client to collect systematic, comprehensive and accurate information necessary to determine the appropriate type of music therapy services to provide for the client, including, without limitation, information relating to a client's emotional and physical health, social functioning, communication abilities and cognitive skills based upon the client's history and through observation and interaction of the client in music and nonmusic settings.

—2.7 3. Develop an individualized treatment plan for the client that identifies the goals, objectives and potential strategies of the music therapy services appropriate for the client using music interventions, which may include, without limitation, music improvisation, receptive music listening, song writing, lyric discussion, music and imagery, music performance, learning through music and movement to music.

—3.7 4. If applicable, carry out an individualized treatment plan that is consistent with any other ~~mental~~ health or education services being provided to the client.

—4.7 5. Evaluate and compare the client's response to music therapy and the individualized treatment plan and suggest modifications, as appropriate.

—5.7 6. Develop a plan for determining when the provision of music therapy services is no longer needed in collaboration with the client, any ~~psychiatrist, psychologist~~ physician or other provider of ~~mental~~ health care or education of the client, any appropriate member of the family of the client and any other appropriate person upon whom the client relies for support.

—6.7 7. Minimize any barriers so that the client may receive music therapy services in the least restrictive environment.

—7.7 8. Collaborate with and educate the client and the family or caregiver of the client or any other appropriate person about the needs of the client that are being addressed in music therapy and the manner in which the music therapy addresses those needs.

—8.7 9. Perform other services approved by the Board or the Certification Board for Music Therapists or its successor organization.

Sec. 18. The Board may refuse to grant or may suspend or revoke a license to practice music therapy for any of the following reasons:

1. Submitting false, fraudulent or misleading information to the Board or any agency of this State, any other state, a territory or possession of the United States, the District of Columbia or the Federal Government.

2. Violating any provision of this chapter or any regulation adopted pursuant thereto.

3. Conviction of a felony relating to the practice of music therapy or of any offense involving moral turpitude, the record of conviction being conclusive evidence thereof.

4. *Habitual drunkenness or addiction to the use of a controlled substance.*

5. *Impersonating a licensed music therapist or allowing another person to use his or her license.*

6. *Using fraud or deception in applying for a license to practice music therapy.*

7. *Failing to comply with the "Code of Professional Practice" of the Certification Board for Music Therapists or its successor organization or committing any other unethical practices contrary to the interest of the public as determined by the Board.*

8. *Negligence, fraud or deception in connection with the music therapy services a licensee is authorized to provide pursuant to this chapter.*

Sec. 19. 1. *If any member of the Board or a Music Therapy Advisory Group becomes aware of any ground for initiating disciplinary action against a licensee, the member must file a written complaint with the Board.*

2. *As soon as practicable after receiving a complaint, the Board shall:*

(a) *Forward the complaint to the Certification Board for Music Therapists or its successor organization for investigation of the complaint and request a written report of the findings of such investigation; or*

(b) *To the extent money is available to do so, conduct an investigation of the complaint to determine whether the allegations in the complaint merit the initiation of disciplinary proceedings against the licensee.*

3. *The Board shall retain a copy of each complaint filed with the Board pursuant to this section for at least 10 years, including, without limitation, any complaint that is not acted upon.*

Sec. 20. 1. *If, after an investigation conducted by the Board or receiving the findings from an investigation of a complaint from the Certification Board for Music Therapists or its successor organization, and after notice and a hearing as required by law, the Board finds one or more grounds for taking disciplinary action, the Board may:*

(a) *Place the licensee on probation for a specified period or until further order of the Board;*

(b) *Administer to the applicant or licensee a public reprimand;*

(c) *Refuse to renew the license of the licensee;*

(d) *Suspend or revoke the license of the licensee;*

(e) *Impose an administrative fine of not more than \$500 for each violation; or*

(f) *Take any combination of actions set forth in paragraphs (a) to (e), inclusive.*

2. *The order of the Board may include such other terms, provisions or conditions as the Board deems appropriate.*

3. *The order of the Board and the findings of fact and conclusions of law supporting that order are public records.*

4. *The Board shall not issue a private reprimand.*

Sec. 21. 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information returned from the Certification Board for Music Therapists or its successor organization as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

2. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 22. 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a music therapist, the Board shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

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

Sec. 23. 1. If the Board determines that a person has violated or is about to violate any provision of this chapter or a regulation adopted pursuant thereto, the Board may bring an action in a court of competent jurisdiction to enjoin the person from engaging in or continuing the violation.

2. An injunction:

(a) May be issued without proof of actual damage sustained by any person.

(b) Does not prohibit the criminal prosecution and punishment of the person who commits the violation.

Sec. 24. 1. *A person shall not require a licensee to delegate the provision of music therapy services to another person if, in the opinion of the licensee, such delegation would be inappropriate or create a risk of harm to the client.*

2. *A person who violates the provisions of this section is guilty of a misdemeanor.*

Sec. 25. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by a specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, physician assistant, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, licensed clinical professional counselor, ***music therapist***, chiropractor, athletic trainer, perfusionist, doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

Sec. 26. NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, perfusionist, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, alcohol or drug abuse counselor, ***music therapist***, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 427A.0291.

(f) Any person who maintains or is employed by an agency to provide nursing in the home.

- (g) Any employee of the Department of Health and Human Services.
- (h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.
- (i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.
- (j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.
- (k) Any social worker.

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section, "agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.

Sec. 27. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in a professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

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

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

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

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

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging and Disability Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the

report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, perfusionist, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, *music therapist*, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 427A.0291.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a

result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his or her written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging and Disability Services Division of the Department of Health and Human Services, must be forwarded within 30 days after the completion of the report to the:

- (a) Aging and Disability Services Division;
- (b) Repository for Information Concerning Crimes Against Older Persons created by NRS 179A.450; and
- (c) Unit for the Investigation and Prosecution of Crimes.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging and Disability Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if the older person is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 28. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in a professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, perfusionist, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, *music therapist*, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his or her written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 29. NRS 200.5095 is hereby amended to read as follows:

200.5095 1. Reports made pursuant to NRS 200.5093, 200.50935 and 200.5094, and records and investigations relating to those reports, are confidential.

2. A person, law enforcement agency or public or private agency, institution or facility who willfully releases data or information concerning the reports and investigation of the abuse, neglect, exploitation or isolation of older persons or vulnerable persons, except:

- (a) Pursuant to a criminal prosecution;
- (b) Pursuant to NRS 200.50982; or
- (c) To persons or agencies enumerated in subsection 3,

↳ is guilty of a misdemeanor.

3. Except as otherwise provided in subsection 2 and NRS 200.50982, data or information concerning the reports and investigations of the abuse, neglect, exploitation or isolation of an older person or a vulnerable person is available only to:

(a) A physician who is providing care to an older person or a vulnerable person who may have been abused, neglected, exploited or isolated;

(b) An agency responsible for or authorized to undertake the care, treatment and supervision of the older person or vulnerable person;

(c) A district attorney or other law enforcement official who requires the information in connection with an investigation of the abuse, neglect, exploitation or isolation of the older person or vulnerable person;

(d) A court which has determined, in camera, that public disclosure of such information is necessary for the determination of an issue before it;

(e) A person engaged in bona fide research, but the identity of the subjects of the report must remain confidential;

(f) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

(g) Any comparable authorized person or agency in another jurisdiction;

(h) A legal guardian of the older person or vulnerable person, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the legal guardian of the older person or vulnerable person is not the person suspected of such abuse, neglect, exploitation or isolation;

(i) If the older person or vulnerable person is deceased, the executor or administrator of his or her estate, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the executor or administrator is not the person suspected of such abuse, neglect, exploitation or isolation; or

(j) The older person or vulnerable person named in the report as allegedly being abused, neglected, exploited or isolated, if that person is not legally incompetent.

4. If the person who is reported to have abused, neglected, exploited or isolated an older person or a vulnerable person is the holder of a license or certificate issued pursuant to chapters 449, 630 to 641B, inclusive, or 654 of NRS, *or sections 2 to 24, inclusive, of this act, the* information contained in the report must be submitted to the board that issued the license.

Sec. 30. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of the home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or

practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, perfusionist, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, clinical social worker, *music therapist*, athletic trainer, advanced emergency medical technician or other person providing medical services licensed or certified in this State.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of suspected abuse or neglect of a child by a member of the staff of the hospital.

(c) A coroner.

(d) A member of the clergy, practitioner of Christian Science or religious healer, unless the person has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A social worker and an administrator, teacher, librarian or counselor of a school.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) An attorney, unless the attorney has acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for an approved youth shelter. As used in this paragraph, "approved youth shelter" has the meaning ascribed to it in NRS 244.422.

(l) Any adult person who is employed by an entity that provides organized activities for children.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and the appropriate medical examiner or coroner of the report. If such a report is made to an agency which provides child welfare services, the agency which provides child welfare services shall notify the

appropriate medical examiner or coroner of the report. The medical examiner or coroner who is notified of a report pursuant to this subsection shall investigate the report and submit his or her written findings to the appropriate agency which provides child welfare services, the appropriate district attorney and a law enforcement agency. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

Sec. 31. NRS 439B.225 is hereby amended to read as follows:

439B.225 1. As used in this section, "licensing board" means any division or board empowered to adopt standards for the issuance or renewal of licenses, permits or certificates of registration pursuant to NRS 435.3305 to 435.339, inclusive, chapter 449, 625A, 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, 639, 640, 640A, 641, 641A, 641B, 641C, 652 or 654 of NRS ~~or~~ **or sections 2 to 24, inclusive, of this act.**

2. The Committee shall review each regulation that a licensing board proposes or adopts that relates to standards for the issuance or renewal of licenses, permits or certificates of registration issued to a person or facility regulated by the board, giving consideration to:

(a) Any oral or written comment made or submitted to it by members of the public or by persons or facilities affected by the regulation;

(b) The effect of the regulation on the cost of health care in this State;

(c) The effect of the regulation on the number of licensed, permitted or registered persons and facilities available to provide services in this State; and

(d) Any other related factor the Committee deems appropriate.

3. After reviewing a proposed regulation, the Committee shall notify the agency of the opinion of the Committee regarding the advisability of adopting or revising the proposed regulation.

4. The Committee shall recommend to the Legislature as a result of its review of regulations pursuant to this section any appropriate legislation.

Sec. 32. NRS 608.0116 is hereby amended to read as follows:

608.0116 "Professional" means pertaining to an employee who is licensed or certified by the State of Nevada for and engaged in the practice of law or any of the professions regulated by chapters 623 to 645, inclusive, 645G and 656A of NRS ~~or~~ **and sections 2 to 24, inclusive, of this act.**

Sec. 33. Section 14 of this act is hereby amended to read as follows:

Sec. 14. 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license as a music therapist shall ~~be~~:

~~—(a) Include the social security number of the applicant in the application submitted to the Board.~~

~~—(b) Submit~~ **submit** to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

- (a) The application or any other forms that must be submitted for the issuance or renewal of the license; or
- (b) A separate form prescribed by the Board.

3. A license may not be issued or renewed by the Board if the applicant:

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

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

Sec. 34. The State Board of Health shall not adopt any regulation to increase the fee for the issuance of a license to practice music therapy pursuant to section 13 of this act or the fee for the renewal of such a license pursuant to section 15 of this act before January 1, 2014.

Sec. 35. 1. This section, sections 1 to 32, inclusive, and section 34 of this act become effective:

- (a) Upon passage and approval for the purpose of issuing licenses to qualified applicants; and
- (b) On January 1, 2012, for all other purposes.

2. Section 33 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.

3. Sections 22 and 33 of this act expire by limitation 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,
→ are repealed by the Congress of the United States.

Senator Roberson moved the adoption of the amendment.

Remarks by Senator Roberson.

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

Amendment No. 405 to Senate Bill No. 190 provides a more detailed description of the scope of "music therapy."

The amendment also specifies who may make referrals of clients to a music therapist.

A music therapist shall collaborate with a client's physician or other primary care provider before providing any services to a client.

A music therapist may carry out an individual treatment plan that is consistent with any other educational services being provided to the client.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 204.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 382.

"SUMMARY—Enacts certain amendments to the Uniform Common-Interest Ownership Act. (BDR 10-298)"

"AN ACT relating to common-interest communities; enacting certain amendments to the Uniform Common-Interest Ownership Act; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law relating to common-interest communities is based on the Uniform Common-Interest Ownership Act (UCIOA), which was proposed by the Uniform Law Commission (ULC). (Chapter 116 of NRS) This bill enacts certain amendments to the UCIOA which have been proposed by the ULC.

Sections 2, 40 and 41 of this bill prescribe the manner in which an association must provide notice of meetings of units' owners and of the executive board and any other notice required to be given by an association other than notices relating to the foreclosure of a lien on a unit held by the association.

Section 4 of this bill authorizes the executive board or any other interested person to commence an action in the district court for the termination of a common-interest community if: (1) substantially all the units in the common-interest community have been destroyed or are uninhabitable; and (2) the available methods for giving notice of a meeting of units' owners to consider termination are not likely to result in receipt of the notice.

Sections 5 and 6 of this bill reorganize and reenact certain provisions of existing law relating to the indemnification of members of executive boards

and the provision of equal space to opposing views in official publications under certain circumstances. **Additionally, section 6 enacts provisions providing for equal time for candidates and representatives of ballot questions on a closed-circuit television station maintained by an association.**

Under existing law, the definitions applicable to laws relating to common-interest communities apply to the declarations and bylaws of associations. (NRS 116.003) **Section 7** of this bill provides that those definitions no longer apply to those declarations and bylaws.

Sections 8-16 of this bill change certain definitions set forth in existing law to conform to the language of the UCIOA.

Existing law provides that other principles of law, including, without limitation, the law of corporations and the law of unincorporated associations, supplement the existing law relating to common-interest communities. (NRS 116.1108) **Section 18** of this bill provides that the laws governing other forms of organization supplement the existing law relating to common-interest communities.

Sections 20-22 of this bill adopt the language of certain amendments to the UCIOA relating to the applicability of existing law governing common-interest communities.

Sections 24-31 of this bill adopt the language of certain amendments to the UCIOA relating to the creation, alteration and termination of common-interest communities. **Section 29** grants units' owners the right to use the common elements for the purposes for which they were intended rather than granting an easement to use the common elements for all purposes. **Section 30** amends provisions relating to requirements for amending the declaration of a common-interest community and to the enforcement of certain amendments. **Section 31** amends the requirements for the termination of a common-interest community.

Sections 32-51 of this bill enact certain amendments to the UCIOA which relate to the governance of common-interest communities. **Section 32** requires the association to have an executive board and allows the association to be organized as any form of organization authorized by the law of this State. **Section 33** allows the executive board not to take enforcement action if it determines that: (1) the law does not support such action; (2) the violation is not so material as to be objectionable to a reasonable person or to justify expending the association's resources; or (3) it is not in the best interest of the association to pursue an enforcement action. **Section 34** provides that officers of the association and members of the executive board are subject to the conflict of interest rules which govern officers and directors of nonprofit corporations organized under the law of this State. **Section 36** authorizes a declarant to end the period of declarant's control by giving notice to units' owners and recording an instrument stating that the declarant surrenders all rights to control activities of the association. **Section 37 amends provisions relating to the removal of members of the executive board.** **Section 38**

amends provisions relating to the termination of certain contracts entered into before the election of an executive board by units' owners. **Section 40** provides that the portion of a meeting of the units' owners devoted to comments by units' owners is limited to comments by units' owners regarding any matter affecting the common-interest community or the association. **Section 42** amends requirements for determining whether a quorum is present at a meeting of the executive board to provide that a majority of the votes on the executive board must be present at the time a vote is taken rather than at the beginning of the meeting. **Section 43** authorizes units' owners to vote by absentee ballot at a meeting of the units' owners. **Section 44** provides that a unit's owner is not liable, by reason of being a unit's owner, for injuries or damage arising out of the condition or use of the common elements. ~~Section~~ **Sections 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 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867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000** **this bill require** an association to obtain ~~fidelity~~ **crime** insurance ~~and~~ **and remove the requirement that a community manager post a bond. Section 45 also** requires the association to maintain property, liability and ~~fidelity~~ **crime** insurance subject to reasonable deductibles. **Section 48** amends provisions relating to common expenses caused by a unit's owner, a tenant or an invitee of a unit's owner or tenant. **Section 49** amends provisions relating to liens for certain charges imposed by an association and authorizes a court to appoint a receiver when an association brings an action to foreclose a lien or collect assessments. **Sections 51 and 60** amend provisions relating to the books and records of an association and the inspection of such books and records by units' owners.

Sections 52-58 of this bill enact certain amendments to the UCIOA which relate to the disclosures provided to purchasers of real estate located in a common-interest community and the warranties applicable to real estate located in a common-interest community. **Section 52** exempts the disposition of a unit restricted to nonresidential purposes from the requirement to provide a public offering statement or certificate of resale. **Section 53** amends the information required to be included in the public offering statement provided to an initial purchaser of a unit. ~~Section 56 provides that a model or description of the physical characteristics of a common-interest community does not create an express warranty that the community will conform to the model or description if the model or description clearly discloses that it is subject to change.~~

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. 1. Except as otherwise provided in subsection 3, an association shall deliver any notice required to be given by the association under this chapter to any mailing or electronic mail address a unit's owner designates. Except as otherwise provided in subsection 3, if a unit's owner

has not designated a mailing or electronic mail address to which a notice must be delivered, the association may deliver notices by:

- (a) Hand delivery to each unit's owner;*
- (b) Hand delivery, United States mail, postage paid, or commercially reasonable delivery service to the mailing address of each unit;*
- (c) Electronic means, if the unit's owner has given the association an electronic mail address; or*
- (d) Any other method reasonably calculated to provide notice to the unit's owner.*

2. The ineffectiveness of a good faith effort to deliver notice by an authorized means does not invalidate action taken at or without a meeting.

3. The provisions of this section do not apply:

(a) To a notice required to be given pursuant to NRS 116.3116 to 116.31168, inclusive; or

(b) If any other provision of this chapter specifies the manner in which a notice must be given by an association.

Sec. 3. This chapter modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq., but does not modify, limit or supersede Section 101(c) of that Act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 U.S.C. § 7003(b).

Sec. 4. If substantially all the units in a common-interest community have been destroyed or are uninhabitable and the available methods for giving notice under NRS 116.3108 of a meeting of units' owners to consider termination under NRS 116.2118 will not likely result in receipt of the notice, the executive board or any other interested person may commence an action in the district court of the county in which the common-interest community is located seeking to terminate the common-interest community. During the pendency of the action, the court may issue whatever orders it considers appropriate, including, without limitation, an order for the appointment of a receiver. After a hearing, the court may terminate the common-interest community or reduce its size and may issue any other order the court considers to be in the best interest of the units' owners and persons holding an interest in the common-interest community.

Sec. 5. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his or her role as a member of the board, the association shall indemnify the member for his or her losses or claims, and undertake all costs of defense, unless it is proven that the member acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted.

Sec. 6. 1. *If an official publication contains ~~for will contain~~ any mention of a candidate or ballot question, the official publication must, upon request and ~~without charge,~~ under the same terms and conditions, provide equal space to ~~the candidate~~ all candidates or to a representative of an organization which supports the passage or defeat of the ballot question.*

2. *If an official publication contains ~~for will contain~~ the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and ~~without charge,~~ under the same terms and conditions, provide equal space to opposing views and opinions of a unit's owner ~~, tenant or resident~~ of the common-interest community.*

3. *If an association has a closed-circuit television station and that station interviews, or provides time to, a candidate or a representative of an organization which supports the passage or defeat of a ballot question, the closed-circuit television station must, under the same terms and conditions, allow equal time for all candidates or a representative of an opposing view to the ballot question.*

4. *The association and its officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to subsection 1 ~~for 2,~~*

~~4,~~ 2 or 3.

5. *As used in this section:*

(a) *"Issue of official interest" ~~includes, without limitation,~~ means:*

(1) *Any issue on which the executive board or the units' owners will be voting, including, without limitation, ~~the election of members of the executive board,~~ elections; and*

(2) *The enactment or adoption of rules or regulations that will affect ~~the~~ the common-interest community.*

(b) *"Official publication" means:*

(1) *An official website;*

(2) *An official newsletter or other similar publication that is circulated to each unit's owner; or*

(3) *An official bulletin board that is available to each unit's owner ~~, ~~which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.~~~~*

Sec. 7. NRS 116.003 is hereby amended to read as follows:

116.003 As used in this chapter, [and in the declaration and bylaws of an association,] unless the context otherwise requires, the words and terms defined in NRS 116.005 to 116.095, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 116.007 is hereby amended to read as follows:

116.007 ~~{1-}~~ "Affiliate of a declarant" means any person who controls, is controlled by or is under common control with a declarant.

~~{2-}~~ **For purposes of this section:**

1. A person ~~["controls"]~~ **controls** a declarant if the person:

- (a) Is a general partner, officer, director or employer of the declarant;
- (b) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the declarant;

(c) Controls in any manner the election of a majority of the directors of the declarant; or

(d) Has contributed more than 20 percent of the capital of the declarant.

~~{3-}~~ **2.** A person ~~["is"]~~ **is** controlled ~~{by-}~~ **by** a declarant if the declarant:

- (a) Is a general partner, officer, director or employer of the person;
- (b) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the person;

(c) Controls in any manner the election of a majority of the directors of the person; or

(d) Has contributed more than 20 percent of the capital of the person.

~~{4-}~~ **3.** Control does not exist if the powers described in this section are held solely as security for an obligation and are not exercised.

Sec. 9. NRS 116.009 is hereby amended to read as follows:

116.009 "Allocated interests" means the following interests allocated to each unit:

1. In a condominium, the undivided interest in the common elements, the liability for common expenses, and votes in the association;

2. In a cooperative, the liability for common expenses , ~~{and}~~ the ownership **interest** and votes in the association; and

3. In a planned community, the liability for common expenses and votes in the association.

Sec. 10. NRS 116.017 is hereby amended to read as follows:

116.017 "Common elements" means:

1. In ~~{a}~~ **the case of:**

(a) A condominium or cooperative, all portions of the common-interest community other than the units, including easements in favor of units or the common elements over other units . ~~{-and}~~

~~—2.—In a}~~

(b) A planned community, any real estate within ~~{the}~~ **a** planned community **which is** owned or leased by the association, other than a unit.

2. In all common-interest communities, any other interests in real estate for the benefit of units' owners which are subject to the declaration.

Sec. 11. NRS 116.035 is hereby amended to read as follows:

116.035 "Declarant" means any person or group of persons acting in concert who:

1. As part of a common promotional plan, offers to dispose of ~~this or her or its~~ **the interest of the person or group of persons** in a unit not previously disposed of; or

2. Reserves or succeeds to any special declarant's right.

Sec. 12. NRS 116.045 is hereby amended to read as follows:

116.045 "Executive board" means the body, regardless of name, designated in the declaration **or bylaws** to act on behalf of the association.

Sec. 13. NRS 116.079 is hereby amended to read as follows:

116.079 "Purchaser" means a person, other than a declarant or a dealer, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than ~~it~~ :

1. A leasehold interest, including options to renew, of less than 20 years ~~it or as~~ ; or

2. As security for an obligation.

Sec. 14. NRS 116.081 is hereby amended to read as follows:

116.081 "Real estate" means any leasehold or other estate or interest in, over or under land, including structures, fixtures and other improvements and interests that by custom, usage or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. ~~["Real estate"]~~ **The term** includes parcels with or without upper or lower boundaries and spaces that may be filled with air or water.

Sec. 15. NRS 116.089 is hereby amended to read as follows:

116.089 "Special declarant's rights" means rights reserved for the benefit of a declarant to:

1. Complete improvements indicated on plats or in the declaration ~~{(NRS 116.2109)}~~ or, in a cooperative, to complete improvements described in the public offering statement pursuant to **paragraph (b) of** subsection ~~{2}~~ **1** of NRS 116.4103;

2. Exercise any developmental right ; ~~{(NRS 116.211)}~~;

3. Maintain sales offices, management offices, signs advertising the common-interest community and models ; ~~{(NRS 116.2115)}~~;

4. Use easements through the common elements for the purpose of making improvements within the common-interest community or within real estate which may be added to the common-interest community ; ~~{(NRS 116.2116)}~~;

5. Make the common-interest community subject to a master association ; ~~{(NRS 116.212)}~~;

6. Merge or consolidate a common-interest community with another common-interest community of the same form of ownership ; ~~{(NRS 116.2121)}~~; or

7. Appoint or remove any officer of the association or any master association or any member of an executive board during any period of declarant's control . ~~{(NRS 116.31032)}~~;

Sec. 16. NRS 116.095 is hereby amended to read as follows:

116.095 "Unit's owner" means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold common-interest community whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the common-interest community, but does not include a person having an interest in a unit solely as security for an obligation. In a condominium or planned community, the declarant is the owner of any unit created by the declaration until that unit is conveyed to another person. In a cooperative, the declarant is treated as the owner of any unit to which allocated interests have been allocated ~~{(NRS 116.2107)}~~ until that unit has been conveyed to another person.

Sec. 17. NRS 116.1104 is hereby amended to read as follows:

116.1104 Except as expressly provided in this chapter, its provisions may not be varied by agreement, and rights conferred by it may not be waived. ~~{A}~~ ***Except as otherwise provided in paragraph (b) of subsection 2 of NRS 116.12075,*** a declarant may not act under a power of attorney, or use any other device, to evade the limitations or prohibitions of this chapter or the declaration.

Sec. 18. NRS 116.1108 is hereby amended to read as follows:

116.1108 The principles of law and equity, including the law of corporations ~~{}~~ ***and any other form of organization authorized by law of this State,*** the law of unincorporated associations, the law of real property, and the law relative to capacity to contract, principal and agent, eminent domain, estoppel, fraud, misrepresentation, duress, coercion, mistake, receivership, substantial performance, or other validating or invalidating cause supplement the provisions of this chapter, except to the extent inconsistent with this chapter.

Sec. 19. NRS 116.1114 is hereby amended to read as follows:

116.1114 ~~{}~~ The remedies provided by this chapter must be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed. Consequential, special or punitive damages may not be awarded except as specifically provided in this chapter or by other rule of law.

~~{2. — Any right or obligation declared by this chapter is enforceable by judicial proceeding.}~~

Sec. 20. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155, except that if the limited-purpose association is created for a rural agricultural residential common-interest community, the limited-purpose association is not required

to pay the fee unless the association intends to use the services of the Ombudsman;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038;

(II) NRS 116.31083 and 116.31152, unless the limited-purpose association is created for a rural agricultural residential common-interest community;

(III) NRS 116.31073, if the limited-purpose association is created for maintaining the landscape of the common elements of the common-interest community; and

(IV) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter or a part of this chapter does apply to that planned community pursuant to NRS 116.12075. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but ~~but the provisions of~~ NRS 116.4102 ~~to 116.4108,~~ **and 116.4103, and, to the extent applicable, NRS ~~116.4104~~ 116.41035 to 116.4107,** inclusive, apply to ~~all contracts~~ **a contract** for the disposition ~~thereof~~ **of a unit in that common-interest community** signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992;

(d) Except as otherwise provided in subsection 8 of NRS 116.31105, prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government, except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives;

(e) Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan; or

(f) Prohibit a master association which governs a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted and which is exempt from the provisions of this chapter pursuant to paragraph (b) of subsection 2 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 21. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsection 2, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, *and sections 5 and 6 of*

this act and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than six units.

Sec. 22. NRS 116.1206 is hereby amended to read as follows:

116.1206 1. Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter:

(a) Shall be deemed to conform with those provisions by operation of law, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.

(b) Is superseded by the provisions of this chapter, regardless of whether the provision contained in the declaration, bylaw or other governing document became effective before the enactment of the provision of this chapter that is being violated.

2. In the case of amendments to the declaration, bylaws or plats of any common-interest community created before January 1, 1992:

(a) If the result accomplished by the amendment was permitted by law before January 1, 1992, the amendment may be made either in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and

(b) If the result accomplished by the amendment is permitted by this chapter, and was not permitted by law before January 1, 1992, the amendment may be made under this chapter.

3. An amendment to the declaration, bylaws or plats authorized by this section to be made under this chapter must be adopted in conformity with the applicable provisions of chapter 117 or 278A of NRS and , *except as otherwise provided in subsection 8 of NRS 116.2117*, with the procedures and requirements specified by those instruments. If an amendment grants to ~~{any} a person {any rights, powers or privileges}~~ *a right, power or privilege* permitted by this chapter, ~~{all} any~~ *any* correlative ~~{obligations, liabilities and restrictions}~~ *obligation, liability or restriction* in this chapter also ~~{apply to that}~~ *applies to the* person.

Sec. 23. NRS 116.12075 is hereby amended to read as follows:

116.12075 1. The provisions of this chapter do not apply to a nonresidential condominium except to the extent that the declaration for the nonresidential condominium provides that:

(a) This entire chapter applies to the condominium;

(b) Only the provisions of NRS 116.001 to 116.2122, inclusive, and 116.3116 to 116.31168, inclusive, apply to the condominium; or

(c) Only the provisions of NRS 116.3116 to 116.31168, inclusive, apply to the condominium.

2. If this entire chapter applies to a nonresidential condominium, the declaration may also require, subject to NRS 116.1112, that:

(a) Notwithstanding NRS 116.3105, any management, maintenance operations or employment contract, lease of recreational or parking areas or facilities and any other contract or lease between the association and a declarant or an affiliate of a declarant continues in force after the declarant turns over control of the association; and

(b) Notwithstanding NRS 116.1104 and subsection ~~{2}~~ 3 of NRS 116.311, purchasers of units must execute proxies, powers of attorney or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.

Sec. 24. NRS 116.2103 is hereby amended to read as follows:

116.2103 1. The inclusion in a governing document of an association of a provision that violates any provision of this chapter does not render any other provisions of the governing document invalid or otherwise unenforceable if the other provisions can be given effect in accordance with their original intent and the provisions of this chapter.

2. The rule against perpetuities and NRS 111.103 to 111.1039, inclusive, do not apply to defeat any provision of the declaration, bylaws, rules or regulations adopted pursuant to NRS 116.3102.

3. ~~{In the event of}~~ **If** a conflict **exists** between ~~{the provisions of}~~ the declaration and the bylaws, the declaration prevails except to the extent the declaration is inconsistent with this chapter.

4. Title to a unit and common elements is not rendered unmarketable or otherwise affected by reason of an insubstantial failure of the declaration to comply with this chapter. Whether a substantial failure impairs marketability is not affected by this chapter.

Sec. 25. NRS 116.2105 is hereby amended to read as follows:

116.2105 1. The declaration must contain:

(a) The names of the common-interest community and the association and a statement that the common-interest community is either a condominium, cooperative or planned community;

(b) The name of every county in which any part of the common-interest community is situated;

(c) A **legally** sufficient description of the real estate included in the common-interest community;

(d) A statement of the maximum number of units that the declarant reserves the right to create;

(e) In a condominium or planned community, a description of the boundaries of each unit created by the declaration, including the unit's identifying number or, in a cooperative, a description, which may be by plats, of each unit created by the declaration, including the unit's identifying number, its size or number of rooms, and its location within a building if it is within a building containing more than one unit;

(f) A description of any limited common elements, other than those specified in subsections 2 and 4 of NRS 116.2102, as provided in

paragraph (g) of subsection 2 of NRS 116.2109 and, in a planned community, any real estate that is or must become common elements;

(g) A description of any real estate, except real estate subject to developmental rights, that may be allocated subsequently as limited common elements, other than limited common elements specified in subsections 2 and 4 of NRS 116.2102, together with a statement that they may be so allocated;

(h) A description of any developmental rights and other special declarant's rights reserved by the declarant, together with a legally sufficient description of the real estate to which each of those rights applies, and a time *limit* within which each of those rights must be exercised;

(i) If any developmental right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with:

(1) Either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each developmental right or a statement that no assurances are made in those regards; and

(2) A statement whether, if any developmental right is exercised in any portion of the real estate subject to that developmental right, that developmental right must be exercised in all or in any other portion of the remainder of that real estate;

(j) Any other conditions or limitations under which the rights described in paragraph (h) may be exercised or will lapse;

(k) An allocation to each unit of the allocated interests in the manner described in NRS 116.2107;

(l) Any restrictions:

(1) On use, occupancy and alienation of the units; and

(2) On the amount for which a unit may be sold or on the amount that may be received by a unit's owner on sale, condemnation or casualty to the unit or to the common-interest community, or on termination of the common-interest community;

(m) The file number and book or other information ~~to show where~~ **for recorded** easements and licenses ~~are recorded~~ appurtenant to or included in the common-interest community or to which any portion of the common-interest community is or may become subject by virtue of a reservation in the declaration; and

(n) All matters required by NRS 116.2106 to 116.2109, inclusive, 116.2115, 116.2116 and 116.31032.

2. The declaration may contain any other matters the declarant considers appropriate.

Sec. 26. NRS 116.2106 is hereby amended to read as follows:

116.2106 1. Any lease the expiration or termination of which may terminate the common-interest community or reduce its size must be recorded. Every lessor of those leases in a condominium or planned community shall sign the declaration. The declaration must state:

(a) The recording data ~~{where}~~ *for* the lease ~~{is}~~ *or a statement of where the recorded {lease may be inspected};*

(b) The date on which the lease is scheduled to expire;

(c) A legally sufficient description of the real estate subject to the lease;

(d) Any right of the units' owners to redeem the reversion and the manner whereby those rights may be exercised, or a statement that they do not have those rights;

(e) Any right of the units' owners to remove any improvements within a reasonable time after the expiration or termination of the lease, or a statement that they do not have those rights; and

(f) Any rights of the units' owners to renew the lease and the conditions of any renewal, or a statement that they do not have those rights.

2. After the declaration for a leasehold condominium or leasehold planned community is recorded, neither the lessor nor the lessor's successor in interest may terminate the leasehold interest of a unit's owner who makes timely payment of his or her share of the rent and otherwise complies with all covenants which, if violated, would entitle the lessor to terminate the lease. The leasehold interest of a unit's owner in a condominium or planned community is not affected by failure of any other person to pay rent or fulfill any other covenant.

3. Acquisition of the leasehold interest of any unit's owner by the owner of the reversion or remainder does not merge the leasehold and freehold interests unless the leasehold interests of all units' owners subject to that reversion or remainder are acquired.

4. If the expiration or termination of a lease decreases the number of units in a common-interest community, the allocated interests must be reallocated in accordance with subsection 1 of NRS 116.1107 as if those units had been taken by eminent domain. Reallocations must be confirmed by an amendment to the declaration prepared, executed and recorded by the association.

Sec. 27. NRS 116.2107 is hereby amended to read as follows:

116.2107 1. The declaration must allocate to each unit:

(a) In a condominium, a fraction or percentage of undivided interests in the common elements and in the common expenses of the association , ~~{(NRS 116.3115)}~~ and a portion of the votes in the association;

(b) In a cooperative, a proportionate ownership in the association, a fraction or percentage of the common expenses of the association ~~{(NRS 116.3115)}~~ and a portion of the votes in the association; and

(c) In a planned community, a fraction or percentage of the common expenses of the association ~~{(NRS 116.3115)}~~ and a portion of the votes in the association.

2. The declaration must state the formulas used to establish allocations of interests. Those allocations may not discriminate in favor of units owned by the declarant or an affiliate of the declarant.

3. If units may be added to or withdrawn from the common-interest community, the declaration must state the formulas to be used to reallocate the allocated interests among all units included in the common-interest community after the addition or withdrawal.

4. The declaration may provide:

(a) That different allocations of votes are made to the units on particular matters specified in the declaration;

(b) For cumulative voting only for the purpose of electing members of the executive board; and

(c) For class voting on specified issues affecting the class if necessary to protect valid interests of the class.

↳ Except as otherwise provided in NRS 116.31032, a declarant may not utilize cumulative or class voting for the purpose of evading any limitation imposed on declarants by this chapter nor may units constitute a class because they are owned by a declarant.

5. Except for minor variations because of rounding, the sum of the liabilities for common expenses and, in a condominium, the sum of the undivided interests in the common elements allocated at any time to all the units must each equal one if stated as a fraction or 100 percent if stated as a percentage. In the event of discrepancy between an allocated interest and the result derived from application of the pertinent formula, the allocated interest prevails.

6. In a condominium, the common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated is void.

7. In a cooperative, any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an ownership interest in the association made without the possessory interest in the unit to which that interest is related is void.

Sec. 28. NRS 116.2113 is hereby amended to read as follows:

116.2113 1. If the declaration expressly so permits, a unit may be subdivided into two or more units. Subject to ~~{the provisions of}~~ the declaration and ~~{other provisions of}~~ law ~~{,}~~ ***other than this chapter***, upon application of the unit's owner to subdivide a unit, the association shall prepare, execute and record an amendment to the declaration, including , in a condominium or planned community , the plats, subdividing that unit.

2. The amendment to the declaration must be executed by the owner of the unit to be subdivided, assign an identifying number to each unit created, and reallocate the allocated interests formerly allocated to the subdivided unit to the new units in any reasonable manner prescribed by the owner of the subdivided unit ~~{,}~~ ***or on any other basis the declaration requires***.

Sec. 29. NRS 116.2116 is hereby amended to read as follows:

116.2116 1. Subject to ~~{the provisions of}~~ the declaration, a declarant has an easement through the common elements as may be reasonably

necessary to discharge the declarant's obligations or exercise special declarant's rights, whether arising under this chapter or reserved in the declaration.

2. ~~In a planned community, subject to the provisions of~~ **Subject to** paragraph (f) of subsection 1 of NRS 116.3102 and NRS 116.3112, the units' owners have an easement ~~;~~

~~—(a) In~~ **in** the common elements for purposes of access to their units . ~~;~~
and

~~—(b) To~~

3. **Subject to the declaration and any rules adopted by the association, the units' owners have a right** to use the common elements **that are not limited common elements** and all real estate that must become common elements ~~((paragraph (f) of subsection 1 of NRS 116.2105) for all other)~~ **for the purposes** ~~;~~ **for which they were intended.**

~~{3-}~~ 4. Unless the terms of an easement in favor of an association prohibit a residential use of a servient estate, if the owner of the servient estate has obtained all necessary approvals required by law or any covenant, condition or restriction on the property, the owner may use such property in any manner authorized by law without obtaining any additional approval from the association. Nothing in this subsection authorizes an owner of a servient estate to impede the lawful and contractual use of the easement.

~~{4-}~~ 5. The provisions of subsection ~~{3}~~ 4 do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

Sec. 30. NRS 116.2117 is hereby amended to read as follows:

116.2117 1. Except as otherwise provided in NRS 116.21175, and except in cases of amendments that may be executed by a declarant under subsection 5 of NRS 116.2109 or NRS 116.211, or by the association under NRS 116.1107, 116.2106, subsection 3 of NRS 116.2108, subsection 1 of NRS 116.2112 or NRS 116.2113, or by certain units' owners under subsection 2 of NRS 116.2108, subsection 1 of NRS 116.2112, subsection 2 of NRS 116.2113 or subsection 2 of NRS 116.2118, and except as otherwise limited by ~~subsection~~ **subsections 4, 7 and 8**, the declaration, including any plats, may be amended only by vote or agreement of units' owners of units to which at least a majority of the votes in the association are allocated, ~~for any larger majority~~ **unless** the declaration specifies ~~[- The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.] a different percentage for all amendments or for specified subjects of amendment. If the declaration requires the approval of~~

another person as a condition of its effectiveness, the amendment is not valid without that approval.

2. No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than 1 year after the amendment is recorded.

3. Every amendment to the declaration must be recorded in every county in which any portion of the common-interest community is located and is effective only upon recordation. An amendment, except an amendment pursuant to NRS 116.2112, must be indexed in the grantee's index in the name of the common-interest community and the association and in the grantor's index in the name of the parties executing the amendment.

4. Except to the extent expressly permitted or required by other provisions of this chapter, no amendment may change the boundaries of any unit or ***change*** the allocated interests of a unit in the absence of unanimous consent of ~~the~~ ***only those*** units' owners ~~+/~~ ***whose units are affected and the consent of a majority of the owners of the remaining units.***

5. Amendments to the declaration required by this chapter to be recorded by the association must be prepared, executed, recorded and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

6. *An amendment to the declaration which prohibits or materially restricts the permitted uses of or behavior in a unit or the number or other qualifications of persons who may occupy units may not be enforced against a unit's owner who was the owner of the unit on the date of the recordation of the amendment as long as the unit's owner remains the owner of that unit.*

7. *A provision in the declaration creating special declarant's rights that have not expired may not be amended without the consent of the declarant.*

8. *If any provision of this chapter or of the declaration requires the consent of a holder of a security interest in a unit, or an insurer or guarantor of such interest, as a condition to the effectiveness of an amendment to the declaration, that consent is deemed granted if:*

(a) *The holder, insurer or guarantor has not requested, in writing, notice of any proposed amendment; or*

(b) *Notice of any proposed amendment is required or has been requested and a written refusal to consent is not received by the association within 60 days after the association delivers notice of the proposed amendment to the holder, insurer or guarantor, by certified mail, return receipt requested, to the address for notice provided by the holder, insurer or guarantor in a prior written request for notice.*

Sec. 31. NRS 116.2118 is hereby amended to read as follows:

116.2118 1. Except in the case of a taking of all the units by eminent domain , ~~{(NRS 116.1107)-or}~~ in the case of foreclosure against an entire cooperative of a security interest that has priority over the declaration, ***or in the circumstances described in section 4 of this act***, a common-interest

community may be terminated only by agreement of units' owners to whom at least 80 percent of the votes in the association are allocated, or any larger percentage the declaration specifies ~~††~~ , ***and with any other approvals required by the declaration.*** The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses.

2. An agreement to terminate must be evidenced by the execution of an agreement to terminate, or ratifications thereof, in the same manner as a deed, by the requisite number of units' owners. The agreement must specify a date after which the agreement will be void unless it is recorded before that date. An agreement to terminate and all ratifications thereof must be recorded in every county in which a portion of the common-interest community is situated and is effective only upon recordation.

3. In the case of a condominium or planned community containing only units having horizontal boundaries described in the declaration, an agreement to terminate may provide that all of the common elements and units of the common-interest community must be sold following termination. If, pursuant to the agreement, any real estate in the common-interest community is to be sold following termination, the agreement must set forth the minimum terms of the sale.

4. In the case of a condominium or planned community containing any units not having horizontal boundaries described in the declaration, an agreement to terminate may provide for sale of the common elements, but it may not require that the units be sold following termination, unless the declaration as originally recorded provided otherwise or all the units' owners consent to the sale.

5. The association, on behalf of the units' owners, may contract for the sale of real estate in a common-interest community, but the contract is not binding on the units' owners until approved pursuant to subsections 1 and 2. If any real estate is to be sold following termination, title to that real estate, upon termination, vests in the association as trustee for the holders of all interests in the units. Thereafter, the association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the association continues in existence with all powers it had before termination. Proceeds of the sale must be distributed to units' owners and lienholders as their interests may appear, in accordance with NRS 116.21183 and 116.21185. Unless otherwise specified in the agreement to terminate, as long as the association holds title to the real estate, each unit's owner and his or her successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit. During the period of that occupancy, each unit's owner and his or her successors in interest remain liable for all assessments and other obligations imposed on units' owners by this chapter or the declaration.

6. In a condominium or planned community, if the real estate constituting the common-interest community is not to be sold following

termination, title to the common elements and, in a common-interest community containing only units having horizontal boundaries described in the declaration, title to all the real estate in the common-interest community, vests in the units' owners upon termination as tenants in common in proportion to their respective interests as provided in NRS 116.21185, and liens on the units shift accordingly. While the tenancy in common exists, each unit's owner and his or her successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit.

7. Following termination of the common-interest community, the proceeds of ~~{any}~~ a sale of real estate, together with the assets of the association, are held by the association as trustee for units' owners and holders of liens on the units as their interests may appear.

Sec. 32. NRS 116.3101 is hereby amended to read as follows:

116.3101 1. A unit-owners' association must be organized no later than the date the first unit in the common-interest community is conveyed.

2. The membership of the association at all times consists exclusively of all units' owners or, following termination of the common-interest community, of all owners of former units entitled to distributions of proceeds under NRS 116.2118, 116.21183 and 116.21185, or their heirs, successors or assigns.

3. *The association must have an executive board.*

4. The association must:

(a) Be organized as a profit or nonprofit corporation, association, limited-liability company, trust, ~~{or}~~ partnership ~~{;}~~ ***or any other form of organization authorized by the law of this State;***

(b) Include in its articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization, or any amendment thereof, that the purpose of the corporation, association, limited-liability company, trust or partnership is to operate as an association pursuant to this chapter;

(c) Contain in its name the words "common-interest community," "community association," "master association," "homeowners' association" or "unit-owners' association"; and

(d) Comply with the applicable provisions of chapters 78, 81, 82, 86, 87, 87A, 88 and 88A of NRS when filing with the Secretary of State its articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization, or any amendment thereof.

Sec. 33. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in this ~~{section,}~~ ***chapter***, and subject to the provisions of the declaration, the association : ~~{may do any or all of the following:}~~

(a) ~~{Adopt}~~ **Shall adopt** and , *except as otherwise provided in the bylaws,* **may** amend bylaws ~~{}~~ **and may adopt and amend** rules and regulations.

(b) ~~{Adopt}~~ **Shall adopt** and **may** amend budgets ~~{for revenues, expenditures and reserves and}~~ **in accordance with the requirements set forth in NRS 116.31151, may** collect assessments for common expenses from the units' owners ~~{}~~ **and may invest funds of the association in accordance with the requirements set forth in NRS 116.311395.**

(c) ~~{Hire}~~ **May hire** and discharge managing agents and other employees, agents and independent contractors.

(d) ~~{Institute,}~~ **May institute,** defend or intervene in litigation **or in arbitration, mediation** or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) ~~{Make}~~ **May make** contracts and incur liabilities. Any contract between the association and a private entity for the furnishing of goods or services must not include a provision granting the private entity the right of first refusal with respect to extension or renewal of the contract.

(f) ~~{Regulate}~~ **May regulate** the use, maintenance, repair, replacement and modification of common elements.

(g) ~~{Cause}~~ **May cause** additional improvements to be made as a part of the common elements.

(h) ~~{Acquire,}~~ **May acquire,** hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) ~~{Grant}~~ **May grant** easements, leases, licenses and concessions through or over the common elements.

(j) ~~{Impose}~~ **May impose** and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners, including, without limitation, any services provided pursuant to NRS 116.310312.

(k) ~~{Impose}~~ **May impose** charges for late payment of assessments pursuant to NRS 116.3115.

(l) ~~{Impose}~~ **May impose** construction penalties when authorized pursuant to NRS 116.310305.

(m) ~~{Impose}~~ **May impose** reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) ~~{Impose}~~ **May impose** reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of

unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) ~~{Provide}~~ **May provide** for the indemnification of its officers and executive board and maintain ~~{directors' and officers'}~~ **directors and officers** liability insurance.

(p) ~~{Assign}~~ **May assign** its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) ~~{Exercise}~~ **May exercise** any other powers conferred by the declaration or bylaws.

(r) ~~{Exercise}~~ **May exercise** all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) ~~{Direct}~~ **May direct** the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) ~~{Exercise}~~ **May exercise** any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not ~~{impose limitations on}~~ **limit** the power of the association to deal with the declarant ~~{which are}~~ **if the limit is** more restrictive than the ~~{limitations}~~ **limit** imposed on the power of the association to deal with other persons.

3. *The executive board may determine whether to take enforcement action by exercising the association's power to impose sanctions or commence an action for a violation of the declaration, bylaws or rules, including whether to compromise any claim for unpaid assessments or other claim made by or against it. The executive board does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented:*

(a) *The association's legal position does not justify taking any or further enforcement action;*

(b) *The covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with current law;*

(c) Although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the association's resources; or

(d) It is not in the association's best interests to pursue an enforcement action.

4. The executive board's decision under subsection 3 not to pursue enforcement under one set of circumstances does not prevent the executive board from taking enforcement action under another set of circumstances, but the executive board may not be arbitrary or capricious in taking enforcement action.

5. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. For the purposes of this subsection, "assessment" does not include any charge for any utility services, including, without limitation, telecommunications, broadband communications, cable television, electricity, natural gas, sewer services, garbage collection, water or for any other service which is delivered to and used or consumed directly by the property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 34. NRS 116.3103 is hereby amended to read as follows:

116.3103 1. Except as otherwise provided in the declaration, the bylaws, this section or other provisions of this chapter, the executive board ~~{may act in all instances}~~ **acts** on behalf of the association. In the performance of their duties, the officers and members of the executive board are fiduciaries and shall act on an informed basis, in good faith and in the honest belief that their actions are in the best interest of the association. ~~{The}~~ **Officers and** members of the executive board ~~{are}~~ :

(a) Are required to exercise the ordinary and reasonable care of **officers and** directors of a **nonprofit** corporation, subject to the business-judgment rule ~~{;}~~ ; **and**

(b) Are subject to conflict of interest rules governing the officers and directors of a nonprofit corporation organized under the law of this State.

2. The executive board may not act ~~{on behalf of the association}~~ to ~~{amend}~~ :

(a) Amend the declaration, ~~{to terminate}~~ **except as otherwise provided in NRS 116.2117.**

(b) Terminate the common-interest community . ~~{, or to elect}~~

(c) Elect members of the executive board ~~{or determine their}~~ , **but unless the governing documents provide that a vacancy on the executive board must be filled by a vote of the membership of the association, the executive board may fill vacancies in its membership for the unexpired portion of any term or until the next regularly scheduled election of executive board members, whichever is earlier. Any executive board member elected to a**

previously vacant position which was temporarily filled by board appointment may only be elected to fulfill the remainder of the unexpired portion of the term.

(d) Determine the qualifications, powers, ~~and~~ duties or terms of office ~~;~~ but the executive board may fill vacancies in its membership for the unexpired portion of any term unless the governing documents provide that a vacancy on the executive board must be filled by a vote of the membership of the association. of members of the executive board.

3. The executive board shall adopt budgets as provided in NRS 116.31151.

Sec. 35. NRS 116.31031 is hereby amended to read as follows:

116.31031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or an invitee of a unit's owner or a tenant violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:

(a) Prohibit, for a reasonable time, the unit's owner or the tenant or the invitee of the unit's owner or the tenant from:

(1) Voting on matters related to the common-interest community.

(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner or the tenant or the invitee of the unit's owner or the tenant from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

(b) Impose a fine against the unit's owner or the tenant or the invitee of the unit's owner or the tenant for each violation, except that:

(1) A fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305; and

(2) A fine may not be imposed against a unit's owner or a tenant or invitee of a unit's owner or a tenant for a violation of the governing documents which involves a vehicle and which is committed by a person who is delivering goods to, or performing services for, the unit's owner or tenant or invitee of the unit's owner or the tenant.

➤ If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed \$100 for each violation or a total amount of \$1,000, whichever is less. The limitations on the amount of the fine do not apply to any charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.

2. The executive board may not impose a fine pursuant to subsection 1 against a unit's owner for a violation of any provision of the governing documents of an association committed by an invitee of the unit's owner or the tenant unless the unit's owner:

- (a) Participated in or authorized the violation;
- (b) Had prior notice of the violation; or
- (c) Had an opportunity to stop the violation and failed to do so.

3. ***If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.***

4. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the violation, the unit's owner and, if different, the person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the governing documents that form the basis of the violation; and

(b) Within a reasonable time after the discovery of the violation, the unit's owner and, if different, the person against whom the fine will be imposed has been provided with:

(1) Written notice specifying the details of the violation, the amount of the fine, and the date, time and location for a hearing on the violation; and

(2) A reasonable opportunity to contest the violation at the hearing.

➤ For the purposes of this subsection, a unit's owner shall not be deemed to have received written notice unless written notice is mailed to the address of the unit and, if different, to a mailing address specified by the unit's owner.

~~{4-}~~ 5. The executive board must schedule the date, time and location for the hearing on the violation so that the unit's owner and, if different, the person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

~~{5-}~~ 6. The executive board must hold a hearing before it may impose the fine, unless the fine is paid before the hearing or unless the unit's owner and, if different, the person against whom the fine will be imposed:

- (a) Executes a written waiver of the right to the hearing; or
- (b) Fails to appear at the hearing after being provided with proper notice of the hearing.

~~{6-}~~ 7. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.

~~{7-}~~ 8. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.

~~{8-}~~ 9. A member of the executive board shall not participate in any hearing or cast any vote relating to a fine imposed pursuant to subsection 1 if the member has not paid all assessments which are due to the association by the member. If a member of the executive board:

(a) Participates in a hearing in violation of this subsection, any action taken at the hearing is void.

(b) Casts a vote in violation of this subsection, the vote is void.

~~{9-}~~ 10. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

~~{10-}~~ 11. Any past due fine must not bear interest, but may include any costs incurred by the association during a civil action to enforce the payment of the past due fine.

~~{11-}~~ 12. If requested by a person upon whom a fine was imposed, not later than 60 days after receiving any payment of a fine, an association shall provide to the person upon whom the fine was imposed a statement of the remaining balance owed.

Sec. 36. NRS 116.31032 is hereby amended to read as follows:

116.31032 1. Except as otherwise provided in this section, the declaration may provide for a period of declarant's control of the association, during which a declarant, or persons designated by a declarant, may appoint and remove the officers of the association and members of the executive board. *A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period and, in that event, the declarant may require, for the duration of the period of declarant's control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.* Regardless of the period provided in the declaration, a period of declarant's control terminates no later than ~~{-}~~ *the earliest of:*

(a) Sixty days after conveyance of 75 percent of the units that may be created to units' owners other than a declarant or, if the association exercises powers over a common-interest community pursuant to this chapter and a time-share plan pursuant to chapter 119A of NRS, 120 days after conveyance of 80 percent of the units that may be created to units' owners other than a declarant;

(b) Five years after all declarants have ceased to offer units for sale in the ordinary course of business; ~~{or}~~

(c) Five years after any right to add new units was last exercised ~~};~~
~~↳ whichever occurs earlier.}; or~~

(d) The day the declarant, after giving notice to units' owners, records an instrument voluntarily surrendering all rights to control activities of the association.

2. ~~{A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period, but in that event the declarant may require, for the duration of the period of declarant's control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.~~

3. ~~Not later than 60 days after conveyance of 25 percent of the units that may be created to units' owners other than a declarant, at least one member and not less than 25 percent of the members of the executive board must be elected by units' owners other than the declarant. Not later than 60 days after conveyance of 50 percent of the units that may be created to units' owners other than a declarant, not less than {33 1/3 percent} one-third of the members of the executive board must be elected by units' owners other than the declarant.~~

Sec. 37. NRS 116.31036 is hereby amended to read as follows:

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section ~~};~~

~~—(a) The, the~~ number of votes cast *in favor of removal* constitutes ~~{at}~~ :

(a) At least 35 percent of the total number of voting members of the association; and

(b) At least a majority of all votes cast in that removal election. ~~{are cast in favor of removal.}~~

2. *A removal election may be called by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. To call a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this subsection and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If a removal election is called pursuant to this subsection and:*

(a) {The voting rights of the owners of time shares will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received.

~~—(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to this section ~~f, the~~ :~~

(1) The secret written ballots for the removal election must be sent in the manner required by this section not less than 15 days or more than 60 days after the date on which the petition is received ~~f, and the~~

(2) The executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots ~~f, and~~ and not later than 90 days after the date on which the petition was received.

(b) The voting rights of the owners of time shares will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 90 days after the date on which the petition is received.

➤ The association shall not adopt any rule or regulation which prevents or unreasonably interferes with the collection of the required percentage of signatures for a petition pursuant to this subsection.

3. Except as otherwise provided in NRS 116.31105, the removal of any member of the executive board must be conducted by secret written ballot in the following manner:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

~~{3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his or her role as a member of the board, the association shall indemnify the member for his or her losses or claims, and undertake all costs of defense, unless it is proven that the member acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive~~

board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against:

- (a) The association;
- (b) The members of the executive board for acts or omissions that occur in their official capacity as members of the executive board; or
- (c) The officers of the association for acts or omissions that occur in their capacity as officers of the association.

—4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.}

Sec. 38. NRS 116.3105 is hereby amended to read as follows:

116.3105 {If entered into before}

1. Within 2 years after the executive board elected by the units' owners pursuant to NRS 116.31034 takes office, ~~{any}~~ ***the association may terminate without penalty, upon not less than 90 days' notice to the other party, any of the following if it was entered into before that executive board was elected:***

(a) ***Any*** management ~~{contract,}~~ , ***maintenance, operations or*** employment contract, or lease of recreational or parking areas or facilities ~~{; any}~~ ; ***or***

(b) ***Any*** other contract or lease between the association and a declarant or an affiliate of a declarant . ~~{for any contract or lease that is not in good faith or was unconscionable to the units' owners at the time entered into under the circumstances then prevailing may be terminated}~~

2. The association may terminate without penalty , ~~{by the association}~~ at any time after the executive board elected by the units' owners ***pursuant to NRS 116.31034*** takes office upon not less than 90 days' notice to the other party ~~{;}~~ , ***any contract or lease that is not in good faith or was unconscionable to the units' owners at the time entered into.***

3. This section does not apply to ~~{any}~~ :

(a) ***Any*** lease the termination of which would terminate the common-interest community or reduce its size, unless the real estate subject to that lease was included in the common-interest community for the purpose of avoiding the right of the association to terminate a lease under this section ~~{; or to a}~~ ; ***or***

(b) ***A*** proprietary lease.

Sec. 39. NRS 116.3106 is hereby amended to read as follows:

116.3106 1. The bylaws of the association must : ~~{provide;}~~

(a) ~~{The}~~ ***Provide the*** number of members of the executive board and the titles of the officers of the association;

(b) ~~{For}~~ ***Provide for*** election by the executive board of a president, treasurer, secretary and any other officers of the association the bylaws specify;

(c) ~~{The}~~ ***Specify the*** qualifications, powers and duties, terms of office and manner of electing and removing officers of the association and members of the executive board and filling vacancies;

(d) ~~{Which}~~ ***Specify the*** powers ~~{, if any, that}~~ the executive board or the officers of the association may delegate to other persons or to a community manager;

(e) ~~{Which of its}~~ ***Specify the*** officers ***who*** may prepare, execute, certify and record amendments to the declaration on behalf of the association;

(f) ~~{Procedural}~~ ***Provide procedural*** rules for conducting meetings of the association;

(g) ~~{A}~~ ***Specify a*** method for ~~{amending}~~ ***the units' owners to amend*** the bylaws; ~~{and}~~

(h) ~~{Procedural}~~ ***Provide procedural*** rules for conducting elections ~~{,}~~ ;

(i) ***Contain any provision necessary to satisfy requirements in this chapter or the declaration concerning meetings, voting, quorums and other activities of the association; and***

(j) ***Provide for any matter required by law of this State other than this chapter to appear in the bylaws of organizations of the same type as the association.***

2. Except as otherwise provided in ***this chapter*** ~~{and}~~ ***or*** the declaration, the bylaws may provide for any other ***necessary or appropriate*** matters ~~{the association deems necessary and appropriate.}~~ , ***including, without limitation, matters that could be adopted as rules.***

3. The bylaws must be written in plain English.

Sec. 40. NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners must be held at least once each year ~~{,}~~ ***at a time and place stated in or fixed in accordance with the bylaws.*** If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.

2. ~~{Special meetings}~~ ***An association shall hold a special meeting*** of the units' owners ~~{may be called by the}~~ ***to address any matter affecting the common-interest community or the association if its*** president, ~~{by}~~ a majority of the executive board or ~~{by}~~ units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of ~~{voting members of}~~ ***votes in*** the association ~~{The same number of units' owners may also call a removal election pursuant to NRS 116.31036.}~~ ***request that the secretary call such a meeting.*** To call a special meeting , ~~{for a removal election.}~~ the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this subsection and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition

calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. ~~If the petition calls for a removal election and:~~

~~—(a) The voting rights of the owners of time shares will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or~~

~~—(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.~~

~~—} The association shall not adopt any rule or regulation which prevents or unreasonably interferes with the collection of the required percentage of signatures for a petition pursuant to this subsection.~~

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be ~~hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner.~~ ***given to the units' owners in the manner set forth in section 2 of this act.*** The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners ***regarding any matter affecting the common-interest community or the association*** and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

~~5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.~~

~~—6.}~~ The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. Except as otherwise provided in this subsection, a copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

~~{7.}~~ 6. Except as otherwise provided in subsection ~~{8.}~~ 7, the minutes of each meeting of the units' owners must include:

(a) The date, time and place of the meeting;

(b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner at the meeting if the unit's owner requests that the minutes reflect his or her remarks or, if the unit's owner has prepared written remarks, a copy of his or her prepared remarks if the unit's owner submits a copy for inclusion.

~~{8.}~~ 7. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

~~{9.}~~ 8. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

~~{10.}~~ 9. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his or her intent to record the meeting to the other units' owners who are in attendance at the meeting.

~~[11-]~~ **10.** The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

~~[12-]~~ **11.** As used in this section, "emergency" means any occurrence or combination of occurrences that:

- (a) Could not have been reasonably foreseen;
- (b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;
- (c) Requires the immediate attention of, and possible action by, the executive board; and
- (d) Makes it impracticable to comply with the provisions of subsection 3 or 4.

Sec. 41. NRS 116.31083 is hereby amended to read as follows:

116.31083 1. A meeting of the executive board must be held at least once every quarter, and not less than once every 100 days and must be held at a time other than during standard business hours at least twice annually.

2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

(a) ~~{Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;~~

~~—(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or~~

~~—(c) *Given to the units' owners in the manner set forth in section 2 of this act; or*~~

(b) Published in a newsletter or other similar publication that is circulated to each unit's owner.

3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.

4. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the audio recording, the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. A period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for both the beginning and the end of each meeting. During the period devoted to comments by the units' owners and discussion of those comments at the beginning of each meeting, comments by the units' owners and discussion of those comments must be limited to items listed on the agenda. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

6. At least once every quarter, and not less than once every 100 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

(a) A current year-to-date financial statement of the association;

(b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;

(c) A current reconciliation of the operating account of the association;

(d) A current reconciliation of the reserve account of the association;

(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and

(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

7. The secretary or other officer specified in the bylaws shall cause each meeting of the executive board to be audio recorded and the minutes to be recorded or otherwise taken at each meeting of the executive board, but if the executive board is meeting in executive session, the meeting must not be audio recorded. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the audio recording of the meeting, the minutes of the meeting and a summary of the minutes of the meeting to be made available to the units' owners. Except as otherwise provided in this subsection, a copy of the audio recording, the minutes or a summary of the minutes must be provided to any unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

8. Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:

- (a) The date, time and place of the meeting;
- (b) Those members of the executive board who were present and those members who were absent at the meeting;
- (c) The substance of all matters proposed, discussed or decided at the meeting;
- (d) A record of each member's vote on any matter decided by vote at the meeting; and
- (e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if the unit's owner requests that the minutes reflect his or her remarks or, if the unit's owner has prepared written remarks, a copy of his or her prepared remarks if the unit's owner submits a copy for inclusion.

9. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

10. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

11. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his or her intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

- (a) Could not have been reasonably foreseen;
- (b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;
- (c) Requires the immediate attention of, and possible action by, the executive board; and
- (d) Makes it impracticable to comply with the provisions of subsection 2 or 5.

Sec. 42. NRS 116.3109 is hereby amended to read as follows:

116.3109 1. Except as otherwise provided in this section and NRS 116.31034, and except when the governing documents provide otherwise, a quorum is present throughout any meeting of the ~~association if the number of members of~~ **units' owners if persons entitled to cast 20 percent of the votes in the association** ~~who are~~ :

- (a) **Are present in person** ~~or~~ ;
- (b) **Are present** by proxy ~~at the beginning of the meeting equals or exceeds 20 percent of the total number of voting members of the association.~~ ;
- (c) **Have cast absentee ballots in accordance with paragraph (d) of subsection 2 of NRS 116.311; or**

(d) Are present by any combination of paragraphs (a), (b) and (c).

2. If the governing documents of an association contain a quorum requirement for a meeting of the association that is greater than the 20 percent required by subsection 1 and, after proper notice has been given for a meeting, the members of the association who are present in person or by proxy at the meeting are unable to hold the meeting because a quorum is not present at the beginning of the meeting, the members who are present in person at the meeting may adjourn the meeting to a time that is not less than 48 hours or more than 30 days from the date of the meeting. At the subsequent meeting:

(a) A quorum shall be deemed to be present if the number of members of the association who are present in person or by proxy at the beginning of the subsequent meeting equals or exceeds 20 percent of the total number of voting members of the association; and

(b) If such a quorum is deemed to be present but the actual number of members who are present in person or by proxy at the beginning of the subsequent meeting is less than the number of members who are required for a quorum under the governing documents, the members who are present in person or by proxy at the subsequent meeting may take action only on those matters that were included as items on the agenda of the original meeting.

➤ The provisions of this subsection do not change the actual number of votes that are required under the governing documents for taking action on any particular matter.

3. Unless the governing documents specify a larger ~~{percentage,}~~ **number**, a quorum **of the executive board** is ~~{deemed}~~ present ~~{throughout any}~~ **for purposes of determining the validity of any action taken at a** meeting of the executive board **only if** ~~{persons}~~ **individuals** entitled to cast ~~{50 percent}~~ **a majority** of the votes on that board are present at the ~~{beginning of the meeting,}~~ **time a vote regarding that action is taken. If a quorum is present when a vote is taken, the affirmative vote of a majority of the members present is the act of the executive board unless a greater vote is required by the declaration or bylaws.**

4. ~~{Except as otherwise provided in the bylaws, meetings}~~ **Meetings of the association must be conducted in accordance with the most recent edition of Robert's Rules of Order Newly Revised ~~f~~, unless the bylaws or a resolution of the executive board adopted before the meeting provide otherwise.**

Sec. 43. NRS 116.311 is hereby amended to read as follows:

116.311 1. ***Unless prohibited or limited by the declaration or bylaws and except as otherwise provided in this section, units' owners may vote at a meeting in person, by absentee ballot pursuant to paragraph (d) of subsection 2, by a proxy pursuant to subsections 3 to 8, inclusive, or, when a vote is conducted without a meeting, by electronic or paper ballot pursuant to subsection 9.***

2. ***At a meeting of units' owners, the following requirements apply:***

(a) Units' owners who are present in person may vote by voice vote, show of hands, standing or any other method for determining the votes of units' owners, as designated by the person presiding at the meeting.

(b) If only one of several owners of a unit is present, ~~at a meeting of the association,~~ that owner is entitled to cast all the votes allocated to that unit. If more than one of the owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the owners cast the votes allocated to ~~that~~ the unit without protest **being** made promptly to the person presiding over the meeting by any of the other owners of the unit.

~~{2-}~~ (c) Unless a greater number or fraction of the votes in the association is required by this chapter or the declaration, a majority of the votes cast determines the outcome of any action of the association.

(d) Subject to subsection 1, a unit's owner may vote by absentee ballot without being present at the meeting. The association promptly shall deliver an absentee ballot to an owner who requests it if the request is made at least 3 days before the scheduled meeting. Votes cast by absentee ballot must be included in the tally of a vote taken at that meeting.

(e) When a unit's owner votes by absentee ballot, the association must be able to verify that the ballot is cast by the unit's owner having the right to do so.

3. Except as otherwise provided in this section, votes allocated to a unit may be cast pursuant to a proxy executed by a unit's owner. A unit's owner may give a proxy only to a member of his or her immediate family, a tenant of the unit's owner who resides in the common-interest community, another unit's owner who resides in the common-interest community, or a delegate or representative when authorized pursuant to NRS 116.31105. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through an executed proxy. A unit's owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the association.

~~{3-}~~ 4. Before a vote may be cast pursuant to a proxy:

- (a) The proxy must be dated.***
- (b) The proxy must not purport to be revocable without notice.***
- (c) The proxy must designate the meeting for which it is executed ~~{-}~~, and such a designation includes any recessed session of that meeting.***

(d) The proxy must designate each specific item on the agenda of the meeting for which the unit's owner has executed the proxy, except that the unit's owner may execute the proxy without designating any specific items on the agenda of the meeting if the proxy is to be used solely for determining whether a quorum is present for the meeting. If the proxy designates one or more specific items on the agenda of the meeting for which the unit's owner has executed the proxy, the proxy must indicate, for each specific item

designated in the proxy, whether the holder of the proxy must cast a vote in the affirmative or the negative on behalf of the unit's owner. If the proxy does not indicate whether the holder of the proxy must cast a vote in the affirmative or the negative for a particular item on the agenda of the meeting, the proxy must be treated, with regard to that particular item, as if the unit's owner were present but not voting on that particular item.

(e) The holder of the proxy must disclose at the beginning of the meeting for which the proxy is executed *and any recessed session of that meeting* the number of proxies pursuant to which the holder will be casting votes.

~~{4-}~~ 5. A proxy terminates immediately after the conclusion of the meeting, *and any recessed sessions of the meeting*, for which it is executed.

~~{5-}~~ 6. Except as otherwise provided in this subsection, a vote may not be cast pursuant to a proxy for the election or removal of a member of the executive board of an association. A vote may be cast pursuant to a proxy for the election or removal of a member of the executive board of a master association which governs a time-share plan created pursuant to chapter 119A of NRS if the proxy is exercised through a delegate or representative authorized pursuant to NRS 116.31105.

~~{6-}~~ 7. The holder of a proxy may not cast a vote on behalf of the unit's owner who executed the proxy in a manner that is contrary to the proxy.

~~{7-}~~ 8. A proxy is void if the proxy or the holder of the proxy violates any provision of subsections ~~{4-}~~ 3 to ~~{6-}~~ 7, inclusive.

~~{8-}~~ 9. *Unless prohibited or limited by the declaration or bylaws, an association may conduct a vote without a meeting. Except as otherwise provided in NRS 116.31034 and 116.31036, if an association conducts a vote without a meeting, the following requirements apply:*

(a) The association shall notify the units' owners that the vote will be taken by ballot.

(b) The association shall deliver a paper or electronic ballot to every unit's owner entitled to vote on the matter.

(c) The ballot must set forth each proposed action and provide an opportunity to vote for or against the action.

(d) When the association delivers the ballots, it shall also:

(1) Indicate the number of responses needed to meet the quorum requirements;

(2) State the percentage of votes necessary to approve each matter other than election of directors;

(3) Specify the time and date by which a ballot must be delivered to the association to be counted, which time and date may not be fewer than 3 days after the date the association delivers the ballot; and

(4) Describe the time, date and manner by which units' owners wishing to deliver information to all units' owners regarding the subject of the vote may do so.

(e) Except as otherwise provided in the declaration or bylaws, a ballot is not revoked after delivery to the association by death or disability of or attempted revocation by the person who cast that vote.

(f) Approval by ballot pursuant to this subsection is valid only if the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action.

10. If the declaration requires that votes on specified matters affecting the common-interest community must be cast by the lessees of leased units rather than the units' owners who have leased the units:

(a) ~~{The provisions of subsections 1 to 7, inclusive, apply}~~ ***This section applies*** to the lessees as if they were the units' owners;

(b) The units' owners who have leased their units to the lessees may not cast votes on those specified matters;

(c) The lessees are entitled to notice of meetings, access to records and other rights respecting those matters as if they were the units' owners; and

(d) The units' owners must be given notice, in the manner provided in NRS 116.3108, of all meetings at which the lessees are entitled to vote.

~~{9-}~~ **11.** If any votes are allocated to a unit that is owned by the association, those votes may not be cast, by proxy or otherwise, for any purpose.

Sec. 44. NRS 116.3111 is hereby amended to read as follows:

116.3111 **1.** *A unit's owner is not liable, solely by reason of being a unit's owner, for an injury or damage arising out of the condition or use of the common elements.* Neither the association nor any unit's owner except the declarant is liable for that declarant's torts in connection with any part of the common-interest community which that declarant has the responsibility to maintain. ~~{Otherwise, an}~~

2. *An action alleging a wrong done by the association ~~{must be brought}~~, including, without limitation, an action arising out of the condition or use of the common elements, may be maintained only* against the association and not against any unit's owner. If the wrong occurred during any period of declarant's control and the association gives the declarant reasonable notice of and an opportunity to defend against the action, the declarant who then controlled the association is liable to the association or to any unit's owner for all tort losses not covered by insurance suffered by the association or that unit's owner, and all costs that the association would not have incurred but for a breach of contract or other wrongful act or omission. Whenever the declarant is liable to the association under this section, the declarant is also liable for all expenses of litigation, including reasonable attorney's fees, incurred by the association. ~~{Any}~~

3. *Except as otherwise provided in subsection 4 of NRS 116.4116 with respect to warranty claims, any* statute of limitation affecting the association's right of action *against a declarant* under this section is tolled until the period of declarant's control terminates. A unit's owner is not precluded from maintaining an action contemplated by this section because

he or she is a unit's owner or a member or officer of the association. *Liens resulting from judgments against the association are governed by NRS 116.3117.*

Sec. 45. NRS 116.3113 is hereby amended to read as follows:

116.3113 1. Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available ~~[- both of the following:]~~ ***and subject to reasonable deductibles:***

(a) Property insurance on the common elements and, in a planned community, also on property that must become common elements, insuring against ~~[-all]~~ risks of direct physical loss commonly insured against ~~[-or, in the case of a converted building, against fire and extended coverage perils. The total amount of]~~ , ***which*** insurance , after application of any deductibles , must be not less than 80 percent of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies ; ~~[-]~~

(b) ~~[-liability]~~ ***Commercial general liability*** insurance, including insurance for medical payments, in an amount determined by the executive board but not less than any amount specified in the declaration, covering all occurrences commonly insured against for ~~[-death,]~~ bodily injury ~~[-]~~ and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements and, in cooperatives, also of all units ~~[-]~~ ; ***and***

(c) ~~[-Fidelity insurance.]~~ ***Crime insurance which includes coverage for dishonest acts by members of the executive board and the officers, employees, agents, directors and volunteers of the association and which extends coverage to any business entity that acts as the community manager of the association and the employees of that entity. Such insurance may not contain a conviction requirement, and the minimum amount of the policy must be not less than an amount equal to 3 months of aggregate assessments on all units plus reserve funds.***

2. In the case of a building ~~[-that is part of a cooperative or]~~ that contains units ~~[-having]~~ ***divided by*** horizontal boundaries described in the declaration, ***or vertical boundaries that comprise common walls between units,*** the insurance maintained under paragraph (a) of subsection 1, to the extent reasonably available, must include the units, but need not include improvements and betterments installed by units' owners.

3. If the insurance described in subsections 1 and 2 is not reasonably available, the association promptly shall cause notice of that fact to be ~~[-hand-delivered or sent prepaid by United States mail]~~ ***given*** to all units' owners. The declaration may require the association to carry any other insurance, and the association ~~[-in any event]~~ may carry any other insurance it considers appropriate to protect the association or the units' owners.

4. An insurance policy issued to the association does not prevent a unit's owner from obtaining insurance for the unit's owner's own benefit.

Sec. 46. NRS 116.31133 is hereby amended to read as follows:

116.31133 1. Insurance policies carried pursuant to NRS 116.3113 must provide ~~{to the extent reasonably available}~~ that:

(a) Each unit's owner is an insured person under the policy with respect to liability arising out of the unit's owner's interest in the common elements or membership in the association;

(b) The insurer waives its right to subrogation under the policy against any unit's owner or member of his or her household;

(c) No act or omission by any unit's owner, unless acting within the scope of his or her authority on behalf of the association, ~~{will void}~~ **voids** the policy or ~~{be}~~ **is** a condition to recovery under the policy; and

(d) If, at the time of a loss under the policy, there is other insurance in the name of a unit's owner covering the same risk covered by the policy, the association's policy provides primary insurance.

2. Any loss covered by the property policy under subsections 1 and 2 of NRS 116.3113 must be adjusted with the association, but the proceeds for that loss are payable to any **insurance** trustee designated for that purpose, or otherwise to the association, and not to any holder of a security interest. The **insurance** trustee or the association shall hold any **insurance** proceeds in trust for the association, units' owners and lienholders as their interests may appear. Subject to ~~{the provisions of}~~ NRS 116.31135, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the association, units' owners, and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the common-interest community is terminated.

3. An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, upon written request, to any unit's owner or holder of a security interest. The insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the association, **each unit's owner** and ~~{to any person}~~ **each holder of a security interest** to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

Sec. 47. NRS 116.31135 is hereby amended to read as follows:

116.31135 1. Any portion of the common-interest community for which insurance is required under NRS 116.3113 which is damaged or destroyed must be repaired or replaced promptly by the association unless:

(a) The common-interest community is terminated, in which case NRS 116.2118, 116.21183 and 116.21185 apply;

(b) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or

(c) Eighty percent of the units' owners, including every owner of a unit or assigned limited common element that will not be rebuilt, vote not to rebuild. ~~{→}~~ 2. The cost of repair or replacement in excess of insurance proceeds, *deductibles* and reserves is a common expense.

~~{2-}~~ If the entire common-interest community is not repaired or replaced ~~{, the}~~ :

(a) *The insurance* proceeds attributable to the damaged common elements ~~{,}~~ must be used to restore the damaged area to a condition compatible with the remainder of the common-interest community ; ~~{,}~~ and ~~{except}~~

(b) *Except* to the extent that other persons will be distributees ~~{(subparagraph 2 of paragraph (1) of subsection 1 of NRS 116.2105):~~

—(a) :

(1) The *insurance* proceeds attributable to units and limited common elements that are not rebuilt must be distributed to the owners of those units and the owners of the units to which those limited common elements were allocated, or to lienholders, as their interests may appear; and

~~{(b)}~~ (2) The remainder of the proceeds must be distributed to all the units' owners or lienholders, as their interests may appear, as follows:

~~{(1)}~~ (I) In a condominium, in proportion to the interests of all the units in the common elements; and

~~{(2)}~~ (II) In a cooperative or planned community, in proportion to the liabilities of all the units for common expenses.

3. If the units' owners vote not to rebuild any unit, that unit's allocated interests are automatically reallocated upon the vote as if the unit had been condemned under subsection 1 of NRS 116.1107, and the association promptly shall prepare, execute and record an amendment to the declaration reflecting the reallocations.

Sec. 48. NRS 116.3115 is hereby amended to read as follows:

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive ~~{,}~~ , *or as otherwise provided in this chapter:*

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain,

repair, replace or restore. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore are necessary. Notwithstanding any provision of the governing documents to the contrary, to establish adequate reserves pursuant to this paragraph, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common-interest community. Any such assessments imposed by the executive board must be based on the study of the reserves of the association conducted pursuant to NRS 116.31152.

3. Any assessment for common expenses or installment thereof that is 60 days or more past due bears interest at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date the assessment becomes past due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the balance is satisfied.

4. Except as otherwise provided in the governing documents:

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense ~~for portion thereof~~ benefiting fewer than all of the units ~~must~~ **or their owners may** be assessed exclusively against the units **or units' owners** benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If **damage to a unit or other part of the common-interest community, or if** any **other** common expense is caused by the **willful** misconduct **or gross negligence** of any unit's owner, **tenant or invitee of a unit's owner or tenant**, the association may assess that expense exclusively against his or her unit ~~if~~ **, even if the association maintains insurance with respect to that damage or**

common expense, unless the damage or other common expense is caused by a vehicle and is committed by a person who is delivering goods to, or performing services for, the unit's owner, tenant or invitee of the unit's owner or tenant.

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

Sec. 49. NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a **statutory** lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment ~~levied against~~ **attributable to** that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, **reasonable attorney's fees and costs**, any penalties, **other** fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102, **and any other sums due to the association under the declaration, this chapter, or as a result of an administrative, arbitration, mediation or judicial decision** are enforceable **in the same manner** as **unpaid** assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) ~~{A}~~ **Except as otherwise provided in subsection 3, a** first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

~~{→ The}~~

3. A lien **under this section** is also prior to all security interests described in paragraph (b) **of subsection 2** to the extent of any charges incurred by the association on a unit pursuant to NRS 116.310312 and to the extent of the assessments for common expenses based on the periodic budget adopted by

the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 9 months immediately preceding institution of an action to enforce the lien, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien. If federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior to all security interests described in paragraph (b) *of subsection 2* must be determined in accordance with those federal regulations, except that notwithstanding the provisions of the federal regulations, the period of priority for the lien must not be less than the 6 months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

~~{3-}~~ 4. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

~~{4-}~~ 5. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

~~{5-}~~ 6. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

~~{6-}~~ 7. This section does not prohibit actions *against units' owners* to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

~~{7-}~~ 8. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

~~{8-}~~ 9. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

~~{9-}~~ 10. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

11. *In an action by an association to collect assessments or to foreclose a lien created under this section, the court may appoint a receiver to collect all rents or other income from the unit alleged to be due and owing to a unit's owner before commencement or during pendency of the action. The receivership is governed by chapter 32 of NRS. The court may order the receiver to pay any sums held by the receiver to the association during pendency of the action to the extent of the association's common expense assessments based on a periodic budget adopted by the association pursuant to NRS 116.3115.*

Sec. 50. NRS 116.3117 is hereby amended to read as follows:

116.3117 1. In a condominium or planned community:

(a) Except as otherwise provided in paragraph (b), a judgment for money against the association, if a copy of the docket or an abstract or copy of the judgment is recorded, is not a lien on the common elements, but is a lien in favor of the judgment lienholder against all of ***the other real property of the association and all of*** the units in the common-interest community at the time the judgment was entered. No other property of a unit's owner is subject to the claims of creditors of the association.

(b) If the association has granted a security interest in the common elements to a creditor of the association pursuant to NRS 116.3112, the holder of that security interest shall exercise its right against the common elements before its judgment lien on any unit may be enforced.

(c) Whether perfected before or after the creation of the common-interest community, if a lien, other than a deed of trust or mortgage, including a judgment lien or lien attributable to work performed or materials supplied before creation of the common-interest community, becomes effective against two or more units, the owner of an affected unit may pay to the lienholder the amount of the lien attributable to his or her unit, and the lienholder, upon receipt of payment, promptly shall deliver a release of the lien covering that unit. The amount of the payment must be proportionate to the ratio which that owner's liability for common expenses bears to the liabilities for common expenses of all owners whose units are subject to the lien. After payment, the association may not assess or have a lien against that owner's unit for any portion of the common expenses incurred in connection with that lien.

(d) A judgment against the association must be indexed in the name of the common-interest community and the association and, when so indexed, is notice of the lien against the units.

2. In a cooperative:

(a) If the association receives notice of an impending foreclosure on all or any portion of the association's real estate, the association shall promptly

transmit a copy of that notice to each owner of a unit located within the real estate to be foreclosed. Failure of the association to transmit the notice does not affect the validity of the foreclosure.

(b) Whether ~~for not~~ an owner's unit is subject to the claims of the association's creditors, no other property of an owner is subject to those claims.

Sec. 51. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in ~~this~~ subsection 3, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community and during the regular working hours of the association, including, without limitation ~~the~~ :

(a) The financial statement of the association;

(b) The budgets of the association required to be prepared pursuant to NRS 116.31151;

(c) The study of the reserves of the association required to be conducted pursuant to NRS 116.31152; and

(d) All contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party.

2. The executive board shall provide a copy of any of the records described in paragraphs (a), (b) and (c) of subsection 1 to a unit's owner or the Ombudsman within 14 days after receiving a written request therefor. The executive board may charge a fee to cover the actual costs of preparing a copy, but the fee may not exceed 25 cents per page ~~for~~ for the first 10 pages, and 10 cents per page thereafter.

3. The provisions of ~~this~~ subsection 1 do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, including, without limitation, any architectural plan or specification submitted by a unit's owner to the association during an approval process required by the governing documents, except for those records described in subsection ~~{2;}~~ 4; and

(c) Any document, including, without limitation, minutes of an executive board meeting, a reserve study and a budget, if the document:

(1) Is in the process of being developed for final consideration by the executive board; and

(2) Has not been placed on an agenda for final approval by the executive board.

~~{2;}~~ 4. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a

violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

~~{3-}~~ 5. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If the Ombudsman is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

~~{4-}~~ 6. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

~~{5-}~~ 7. The executive board shall not require a unit's owner to pay an amount in excess of \$10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of ~~{this section}~~.

~~—6. If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request and without charge, provide equal space to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.~~

~~—7. If an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal space to opposing views and opinions of a unit's owner, tenant or resident of the common-interest community.~~

~~—8. The association and its officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which~~

~~occurs in the course of carrying out any duties required pursuant to subsection 6 or 7.~~

~~— 9. As used in this section:~~

~~— (a) "Issue of official interest" includes, without limitation:~~

~~— (1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, the election of members of the executive board; and~~

~~— (2) The enactment or adoption of rules or regulations that will affect a common-interest community.~~

~~— (b) "Official publication" means:~~

~~— (1) An official website;~~

~~— (2) An official newsletter or other similar publication that is circulated to each unit's owner; or~~

~~— (3) An official bulletin board that is available to each unit's owner,~~

~~↗ which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.]~~

subsection 1.

Sec. 52. NRS 116.4101 is hereby amended to read as follows:

116.4101 1. NRS 116.4101 to 116.412, inclusive, apply to all units subject to this chapter, except as otherwise provided in ~~{this section}~~ ***subsection 2*** or as modified or waived by agreement of purchasers of units in a common-interest community in which all units are restricted to nonresidential use.

2. Neither a public offering statement nor a certificate of resale need be prepared or delivered in the case of a:

(a) Gratuitous disposition of a unit;

(b) Disposition pursuant to court order;

(c) Disposition by a government or governmental agency;

(d) Disposition by foreclosure or deed in lieu of foreclosure;

(e) Disposition to a dealer;

(f) Disposition that may be cancelled at any time and for any reason by the purchaser without penalty; ~~{or}~~

(g) Disposition of a unit in a planned community which contains no more than 12 units if:

(1) The declarant reasonably believes in good faith that the maximum assessment stated in the declaration will be sufficient to pay the expenses of the planned community; and

(2) The declaration cannot be amended to increase the assessment during the period of the declarant's control without the consent of all units' owners ~~{~~

~~— 3. Except as otherwise provided in subsection 2, the provisions of NRS 116.4101 to 116.412, inclusive, do not apply to a planned community described in NRS 116.1203.} ; or~~

(h) Disposition of a unit restricted to nonresidential purposes.

Sec. 53. NRS 116.4103 is hereby amended to read as follows:

116.4103 1. Except as otherwise provided in NRS 116.41035, a public offering statement must set forth or fully and accurately disclose each of the following:

(a) The name and principal address of the declarant and of the common-interest community, and a statement that the common-interest community is ~~either~~ a condominium, cooperative or planned community.

(b) A general description of the common-interest community, including to the extent possible, the types, number and declarant's schedule of commencement and completion of construction of buildings, and amenities that the declarant anticipates including in the common-interest community.

(c) The estimated number of units in the common-interest community.

(d) Copies of the declaration, bylaws, and any rules or regulations of the association, but a plat is not required.

(e) ~~[A current year to date financial statement, including the most recent audited or reviewed financial statement, and the projected budget for the association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association. The budget must include, without limitation:~~

~~— (1) A statement of the amount included in the budget as reserves for repairs, replacement and restoration pursuant to NRS 116.3115; and~~

~~— (2) The projected monthly assessment for common expenses for each type of unit, including the amount established as reserves pursuant to NRS 116.3115.] ***The financial information required by subsection 2.***~~

(f) A description of any services or subsidies being provided by the declarant or an affiliate of the declarant, not reflected in the budget ~~[*that the declarant provides, or expenses which the declarant pays and which the declarant expects may become at any subsequent time a common expense of the association and the projected common expense assessment attributable to each of those services or expenses for the association and for each type of unit.*~~

(g) Any initial or special fee due from the purchaser *or seller* at closing, *including, without limitation, any transfer fees, whether payable to the association, the community manager of the association or any third party,* together with a description of the purpose and method of calculating the fee.

(h) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages.

(i) A statement that unless the purchaser or his or her agent has personally inspected the unit, the purchaser may cancel, by written notice, his or her contract for purchase until midnight of the fifth calendar day following the date of execution of the contract, and the contract must contain a provision to that effect.

(j) A statement of any unsatisfied ~~[judgments]~~ **judgment** or pending ~~[suits]~~ **action** against the association, and the status of any pending ~~[suits]~~ **action** material to the common-interest community of which a declarant has actual knowledge.

(k) Any current or expected fees or charges to be paid by units' owners for the use of the common elements and other facilities related to the common-interest community.

(l) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

(m) *Any restraints on alienation of any portion of the common-interest community and any restrictions:*

(1) On the leasing or renting of units; and

(2) On the amount for which a unit may be sold or on the amount that may be received by a unit's owner on the sale or condemnation of or casualty loss to the unit or to the common-interest community, or on termination of the common-interest community.

(n) A description of any arrangement described in NRS 116.1209 binding the association.

(o) The information statement set forth in NRS 116.41095.

2. The public offering statement must contain any current balance sheet and a projected budget for the association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association, a statement of who prepared the budget and a statement of the budget's assumptions concerning occupancy and inflation factors. The budget must include:

(a) A statement of the amount included in the budget as a reserve for repairs, replacement and restoration pursuant to NRS 116.3115;

(b) A statement of any other reserves;

(c) The projected common expense assessment by category of expenditures for the association; and

(d) The projected monthly common expense assessment for each type of unit, including the amount established as reserves pursuant to NRS 116.3115.

3. A declarant is not required to revise a public offering statement more than once each calendar quarter, if the following warning is given prominence in the statement: "THIS PUBLIC OFFERING STATEMENT IS CURRENT AS OF (insert a specified date). RECENT DEVELOPMENTS REGARDING (here refer to particular provisions of NRS 116.4103 and 116.4105) MAY NOT BE REFLECTED IN THIS STATEMENT."

Sec. 54. NRS 116.41035 is hereby amended to read as follows:

116.41035 If a common-interest community composed of not more than 12 units is not subject to any developmental rights and no power is reserved to a declarant to make the common-interest community part of a larger common-interest community, group of common-interest communities or other real estate, a public offering statement may ~~but need not~~ include the information otherwise required by paragraphs (h) and (k) of subsection 1 of NRS 116.4103.

Sec. 55. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his or her authorized agent shall, at the expense of the unit's owner, furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152;

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge;

(e) A statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit; and

(f) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, the purchaser must hand deliver the notice of cancellation to the unit's owner or his or her authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his or her authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the

purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

- (a) Cancel the contract pursuant to this subsection; or
- (b) Damages, rescission or other relief based solely on the ground that the unit's owner or his or her authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his or her authorized agent, the association shall furnish all of the following to the unit's owner or his or her authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b), (d), ~~and~~ (e) **and (f)** of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his or her authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his or her authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page ~~for~~ **for the first 10 pages, and 10 cents per page thereafter,** to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the ~~seller~~ **purchaser** is not liable for the delinquent assessment.

6. Upon the request of a unit's owner or his or her authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his or her authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and

audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

Sec. 56. NRS 116.4113 is hereby amended to read as follows:

116.4113 1. Express warranties made by ~~any seller~~ **a declarant** to a purchaser of a unit, if relied upon by the purchaser, are created as follows:

(a) Any affirmation of fact or promise that relates to the unit, its use or rights appurtenant thereto, improvements to the common-interest community that would directly benefit the unit, or the right to use or have the benefit of facilities not located in the common-interest community creates an express warranty that the unit and related rights and uses will conform to the affirmation or promise;

(b) Any model or description of the physical characteristics of the common-interest community, including plans and specifications of or for improvements, creates an express warranty that the common-interest community will reasonably conform to the model or description; ~~unless the model or description clearly discloses that it is only proposed or is subject to change;~~

(c) Any description of the quantity or extent of the real estate comprising the common-interest community, including plats or surveys, creates an express warranty that the common-interest community will conform to the description, subject to customary tolerances; and

(d) A provision that a purchaser may put a unit only to a specified use is an express warranty that the specified use is lawful.

2. Neither formal words, such as "warranty" or "guarantee," nor a specific intention to make a warranty is necessary to create an express warranty of quality, but a statement purporting to be merely an opinion or commendation of the real estate or its value does not create a warranty.

3. Any conveyance of a unit transfers to the purchaser all express warranties of quality made by ~~previous sellers~~ **the declarant**.

4. A warranty created by this section may be excluded or modified by agreement of the parties.

Sec. 57. NRS 116.4114 is hereby amended to read as follows:

116.4114 1. A declarant and any dealer warrant that a unit will be in at least as good condition at the earlier of the time of the conveyance or delivery of possession as it was at the time of contracting, reasonable wear and tear excepted.

2. A declarant and any dealer impliedly warrant that a unit and the common elements in the common-interest community are suitable for the ordinary uses of real estate of its type and that any improvements made or contracted for by ~~him or her~~ **a declarant or dealer**, or made by any person before the creation of the common-interest community, will be:

(a) Free from defective materials; and

(b) Constructed in accordance with applicable law, according to sound standards of engineering and construction, and in a workmanlike manner.

3. ~~In addition, a~~ A declarant and any dealer warrant to a purchaser of a unit that may be used for residential use that an existing use, continuation of which is contemplated by the parties, does not violate applicable law at the earlier of the time of conveyance or delivery of possession.

4. Warranties imposed by this section may be excluded or modified as specified in NRS 116.4115.

5. For purposes of this section, improvements made or contracted for by an affiliate of a declarant are made or contracted for by the declarant.

6. Any conveyance of a unit transfers to the purchaser all of the declarant's implied warranties of quality.

Sec. 58. NRS 116.4116 is hereby amended to read as follows:

116.4116 1. ~~{A}~~ *Unless a period of limitation is tolled under NRS 116.3111 or affected by subsection 4, a* judicial proceeding for breach of any obligation arising under NRS 116.4113 or 116.4114 must be commenced within 6 years after the cause of action accrues, but the parties may agree to reduce the period of limitation to not less than 2 years. With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by a separate instrument executed by the purchaser.

2. Subject to subsection 3, a cause of action for breach of warranty of quality, regardless of the purchaser's lack of knowledge of the breach, accrues:

(a) As to a unit, at the time the purchaser to whom the warranty is first made enters into possession if a possessory interest was conveyed or at the time of acceptance of the instrument of conveyance if a nonpossessory interest was conveyed; and

(b) As to each common element, at the time the common element is completed or, if later, as to:

(1) A common element that may be added to the common-interest community or portion thereof, at the time the first unit therein is conveyed to a bona fide purchaser; or

(2) A common element within any other portion of the common-interest community, at the time the first unit is conveyed to a purchaser in good faith.

3. If a warranty of quality explicitly extends to future performance or duration of any improvement or component of the common-interest community, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

4. *During the period of declarant control, the association may authorize an independent committee of the executive board to evaluate and enforce any warranty claims involving the common elements, and to compromise those claims. Only members of the executive board elected by units' owners other than the declarant and other persons appointed by*

those independent members may serve on the committee, and the committee's decision must be free of any control by the declarant or any member of the executive board or officer appointed by the declarant. All costs reasonably incurred by the committee, including attorney's fees, are common expenses, and must be added to the budget annually adopted by the association in accordance with the requirements of NRS 116.31151. If the committee is so created, the period of limitation for a warranty claim considered by the committee begins to run from the date of the first meeting of the committee.

Sec. 59. NRS 116.4117 is hereby amended to read as follows:

116.4117 1. Subject to the requirements set forth in subsection 2, if a declarant, community manager or any other person subject to this chapter fails to comply with any of its provisions or any provision of the declaration or bylaws, any person or class of persons suffering actual damages from the failure to comply may bring a civil action for damages or other appropriate relief.

2. Subject to the requirements set forth in NRS 38.310 and except as otherwise provided in NRS 116.3111, a civil action for damages or other appropriate relief for a failure or refusal to comply with any provision of this chapter or the governing documents of an association may be brought:

(a) By the association against:

- (1) A declarant;
- (2) A community manager; or
- (3) A unit's owner.

(b) By a unit's owner against:

- (1) The association;
- (2) A declarant; or
- (3) Another unit's owner of the association.

(c) By a class of units' owners constituting at least 10 percent of the total number of voting members of the association against a community manager.

3. *Members of the executive board are not personally liable to the victims of crimes occurring on the property.*

4. Except as otherwise provided in ~~{NRS 116.31036,}~~ *subsection 5*, punitive damages may be awarded for a willful and material failure to comply with any provision of this chapter if the failure is established by clear and convincing evidence.

~~{4.}~~ 5. *Punitive damages may not be awarded against:*

(a) *The association;*
 (b) *The members of the executive board for acts or omissions that occur in their official capacity as members of the executive board; or*

(c) *The officers of the association for acts or omissions that occur in their capacity as officers of the association.* ~~, for~~

~~—(d) The community manager of an association for acts or omissions that occur in his or her capacity as community manager of the association.~~

6. The court may award reasonable attorney's fees to the prevailing party.

~~{5-}~~ 7. The civil remedy provided by this section is in addition to, and not exclusive of, any other available remedy or penalty.

8. *The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.*

Sec. 59.5. NRS 116A.410 is hereby amended to read as follows:

116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate. The regulations must include, without limitation, provisions that:

(1) Provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Holds a professional designation in the field of management of a common-interest community from a nationally recognized organization;

(II) Provides evidence that the person has been engaged in the management of a common-interest community for at least 5 years; and

(III) Has not been the subject of any disciplinary action in another state in connection with the management of a common-interest community.

(2) Except as otherwise provided in subparagraph (3), provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Receives an offer of employment as a community manager from an association or its agent; and

(II) Has management experience determined to be sufficient by the executive board of the association or its agent making the offer in sub-paragraph (I). The executive board or its agent must have sole discretion to make the determination required in this sub-subparagraph.

(3) Require a temporary certificate described in subparagraph (2) to expire before the end of the 1-year period if the certificate holder ceases to be employed by the association, or its agent, which offered the person employment as described in subparagraph (2).

(4) Require a person who is issued a temporary certificate as described in subparagraph (1) or (2) to successfully complete not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act within the 1-year period.

(5) Provide for the issuance of a certificate at the conclusion of the 1-year period if the person:

(I) Has successfully completed not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act; and

(II) Has not been the subject of any disciplinary action pursuant to this chapter or chapter 116 of NRS or any regulations adopted pursuant thereto.

(6) Provide that a temporary certificate described in subparagraph (1) or (2) and a certificate described in subparagraph (5):

(I) Must authorize the person who is issued a temporary certificate described in subparagraph (1) or (2) or certificate described in subparagraph (5) to act in all respects as a community manager and exercise all powers available to any other community manager without regard to experience; and

(II) Must not be treated as a limited, restricted or provisional form of a certificate.

~~(b) Must require an applicant or the employer of the applicant to post a bond in a form and in an amount established by regulation. The Commission shall, by regulation, adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control. In adopting the regulations establishing the form and sliding scale for the amount of a bond required to be posted pursuant to this paragraph, the Commission shall consider the availability and cost of such bonds.~~

~~—(c)~~ May require applicants to pass an examination in order to obtain a certificate other than a temporary certificate described in paragraph (a). If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

~~†(d)†~~ (c) Must establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new certificate without undergoing any period of supervision under another community manager, regardless of the length of time that has passed since the person last acted as a community manager.

~~†(e)†~~ (d) May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

~~†(f)†~~ (e) Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.

~~†(g)†~~ (f) Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.

3. As used in this section, "management experience" means experience in a position in business or government, including, without limitation, in the military:

(a) In which the person holding the position was required, as part of holding the position, to engage in one or more management activities, including, without limitation, supervision of personnel, development of budgets or financial plans, protection of assets, logistics, management of human resources, development or training of personnel, public relations, or protection or maintenance of facilities; and

(b) Without regard to whether the person holding the position has any experience managing or otherwise working for an association.

Sec. 60. NRS 116.31177 is hereby repealed.

Sec. 61. This act becomes effective on January 1, 2012.

TEXT OF REPEALED SECTION

116.31177 Maintenance and availability of certain financial records of association; provision of copies to units' owners and Ombudsman.

1. The executive board of an association shall maintain and make available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties:

(a) The financial statement of the association;

(b) The budgets of the association required to be prepared pursuant to NRS 116.31151; and

(c) The study of the reserves of the association required to be conducted pursuant to NRS 116.31152.

2. The executive board shall provide a copy of any of the records required to be maintained pursuant to subsection 1 to a unit's owner or the Ombudsman within 14 days after receiving a written request therefor. The executive board may charge a fee to cover the actual costs of preparing a copy, but not to exceed 25 cents per page.

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. 382 to Senate Bill No. 204 revises Section 6 to provide for equal time for candidates and representatives of ballot questions on a closed-circuit station maintained by the association if one exists.

It makes minor changes to the provisions governing removal elections.

It deletes language that would have required the association to maintain fidelity insurance and instead requires it to have crime insurance.

It removes the requirement that a community manager must post a bond.

It standardizes the cost per copy that may be charged by an association to be consistent throughout the Nevada Revised Statutes (NRS) and consistent with other measures.

It eliminates the provision in Section 56 concerning whether a model or description of the physical characteristics of a common-interest community creates an express warranty under certain circumstances.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 210.

Bill read second time.

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

Amendment No. 172.

"SUMMARY—Revises provisions governing the regulation of **certain** food **processing** establishments, ~~{that manufacture or process food intended for human consumption.}~~ (BDR 40-564)"

"AN ACT relating to food establishments; requiring a food ~~{establishment or food}~~ processing establishment that ~~{manufactures or}~~ processes **or otherwise prepares wholesale** food to comply with nationally recognized guidelines for the manufacturing and processing of food ; ~~{that are adopted by the State Board of Health or a local board of health by regulation;}~~ providing for the testing of such ~~{manufactured or}~~ processed food ~~{by an independent laboratory;}~~ **under certain circumstances; requiring the recording and review of test results;** providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth provisions governing the regulation of food establishments, including, without limitation, establishments that manufacture or process food intended for human consumption. (Chapter 446 of NRS) Existing law also requires that such provisions be enforced by the officers and agents of the Health Division of the Department of Health and Human Services and the officers and agents of the local boards of health. (NRS 446.050, 446.940) ~~{Section 1 of this}~~ **This** bill: (1) requires a food ~~{establishment or a food}~~ processing establishment that ~~{manufactures or}~~ processes **or otherwise prepares wholesale** food intended for human consumption to comply with nationally recognized guidelines for the manufacturing and processing of food ; ~~{that are adopted by the State Board of Health or a local board of health by regulation; and}~~ (2) authorizes the health authority , **under certain circumstances,** to require that **the** food ~~{manufactured or}~~ processed **or otherwise prepared** in such establishments be tested ~~{by an independent laboratory and}~~ **for the presence of contaminants;** (3) **requires** that the cost of the testing be paid by the establishments ~~{. Section 2 of this bill specifies that the regulations of the State Board of Health include the nationally recognized guidelines for manufacturing and processing food.}~~ ; (4) **requires that the testing be conducted in accordance with nationally recognized laboratory standards;** (5) **requires timely reporting to the health authority if the testing indicates contamination;** and (6) **requires the recording and review of test results.**

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

Section 1. Chapter 446 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A food ~~{establishment or food}~~ processing establishment ~~{that manufactures or processes food}~~ shall comply with nationally recognized guidelines for the manufacturing and processing of food , ~~{that are adopted by the State Board of Health or a local board of health pursuant to~~

~~NRS 446.940,] including, without limitation [~~, ~~procedures for the testing of the manufactured or processed food within the establishment.~~

~~2. The health authority may require that:~~

~~(a) Any food manufactured or processed in a food establishment or food processing establishment be tested by an independent laboratory; and~~

~~(b) The food establishment or~~ ;

(a) Identifying hazards from biological, chemical, physical and radiological sources;

(b) Establishing and carrying out preventive controls to:

(1) Minimize significantly the contamination of food; or

(2) Prevent hazards from contaminating food; and

(c) Verifying that preventive controls are effectively minimizing or preventing the contamination of food through the use of:

(1) Programs for environmental testing;

(2) Programs for the testing of products; or

(3) Other appropriate means.

2. Except as otherwise provided in this subsection, whenever the health authority determines there are reasonable grounds to suspect that the food processed or otherwise prepared by a food processing establishment may constitute a substantial health hazard, the health authority may require that the food processing establishment have its food tested for the presence of any contaminants. The provisions of this subsection do not apply to the extent that a food processing establishment is under investigation for the same purpose pursuant to federal law.

3. If the health authority requires pursuant to subsection 2 that the food processed or otherwise prepared by a food processing establishment ~~pay~~ be tested:

(a) The food processing establishment:

(1) Is responsible for the cost of the testing ~~for~~ ; and

(2) May perform such testing itself or cause the testing to be performed by a third party.

(b) The testing must be conducted in a manner that is consistent with nationally recognized laboratory standards.

4. Records of the results of any tests conducted pursuant to this section must be retained by the food processing establishment to which the tests pertain for a period of not less than 2 years. The food processing establishment shall, upon request, make those records available to the health authority for its review.

5. If testing required pursuant to subsection 2 indicates that the food processed or otherwise prepared by a food processing establishment is contaminated, the person or entity that conducted the testing shall, within 24 hours after obtaining the test results, report those test results to the health authority.

6. As used in this section:

(a) "Food processing establishment" means a commercial establishment which processes or otherwise prepares and packages wholesale food for human consumption. The term includes, without limitation, establishments that process:

- (1) Vitamins;
- (2) Food supplements;
- (3) Food additives;
- (4) Spices;
- (5) Tea;
- (6) Coffee;
- (7) Salsa;
- (8) Jelly or jam; or
- (9) Condiments.

(b) "Substantial health hazard" includes, without limitation:

- (1) Food from an unapproved or unknown source.
- (2) Food that is adulterated, labeled improperly, misbranded, contaminated, showing evidence of temperature abuse or otherwise unfit for human consumption.
- (3) Food held or kept under any condition that supports the rapid growth of bacteria, unless time is used properly as a public health control.
- (4) Food that is or was handled by a person who:
 - (I) Is infected with a communicable disease; or
 - (II) Is not practicing strict standards of cleanliness or personal hygiene.
- (5) Food that has come into contact with equipment, utensils or working surfaces which are not cleaned and sanitized effectively.
- (6) Food prepared in an area where sewage or liquid waste is not disposed of in an approved and sanitary manner.
- (7) Food prepared in an area where contamination may result from insects, rodents or other animals.
- (8) Food prepared in an area where contamination may result from toxic materials which are stored or used improperly.

(c) "Wholesale food" means food that is processed or otherwise prepared at a food processing establishment and is:

- (1) Used subsequently at another food processing establishment; or
- (2) Served to the public at a food establishment.

~~Sec. 2. NRS 446.940 is hereby amended to read as follows:~~

~~446.940 1. Except as provided in subsection 2, this chapter must be enforced by the health authority in accordance with regulations hereby authorized to be adopted by the State Board of Health to carry out the requirements of this chapter. The regulations must adopt nationally recognized guidelines for the manufacturing and processing of food, including, without limitation, procedures for a food establishment or food processing establishment to test the food manufactured or processed within the establishment.~~

- ~~2. A local board of health may adopt such regulations as it may deem necessary to carry out the requirements of this chapter. Such regulations:~~
- ~~(a) Become effective when approved by the State Board of Health;~~
 - ~~(b) Must be enforced by the health authority; and~~
 - ~~(c) Supersede the regulations adopted by the State Board of Health pursuant to subsection 1.~~
- ~~3. All sheriffs, constables, police officers, marshals and other peace officers shall render such services and assistance to the health authority in regard to enforcement as the health authority may request.} **(Deleted by amendment.)**~~

~~**Sec. 3.** [This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2011, for all other purposes.] **(Deleted by amendment.)**~~

Senator Copenig moved the adoption of the amendment.

Remarks by Senator Copenig.

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

Amendment No. 172 revises the provisions to Senate Bill No. 210 by removing food establishments and processing establishments that manufacture food, and by specifying that the measure applies to food processing establishments that process or otherwise prepare wholesale food intended for human consumption.

It authorizes the health authority to require that the food processed or otherwise prepared by such an establishment be tested under certain circumstances.

It removes the requirement that an independent lab perform the test and specifies that the testing be in accordance with nationally recognized laboratory standards.

It requires timely reporting to the health authority if the testing indicates contamination and requires the recording and review of the test results.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 221.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 231.

"SUMMARY—Makes various changes relating to trusts, estates and probate. (BDR 2-78)"

"AN ACT relating to personal financial administration; providing for nonprobate transfers of property to take effect on the death of the owner of the property; establishing provisions relating to transfers of property which are found or presumed to be void and providing the effect of such transfers; providing for the independent administration of estates; revising provisions concerning the administration of trusts and estates; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1-3 of this bill provide for the exemption of certain trust property, interests or powers from execution and attachment. **Sections 6-47** of this bill provide for nonprobate transfers of property, including certain real property,

at the death of the owner of the property. Specifically, **sections 41 and 42** govern the registration of property in beneficiary form and the extent to which the designation of a beneficiary may be revoked or changed during the lifetime of the owner of the property or in the owner's will. **Sections 40 and 45** set forth the rights of the beneficiary during the lifetime of the owner of the property and at the owner's death. **Sections 48-64** of this bill adopt provisions governing accounts in financial institutions in which one or more persons have an interest. **Section 49** provides that an account may: (1) be owned by a single party or by multiple parties; and (2) include a payable-on-death beneficiary designation or an agency designation, or both. **Section 50** provides sample forms for establishing multiple-person accounts. **Section 53** provides that an account is owned by the parties during their lifetimes in accordance with each party's net contribution to the account. **Section 54** sets forth the rights of the parties with respect to an account upon the death of a party.

Existing law generally provides for the enforcement of a no-contest clause in a will or a trust. (NRS 137.005, 163.00195) **Sections 73 and 177** of this bill provide, with certain exceptions, that a devisee's or beneficiary's share may be reduced or eliminated under a no-contest clause by conduct that is set forth by the testator in the will or by the settlor in the trust. Similarly, **sections 70 and 176** of this bill provide that a disposition of property and the appointment of a fiduciary including, without limitation, a personal representative and a trustee, may be dependent on conditions set forth by the testator in a will or by the settlor in the trust. **Sections 76-144** of this bill set forth the Independent Administration of Estates Act, which allows a personal representative to administer most aspects of a decedent's estate without court supervision. Pursuant to **sections 86 and 88**, the court may: (1) grant the personal representative full authority or limited authority to administer the decedent's estate; or (2) revoke the personal representative's authority to administer the decedent's estate without court supervision. **Section 90** provides that if a personal representative is granted limited authority to administer the estate, court supervision is required for certain actions, including the sale of property of the estate, exchange of property of the estate or granting of an option to purchase property of the estate. **Section 90** further provides that if the personal representative has been granted full authority to administer the estate, court supervision for the sale of property of the estate, exchange of property of the estate or granting of an option to purchase property of the estate is required only under certain circumstances. **Sections 93-106 and 128** of this bill require the personal representative to give notice of a proposed action when exercising certain powers without court supervision, including selling real property of the estate. **Sections 107-115** of this bill require the personal representative to give notice of the proposed action under certain circumstances when exercising certain powers. **Sections 116-127** of this bill authorize the personal representative to exercise certain powers without giving notice of the

proposed action, including the power to pay taxes and assessments and expenses incurred in the collection, care and administration of the estate.

Sections 202 and 203 of this bill adopt provisions concerning spendthrift trusts. Further, **sections 204-206** of this bill amend existing law concerning the powers and responsibilities of a settlor or trustee for a spendthrift trust.

Section 209 of this bill repeals the Uniform TOD Security Registration Act and other statutes related to nonprobate transfers of certain accounts because those issues are addressed in **sections 32-64** of this bill which govern nonprobate transfers on death.

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

Section 1. 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. The judgment creditor 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 landlord's 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 ~~{ }~~ ***that is a contingent interest***, if the ~~{interest}~~ ***contingency*** has not been ~~{distributed from the trust;}~~ ***satisfied or removed;***

(b) A ~~{remainder}~~ ***present or future*** interest in the ***income or principal of a*** trust ~~{whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;}~~

—(e) ~~A~~ ***for which*** discretionary power *is* 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)}~~ (c) 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)}~~ (d) Certain powers held by a trust protector or certain other persons;

~~{(f)}~~ ***and***

(e) 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 ***present or future interest in the income or principal of a trust that is 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; ***and***

(b) A ***present or future interest in the income or principal of a trust that is 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.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

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.

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.

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.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed \$1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

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. 2. 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 the judgment debtor.

(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 the judgment debtor and his or her family not to exceed \$10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any mining operations and the mining claim actually worked by the miner or prospector, 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 or herself 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 the judgment debtor.

(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 or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's 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 the judgment debtor or the judgment debtor's 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}~~ **distribution** interest in the trust as defined in NRS ~~{163.4145 if the interest has not been distributed;}~~ **163.4155 that is a contingent interest, if the contingency has not been satisfied or removed;**

(2) A ~~{remainder}~~ **distribution** interest in the trust as defined in NRS ~~{163.416 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}~~ **163.4155 that is a** discretionary interest ~~{in the trust}~~ as described in NRS 163.4185, if the interest has not been distributed;

~~{(4)}~~ (3) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been ~~{distributed or transferred;}~~

—~~{(5)}~~ **exercised;**

(4) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been ~~{distributed or transferred;}~~

—~~{(6)}~~ **exercised; and**

(5) A reserved power in the trust as defined in NRS 163.4165 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.}~~ **exercised.**

(dd) If a trust contains a spendthrift provision:

(1) A ~~{mandatory}~~ **distribution** interest in the trust as **defined in NRS 163.4155 that is a mandatory interest as** described in NRS 163.4185, if the interest has not been distributed; **and**

(2) Notwithstanding a beneficiary's right to enforce a support interest, a ~~{support}~~ **distribution** interest in the trust as **defined in NRS 163.4155 that is a support interest as** described in NRS 163.4185, 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. 3. 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 the plaintiff money. The plaintiff 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 the landlord's 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 ~~{ }~~ ***that is a contingent interest***, if the interest has not been ~~{distributed from the trust;}~~ ***satisfied or removed;***

(b) A ~~{remainder}~~ ***present or future*** interest in the ***income or principal of a*** trust ~~{whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;~~

~~—(e) A}~~ ***for which*** discretionary power ***is*** 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)}~~ (c) 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)}~~ (d) Certain powers held by a trust protector or certain other persons;

~~{(f)}~~ ***and***

(e) 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 ***present or future interest in the income or principal of a trust that is 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; ***and***

(b) A ***present or future interest in the income or principal of a trust that is 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.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

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.

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.

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.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed \$1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

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.

Sec. 4. NRS 41B.090 is hereby amended to read as follows:

41B.090 "Governing instrument" means any of the following:

1. A deed or any other instrument that transfers any property, interest or benefit.

2. An annuity or a policy of insurance.

3. A trust, whether created by an instrument executed during the life of the settlor, a testamentary instrument or any other instrument, judgment or decree, including, without limitation, any of the following:

(a) An express trust, whether private or charitable, and any additions to such a trust.

(b) A trust created or determined by a judgment or decree under which the trust is to be administered in the manner of an express trust.

4. A will, a codicil or any other testamentary instrument, including, without limitation, a testamentary instrument that:

(a) Appoints a person to serve in a fiduciary or representative capacity, nominates a guardian or revokes or revises another will, codicil or testamentary instrument; or

(b) Excludes or limits the right of a person or class of persons to succeed to any property, interest or benefit pursuant to the laws of intestate succession.

5. Any account or deposit that is payable or transferable on the death of a person or any instrument that provides for the payment or transfer of any property, interest or benefit on the death of a person.

6. A security registered as transferable on the death of a person . ~~for a security registered in beneficiary form pursuant to NRS 111.480 to 111.650, inclusive.~~

7. Any instrument creating or exercising a power of appointment or a durable or nondurable power of attorney.

8. Any instrument that appoints or nominates a person to serve in any fiduciary or representative capacity, including, without limitation, an agent, guardian, executor, personal representative or trustee.

9. Any public or private plan or system that entitles a person to the payment or transfer of any property, interest or benefit, including, without limitation, a plan or system that involves any of the following:

(a) Pension benefits, retirement benefits or other similar benefits.

(b) Profit-sharing or any other form of participation in profits, revenues, securities, capital or assets.

(c) Industrial insurance, workers' compensation or other similar benefits.

(d) Group insurance.

10. A partnership agreement or an agreement concerning any joint adventure, enterprise or venture.

11. A premarital, antenuptial or postnuptial agreement, a marriage contract or settlement or any other similar agreement, contract or settlement.

12. Any instrument that declares a homestead pursuant to chapter 115 of NRS.

13. Any other dispositive, appointive, nominative or declarative instrument.

Sec. 5. Chapter 111 of NRS is hereby amended by adding thereto the provisions set forth as sections 6 to 64, inclusive, of this act.

Sec. 6. *As used in sections 6 to 64, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 7 to 31, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 7. *"Account" means an agreement of deposit between a depositor and a financial institution and includes a checking account, savings account, certificate of deposit and share account.*

Sec. 8. *"Agent" has the meaning ascribed to it in NRS 132.045.*

Sec. 9. *"Beneficiary" has the meaning ascribed to it in NRS 132.050.*

Sec. 10. *"Contract" includes an insurance policy, contract of employment, bond, mortgage, promissory note, certificated or uncertificated security, account, custodial agreement, deposit agreement, compensation agreement, deferred compensation plan, pension plan, individual retirement plan, employee benefit plan, trust, conveyance, deed of gift, marital property agreement or other written instrument of a similar nature.*

Sec. 11. *"Devisee" has the meaning ascribed to it in NRS 132.100.*

Sec. 12. *"Financial institution" means an organization authorized to do business under state or federal laws relating to financial institutions and includes a bank, thrift company, trust company, savings bank, building and loan association, savings and loan company or association and credit union.*

Sec. 13. *"Governing instrument" has the meaning ascribed to it in NRS 132.155.*

Sec. 14. *"Heirs" has the meaning ascribed to it in NRS 132.165.*

Sec. 15. *"Held in beneficiary form" means the holding of property which has been registered in beneficiary form or another writing that names the owner of the property followed by a transfer-on-death direction and the designation of a beneficiary.*

Sec. 16. *"Multiple-party account" means an account payable on request to one or more of two or more parties, whether or not a right of survivorship is mentioned.*

Sec. 17. 1. *"Nonprobate transfer" means a transfer of any property or interest in property from a decedent to one or more other persons by operation of law or by contract that is effective upon the death of the decedent and includes, without limitation:*

(a) A transfer by right of survivorship, including a transfer pursuant to subsection 1 of NRS 115.060;

(b) A transfer by deed upon death pursuant to NRS 111.109; and

(c) A security registered as transferable on the death of a person.

2. The term does not include:

(a) Property that is subject to administration in probate of the estate of the decedent;

(b) Property that is set aside, without administration, pursuant to NRS 146.070; and

(c) Property transferred pursuant to an affidavit as authorized by NRS 146.080.

Sec. 18. *"Party" means a person who, by the terms of an account, has a present right, subject to request, to payment from the account other than as a beneficiary or agent.*

Sec. 19. *"Payment," as it relates to sums on deposit, includes withdrawal, payment to a party or third person pursuant to a check or other request and a pledge of sums on deposit by a party, or a set-off, reduction or other disposition of all or part of an account pursuant to a pledge.*

Sec. 20. *"Personal representative" has the meaning ascribed to it in NRS 132.265.*

Sec. 21. *"POD designation" means the designation of:*

1. A beneficiary in an account payable on request to one party during the party's lifetime and on the party's death to one or more beneficiaries, or to one or more parties during their lifetimes and on death of all the parties to one or more beneficiaries; or

2. A beneficiary in an account in the name of one or more parties as trustee for one or more beneficiaries if the relationship is established by the terms of the account and there is no subject of the trust other than the sums on deposit in the account, whether or not payment to the beneficiary is mentioned.

Sec. 22. *"Receive," as it relates to notice to a financial institution, means receipt in the office or branch office of the financial institution in which the account is established or, if the terms of the account require notice at a particular place, in the place required.*

Sec. 23. *"Register in beneficiary form" means to title an account record, certificate or other written instrument evidencing ownership of property in the name of the owner followed by a transfer-on-death direction as described in section 42 of this act and the designation of a beneficiary.*

Sec. 24. *"Request" means a request for payment complying with all terms of the account, including special requirements concerning necessary signatures and regulations of the financial institution. For the purposes of sections 6 to 64, inclusive, of this act, if the terms of the account condition payment on advance notice, a request for payment is treated as immediately*

effective and a notice of intent to withdraw is treated as a request for payment.

Sec. 25. *"State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any territory or possession subject to the jurisdiction of the United States.*

Sec. 26. *"Sums on deposit" means the balance payable on an account, including interest and dividends earned, whether or not included in the current balance, and any deposit life insurance proceeds added to the account by reason of the death of a party.*

Sec. 27. *"Terms of the account" includes the deposit agreement and other terms and conditions, including the form, of the deposit.*

Sec. 28. *"Transferring entity" means a person who owes a debt or is obligated to pay money or benefits, render contract performance, deliver or convey property, or change the record of ownership of property on the books, records and accounts of an enterprise or on a certificate or document of title that evidences property rights, and includes any governmental agency or business entity that, or transfer agent who, issues certificates of ownership or title to property and a person acting as a custodial agent for an owner's property.*

Sec. 29. *"Trust" has the meaning ascribed to it in NRS 132.350.*

Sec. 30. *"Trustee" has the meaning ascribed to it in NRS 132.355.*

Sec. 31. *"Will" has the meaning ascribed to it in NRS 132.370.*

Sec. 32. 1. *A provision for a nonprobate transfer on death in a contract is nontestamentary and includes any written provision that:*

(a) Money or other benefits due to, controlled by or owned by a decedent before death must be paid after the decedent's death to a person whom the decedent designates in the contract or in a separate writing, including a will, executed before or at the same time as the contract, or later;

(b) Money due or to become due under the contract ceases to be payable in the event of death of the promisee or the promisor before payment or demand; or

(c) Any property controlled by or owned by the decedent before death which is the subject of the contract passes to a person whom the decedent designates in the contract or in a separate writing, including a will, executed before or at the same time as the contract, or later.

2. *A nonprobate transfer described in subsection 1:*

(a) Is exempt from the requirements of chapter 133 of NRS;

(b) Is not subject to administration as part of the person's estate at death;

(c) Is not subject to distribution pursuant to the decedent's will or pursuant to chapter 134 of NRS, except to the extent that the beneficiary designation fails; and

(d) May be established in conjunction with the ownership registration of an asset, as provided in section 36 of this act.

3. *A beneficiary designation that involves an interest in real property must be done in the form of a deed that satisfies the requirements of NRS 111.109.*

4. *Upon a decedent's death:*

(a) *Money or other benefits due to, controlled by or owned by that decedent before death must be paid after the decedent's death to the beneficiary whom the decedent designates in the contract or in a separate writing, including a will, executed before or at the same time as the contract, or later;*

(b) *If the contract provides that money due or to become due under the contract ceases to be payable in the event of the death of the promisee or the promisor before payment or demand, such provision is effective; and*

(c) *Any property controlled by or owned by the decedent before death which is the subject of the contract passes to the beneficiary whom the decedent designates in the contract or in a separate writing, including a will, executed before or at the same time as the contract, or later.*

5. *Notwithstanding the provisions of this section to the contrary, a writing separate from a contract is not effective to the extent it violates the terms of the contract unless it is signed or otherwise ratified by all parties to the contract.*

6. *Nothing in sections 32 to 64, inclusive, of this act authorizes a married person to transfer or otherwise affect the community property rights of that person's spouse.*

Sec. 33. *For the purpose of discharging its duties under sections 32 to 46, inclusive, of this act, the authority of a transferring entity acting as agent for an owner of property subject to a nonprobate transfer does not cease at the death of the owner. The transferring entity shall transfer the property to the designated beneficiary in accordance with the contract between the transferring entity and the deceased owner and with sections 32 to 46, inclusive, of this act.*

Sec. 34. 1. *Provision for a nonprobate transfer is a matter of agreement between the owner and the transferring entity, under such rules, terms and conditions as the owner and transferring entity may agree. Before a nonprobate transfer is effective, the contract may require:*

(a) *Submission to the transferring entity of a beneficiary designation under a governing instrument;*

(b) *Registration by a transferring entity of a transfer-on-death direction on any certificate or record evidencing ownership of property;*

(c) *The consent of a contract obligor for a transfer of performance due under the contract;*

(d) *The consent of a financial institution for a transfer of an obligation of the financial institution;*

(e) *The consent of a transferring entity for a transfer of an interest in the transferring entity; or*

(f) *Compliance with any other express condition.*

2. *Whenever a contract provision relating to a nonprobate transfer requires any of the conditions set forth in subsection 1, nothing in sections 32 to 46, inclusive, of this act imposes an obligation on a transferring entity to accept an owner's request to make provision for a nonprobate transfer of property unless the conditions have been met.*

3. *When a beneficiary designation, revocation or change is subject to acceptance by a transferring entity, the transferring entity's acceptance of the beneficiary designation, revocation or change relates back to and is effective as of the time when the request was received by the transferring entity.*

Sec. 35. *When a transferring entity accepts a beneficiary designation or beneficiary assignment or registers in beneficiary form certain property, the acceptance or registration constitutes the agreement of the owner and transferring entity that, unless the beneficiary designation is revoked or changed before the death of the owner, on proof of the death of the owner and compliance with the transferring entity's requirements for showing proof of entitlement, the property will be transferred to and placed in the name and control of the beneficiary in accordance with the beneficiary designation or transfer-on-death direction, the agreement of the parties and the provisions of sections 32 to 46, inclusive, of this act.*

Sec. 36. *A beneficiary designation, under a written instrument or law, that authorizes a transfer of property pursuant to a written designation of beneficiary transfers the right to receive the property to the designated beneficiary who survives, effective on the death of the owner, if the beneficiary designation is executed and delivered in proper form to the transferring entity before the death of the owner.*

Sec. 37. 1. *A written assignment of a contract right which assigns the right to receive any performance remaining due under the contract to an assignee designated by the owner and which expressly states that the assignment is not to take effect until the death of the owner transfers the right to receive performance due under the contract to the designated assignee beneficiary, effective on the death of the owner, if the assignment is executed and delivered in proper form to the contract obligor before the death of the owner or is executed in proper form and acknowledged before a notary public or other person authorized to administer oaths. A beneficiary assignment need not be supported by consideration or be delivered to the assignee beneficiary.*

2. *This section does not preclude other methods of assignment which are authorized by law and which have the effect of postponing enjoyment of a contract right until the death of the owner.*

Sec. 38. 1. *A deed of gift, bill of sale or other writing intended to transfer an interest in tangible personal property which expressly states that the transfer is not to take effect until the death of the owner transfers ownership to the designated transferee beneficiary, effective on the death of the owner, if the instrument is in other respects sufficient to transfer the*

type of property involved and is executed by the owner and acknowledged before a notary public or other person authorized to administer oaths. A beneficiary transfer instrument need not be supported by consideration or be delivered to any transferee beneficiary.

2. This section does not preclude other methods of transferring ownership of tangible personal property which are authorized by law and which have the effect of postponing enjoyment of property until the death of the owner.

Sec. 39. 1. A transferor of property, with or without consideration, may directly transfer the property to a transferee to be held in beneficiary form, as owner of the property.

2. A transferee under an instrument described in subsection 1 of section 32 of this act is the owner of the property for all purposes and has all the rights to the property otherwise provided by law to owners, including the right to revoke or change the beneficiary designation.

3. A direct transfer of property to a transferee to be held in beneficiary form is effective when the writing perfecting the transfer becomes effective to make the transferee the owner.

Sec. 40. 1. Before the death of the owner, a designated beneficiary has no rights in the property by reason of the beneficiary designation and the signature or agreement of the beneficiary is not required for any transaction respecting the property.

2. On the death of one of two or more joint owners, property with respect to which a beneficiary designation has been made belongs to the surviving joint owner or owners and the right of survivorship continues as between two or more surviving joint owners.

3. On the death of a sole owner, property passes by operation of law to the beneficiary.

4. If two or more beneficiaries survive, there is no right of survivorship among the beneficiaries in the event of the death of a beneficiary thereafter unless the beneficiary designation expressly provides for survivorship among them and, unless so expressly provided, surviving beneficiaries hold their separate interests in the property as tenants in common. The share of any subsequently deceased beneficiary belongs to that beneficiary's estate.

5. If no beneficiary survives the owner, the property belongs to the estate of the owner.

Sec. 41. 1. Unless a beneficiary designation is expressly made irrevocable, a beneficiary designation may be revoked or changed in whole or in part during the lifetime of the owner. A revocation or change of a beneficiary designation involving property of joint owners may only be made with the agreement of all owners then living.

2. A subsequent beneficiary designation revokes a previous beneficiary designation unless the subsequent beneficiary designation expressly provides otherwise.

3. *A revocation or change in a beneficiary designation must comply with the terms of the governing instrument, the rules of the transferring entity and the applicable law.*

4. *A beneficiary designation may not be revoked or changed by the provisions of a will unless the beneficiary designation expressly grants the owner the right to revoke or change a beneficiary designation by will. If a beneficiary designation is revoked by will, it must be revoked by an express provision in the will and extrinsic evidence is not admissible to establish the testator's intent concerning the beneficiary designation.*

5. *A transfer during the owner's lifetime of the owner's interest in property, with or without consideration, terminates the beneficiary designation with respect to the property transferred.*

6. *The effective date of a revocation or change in a beneficiary designation must be determined in the same manner as the effective date of a beneficiary designation.*

Sec. 42. 1. *Property may be held in beneficiary form or registered in beneficiary form by including in the name in which the property is held or registered a direction to transfer the property on the death of the owner to a beneficiary designated by the owner.*

2. *Property is registered in beneficiary form by showing on the account record, security certificate or written instrument evidencing ownership of the property the name of the owner, and the form of ownership by which two or more joint owners hold the property, followed in substance by the words "transfer on death to (name of beneficiary)." In lieu of the words "transfer on death to," the words "pay on death to" or "pay on death to the owner's lineal descendants, per stirpes" or the abbreviation "TOD," "POD" or "LDPS" may be used. The designation of a person's heirs as beneficiaries does not make the property subject to administration as part of the person's estate, but the identities of the beneficiaries must be determined pursuant to chapter 134 of NRS as they relate to the owner's separate property.*

3. *A transfer-on-death direction may only be placed on an account record, security certificate or instrument evidencing ownership of property by the transferring entity or a person authorized by the transferring entity.*

4. *A transfer-on-death direction transfers the owner's interest in the property to the designated beneficiary, effective on the death of the owner, if the property is registered in beneficiary form before the death of the owner or if the request to make the transfer-on-death direction is delivered in proper form to the transferring entity before the death of the owner.*

5. *An account record, security certificate or written instrument evidencing ownership of property that contains a transfer-on-death direction written as part of the name in which the property is held or registered is conclusive evidence in the absence of fraud, duress, undue influence or evidence of clerical mistake by the transferring entity that the direction was regularly made by the owner and accepted by the transferring*

entity and was not revoked or changed before the death giving rise to the transfer. The transferring entity has no obligation to retain the original writing, if any, by which the owner caused the property to be held in beneficiary form or registered in beneficiary form, more than 6 months after the transferring entity has mailed or delivered to the owner, at the address shown on the registration, an account statement, certificate or instrument that shows the manner in which the property is held in beneficiary form or registered in beneficiary form.

Sec. 43. Any interest in property that would be distributed by nonprobate transfer to or for a beneficiary who is disqualified as a beneficiary pursuant to chapter 41B of NRS must be transferred as if the disqualified beneficiary had disclaimed the interest immediately upon the decedent's death.

Sec. 44. An agent, guardian of the person or other fiduciary may not make, revoke or change a beneficiary designation unless:

1. The power of attorney or other document establishing the agent, guardian or other fiduciary's right to act or a court order expressly authorizes such action; and

2. The action complies with the terms of the governing instrument, the rules of the transferring entity and applicable law.

Sec. 45. If property subject to a beneficiary designation is lost, destroyed, damaged or involuntarily converted during the owner's lifetime, the beneficiary succeeds to any right with respect to the loss, destruction, damage or involuntary conversion which the owner would have had if the owner had survived but has no interest in any payment or substitute property received by the owner during the owner's lifetime.

Sec. 46. 1. Except as otherwise provided in NRS 21.090 and other applicable law, a transferee of a nonprobate transfer is liable to the probate estate of the decedent for allowed claims against that decedent's probate estate to the extent the estate is insufficient to satisfy those claims.

2. The liability of a nonprobate transferee may not exceed the value of nonprobate transfers received or controlled by that transferee.

3. Nonprobate transferees are liable for the insufficiency described in subsection 1 in the following order of priority:

(a) A transferee specified in the decedent's will or any other governing instrument as being liable for such an insufficiency, in the order of priority provided in the will or other governing instrument;

(b) The trustee of a trust serving as the principal nonprobate instrument in the decedent's estate plan as shown by its designation as devisee of the decedent's residuary estate or by other facts or circumstances, to the extent of the value of the nonprobate transfer received or controlled; and

(c) Other nonprobate transferees, in proportion to the values received.

4. Unless otherwise provided by the trust instrument, interests of beneficiaries in all trusts incurring liabilities under this section abate as

necessary to satisfy the liability, as if all the trust instruments were a single will and the interests were devised under it.

5. *If a nonprobate transferee is a spouse or a minor child, the nonprobate transferee may petition the court to be excluded from the liability imposed by this section as if the nonprobate property received by the spouse or minor child were part of the decedent's estate. Such a petition may be made pursuant to the applicable provisions of chapter 146 of NRS, including, without limitation, the provisions of NRS 146.010, NRS 146.020 without regard to the filing of an inventory and subsection 2 of NRS 146.070.*

6. *A provision made in one instrument may direct the apportionment of the liability among the nonprobate transferees taking under that or any other governing instrument. If a provision in one instrument conflicts with a provision in another, the later one prevails.*

7. *Upon due notice to a nonprobate transferee, the liability imposed by this section is enforceable in probate proceedings in this State, whether or not the transferee is located in this State.*

8. *If a probate proceeding is pending, a proceeding under this section may be commenced by the personal representative of the decedent's estate or, if the personal representative declines to do so, by a creditor in the name of the decedent's estate, at the expense of the creditor and not of the estate. If a creditor successfully establishes an entitlement to payment under this section, the court must order the reimbursement of the costs reasonably incurred by the creditor, including attorney's fees, from the transferee from whom the payment is to be made, subject to the limitations of subsection 2, or from the estate as a cost of administration, or partially from each, as the court deems just. A personal representative who declines in good faith to commence a requested proceeding incurs no personal liability for declining.*

9. *If a probate proceeding is not pending, a proceeding under this section may be commenced as a civil action by a creditor at the expense of the creditor.*

10. *If a proceeding is commenced pursuant to this section, it must be commenced:*

(a) *As to a creditor whose claim was allowed after proceedings challenging disallowance of the claim by the personal representative, within 60 days after final allowance of the claim by the probate court or within 1 year after the decedent's death, whichever is later.*

(b) *As to a creditor whose claim against the decedent is being adjudicated in a separate proceeding that is still pending 1 year after the decedent's death, within 60 days after the adjudication of the claim in favor of the creditor is final and no longer subject to reconsideration or appeal.*

(c) *As to the recovery of benefits paid for Medicaid, within 3 years after the decedent's death.*

(d) *As to all other creditors, within 1 year after the decedent's death.*

11. Unless a written notice asserting that a decedent's probate estate is nonexistent or insufficient to pay allowed claims and statutory allowances has been received from the decedent's personal representative, the following rules apply:

(a) Payment or delivery of assets by a financial institution, registrar or other obligor to a nonprobate transferee in accordance with the terms of the governing instrument controlling the transfer releases the obligor from all claims for amounts paid or assets delivered.

(b) A trustee receiving or controlling a nonprobate transfer is released from liability under this section with respect to any assets distributed to the trust's beneficiaries. Each beneficiary to the extent of the distribution received becomes liable for the amount of the trustee's liability attributable to assets received by the beneficiary.

12. Notwithstanding any provision of this section to the contrary:

(a) A creditor has no claim against property transferred pursuant to a power of appointment exercised by a decedent unless it was exercisable in favor of the decedent or the decedent's estate.

(b) A purchaser for value of property or a lender who acquires a security interest in the property from a beneficiary of a nonprobate transfer after the death of the owner, in good faith:

(1) Takes the property free of any claims or of liability to the owner's estate, creditors of the owner's estate, persons claiming rights as beneficiaries under the nonprobate transfer or heirs of the owner's estate, in absence of actual knowledge that the transfer was improper; and

(2) Has no duty to verify sworn information relating to the nonprobate transfer. The protection provided by this subparagraph applies to information that relates to the ownership interest of the beneficiary in the property and the beneficiary's right to sell, encumber and transfer good title to a purchaser or lender and does not relieve a purchaser or lender from the notice imparted by instruments of record respecting the property.

13. As used in this section, "devise" has the meaning ascribed to it in NRS 132.095.

Sec. 47. 1. Except as otherwise provided by the express terms of a governing instrument, a court order or a contract relating to the division of the marital estate made between the divorced persons before or after the marriage, divorce or annulment, the divorce or annulment of a marriage:

(a) Revokes any revocable:

(1) Disposition or appointment of property made by a divorced person to his or her former spouse in a governing instrument and any disposition or appointment created by law or in a governing instrument to a relative of the divorced person's former spouse;

(2) Provision in a governing instrument conferring a general or nongeneral power of appointment on the divorced person's former spouse or on a relative of the divorced person's former spouse; and

(3) Nomination in a governing instrument that nominates a divorced person's former spouse or a relative of the divorced person's former spouse to serve in any fiduciary or representative capacity, including a personal representative capacity, including a personal representative, executor, trustee, conservator, agent or guardian; and

(b) Severs the interest of the former spouses in property held by them at the time of the divorce or annulment as joint tenants with the right of survivorship or as community property with a right of survivorship and transforms the interests of the former spouses into equal tenancies in common.

2. A severance under paragraph (b) of subsection 1 does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the survivor of the former spouses unless a writing declaring the severance has been noted, registered, filed or recorded in records appropriate to the kind and location of the property which records are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

3. The provisions of a governing instrument are given effect as if the former spouse and relatives of the former spouse disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the former spouse and relatives of the former spouse died immediately before the divorce or annulment.

4. Any provisions revoked solely by this section are revived by the divorced person's remarriage to the former spouse or by a nullification of the divorce or annulment.

5. Unless a court in an action commenced pursuant to chapter 125 of NRS specifically orders otherwise, a restraining order entered pursuant to NRS 125.050 does not preclude a party to such an action from making or changing beneficiary designations that specify who will receive the party's assets upon the party's death.

6. A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by the provisions of this section or for having taken any other action in good faith reliance on the validity of the governing instrument before the payor or other third party received written or actual notice of any event affecting a beneficiary designation. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written or actual notice of a claimed forfeiture or revocation under this section.

7. Written notice of the divorce, annulment or remarriage or written notice of a complaint or petition for divorce or annulment must be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of the divorce, annulment or remarriage, a payor

or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement or transfer in accordance with the determination. Payments, transfers or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

8. A person who purchases property from a former spouse, relative of a former spouse or any other person for value and without notice, or who receives from a former spouse, relative of a former spouse or any other person a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, item of property or benefit nor is liable under this section for the amount of the payment or the value of the item of property or benefit. A former spouse, relative of a former spouse or other person who, not for value, received a payment, item of property or any other benefit to which that person is not entitled under this section is obligated to return the payment, item of property or benefit or is personally liable for the amount of the payment or the value of the item of property or benefit to the person who is entitled to it under this section.

9. If this section or any part of this section is preempted by federal law with respect to a payment, an item of property or any other benefit covered by this section, a former spouse, relative of the former spouse or any other person who, not for value, received a payment, item of property or any other benefit to which that person is not entitled under this section is obligated to return that payment, item of property or benefit or is personally liable for the amount of the payment or the value of the item of property or benefit to the person who would have been entitled to it were this section or part of this section not preempted.

10. As used in this section:

(a) "Disposition or appointment of property" includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.

(b) "Divorce or annulment" means any divorce or annulment or any dissolution or declaration of invalidity of a marriage. A decree of separation that does not terminate the status of husband and wife is not a divorce for purposes of this section.

(c) "Divorced person" includes a person whose marriage has been annulled.

(d) "Governing instrument" means a governing instrument executed by a divorced person before the divorce or annulment of the person's marriage to the person's former spouse.

(e) "Relative of the divorced person's former spouse" means a person who is related to the divorced person's former spouse by blood, adoption or affinity and who, after the divorce or annulment, is not related to the divorced person by blood, adoption or affinity.

(f) "Revocable," with respect to a disposition, appointment, provision or nomination, means one under which the divorced person, at the time of the divorce or annulment, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the person's former spouse or former spouse's relative, whether or not the divorced person was then empowered to designate himself or herself in place of his or her former spouse or in place of his or her former spouse's relative and whether or not the divorced person then had the capacity to exercise the power.

Sec. 48. *The provisions of sections 48 to 64, inclusive, of this act:*

1. Apply to accounts in financial institutions in this State for which ownership is determined under Nevada law.

2. Do not apply to:

(a) An account established for a partnership, joint venture or other organization for a business purpose;

(b) An account controlled by one or more persons as an agent or trustee for a corporation, unincorporated association or charitable or civic organization; or

(c) A fiduciary or trust account in which the relationship is established other than by the terms of the account.

Sec. 49. *1. An account may be for a single party or multiple parties. A multiple-party account may be with or without a right of survivorship between the parties. Subject to subsection 3 of section 54 of this act, a single-party account or a multiple-party account may have a POD designation or an agency designation, or both.*

2. An account established before, on or after October 1, 2011, whether in the form prescribed in subsection 1 of section 50 of this act or in any other form, is a single-party account or a multiple-party account, with or without right of survivorship, and with or without a POD designation or an agency designation, and is governed by sections 48 to 64, inclusive, of this act.

Sec. 50. *1. An agreement of deposit that contains provisions in substantially the following form establishes the type of account provided, and the account is governed by the provisions of sections 48 to 64, inclusive, of this act applicable to an account of that type:*

UNIFORM SINGLE- OR MULTIPLE-PARTY ACCOUNT FORM
PARTIES [Name one or more parties]:
OWNERSHIP [Select one and initial]:

..... **SINGLE-PARTY ACCOUNT**

..... **MULTIPLE-PARTY ACCOUNT**

Parties own the account in proportion to net contributions, unless there is clear and convincing evidence of a different intent.

RIGHTS AT DEATH [Select one and initial]:

..... **SINGLE-PARTY ACCOUNT**

At death of party, ownership passes as part of party's estate.

..... **SINGLE-PARTY ACCOUNT WITH POD (PAY-ON-DEATH) DESIGNATION**

[Name one or more beneficiaries]:

.....
At death of party, ownership passes to POD beneficiaries and is not part of party's estate but may be subject to party's creditors.

..... **MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP**

At death of party, ownership passes to surviving parties.

..... **MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP AND POD (PAY-ON-DEATH) DESIGNATION**

[Name one or more beneficiaries]:

.....
At death of last surviving party, ownership passes to POD beneficiaries and is not part of last surviving party's estate.

..... **MULTIPLE-PARTY ACCOUNT WITHOUT RIGHT OF SURVIVORSHIP**

At death of party, deceased party's ownership passes as part of deceased party's estate.

AGENCY (POWER OF ATTORNEY) DESIGNATION [Optional]

Agents may make account transactions for parties but have no ownership or rights at death unless named as POD beneficiaries.

[To add agency designation to account, name one or more agents]:

.....
[Select one and initial]:

..... **AGENCY DESIGNATION SURVIVES DISABILITY OR INCAPACITY OF PARTIES**

..... **AGENCY DESIGNATION TERMINATES ON DISABILITY OR INCAPACITY OF PARTIES**

2. *An agreement of deposit that does not contain provisions in substantially the form provided in this section is governed by the provisions of sections 48 to 64, inclusive, of this act applicable to the type of account that most nearly conforms to the depositor's intent.*

Sec. 51. 1. *By a writing signed by all parties, the parties may designate as agent of all parties on an account a person other than a party to the account.*

2. *Unless the terms of an agency designation provide that the authority of the agent terminates on disability or incapacity of a party, the agent's authority survives disability and incapacity. The agent may act for a disabled or incapacitated party until the authority of the agent is terminated.*

3. *The death of the sole party or last surviving party terminates the authority of an agent.*

4. *Any designation of an agent on an account is revocable and may be superseded by a subsequent designation:*

(a) With regard to a single-party account, by the party; and

(b) With regard to a multiple-party account, by the parties or a surviving party.

↪ *Any designation of an agent is superseded by an acknowledged power of attorney, as described in chapter 162A of NRS, when a copy of that power of attorney is delivered to the financial institution.*

Sec. 52. *The provisions of sections 52 to 57, inclusive, of this act concerning beneficial ownership as between parties or as between parties and beneficiaries:*

1. *Apply only to controversies between those persons and their creditors and other successors.*

2. *Do not apply to the right of those persons to payment as determined by the terms of the account.*

Sec. 53. 1. *During the lifetime of all parties, an account belongs to the parties in proportion to the net contribution of each to the sums on deposit, unless there is clear and convincing evidence of a different intent. As between parties married to each other, in the absence of proof otherwise, the net contribution of each is presumed to be an equal amount.*

2. *A beneficiary in an account having a POD designation has no right to sums on deposit during the lifetime of any party.*

3. *An agent in an account with an agency designation has no beneficial right to sums on deposit.*

4. *As used in this section, "net contribution" of a party means the sum of all deposits to an account made by or for the party, less all payments from the account made to or for the party which have not been paid to or applied to the use of another party and a proportionate share of any charges deducted from the account, plus a proportionate share of any interest or dividends earned, whether or not included in the current balance. The term includes any deposit life insurance proceeds added to the account by reason of the death of the party whose net contribution is in question.*

Sec. 54. 1. *Except as otherwise provided in sections 48 to 64, inclusive, of this act or in an applicable contract, on the death of a party,*

sums on deposit in a multiple-party account belong to the surviving party or parties. If two or more parties survive and one is the surviving spouse of the decedent, the amount to which the decedent, immediately before death, was beneficially entitled under section 53 of this act belongs to the surviving spouse. If two or more parties survive and none is the surviving spouse of the decedent, the amount to which the decedent, immediately before death, was beneficially entitled under section 53 of this act belongs to the surviving parties in equal shares and augments the proportion to which each survivor, immediately before the decedent's death, was beneficially entitled under section 53 of this act, and the right of survivorship continues between the surviving parties.

2. In an account with a POD designation:

(a) On the death of one of two or more parties, the rights in sums on deposit are governed by subsection 1.

(b) On the death of the sole party or the last survivor of two or more parties, sums on deposit belong to the surviving beneficiary or beneficiaries. If two or more beneficiaries survive, sums on deposit belong to them in equal and undivided shares and there is no right of survivorship in the event of the death of a beneficiary thereafter. If no beneficiary survives, sums on deposit belong to the estate of the last surviving party.

3. Sums on deposit in a single-party account without a POD designation, or in a multiple-party account that, by the terms of the account, is without right of survivorship, are not affected by the death of a party, but the amount to which the decedent, immediately before death, was beneficially entitled under section 53 of this act is transferred as part of the decedent's estate. A POD designation in a multiple-party account without right of survivorship is ineffective. For the purposes of this section, the designation of an account as a tenancy in common establishes that the account is without right of survivorship.

4. The ownership right of a surviving party or beneficiary, or of the decedent's estate, in sums on deposit is subject to requests for payment made by a party before the party's death, whether paid by the financial institution before or after the death, or unpaid. The surviving party or beneficiary, or the decedent's estate, is liable to the payee of an unpaid request for payment. The liability is limited to a proportionate share of the amount transferred under this section, to the extent necessary to discharge the request for payment.

Sec. 55. 1. The rights at death under section 54 of this act are determined by the type of account at the death of a party. The type of account may be altered by written notice given by a party to the financial institution to change the type of account or to stop or vary payment under the terms of the account. The notice must be signed by a party and received by the financial institution during the party's lifetime.

2. A right of survivorship arising from the express terms of the account, section 54 of this act or a POD designation may not be altered by a will.

Sec. 56. A transfer resulting from the application of section 54 of this act is effective by reason of the terms of the account involved and sections 48 to 64, inclusive, of this act and is not testamentary or subject to estate administration. Nonprobate transfers are effective with or without consideration.

Sec. 57. A deposit of community property in an account does not alter the community character of the property or community rights in the property, but a right of survivorship between parties married to each other arising from the express terms of the account or section 54 of this act may not be altered by a will.

Sec. 58. A financial institution may enter into an agreement of deposit for a multiple-party account to the same extent it may enter into an agreement of deposit for a single-party account, and may provide for a POD designation and an agency designation in a single-party account or a multiple-party account. A financial institution need not inquire as to the source of a deposit to an account or as to the proposed application of a payment from an account.

Sec. 59. A financial institution, on request, may pay sums on deposit in a multiple-party account to:

1. One or more of the parties, whether or not another party is disabled, incapacitated or deceased when payment is requested and whether or not the party making the request survives another party; or

2. The personal representative, if any, or, if there is none, the heirs or devisees of a deceased party if proof of death is presented to the financial institution showing that the deceased party was the survivor of all other persons named on the account as a party or beneficiary, unless the account is without right of survivorship under section 49 of this act.

Sec. 60. A financial institution, on request, may pay sums on deposit in an account with a POD designation to:

1. One or more of the parties, whether or not another party is disabled, incapacitated or deceased when the payment is requested and whether or not a party survives another party;

2. The beneficiary or beneficiaries, if proof of death is presented to the financial institution showing that the beneficiary or beneficiaries survived all persons named as parties; or

3. The personal representative, if any, or, if there is none, the heirs or devisees of a deceased party, if proof of death is presented to the financial institution showing that the deceased party was the survivor of all other persons named on the account as a party or beneficiary.

Sec. 61. A financial institution, on request of an agent under an agency designation for an account, may pay to the agent sums on deposit in the account, whether or not a party is disabled, incapacitated or

deceased when the request is made or received, and whether or not the authority of the agent terminates on the disability or incapacity of a party.

Sec. 62. If a financial institution is required or authorized to make payment pursuant to sections 48 to 64, inclusive, of this act to a minor designated as a beneficiary, payment may be made pursuant to Nevada's Uniform Act on Transfers to Minors, as set forth in chapter 167 of NRS, or an equivalent law in another jurisdiction.

Sec. 63. 1. Payment made pursuant to sections 48 to 64, inclusive, of this act, in accordance with the type of account, discharges the financial institution from all claims for amounts so paid, whether or not the payment is consistent with the beneficial ownership of the account as between parties, beneficiaries or their successors. Payment may be made whether or not a party, beneficiary or agent is disabled, incapacitated or deceased when payment is requested, received or made.

2. Protection under this section does not extend to payments made after a financial institution has received written notice from a party, or from the personal representative, surviving spouse, or heir or devisee of a deceased party, to the effect that payments in accordance with the terms of the account, including one having an agency designation, should not be authorized, and the financial institution has had a reasonable opportunity to act on it when the payment is made. Unless the notice is withdrawn by the person giving it, the successor of any deceased party must concur in a request for payment if the financial institution is to be protected under this section. Unless a financial institution has been served with process in an action or proceeding, no other notice or other information shown to have been available to the financial institution affects its right to protection under this section.

3. A financial institution that receives written notice pursuant to this section or otherwise has reason to believe that a dispute exists as to the rights of the parties may refuse, without liability, to make payments in accordance with the terms of the account.

4. Protection of a financial institution under this section does not affect the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of sums on deposit in accounts or payments made from accounts.

Sec. 64. A beneficiary of a nonprobate transfer takes the owner's interest in the property at death, subject to all conveyances, assignments, contracts, setoffs, licenses, easements, liens and security interests made by the owner or to which the owner was subject during the owner's lifetime. Subject to the limitation of subsection 2 of section 46:

1. A beneficiary of a nonprobate transfer of an account with a bank, savings and loan association, credit union, broker or mutual fund takes the owner's interest in the property at death, subject to all requests for payment of money issued by the owner before death, whether paid by the transferring entity before or after the death or unpaid.

2. The beneficiary is liable to the payee of an unsatisfied request for payment, to the extent that it represents an obligation that was enforceable against the owner during the owner's lifetime. To the extent that a claim properly paid by the personal representative of the owner's estate includes the amount of an unsatisfied request for payment to the claimant, the personal representative is subrogated to the rights of the claimant as payee.

3. Each beneficiary's liability with respect to an unsatisfied request for payment is limited to the same proportionate share of the request for payment as the beneficiary's proportionate share of the account under the beneficiary designation. Beneficiaries have the right of contribution among themselves with respect to requests for payment which are satisfied after the death of the owner, to the extent the requests for payment would have been enforceable by the payees.

4. In no event may a beneficiary's liability to payees, to the owner's estate and to other beneficiaries pursuant to this section, with respect to all requests for payment, exceed the value of the account received by the beneficiary. If a request for payment which would not have been enforceable under this section is satisfied from a beneficiary's share of the account, the beneficiary:

(a) Is not liable to any other payee or the owner's estate pursuant to this section for the amount so paid; and

(b) Has no right of contribution against other beneficiaries with respect to that amount.

Sec. 65. Chapter 132 of NRS is hereby amended by adding thereto a new section to read as follows:

"Nonprobate transfer" has the meaning ascribed to it in section 17 of this act.

Sec. 66. NRS 132.025 is hereby amended to read as follows:

132.025 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 132.030 to 132.370, inclusive, **and section 65 of this act** have the meanings ascribed to them in those sections.

Sec. 67. NRS 132.050 is hereby amended to read as follows:

132.050 "Beneficiary," as it relates to:

1. A trust, includes a person who has a present or future interest, vested or contingent, and the owner of an interest by assignment or other transfer;

2. A charitable trust, includes any person entitled to enforce the trust;

3. An instrument designating a beneficiary, includes a beneficiary of ~~an insurance policy or annuity, of an account designated as payable on death, of a security registered as transferable on death or of a pension, profit-sharing, retirement or similar benefit plan or other~~ **any nonprobate transfer ; [at death;]** and

4. A beneficiary designated in a governing instrument, includes a grantee of a deed, a devisee, a beneficiary of a trust, a beneficiary under a designation, a donee, an appointee or a taker in default under a power of

appointment, or a person in whose favor a power of attorney or a power held in any individual, fiduciary or representative capacity is exercised,

➔ but does not include a person who receives less than \$100 under a will.

Sec. 68. NRS 132.090 is hereby amended to read as follows:

132.090 "Designation of beneficiary" means a governing instrument naming a beneficiary of an insurance policy or annuity, of an account designated as payable on death, of a security registered as transferable on death, or of a pension, profit-sharing, retirement or similar benefit plan or other nonprobate transfer . ~~{at death.}~~

Sec. 69. NRS 132.185 is hereby amended to read as follows:

132.185 **1.** "Interested person" includes, without limitation, an heir, devisee, child, spouse, creditor, **settlor**, beneficiary and any other person having a property right in or claim against a trust estate or the estate of a decedent, including, without limitation, the Director of the Department of Health and Human Services in any case in which money is owed to the Department of Health and Human Services as a result of the payment of benefits for Medicaid. The term includes a person having priority for appointment as a personal representative and other fiduciaries representing interested persons. The meaning as it relates to particular persons must be determined according to the particular purposes of, and matter involved in, a proceeding.

2. The term does not include:

(a) After a will has been admitted to probate, an heir, child or spouse who is not a beneficiary of the will, except for purposes of NRS 133.110, 133.160 and 137.080.

(b) A person with regard to a motion, petition or proceeding that does not affect an interest of that person.

(c) A creditor whose claim has not been accepted by the personal representative if the enforcement of the claim of the creditor is barred under the provisions of chapter 11 or 147 of NRS or any other applicable statute of limitation.

Sec. 70. Chapter 133 of NRS is hereby amended by adding thereto a new section to read as follows:

Except to the extent that it violates public policy, a testator may:

1. Make a devise conditional upon a devisee's action or failure to take action or upon the occurrence or nonoccurrence of one or more specified events; and

2. Specify the conditions or actions which would disqualify a person from serving or which would constitute cause for removal of a person who is serving in any capacity under the will, including, without limitation, as a personal representative, guardian or trustee.

Sec. 71. NRS 133.200 is hereby amended to read as follows:

133.200 ~~{When any estate is devised to any child or other relation of the testator, and the devisee dies before the testator, leaving lineal descendants, those descendants, in}~~ **In** the absence of a provision in the will to the

contrary, ~~take the estate so given by the will in the same manner as the devisee would have done if the devisee had survived the testator.~~ ***if any beneficiary who is a descendant of the testator dies before the testator, leaving lineal descendants, the property, share or beneficial interest that would have been distributed or allocated to that deceased beneficiary must be distributed or allocated to that beneficiary's descendants then living, by right of representation, to be distributed under the same terms that would have applied to the deceased beneficiary.***

Sec. 72. Chapter 136 of NRS is hereby amended by adding thereto a new section to read as follows:

The provisions of section 47 of this act concerning the revocation of certain transfers based upon divorce or annulment apply to transfers of property made pursuant to a will.

Sec. 73. NRS 137.005 is hereby amended to read as follows:

137.005 1. Except as otherwise provided in subsections 3 and 4, a no-contest clause in a will must be enforced by the court.

2. A no-contest clause must be construed to carry out the testator's intent. Except to the extent the will is vague or ambiguous, extrinsic evidence is not admissible to establish the testator's intent concerning the no-contest clause. The provisions of this subsection do not prohibit such evidence from being admitted for any other purpose authorized by law. ***Except as otherwise provided in subsections 3 and 4, a devisee's share may be reduced or eliminated under a no-contest clause based upon conduct that is set forth by the testator in the will, including, without limitation, any testamentary trust established in the will. Such conduct may include, without limitation:***

(a) Conduct other than formal court action; and

(b) Conduct which is unrelated to the will itself, including, without limitation:

(1) The commencement of civil litigation against the testator's probate estate or family members;

(2) Interference with the administration of a trust or a business entity;

(3) Efforts to frustrate the intent of the testator's power of attorney; and

(4) Efforts to frustrate the designation of beneficiaries related to a nonprobate transfer by the testator.

3. Notwithstanding any provision to the contrary in the will, a devisee's share must not be reduced or eliminated if the devisee seeks only to:

(a) Enforce the terms of the will ~~[or]~~ or any document referenced in or affected by the will;

(b) Enforce the devisee's legal rights in the probate proceeding; or

(c) Obtain a court ruling with respect to the construction or legal effect of the will.

4. Notwithstanding any provision to the contrary in the will, a devisee's share must not be reduced or eliminated under a no-contest clause because the devisee institutes legal action seeking to invalidate a will if the legal

action is instituted in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that ~~{there was a substantial likelihood that}~~ the will ~~{was}~~ is invalid.

5. As used in this section, "no-contest clause" means one or more provisions in a will that express a directive to reduce or eliminate the share allocated to a devisee or to reduce or eliminate the distributions to be made to a devisee if the devisee takes action to frustrate or defeat the testator's intent as expressed in the will.

Sec. 74. NRS 141.120 is hereby amended to read as follows:

141.120 ~~{An}~~ *Except as otherwise provided in section 170 of this act, an* interested person may appear at the hearing and file allegations in writing, showing that the personal representative should be removed.

Sec. 75. Chapter 143 of NRS is hereby amended by adding thereto the provisions set forth as sections 76 to 144, inclusive, of this act.

Sec. 76. *Sections 76 to 144, inclusive, of this act may be cited as the Independent Administration of Estates Act.*

Sec. 77. *As used in sections 76 to 144, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 78, 79 and 80 of this act have the meanings ascribed to them in those sections.*

Sec. 78. *"Court supervision" means the judicial order, authorization, approval, confirmation or instructions that would be required if authority to administer the estate had not been granted pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 79. *"Full authority" means the authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act that includes all the powers granted pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 80. *"Limited authority" means authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act that includes all the powers granted pursuant to sections 76 to 144, inclusive, of this act, except the power to do any of the following:*

1. *Sell real property.*
2. *Exchange real property.*
3. *Grant an option to purchase real property.*
4. *Borrow money with the loan secured by an encumbrance upon real property.*

Sec. 81. *The personal representative may not be granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act if the decedent's will provides that the estate must not be administered pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 82. *A special administrator may be granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act if the special administrator is appointed with, or has been granted, the powers of a general personal representative.*

Sec. 83. *The provisions of sections 76 to 144, inclusive, of this act apply in any case where authority to administer the estate is granted pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 84. 1. *To obtain authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act, the personal representative must petition the court for that authority in a petition for appointment of the personal representative or in a separate petition filed in the estate proceedings.*

2. The personal representative may request either of the following:

(a) Full authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act; or

(b) Limited authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act.

Sec. 85. 1. *If the authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act is requested in a petition for appointment of the personal representative, notice of the hearing on the petition must be given for the period and in the manner applicable to the petition for appointment.*

2. Where proceedings for the administration of the estate are pending at the time a petition is filed pursuant to section 84 of this act, notice of the hearing on the petition must be given for the period and in the manner provided in NRS 155.010 to all the following persons:

(a) Each person specified in NRS 155.010;

(b) Each known heir whose interest in the estate would be affected by the petition;

(c) Each known devisee whose interest in the estate would be affected by the petition; and

(d) Each person named as personal representative in the will of the decedent.

3. The notice of hearing of the petition for authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act, whether included in the petition for appointment or in a separate petition, must include a statement in substantially the following form:

The petition requests authority to administer the estate under the Independent Administration of Estates Act. This will avoid the need to obtain court approval for many actions taken in connection with the estate. However, before taking certain actions, the personal representative will be required to give notice to interested persons unless they have waived notice or have consented to the proposed action. Independent administration authority will be granted unless good cause is shown why it should not be.

Sec. 86. 1. *Except as otherwise provided in subsection 2, unless an interested person objects in writing at or before the hearing to the granting of authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act and the court determines that the interested person has*

shown good cause why the authority to administer the estate under those provisions should not be granted, the court shall grant the requested authority.

2. If the interested person has shown good cause why only limited authority should be granted, the court shall grant limited authority.

Sec. 87. 1. If the personal representative is otherwise required to file a bond and has full authority, the court shall fix the amount of the bond at not more than the estimated value of the personal property, the estimated value of the decedent's interest in the real property authorized to be sold pursuant to sections 76 to 144, inclusive, of this act and the probable annual gross income of the estate or, if the bond is to be given by personal sureties, at not less than twice that amount.

2. If the personal representative is otherwise required to file a bond and has limited authority, the court shall fix the amount of the bond at not more than the estimated value of the personal property and the probable annual gross income of the estate or, if the bond is to be given by personal sureties, at not less than twice that amount.

Sec. 88. 1. Any interested person may file a petition requesting that the court make either of the following orders:

(a) An order revoking the authority of the personal representative to continue administration of the estate pursuant to sections 76 to 144, inclusive, of this act; or

(b) An order revoking the full authority of the personal representative to administer the estate pursuant to sections 76 to 144, inclusive, of this act and granting the personal representative limited authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act.

2. The petition must set forth the basis for the requested order.

3. The petitioner shall give notice for the period and in the manner provided in NRS 155.010.

4. If the court determines that good cause has been shown, the court shall make an order revoking the authority of the personal representative to continue administration of the estate pursuant to sections 76 to 144, inclusive, of this act. Upon the making of the order, new letters must be issued without the authority to act pursuant to sections 76 to 144, inclusive, of this act.

5. If the personal representative was granted full authority and the court determines that good cause has been shown, the court shall make an order revoking the full authority and granting the personal representative limited authority. Upon the making of the order, new letters must be issued indicating whether the personal representative is authorized to act pursuant to sections 76 to 144, inclusive, of this act and, if so authorized, whether the independent administration authority includes or excludes the power to do any of the following:

(a) Sell real property;

(b) Exchange real property;

(c) Grant an option to purchase real property; or

(d) Borrow money with the loan secured by an encumbrance upon real property.

Sec. 89. 1. Subject to the limitations and conditions of sections 76 to 144, inclusive, of this act, a personal representative who has been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act may administer the estate as provided pursuant to sections 76 to 144, inclusive, of this act without court supervision, but in all other respects, the personal representative shall administer the estate in the same manner as a personal representative who has not been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act.

2. Notwithstanding the provisions of subsection 1, the personal representative may obtain court supervision of any action to be taken by the personal representative during administration of the estate.

Sec. 90. 1. Notwithstanding any provision of sections 76 to 144, inclusive, of this act to the contrary, whether the personal representative has been granted limited authority or full authority, a personal representative who has obtained authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act is required to obtain court approval for any of the following actions:

(a) Allowance of the personal representative's compensation;

(b) Allowance of compensation of the attorney for the personal representative;

(c) Settlement of accounts;

(d) Preliminary and final distributions and discharge;

(e) Sale of property of the estate to the personal representative or to the attorney for the personal representative;

(f) Exchange of property of the estate for property of the personal representative or for property of the attorney for the personal representative;

(g) Grant of an option to purchase property of the estate to the personal representative or to the attorney for the personal representative;

(h) Allowance, payment or compromise of a claim of the personal representative, or the attorney for the personal representative, against the estate;

(i) Compromise or settlement of a claim, action or proceeding by the estate against the personal representative or against the attorney for the personal representative;

(j) Extension, renewal or modification of the terms of a debt or other obligation of the personal representative, or the attorney for the personal representative, owing to or in favor of the decedent or the estate; and

(k) Any transaction described in this section that would indirectly benefit the personal representative, a relative of the personal

representative, the attorney for the personal representative or the attorney for a relative of the personal representative.

2. Notwithstanding any provision of sections 76 to 144, inclusive, of this act to the contrary, a personal representative who has obtained limited authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act is required to obtain court supervision for any of the following actions:

- (a) Sale of real property;*
- (b) Exchange of real property;*
- (c) Grant of an option to purchase real property; and*
- (d) Borrowing money with the loan secured by an encumbrance upon real property.*

3. Paragraphs (e) to (k), inclusive, of subsection 1 do not apply to a transaction between the personal representative in his or her capacity as a personal representative and the personal representative as a person if all the following requirements are satisfied:

- (a) The personal representative is the sole beneficiary of the estate or all the known heirs or devisees have consented to the transaction;*
- (b) The period for filing creditor claims has expired;*
- (c) No request for special notice pursuant to NRS 155.030 is on file or all persons who filed a request for special notice have consented to the transaction; and*
- (d) The claim of each creditor who filed a claim has been paid, settled or withdrawn, or the creditor has consented to the transaction.*

4. As used in this section, "relative" has the meaning ascribed to it in NRS 163.020.

Sec. 91. 1. Subject to the conditions and limitations of sections 76 to 144, inclusive, of this act and to the duties and liabilities of the personal representative, a personal representative who has been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act has the powers described in:

- (a) Sections 93 to 106, inclusive, of this act with regard to powers that are exercisable only after giving a notice of proposed action;*
- (b) Sections 107 to 115, inclusive, of this act with regard to powers the exercise of which requires giving a notice of proposed action under certain circumstances; and*
- (c) Sections 116 to 127, inclusive, of this act with regard to powers that are exercisable without giving a notice of proposed action.*

2. The will may restrict the powers that the personal representative may exercise pursuant to sections 76 to 144, inclusive, of this act.

Sec. 92. 1. Subject to the limitations and requirements of sections 76 to 144, inclusive, of this act, when the personal representative exercises the authority to sell property of the estate pursuant to sections 76 to 144, inclusive, of this act, the personal representative may sell the property at public auction or private sale, and with or without notice, for

cash or on credit, for such price and upon such terms and conditions as the personal representative may determine.

2. The requirements applicable to court confirmation of sales of real property referenced in subsection 1 include, without limitation:

- (a) Publication of the notice of sale;*
- (b) Court approval of agents' and brokers' commissions;*
- (c) The sale being not less than 90 percent of appraised value of the real property;*
- (d) An examination by the court into the necessity for the sale of the real property, including, without limitation, any advantage to the estate and benefit to interested persons; and*
- (e) The efforts of the personal representative to obtain the highest and best price for the property reasonably attainable.*

3. The requirements applicable to court confirmation of sales of real property and sales of personal property do not apply to a sale pursuant to this section.

Sec. 93. The personal representative may exercise the powers described in sections 93 to 106, inclusive, of this act only if the requirements of sections 128 to 140, inclusive, of this act are satisfied.

Sec. 94. The personal representative who has full authority has the power to sell or exchange real property of the estate.

Sec. 95. The personal representative who has limited authority or full authority has the power to sell or incorporate any of the following:

- 1. An unincorporated business or joint venture in which the decedent was engaged at the time of the decedent's death; and*
- 2. An unincorporated business or joint venture which was wholly or partly owned by the decedent at the time of the decedent's death.*

Sec. 96. The personal representative who has limited authority or full authority has the power to abandon tangible personal property where the cost of collecting, maintaining and safeguarding the property would exceed its fair market value.

Sec. 97. 1. Subject to the limitations provided in subsection 2 and NRS 143.180, the personal representative who has limited authority or full authority has the following powers:

- (a) The power to borrow; and*
- (b) The power to place, replace, renew or extend any encumbrance upon any property of the estate.*

2. Only a personal representative who has full authority has the power to borrow money with the loan secured by an encumbrance upon real property.

Sec. 98. The personal representative who has full authority has the power to grant an option to purchase real property of the estate for a period within or beyond the period of administration.

Sec. 99. If the will gives a person the option to purchase real or personal property and the person has complied with the terms and

conditions stated in the will, the personal representative who has limited authority or full authority has the power to convey or transfer the property to the person.

Sec. 100. *The personal representative who has limited authority or full authority has the power to convey or transfer real or personal property to complete a contract entered into by the decedent to convey or transfer the property.*

Sec. 101. *The personal representative who has limited authority or full authority has the power to allow, compromise or settle any of the following:*

1. A third-party claim to real or personal property if the decedent died in possession of, or holding title to, the property; or

2. The decedent's claim to real or personal property, title to or possession of which is held by another.

Sec. 102. *The personal representative who has limited authority or full authority has the power to make a disclaimer.*

Sec. 103. *If the time for filing creditor claims has expired and it appears that the distribution may be made without loss to creditors or injury to the estate or any interested person, the personal representative who has limited authority or full authority has the power to make preliminary distributions of the following:*

1. Income received during administration to the persons entitled thereto pursuant to the decedent's will or by intestate succession.

2. Household furniture and furnishings, motor vehicles, clothing, jewelry and other tangible articles of a personal nature to the persons entitled to the property under the decedent's will, not to exceed an aggregate fair market value to all persons of \$50,000 computed cumulatively through the date of distribution. Fair market value must be determined on the basis of the inventory and appraisal.

3. Cash to general pecuniary devisees entitled to it under the decedent's will, not to exceed \$10,000 to any one person.

Sec. 104. *The personal representative who has limited authority or full authority has the power to do all the following:*

1. Allow, pay, reject or contest any claim by or against the estate.

2. Compromise or settle a claim, action or proceeding by or for the benefit of, or against, the decedent, the personal representative or the estate.

3. Release, in whole or in part, any claim belonging to the estate to the extent that the claim is uncollectible.

4. Allow a claim to be filed after the expiration of the time for filing the claim.

Sec. 105. *The personal representative who has limited authority or full authority has the power to do all the following:*

1. Commence and maintain actions and proceedings for the benefit of the estate.

2. Defend actions and proceedings against the decedent, the personal representative or the estate.

Sec. 106. *The personal representative who has limited authority or full authority has the power to extend, renew or in any manner modify the terms of an obligation owing to or in favor of the decedent or the estate.*

Sec. 107. *Except as otherwise provided in sections 107 to 115, inclusive, of this act, the personal representative who has limited authority or full authority may exercise the powers described in sections 107 to 115, inclusive, of this act without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.*

Sec. 108. 1. *The personal representative who has limited authority or full authority has the power to manage and control property of the estate, including making allocations and determinations pursuant to NRS 164.780 to 164.925, inclusive. Except as otherwise provided in subsection 2, such a personal representative may exercise this power without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.*

2. The personal representative shall comply with the requirements of sections 128 to 140, inclusive, of this act, and shall give notice of a proposed action in any case where a provision of sections 93 to 103, inclusive, of this act governing the exercise of a specific power so requires.

Sec. 109. 1. *The personal representative who has limited authority or full authority has the power to enter into a contract to carry out the exercise of a specific power granted pursuant to sections 76 to 144, inclusive, of this act, including, without limitation, the powers granted by sections 108 and 117 of this act. Except as otherwise provided in subsection 2, the personal representative may exercise this power without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.*

2. The personal representative shall comply with the requirements of sections 128 to 140, inclusive, of this act and shall give notice of a proposed action where the contract is one that by its provisions is not to be fully performed within 2 years after the date the parties entered into the contract, except that the personal representative is not required to comply with those requirements if the personal representative has the unrestricted right under the contract to terminate the contract within 2 years after the date the parties entered into the contract.

3. Nothing in this section excuses compliance with the requirements of sections 128 to 140, inclusive, of this act when the contract is made to carry out the exercise of a specific power, and the provision that grants that power requires compliance with sections 128 to 140, inclusive, of this act for the exercise of the power.

Sec. 110. 1. *The personal representative who has limited authority or full authority has the power to do all the following:*

(a) Deposit money belonging to the estate in an insured account in a financial institution in this State;

(b) Invest money of the estate in any one or more of the following:

(1) Direct obligations of the United States, or of the State of Nevada, maturing not later than 1 year after the date of making the investment;

(2) Savings accounts in a bank, credit union or savings and loan association in this State, to the extent that the deposit is insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755;

(3) Interest-bearing obligations of, or fully guaranteed by, the United States;

(4) Interest bearing obligations of the United States Postal Service or the Federal National Mortgage Association;

(5) Interest-bearing obligations of this State or of a county, city or school district of this State; or

(6) Money-market mutual funds that are invested only in obligations listed in subparagraphs (1) to (5), inclusive; or

(c) Invest money of the estate in any manner provided by the will.

2. The personal representative may exercise the powers described in subsection 1 without giving notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act.

Sec. 111. 1. *Subject to the partnership agreement and the applicable provisions of chapter 87 of NRS, the personal representative who has limited authority or full authority has the power to continue as a general partner in any partnership in which the decedent was a general partner at the time of death.*

2. The personal representative who has limited authority or full authority has the power to continue operation of any of the following:

(a) An unincorporated business or joint venture in which the decedent was engaged at the time of the decedent's death.

(b) An unincorporated business or joint venture which was wholly or partly owned by the decedent at the time of the decedent's death.

3. Except as otherwise provided in subsection 4, the personal representative may exercise the powers described in subsections 1 and 2 without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

4. The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act if the personal representative continues as a general partner under subsection 1, or continues the operation of any unincorporated business or joint venture under subsection 2, for a period of more than 6 months after the date on which letters are first issued to a personal representative.

Sec. 112. 1. *The personal representative who has limited authority or full authority has the power to pay a reasonable family allowance. Except as otherwise provided in subsection 2, the personal representative may exercise this power without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.*

2. The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act for all the following:

- (a) Making the first payment of a family allowance.*
- (b) Making the first payment of a family allowance for a period commencing more than 12 months after the death of the decedent.*
- (c) Making any increase in the amount of the payment of a family allowance.*

Sec. 113. 1. The personal representative who has limited authority or full authority has the power to enter as lessor into a lease of property of the estate for:

(a) Any purpose, including, without limitation, exploration for and production or removal of minerals, oil, gas or other hydrocarbon substances or geothermal energy, including a community oil lease or a pooling or unitization agreement;

(b) A period within or beyond the period of administration; and

(c) Rental or royalty, or both, and upon such other terms and conditions as the personal representative may determine.

2. Except as otherwise provided in subsections 3 and 4, the personal representative may exercise this power without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

3. The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act where the personal representative enters into a lease of real property for a term in excess of 1 year. If the lease gives the lessee the right to extend the term of the lease, the lease must be considered as if the right to extend has been exercised.

4. The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act where the personal representative enters into a lease of personal property and the lease is one that by its provisions is not to be fully performed within 2 years after the date the parties entered into the lease, except that the personal representative is not required to give notice of a proposed action if the personal representative has the unrestricted right under the lease to terminate the lease within 2 years after the date the parties entered into the lease.

Sec. 114. 1. The personal representative who has limited authority or full authority has the power to sell personal property of the estate or to exchange personal property of the estate for other property upon such terms and conditions as the personal representative may determine. Except as otherwise provided in subsection 2, the personal representative shall give notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act in exercising this power.

2. The personal representative may exercise the power granted by subsection 1 without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act in case of the sale or exchange of any of the following:

(a) *A security sold on an established stock or bond exchange;*
(b) *A security designated as a national market system security on an interdealer quotation system, or subsystem thereof, by the National Association of Securities Dealers Automated Quotations System, NASDAQ, sold through a broker-dealer registered under the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a et seq., during the regular course of business of the broker-dealer;*

(c) *Subscription rights for the purchase of additional securities which are owned by the estate by reason of the estate's ownership in securities if those rights are sold for cash; or*

(d) *Personal property which is perishable if the property is sold for cash.*

Sec. 115. 1. *The personal representative who has limited authority or full authority has the following powers:*

(a) *The power to grant an exclusive right to sell property for a period not to exceed 90 days.*

(b) *The power to grant to the same broker one or more extensions of an exclusive right to sell property, each extension being for a period not to exceed 90 days.*

2. *Except as otherwise provided in subsection 3, the personal representative may exercise the powers described in subsection 1 without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.*

3. *The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act where the personal representative grants to the same broker an extension of an exclusive right to sell property and the period of the extension, together with the periods of the original exclusive right to sell the property and any previous extensions of that right, is more than 270 days.*

Sec. 116. *The personal representative who has limited authority or full authority may exercise the powers described in sections 116 to 127, inclusive, of this act without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.*

Sec. 117. *In addition to the powers granted to the personal representative pursuant to sections 76 to 144, inclusive, of this act, the personal representative who has limited authority or full authority has all the powers that the personal representative could exercise without court supervision if the personal representative had not been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 118. *The personal representative who has limited authority or full authority has the power to convey or transfer property to carry out the exercise of a specific power granted pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 119. *The personal representative who has limited authority or full authority has the power to pay all the following:*

1. *Taxes and assessments.*

2. *Expenses incurred in the collection, care and administration of the estate.*

Sec. 120. *The personal representative who has limited authority or full authority has the power to purchase an annuity from an insurer admitted to do business in this State to satisfy a devise of an annuity or other direction in the will for periodic payments to a devisee.*

Sec. 121. *The personal representative who has limited authority or full authority has the power to exercise an option right that is property of the estate.*

Sec. 122. *The personal representative who has limited authority or full authority has the power to purchase securities or commodities required to perform an incomplete contract of sale where the decedent died having sold but not delivered securities or commodities not owned by the decedent.*

Sec. 123. *The personal representative who has limited authority or full authority has the power to hold a security in the name of a nominee or in any other form without disclosure of the estate, so that title to the security may pass by delivery.*

Sec. 124. *The personal representative who has limited authority or full authority has the power to exercise security subscription or conversion rights.*

Sec. 125. *The personal representative who has limited authority or full authority has the power to make repairs and improvements to real and personal property of the estate.*

Sec. 126. *The personal representative who has limited authority or full authority has the power to accept a deed to property which is subject to a mortgage or deed of trust in lieu of foreclosure of the mortgage or sale under the deed of trust.*

Sec. 127. *The personal representative who has limited authority or full authority has the power to give a partial satisfaction of a mortgage or to cause a partial reconveyance to be executed by a trustee under a deed of trust held by the estate.*

Sec. 128. 1. *A personal representative who has been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act shall give notice of a proposed action as provided in sections 128 to 140, inclusive, of this act before taking the proposed action without court supervision if the provisions of sections 89 to 127, inclusive, of this act giving the personal representative the power to take the action so require. Nothing in this subsection authorizes a personal representative to take an action pursuant to sections 76 to 144, inclusive, of this act if the personal representative does not have the power to take the action pursuant to those provisions.*

2. *A personal representative who has been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act may give notice of a proposed action as provided in sections 128 to 140, inclusive, of this act, even if the provisions of sections 89 to 127, inclusive,*

of this act giving the personal representative the power to take the action authorize the personal representative to take the action without giving notice of the proposed action. Nothing in this subsection requires the personal representative to give notice of a proposed action where not required under subsection 1 or authorizes a personal representative to take any action that the personal representative is not otherwise authorized to take.

Sec. 129. *Except as otherwise provided in sections 130 and 131 of this act, notice of a proposed action must be given to all the following:*

1. Each known devisee whose interest in the estate would be affected by the proposed action.

2. Each known heir whose interest in the estate would be affected by the proposed action.

3. Each person who has filed a request for special notice pursuant to NRS 155.030.

4. The Attorney General, at the Office of the Attorney General in Carson City, if any portion of the estate is to escheat to the State and its interest in the estate would be affected by the proposed action.

Sec. 130. *Notice of a proposed action need not be given to any person who consents in writing to the proposed action. The consent may be executed at any time before or after the proposed action is taken.*

Sec. 131. *1. Notice of a proposed action need not be given to any person who, in writing, waives the right to notice of a proposed action with respect to the particular proposed action. The waiver may be executed at any time before or after the proposed action is taken. The waiver must describe the particular proposed action and may waive particular aspects of the notice, such as the delivery, mailing or time requirements of section 134 of this act or the giving of the notice in its entirety for the particular proposed action.*

2. Notice of a proposed action need not be given to any person who has made either of the following:

(a) A general waiver of the right to notice of a proposed action.

(b) A waiver of the right to notice of a proposed action for all transactions of a type which includes the particular proposed action.

Sec. 132. *1. A waiver or consent pursuant to section 130 or 131 of this act may be revoked only in writing and is effective only when the writing is received by the personal representative.*

2. A copy of the revocation may be filed with the court, but the effectiveness of the revocation is not dependent upon a copy being filed with the court.

Sec. 133. *1. The notice of proposed action must state all the following:*

(a) The name and mailing address of the personal representative.

(b) The person and telephone number to call to get additional information.

(c) The action proposed to be taken, with a reasonably specific description of the action. If the proposed action involves the sale or exchange of real property or the granting of an option to purchase real property, the notice of proposed action must state the material terms of the transaction, including, if applicable, the sale price and the amount of, or method of calculating, any commission or compensation paid or to be paid to an agent or broker in connection with the transaction.

(d) The date on or after which the proposed action is to be taken.

2. The notice of proposed action must include a form for objecting to the proposed action.

Sec. 134. The notice of proposed action must be mailed or personally delivered to each person required to be given notice of the proposed action not less than 15 days before the date specified in the notice of proposed action on or after which the proposed action is to be taken. If mailed, the notice of proposed action must be addressed to the person at the person's last known address. The notice of proposed action must be mailed or delivered in the manner provided in NRS 155.010.

Sec. 135. 1. Any person entitled to notice of a proposed action under section 129 of this act may object to the proposed action as provided in this section.

2. The objection to the proposed action must be made by delivering or mailing a written objection to the proposed action to the personal representative at the address stated in the notice of proposed action. The person objecting to the proposed action may use the form provided in section 143 of this act or may make the objection in any other writing that identifies the proposed action with reasonable certainty and indicates that the person objects to the taking of the proposed action.

3. The personal representative is deemed to have notice of the objection to the proposed action if the notice is delivered or received at the address stated in the notice of proposed action before:

(a) The date specified in the notice of proposed action on or after which the proposed action is to be taken; or

(b) The date on which the proposed action is actually taken,

↳ whichever occurs later.

Sec. 136. 1. Any person who is entitled to notice of a proposed action for a proposed action described in subsection 1 of section 128 of this act, or any person who is given notice of a proposed action described in subsection 2 of section 128 of this act, may apply to the court having jurisdiction over the proceeding for an order restraining the personal representative from taking the proposed action without court supervision. The court shall grant the requested order without requiring notice to the personal representative and without cause being shown for the order.

2. The personal representative is deemed to have notice of the restraining order if the notice is given and served upon the personal

representative in the manner provided in NRS 155.040 and 155.050, or in the manner authorized by the court, before:

(a) The date specified in the notice of proposed action on or after which the proposed action is to be taken; or

*(b) The date on which the proposed action is actually taken,
↪ whichever occurs later.*

Sec. 137. 1. If the proposed action is one that would require court supervision if the personal representative had not been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act, and the personal representative has notice of a written objection made pursuant to section 135 of this act or a restraining order issued pursuant to section 136 of this act, the personal representative shall, if the personal representative desires to take the proposed action, petition the court to obtain approval from the court.

2. If the proposed action is one that would not require court supervision even if the personal representative had not been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act, but the personal representative has given notice of the proposed action and has notice of a written objection made pursuant to section 135 of this act or a restraining order issued pursuant to section 136 of this act, the personal representative shall, if he or she desires to take the proposed action, request instructions from the court concerning the proposed action. The personal representative may take the proposed action only under such order as may be entered by the court.

3. A person who objects to a proposed action as provided in section 135 of this act or serves a restraining order issued pursuant to section 136 of this act in the manner provided in that section must be given notice of any hearing on a petition for court authorization or confirmation of the proposed action.

Sec. 138. 1. Except as otherwise provided in subsection 3, only a person described in section 129 of this act has a right to have the court review the proposed action after it has been taken or otherwise to object to the proposed action after it has been taken. Except as otherwise provided in subsections 2 and 3, a person described in section 129 of this act waives the right to have the court review the proposed action after it has been taken, or otherwise to object to the proposed action after it has been taken, if:

(a) The person has been given notice of the proposed action, as provided in sections 128 to 134, inclusive, of this act, and fails to object as provided in subsection 4; or

(b) The person has waived notice of or consented to the proposed action as provided in sections 130 and 131 of this act.

2. Unless the person has waived notice of or consented to the proposed action as provided in sections 130 and 131 of this act, the court may review the action taken upon a petition filed by a person described in section 129 of this act who establishes that he or she did not actually receive the notice

of proposed action before the time to object pursuant to subsection 4 expired.

3. The court may review the action of the personal representative upon a petition filed by an heir or devisee who establishes all the following:

(a) At the time notice of the proposed action was given, the heir or devisee lacked capacity to object to the proposed action or was a minor;

(b) No notice of proposed action was actually received by the guardian, conservator or other legal representative of the heir or devisee;

(c) The guardian, conservator or other legal representative did not waive notice of the proposed action; and

(d) The guardian, conservator or other legal representative did not consent to the proposed action.

4. For the purposes of this section, an objection to a proposed action is made only by one or both of the following methods:

(a) Delivering or mailing a written objection as provided in section 135 of this act within the time specified in subsection 3 of that section; or

(b) Serving a restraining order obtained pursuant to section 136 of this act in the manner prescribed and within the time specified in subsection 2 of that section.

Sec. 139. 1. The failure of the personal representative who has limited authority or full authority to comply with subsection 1 of section 128 of this act and with sections 129, 133, 134 and 137 of this act, and the taking of the action by the personal representative without such compliance, does not affect the validity of the action so taken or the title to any property conveyed or transferred to bona fide purchasers or the rights of third persons who, dealing in good faith with the personal representative, changed their position in reliance upon the action, conveyance or transfer without actual notice of the failure of the personal representative to comply with those provisions.

2. A person dealing with the personal representative does not have any duty to inquire or investigate whether the personal representative has complied with the provisions listed in subsection 1.

Sec. 140. 1. In a case where notice of a proposed action is required by sections 128 to 140, inclusive, of this act, the court, in its discretion, may remove the personal representative from office unless the personal representative:

(a) Gives notice of the proposed action as provided in sections 128 to 140, inclusive, of this act;

(b) Obtains a waiver of notice of the proposed action as provided in sections 128 to 140, inclusive, of this act; or

(c) Obtains a consent to the proposed action as provided in sections 128 to 140, inclusive, of this act.

2. The court, in its discretion, may remove the personal representative from office if the personal representative takes a proposed action in violation of section 137 of this act.

Sec. 141. *Letters testamentary or letters of administration pursuant to the Independent Administration of Estates Act as set forth in sections 76 to 144, inclusive, of this act may be in the following form:*

LETTERS TESTAMENTARY / ADMINISTRATION

On, 20.., the court entered an order admitting the decedent's will to probate and appointing [.....] as personal representative of the decedent's estate. The order includes:

[] full authority for the personal representative to administer the estate pursuant to the Independent Administration of Estates Act.

[] limited authority to administer the estate pursuant to the Independent Administration of Estates Act. (There is no authority, without court supervision, to: (1) sell or exchange real property; (2) grant an option to purchase real property; or (3) borrow money with the loan secured by an encumbrance upon real property.)

[] a directive for the establishment of a blocked account for sums in excess of \$.....;

[] a directive for the posting of a bond in the sum of \$.....; or

[] a directive for both the establishment of a blocked account for sums in excess of \$..... and the posting of a bond in the sum of \$..... .

The personal representative, after being duly qualified, may act and has the authority and duties of a personal representative.

In testimony of which, I have this date signed these letters and affixed the seal of the court.

CLERK OF THE COURT

By:

Deputy Clerk

Date:.....

OATH

I, [.....], whose mailing address is, solemnly affirm that I will faithfully perform according to law the duties of personal representative, and that all matters stated in any petition or paper filed with the court by me are true of my own knowledge or, if any matters are stated on information and belief, I believe them to be true.

.....
[.....], Personal Representative

SUBSCRIBED AND AFFIRMED

before me this (day) of, 20.....

By:.....

NOTARY PUBLIC

County of, State of Nevada

Sec. 142. *A notice of proposed action pursuant to the Independent Administration of Estates Act as set forth in sections 76 to 144, inclusive, of this act may be in the following form:*

NOTICE OF PROPOSED ACTION

Independent Administration of Estates Act

1. The personal representative of the estate of the deceased is

.....

2. The personal representative has authority to administer the estate without court supervision pursuant to the Independent Administration of Estates Act:

[] with full authority pursuant to the Independent Administration of Estates Act; or

[] with limited authority pursuant to the Independent Administration of Estates Act. (There is no authority, without court supervision, to: (1) sell or exchange real property; (2) grant an option to purchase real property; or (3) borrow money with the loan secured by an encumbrance upon real property.)

3. On or after(date), the personal representative will take the following action without court supervision: Describe in specific terms the proposed action.

If the action involves the sale or exchange of or a grant of an option to purchase real property, provide the sale price, the amount of or method of calculating any commission or compensation of the real estate broker and the value of the property in the probate inventory.

NOTICE: A sale of real property without court supervision means that the sale will NOT be presented to the court for confirmation at a hearing at which higher bids for the property may be presented and the property sold to the highest bidder.

4. If you OBJECT to the proposed action:

(a) Sign the objection form provided with this Notice of Proposed Action and deliver or mail it to the personal representative at the following address(specify name and address);

(b) Send your own written objection to the address set forth in paragraph (a), identifying the proposed action and state that you object to it; or

(c) Apply to the court for an order preventing the personal representative from taking the proposed action without court supervision.

NOTE: Your written objection or the court order must be received by the personal representative before the date indicated in item 3 or before the proposed action is taken, whichever is later. If you object, the personal representative may take the proposed action only under court supervision.

5. If you approve of the proposed action, you may sign the consent form provided with this Notice of Proposed Action and return it to the address set forth in paragraph (a) of item 4. If you do not object in writing or obtain a court order, you will be treated as if you consented to the proposed action.

6. If you need more INFORMATION, call:
 (name)(telephone).

Date.....:

.....

Personal representative

Sec. 143. *An objection to a proposed action pursuant to the Independent Administration of Estates Act as set forth in sections 76 to 144, inclusive, of this act may be in the following form:*

OBJECTION TO PROPOSED ACTION

I OBJECT to the action proposed in item 3 of the Notice of Proposed Action.

NOTICE: *Sign and return this form – all pages – to the address set forth in paragraph (a) of item 4 of the Notice of Proposed Action. This form must be received before the date set forth in item 3 of the Notice of Proposed Action, or before the proposed action is taken, whichever is later. (You may want to use certified mail, with return receipt requested. Make a copy of this form for your records.)*

Date:

.....

Type or print name

Signature of Objector

Sec. 144. *Consent to a proposed action pursuant to the Independent Administration of Estates Act as set forth in sections 76 to 144, inclusive, of this act may be in the following form:*

CONSENT TO PROPOSED ACTION

I CONSENT to the action proposed in item 3 of the Notice of Proposed Action.

NOTICE: *You may indicate your consent by signing and returning this form – all pages – to the address set forth in paragraph (a) of item 4 of the Notice of Proposed Action. If you do not object in writing or obtain a court order, you will be treated as if you consent to the proposed action.*

Date:

.....

Type or print name

Signature of Objector

Sec. 145. NRS 143.050 is hereby amended to read as follows:

143.050 ~~{After}~~ *Except as otherwise provided in section 111 of this act, after notice given as provided in NRS 155.010 or in such other manner as the court directs, the court may authorize the personal representative to continue the operation of the decedent's business to such an extent and subject to such restrictions as may seem to the court to be for the best interest of the estate and any interested persons.*

Sec. 146. NRS 143.140 is hereby amended to read as follows:

143.140 1. ~~{H}~~ *Except as otherwise provided in section 101, 104, 106, 126 or 127 of this act, if a debtor of the decedent is unable to pay all debts,*

the personal representative, with the approval of the court, may give the person a discharge upon such terms as may appear to the court to be for the best interest of the estate.

2. A compromise may also be authorized by the court when it appears to be just and for the best interest of the estate.

3. The court may also authorize the personal representative, on such terms and conditions as may be approved by it, to extend or renew, or in any manner modify the terms of, any obligation owing to or running in favor of the decedent or the estate of the decedent.

4. To obtain approval or authorization the personal representative shall file a petition showing the advantage of the settlement, compromise, extension, renewal or modification. The clerk shall set the petition for hearing by the court, and the petitioner shall give notice for the period and in the manner required by NRS 155.010.

Sec. 147. NRS 143.175 is hereby amended to read as follows:

143.175 1. ~~{A}~~ *Except as otherwise provided in section 110 of this act,* a personal representative may, with court approval:

(a) Invest the property of the estate, make loans and accept security therefor, in the manner and to the extent authorized by the court; and

(b) Exercise options of the estate to purchase or exchange securities or other property.

2. A personal representative may, without prior approval of the court, invest the property of the estate in:

(a) Savings accounts in a bank, credit union or savings and loan association in this State, to the extent that the deposit is 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 or the Federal National Mortgage Association;

(d) Interest-bearing obligations of this State or of a county, city or school district of this State;

(e) Money-market mutual funds that are invested only in obligations listed in paragraphs (a) to (d), inclusive; or

(f) Any other investment authorized by the will of the decedent.

Sec. 148. Chapter 150 of NRS is hereby amended by adding thereto the provisions set forth as sections 149 and 150 of this act.

Sec. 149. *If the estate is set aside pursuant to NRS 146.070, the court may order reasonable attorney's fees and costs to be paid from the assets being set aside directly to the attorney for the petitioner.*

Sec. 150. 1. *Notwithstanding any provision to the contrary in the will, a personal representative who is an attorney retained to perform services for the personal representative may receive compensation for*

services as a personal representative or for services as an attorney for the personal representative, but not both, unless the court:

- (a) Approves a different method of compensation in advance; and*
- (b) Finds that method of compensation to be for the advantage, benefit and best interests of the decedent's estate.*

2. The provisions of this section shall not be construed to disallow compensation for services rendered by an attorney as a personal representative if:

- (a) Such services are included as part of the legal services of the attorney in a manner consistent with NRS 150.060; and*
- (b) The attorney does not receive compensation pursuant to subsection 1 of NRS 150.020.*

3. The services which are rendered by a personal representative who is an attorney and for which compensation is requested pursuant to this section include services rendered by an employee, associate or partner in the same firm of such an attorney and services rendered by an affiliate of such an attorney.

4. As used in this section, "affiliate" has the meaning ascribed to it in NRS 163.020.

Sec. 151. NRS 150.010 is hereby amended to read as follows:

150.010 ~~{The}~~ A personal representative must be allowed all necessary expenses in the administration and settlement of the estate, and fees for services as provided by law, but if the decedent by will makes some other provision for the compensation of the personal representative, this shall be deemed a full compensation for those services, unless within 60 days after his or her appointment the personal representative files a renunciation, in writing, of all claim for the compensation provided by the will.

Sec. 152. NRS 150.050 is hereby amended to read as follows:

150.050 1. A personal representative, at any time after the issuance of letters and upon such notice to the interested persons as the court requires, may apply to the court for an allowance upon his or her fees.

2. On the hearing, the court shall enter an order allowing ~~{the}~~ a personal representative *who applied to the court pursuant to subsection 1* such portion of the fees, for services rendered up to that time, as the court deems proper, and the portion so allowed may be charged against the estate.

Sec. 153. NRS 150.060 is hereby amended to read as follows:

150.060 1. ~~{Attorneys for personal representatives are}~~ *An attorney for a personal representative is* entitled to reasonable compensation for ~~{their}~~ *the attorney's* services, to be paid out of the decedent's estate.

2. An attorney for a personal representative may be compensated based on:

- (a) The applicable hourly rate of the attorney;
- (b) The value of the estate accounted for by the personal representative;
- (c) An agreement as set forth in subsection 4 of NRS 150.061; or

(d) Any other method preapproved by the court pursuant to a request in the initial petition for the appointment of the personal representative.

3. If the attorney is requesting compensation based on the hourly rate of the attorney, he or she may include, as part of that compensation for ordinary services, a charge for legal services or paralegal services performed by a person under the direction and supervision of the attorney.

4. If the attorney is requesting compensation based on the value of the estate accounted for by the personal representative, the allowable compensation of the attorney for ordinary services must be determined as follows:

- (a) For the first \$100,000, at the rate of 4 percent;
- (b) For the next \$100,000, at the rate of 3 percent;
- (c) For the next \$800,000, at the rate of 2 percent;
- (d) For the next \$9,000,000, at the rate of 1 percent;
- (e) For the next \$15,000,000, at the rate of 0.5 percent; and
- (f) For all amounts above \$25,000,000, a reasonable amount to be determined by the court.

5. Before an attorney may receive compensation based on the value of the estate accounted for by the personal representative, the personal representative must sign a written agreement as required by subsection 8. The agreement must be prepared by the attorney and must include detailed information, concerning, without limitation:

- (a) The schedule of fees to be charged by the attorney;
- (b) The manner in which compensation for extraordinary services may be charged by the attorney; and

(c) The fact that the court is required to approve the compensation of the attorney pursuant to subsection 8 before the personal representative pays any such compensation to the attorney.

6. For the purposes of determining the compensation of an attorney pursuant to subsection 4, the value of the estate accounted for by the personal representative:

- (a) Is the total amount of the appraisal of property in the inventory, plus:
 - (1) The gains over the appraisal value on sales; and
 - (2) The receipts, less losses from the appraisal value on sales; and
- (b) Does not include encumbrances or other obligations on the property of the estate.

7. In addition to the compensation for ordinary services of an attorney set forth in this section, an attorney may also be entitled to receive compensation for extraordinary services as set forth in NRS 150.061.

8. The compensation of the attorney must be fixed by written agreement between the personal representative and the attorney, and is subject to approval by the court, after petition, notice and hearing as provided in this section. If the personal representative and the attorney fail to reach agreement, or if the attorney is also the personal representative, the amount must be determined and allowed by the court. The petition requesting

approval of the compensation of the attorney must contain specific and detailed information supporting the entitlement to compensation, including:

(a) If the attorney is requesting compensation based upon the value of the estate accounted for by the personal representative, the attorney must provide the manner of calculating the compensation in the petition; and

(b) If the attorney is requesting compensation based on an hourly basis, or is requesting compensation for extraordinary services, the attorney must provide the following information to the court:

- (1) Reference to time and hours;
- (2) The nature and extent of services rendered;
- (3) Claimed ordinary and extraordinary services;
- (4) The complexity of the work required; and
- (5) Other information considered to be relevant to a determination of entitlement.

9. The clerk shall set the petition for hearing, and the petitioner shall give notice of the petition to the personal representative if he or she is not the petitioner and to all known heirs in an intestacy proceeding and devisees in a will proceeding. The notice must be given for the period and in the manner provided in NRS 155.010. If a complete copy of the petition is not attached to the notice, the notice must include a statement of the amount of the fee which the court will be requested to approve or allow.

10. On similar petition, notice and hearing, the court may make an allowance to an attorney for services rendered up to a certain time during the proceedings. If the attorney is requesting compensation based upon the value of the estate as accounted for by the personal representative, the court may apportion the compensation as it deems appropriate given the amount of work remaining to close the estate.

11. An heir or devisee may file objections to a petition filed pursuant to this section, and the objections must be considered at the hearing.

12. Except as otherwise provided in this subsection, an attorney for minor, absent, unborn, incapacitated or nonresident heirs is entitled to compensation primarily out of the estate of the distributee so represented by the attorney in those cases and to such extent as may be determined by the court. If the court finds that all or any part of the services performed by the attorney for the minor, absent, unborn, incapacitated or nonresident heirs was of value to the decedent's entire estate as such and not of value only to those heirs, the court shall order that all or part of the attorney's fee be paid to the attorney out of the money of the decedent's entire estate as a general administrative expense of the estate. The amount of these fees must be determined in the same manner as the other attorney's fees provided for in this section.

Sec. 154. NRS 150.063 is hereby amended to read as follows:

150.063 **1.** If there are two or more attorneys for a personal representative, the compensation must be apportioned among the attorneys

by the court according to the services actually rendered by each attorney unless otherwise provided in an agreement by the attorneys.

2. *If there are two or more personal representatives and the personal representatives have separate legal representation, each attorney for each personal representative is entitled to have the compensation for attorneys apportioned among the attorneys by the court according to the services actually rendered by each attorney unless otherwise provided in an agreement by the attorneys.*

Sec. 155. NRS 150.065 is hereby amended to read as follows:

150.065 1. At any time after the expiration of the period for creditors of the estate to file their claims in a summary or full administration pursuant to NRS 145.060 or 147.040, as applicable, ~~the~~ **a** personal representative or ~~the~~ **an** attorney for ~~the~~ **a** personal representative may file a petition with the court for an allowance upon the compensation of the attorney for the personal representative.

2. The clerk shall set the petition for hearing and the petitioner shall give notice of the petition to the personal representative if he or she is not the petitioner and to all known heirs in an intestacy proceeding and devisees in a will proceeding. The notice must be given for the period and in the manner provided in NRS 155.010. If a complete copy of the petition is not attached to the notice, the notice must include a statement of the amount of the compensation which the court will be requested to approve or allow and the manner in which the compensation was determined.

3. On the hearing, the court may enter an order allowing the portion of the compensation of the attorney for the personal representative for such services rendered up to that time as the court deems proper. The order must authorize the personal representative to charge against the estate the amount of compensation allowed by the court pursuant to this subsection.

Sec. 156. Chapter 153 of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided in a will establishing a testamentary trust, a person holding a power of appointment pursuant to a testamentary trust does not owe a fiduciary duty to any person and is not liable to any person with respect to the exercise or nonexercise of the power of appointment.

Sec. 157. NRS 153.031 is hereby amended to read as follows:

153.031 1. A trustee or beneficiary may petition the court regarding any aspect of the affairs of the trust, including:

- (a) Determining the existence of the trust;
- (b) Determining the construction of the trust instrument;
- (c) Determining the existence of an immunity, power, privilege, right or duty;
- (d) Determining the validity of a provision of the trust;
- (e) Ascertaining beneficiaries and determining to whom property is to pass or be delivered upon final or partial termination of the trust, to the extent not provided in the trust instrument;

- (f) Settling the accounts and reviewing the acts of the trustee, including the exercise of discretionary powers;
- (g) Instructing the trustee;
- (h) Compelling the trustee to report information about the trust or account, to the beneficiary;
- (i) Granting powers to the trustee;
- (j) Fixing or allowing payment of the trustee's compensation, or reviewing the reasonableness of the trustee's compensation;
- (k) Appointing or removing a trustee;
- (l) Accepting the resignation of a trustee;
- (m) Compelling redress of a breach of the trust;
- (n) Approving or directing the modification or termination of the trust;
- (o) Approving or directing the combination or division of trusts;
- (p) Amending or conforming the trust instrument in the manner required to qualify the estate of a decedent for the charitable estate tax deduction under federal law, including the addition of mandatory requirements for a charitable-remainder trust;
- (q) Compelling compliance with the terms of the trust or other applicable law; and
- (r) Permitting the division or allocation of the aggregate value of community property assets in a manner other than on a pro rata basis.

2. A petition under this section must state the grounds of the petition and the name and address of each interested person, including the Attorney General if the petition relates to a charitable trust, and the relief sought by the petition. Except as otherwise provided in this chapter, the clerk shall set the petition for hearing and the petitioner shall give notice for the period and in the manner provided in NRS 155.010. The court may order such further notice to be given as may be proper.

3. If the court grants any relief to the petitioner, the court may, in its discretion, order any or all of the following additional relief if the court determines that such additional relief is appropriate to redress or avoid an injustice:

- (a) Order a reduction in the trustee's compensation.
- (b) Order the trustee to pay to the petitioner or any other party all reasonable costs incurred by the party to adjudicate the affairs of the trust pursuant to this section, including, without limitation, reasonable attorney's fees. ~~{The}~~ *Except as otherwise provided in section 193 of this act, the trustee may not be held personally liable for the payment of such costs unless the court determines that the trustee was negligent in the performance of or breached his or her fiduciary duties.*

Sec. 158. Chapter 155 of NRS is hereby amended by adding thereto the provisions set forth as sections 159 to 170, inclusive, of this act.

Sec. 159. *As used in sections 159 to 169, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 160*

to 166, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 160. *"Caregiver" means any person who has provided significant assistance or services to or for a person, regardless of whether the person is incompetent, incapacitated or of limited capacity and regardless of whether the person is being compensated for the assistance or services provided.*

Sec. 161. *"Independent attorney" means an attorney, other than a attorney who:*

- 1. Is described in subsection 2 of section 167 of this act; or*
- 2. Has served as an attorney for a person who is described in subsection 2 of section 167 of this act.*

Sec. 162. *"Related to, affiliated with or subordinate to any person" includes, without limitation:*

- 1. The person's spouse;*
- 2. A relative of the person within the third degree of consanguinity or the spouse of such a relative;*
- 3. A co-owner of a business with the person;*
- 4. An employee of a business if the person:*
 - (a) Has an ownership interest in the business; or*
 - (b) Holds a supervisory position with the business;*
- 5. An attorney or employee of a law firm for which the person is or was a client; and*
- 6. Any entity owned or controlled by a person described in subsections 1 to 5, inclusive.*

Sec. 163. *"Spouse" includes a domestic partner as defined in NRS 122A.030.*

Sec. 164. *"Transfer instrument" means the legal document intended to effectuate a transfer effective on or after the transferor's death and includes, without limitation, a will, trust, deed, form designated as payable on death, contract or other beneficiary designation form.*

Sec. 165. *"Transferee" means a devisee, a beneficiary of trust, a grantee of a deed, including a grantee of a deed pursuant to NRS 111.109, and any other person designated in a transfer instrument to receive a nonprobate transfer.*

Sec. 166. *"Transferor" means a testator, settlor, grantor of a deed and a decedent whose interest is transferred pursuant to a nonprobate transfer.*

Sec. 167. *1. To the extent the court finds that a transfer was the product of fraud, duress or undue influence, the transfer is void and each transferee who is found responsible for the fraud, duress or undue influence shall bear the costs of the proceedings, including, without limitation, reasonable attorney's fees.*

2. Except as otherwise provided in section 168 of this act, a transfer is presumed to be void if the transfer is effective on or after a transferor's death and the transfer is to a transferee who is:

- (a) The person who drafted the transfer instrument;*

- (b) A caregiver of the transferor;*
- (c) A person who arranged for or paid for the drafting of the transfer instrument; or*
- (d) A person who is related to, affiliated with or subordinate to any person described in paragraph (a), (b) or (c).*

Sec. 168. *The presumption established by section 167 of this act does not apply:*

1. *To a transfer of property under a will if the transferee is an heir of the testator whose share in the estate of the testator under the terms of the testator's will is not greater than the share the transferee would be entitled to pursuant to chapter 134 of NRS if the testator had died intestate.*

2. *Except as otherwise provided in this subsection, if the court determines, upon clear and convincing evidence, that the transfer was not the product of fraud, duress or undue influence. The determination of the court pursuant to this subsection must not be based solely upon the testimony of a person described in subsection 2 of section 167 of this act.*

3. *If the transfer instrument is reviewed by an independent attorney who:*

- (a) Counsels the transferor about the nature and consequences of the intended transfer;*

- (b) Attempts to determine if the intended consequence is the result of fraud, duress or undue influence; and*

- (c) Signs and delivers to the transferor an original certificate of that review in substantially the following form:*

CERTIFICATE OF INDEPENDENT REVIEW

I, ... (attorney's name), have reviewed (name of transfer instrument) and have counseled my client, ... (name of client), on the nature and consequences of the transfer or transfers of property to (name of transferee) contained in the transfer instrument. I am disassociated from the interest of the transferee to the extent that I am in a position to advise my client independently, impartially and confidentially as to the consequences of the transfer. On the basis of this counsel, I conclude that the transfer or transfers of property in the transfer instrument that otherwise might be invalid pursuant to section 167 of this act are valid because the transfer or transfers are not the product of fraud, duress or undue influence.

.....
(Name of Attorney) (Date)

4. *To a transferee that is:*

- (a) A federal, state or local public entity; or*

- (b) An entity that is recognized as exempt under section 501(c)(3) or 501(c)(19) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3) or 501(c)(19), or a trust holding an interest for such an entity but only to the extent of the interest of the entity or the interest of the trustee of the trust.*

5. A transfer of property if the fair market value of the property does not exceed \$3,000.

Sec. 169. The provisions of sections 167 and 168 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 167 and 168 of this act.

Sec. 170. 1. The court may find that a person is a vexatious litigant if the person files a petition, objection, motion or other pleading which is without merit or intended to harass or annoy the personal representative or a trustee. In determining whether the person is a vexatious litigant, the court may take into consideration whether the person has previously filed pleadings in a proceeding that were without merit or intended to harass or annoy a fiduciary.

2. If a court finds that a person is a vexatious litigant pursuant to subsection 1, the court may impose sanctions on the person in an amount sufficient to reimburse the estate or trust for all or part of the expenses incurred by the estate or trust to respond to the petition, objection, motion or other pleading and for any other pecuniary losses which are associated with the actions of the vexatious litigant. The court may make an order directing entry of judgment for the amount of such sanctions.

3. The court may deny standing to an interested party to bring a petition or motion if the court finds that:

(a) The subject matter of the petition or motion is unrelated to the interests of the interested party;

(b) The interests of the interested party are minimal as it relates to the subject matter of the petition or motion; or

(c) The interested party is a vexatious litigant pursuant to subsection 1.

4. If a court finds that a person is a vexatious litigant pursuant to subsection 1, that person does not have standing to:

(a) Object to the issuance of letters; or

(b) Request the removal of a personal representative or a trustee.

Sec. 171. NRS 155.030 is hereby amended to read as follows:

155.030 1. At any time after the issuance of letters in the estate of a decedent, an interested person or the person's attorney may serve upon the personal representative or the personal representative's attorney, and file with the clerk of the court wherein administration of the estate is pending, a written request stating that the interested person desires special notice and a copy of any further filings, steps or proceedings in the administration of the estate.

2. The request must state the post office address of the requester or the requester's attorney, and thereafter a brief notice of the filing of any returns, petitions, accounts, reports or other proceedings, together with a copy of the filing, must be addressed to that person or the person's attorney, at his or her stated mailing address, and deposited with the United States Postal Service with the postage thereon prepaid, within 2 days after each is filed, or personal

service of the notice may be made on the person or the person's attorney within the 2 days, and the personal service is equivalent to deposit in the post office, and proof of mailing or of personal service must be filed with the clerk before the hearing of the proceeding.

3. If, upon the hearing, it appears to the satisfaction of the court that the notice has been regularly given, the court shall so find in its order and the order is final and conclusive upon all persons.

4. An interested person in a testamentary trust or its property, or the attorney for that person, may serve upon the trustee or the trustee's attorney, and file with the clerk of the court wherein administration of the trust is pending, a written request stating that he or she desires notice of the filing of accounts and petitions in connection with the trust. The provisions of subsections 2 and 3 apply to such a request.

5. ***An attorney whose only appearance on behalf of an interested person has been the filing of a written request for notice pursuant to subsection 1 may, without further court order:***

(a) Terminate his or her services;

(b) Serve upon the personal representative or the personal representative's attorney an amended written request for notice directing that any further notice be sent to the interested person at his or her last known address; and

(c) File the amended written request for notice with the clerk of the court wherein administration of the estate is pending.

6. ***Any filing of a motion for substitution of counsel or order authorizing withdrawal of counsel of record for an attorney who has filed a written request for notice on behalf of an interested person pursuant to subsection 1 shall be deemed to be an amended written request for notice as described in subsection 5, and any further notice must be sent to the address provided in the motion for substitution of counsel or the order authorizing the withdrawal of counsel, as applicable.***

7. On the filing of an inventory or a inventory or a supplementary inventory, the personal representative shall mail a copy to each person who has requested special notice.

Sec. 172. NRS 155.140 is hereby amended to read as follows:

155.140 1. In a proceeding involving the estate of a decedent or a testamentary trust:

(a) Interests to be affected must be described in pleadings that give reasonable information to owners by name or class, by reference to the instrument creating the interest or in another appropriate manner.

(b) An order binding the sole holder or all co-holders of a power of revocation or presently exercisable general power of appointment, including a power of amendment, binds other persons to the extent their interests, as objects, takers in default or otherwise, are subject to the power.

(c) To the extent there is no conflict of interest between them or among persons represented:

(1) An order binding a guardian of the estate binds the person whose estate the guardian controls.

(2) An order binding a guardian of the person binds the ward if no separate guardian of the estate of the ward has been appointed.

(3) An order binding a trustee binds beneficiaries of the trust in a proceeding to probate a will establishing or adding to the trust, to review the acts or accounts of a previous fiduciary, or involving creditors or other third parties.

(4) An order binding a personal representative binds persons interested in the undistributed assets of the estate of a decedent in an action or proceeding by or against the estate.

(d) If there is no conflict of interest and no guardian of the estate has been appointed, a parent may represent his or her minor child.

(e) An unborn or unascertained person who is not otherwise represented is bound by an order to the extent his or her interest is adequately represented by another person having a substantially identical interest in the proceeding.

(f) Notice as prescribed by this title must be given to every interested person or to one who can bind an interested person under ~~{subsection}~~ **paragraph** (b), (c) or (d). Notice may be given both to a person and to another who can bind him or her.

(g) Notice is given to unborn or unascertained persons who are not represented under ~~{subsection}~~ **paragraph** (b), (c) or (d) by giving notice to all known persons whose interest in the proceeding is substantially identical to that of the unborn or unascertained persons.

(h) At any stage of a proceeding, the court may appoint a guardian ad litem or an attorney to represent the interest of a minor, an incapacitated, unborn or unascertained person, or a person whose identity or address is unknown, if the court determines that representation of the interest would otherwise be inadequate. If not precluded by conflict of interest, a guardian ad litem or an attorney may be appointed to represent several persons or interests. The court shall set out its reasons for appointing a guardian ad litem or an attorney as a part of the record of the proceeding.

2. If an attorney has been appointed for minors or other interested persons, the attorney, until another may be appointed, shall represent the person or persons for whom the attorney has been appointed in all subsequent proceedings.

3. *In any proceeding filed pursuant to this title, the court has jurisdiction and authority to fix and adjudicate fees and costs due an attorney from his or her client for services performed by the attorney in connection with the proceeding.*

Sec. 173. NRS 155.170 is hereby amended to read as follows:

155.170 ~~{The testimony of a witness or witnesses in other counties of this State, or in other jurisdictions of the United States, or in foreign countries, may be taken by deposition as provided in the Nevada Rules of Civil Procedure.}~~ ***Unless otherwise ordered by the court, upon the filing of***

a proceeding pursuant to this title and service of the notice of hearing to other interested persons, an interested person who has appeared in the proceeding and given notice of his or her appearance to other interested persons:

1. May obtain discovery, perpetuate testimony or conduct examinations in any manner authorized by law or by the Nevada Rules of Civil Procedure relevant to such proceeding; and

2. Is not required to satisfy any rule requiring the initial disclosure of experts, attendance at an early case conference or the filing of a report on an early case conference as a prerequisite to commencing an action described in subsection 1.

Sec. 174. NRS 159.065 is hereby amended to read as follows:

159.065 1. Except as otherwise provided by law, every guardian shall, before entering upon his or her duties as guardian, execute and file in the guardianship proceeding a bond, with sufficient surety or sureties, in such amount as the court determines necessary for the protection of the ward and the estate of the ward, and conditioned upon the faithful discharge by the guardian of his or her authority and duties according to law. The bond must be approved by the clerk. Sureties must be jointly and severally liable with the guardian and with each other.

2. If a banking corporation, as defined in NRS 657.016, doing business in this state, is appointed guardian of the estate of a ward, no bond is required of the guardian, unless specifically required by the court.

3. Joint guardians may unite in a bond to the ward or wards, or each may give a separate bond.

4. If there are no assets of the ward, no bond is required of the guardian.

5. If a person ~~is appointed in a will~~ ***has been nominated*** to be guardian ***in a will, power of attorney or other written instrument that has been acknowledged before two disinterested witnesses or acknowledged before a notary public*** and the will, power of attorney or other written instrument provides that no bond is to be required of the guardian, the court may direct letters of guardianship to issue to the guardian after the guardian:

(a) Takes and subscribes the oath of office; and

(b) Files the appropriate documents which contain the full legal name and address of the guardian.

6. In lieu of executing and filing a bond, the guardian may request that access to certain assets be blocked. The court may grant the request and order letters of guardianship to issue to the guardian if sufficient evidence is filed with the court to establish that such assets are being held in a manner that prevents the guardian from accessing the assets without a specific court order.

Sec. 175. Chapter 162 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An attorney who represents a fiduciary does not, solely as a result of such attorney-client relationship, assume a corresponding duty of care or other fiduciary duty to a principal.

2. Nothing in this section limits a principal, fiduciary or successor fiduciary's ability to assert appropriate claims against the attorney resulting from the negligent or intentional acts of the attorney.

3. As used in this section:

(a) "Fiduciary" has the meaning ascribed to it in NRS 162.020.

(b) "Principal" has the meaning ascribed to it in NRS 162.020.

Sec. 176. Chapter 163 of NRS is hereby amended by adding thereto a new section to read as follows:

Except to the extent that it violates public policy, a settlor may:

1. Make a devise conditional upon a beneficiary's action or failure to take action or upon the occurrence or nonoccurrence of one or more specified events; and

2. Specify the conditions or actions which would disqualify a person from serving or which would constitute cause for removal of a person who is serving in any capacity under the trust, including, without limitation, as a trustee, trust protector or trust adviser.

Sec. 177. NRS 163.00195 is hereby amended to read as follows:

163.00195 1. Except as otherwise provided in subsections 3 and 4, a no-contest clause in a trust must be enforced by the court.

2. A no-contest clause must be construed to carry out the settlor's intent. Except to the extent the no-contest clause in the trust is vague or ambiguous, extrinsic evidence is not admissible to establish the settlor's intent concerning the no-contest clause. The provisions of this subsection do not prohibit such evidence from being admitted for any other purpose authorized by law. ***Except as otherwise provided in subsections 3 and 4, a beneficiary's share may be reduced or eliminated under a no-contest clause based upon conduct that is set forth by the settlor in the trust. Such conduct may include, without limitation:***

(a) Conduct other than formal court action; and

(b) Conduct which is unrelated to the trust itself, including, without limitation:

(1) The commencement of civil litigation against the settlor's probate estate or family members;

(2) Interference with the administration of another trust or a business entity;

(3) Efforts to frustrate the intent of the settlor's power of attorney; and

(4) Efforts to frustrate the designation of beneficiaries related to a nonprobate transfer by the settlor.

3. Notwithstanding any provision to the contrary in the trust, a beneficiary's share must not be reduced or eliminated if the beneficiary seeks only to:

(a) Enforce the terms of the trust , ***any document referenced in or affected by the trust***, or any other trust-related instrument;

(b) Enforce the beneficiary's legal rights related to the trust , ***any document referenced in or affected by the trust***, or any trust-related instrument; or

(c) Obtain a court ruling with respect to the construction or legal effect of the trust , ***any document referenced in or affected by the trust***, or any other trust-related instrument.

4. Notwithstanding any provision to the contrary in the trust, a beneficiary's share must not be reduced or eliminated under a no-contest clause in a trust because the beneficiary institutes legal action seeking to invalidate a trust , ***any document referenced in or affected by the trust***, or any other trust-related instrument if the legal action is instituted in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that ~~{there was a substantial likelihood that}~~ the trust , ***any document referenced in or affected by the trust***, or other trust-related instrument ~~{was}~~ is invalid.

5. As used in this section:

(a) "No-contest clause" means one or more provisions in a trust that express a directive to reduce or eliminate the share allocated to a beneficiary or to reduce or eliminate the distributions to be made to a beneficiary if the beneficiary takes action to frustrate or defeat the settlor's intent as expressed in the trust or in a trust-related instrument.

(b) "Trust" means the original trust instrument and each amendment made pursuant to the terms of the original trust instrument.

(c) "Trust-related instrument" means any document purporting to transfer property to or from the trust or any document made pursuant to the terms of the trust purporting to direct the distribution of trust assets or to affect the management of trust assets, including, without limitation, documents that attempt to exercise a power of appointment.

Sec. 178. NRS 163.004 is hereby amended to read as follows:

163.004 1. A trust may be created for any purpose that is not illegal or against public policy.

2. ~~{A trust created for an indefinite or general purpose is not invalid for that reason if it can be determined with reasonable certainty that a particular use of the trust property is within that purpose.}~~ ***Except as otherwise provided by a specific statute, federal law or common law, the terms of a trust instrument may vary the rights and interests of beneficiaries in any manner that is not illegal or against public policy, including, without limitation, specifying:***

(a) ***The grounds for removing a fiduciary;***

(b) ***The circumstances, if any, in which the fiduciary must diversify investments; and***

(c) A fiduciary's powers, duties, standards of care, rights of indemnification and liability to persons whose interests arise from the trust instrument.

3. *Nothing in this section shall be construed to:*

(a) Authorize the exculpation or indemnification of a fiduciary for the fiduciary's own willful misconduct or gross negligence; or

(b) Preclude a court of competent jurisdiction from removing a fiduciary because of the fiduciary's willful misconduct or gross negligence.

4. *The rule that statutes in derogation of the common law are to be strictly construed has no application to this section. This section must be liberally construed to give maximum effect to the principle of freedom of disposition and to the enforceability of trust instruments.*

Sec. 179. NRS 163.556 is hereby amended to read as follows:

163.556 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 ~~†~~ , ***unless after the exercise of such appointment, the beneficiary of the original trust's power of withdrawal is unchanged with respect to the trust property.***

(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.

(h) A contribution made to the original trust qualified for a gift tax exclusion as described in section 2503(b) of the Internal Revenue Code, 26 U.S.C. § 2503(b), by reason of the application of section 2503(c) of the Internal Revenue Code, 26 U.S.C. § 2503(c), unless the second trust provides that the beneficiary's remainder interest must vest not later than the date upon which such interest would have vested under the terms of the original 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 or herself;

(2) The trustee's discretion to make distributions to himself or herself is limited by an ascertainable standard ~~§~~ , ***and under the terms of the second trust, the trustee's discretion to make distributions to himself or herself is not limited by the same ascertainable standard;*** or

(3) The trustee's discretion to make distributions to himself or herself 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 or herself 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. ***The provisions of subsection 3 do not prohibit a trustee who is not a beneficiary of the original trust from exercising the authority to appoint***

property of the original trust to a second trust pursuant to the provisions of subsection 1.

5. 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}~~

6. 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.}~~ 7. 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.}~~ 8. 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.}~~ 9. 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.}~~ 10. 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.}~~ 11. 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.}~~ 12. 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.}~~ 13. A trustee exercising any power granted pursuant to this section may designate himself or herself or any other person permitted to act as a trustee as the trustee of the second trust.

~~{13.}~~ 14. 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.}~~ 15. 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 , 26 U.S.C. § 2041(b)(1)(A) or 2514(c)(1), and any regulations of the United States Treasury promulgated thereunder.

Sec. 179.5. Chapter 164 of NRS is hereby amended by adding thereto the provisions set forth as sections 180 and 180.5 of this act.

~~Sec. 180. {Chapter 164 of NRS is hereby amended by adding thereto a new section to read as follows:}~~

The provisions of section 47 of this act concerning the revocation of certain transfers based upon divorce or annulment apply to transfers of property made pursuant to a trust.

Sec. 180.5. The notice that a trustee is required to provide pursuant to subsection 3 of NRS 164.900 may be in the following form:

NOTICE TO BENEFICIARY

You are hereby notified, as required by subsection 3 of NRS 164.900, that:

1. The undersigned is the trustee of the trust that is designated as(specify name and date or another type of identification of the trust).

2. You are being given this notice because, under the terms of the trust instrument, the trustee is authorized or required to make distributions of income to you or for your benefit. The above-named trust became irrevocable before October 1, 2011, and the trust instrument does not contain specific direction as to the amount of income that is to be applied toward standard fiduciary compensation and toward expenses for accountings, judicial proceedings or certain other matters. For the purposes of this notice, "standard fiduciary compensation" means the regular compensation of the trustee and any person providing advisory or custodial services to the trustee whose compensation is based on the value of the trust's principal or a portion of the trust's principal.

3. Under the Uniform Principal and Income Act (1997), as adopted in Nevada, one-half of the standard fiduciary compensation and the expenses described above are generally paid from trust income and the balance of the standard fiduciary compensation and expenses are generally paid from the trust's principal.

4. Subsection 2 of NRS 164.900 places a limit on the amount of income that can be applied toward standard fiduciary compensation and the expenses described above, but that limit does not apply to this trust unless the adult beneficiaries to whom or for whose benefit net income of the trust presently is or may be payable, by majority vote,

make an election to have the limitation apply as authorized under subsection 7 of NRS 164.900.

5. If such an election is made, it may or may not increase the income that is available for distribution, but such an election will not reduce distributable income.

6. If you want to have the limitation authorized under subsection 7 of NRS 164.900 apply to this trust, you must notify the trustee by signing at the bottom of this form and returning the form to the trustee. Failure to sign this form and return it to the trustee will be considered a negative vote with regard to applying the limitation described in subsection 2 of NRS 164.900 to this trust.

.....
 _____ (Signature of Trustee) _____ (Date)

.....
 _____ (Address of Trustee)

If you would like to make the election under subsection 7 of NRS 164.900, as explained above, please sign below and send the signed copy by certified or registered mail to the trustee or personally deliver the signed copy to the trustee.

NOTICE OF ELECTION

UNDER SUBSECTION 7 OF NRS 164.900

I, the undersigned beneficiary, hereby make the election authorized under subsection 7 of NRS 164.900 to limit the amount of income that can be paid toward the regular compensation of the trustee and of any person providing advisory or custodial services to the trustee whose compensation is based on the value of the trust's principal or a portion of the trust's principal and toward expenses for accountings, judicial proceedings or certain other matters. I understand that the election will only be effective after the adult beneficiaries to whom or for whose benefit net income of the trust presently is or may be payable, by majority vote, make this election.

.....
 _____ (Signature of Beneficiary) _____ (Date)

Sec. 181. NRS 164.021 is hereby amended to read as follows:

164.021 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 the person, unless the person proves that he or she did not receive actual notice.

Sec. 181.5. NRS 164.780 is hereby amended to read as follows:

164.780 NRS 164.700, subsection 2 of NRS 164.720 and NRS 164.780 to 164.925, inclusive, **and section 180.5 of this act,** may be cited as the Uniform Principal and Income Act (1997).

Sec. 182. NRS 164.900 is hereby amended to read as follows:

164.900 ~~{A}~~

1. Except as otherwise provided in the trust instrument or in an order of the court, 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. Except as otherwise ordered by the court, one-half of the}~~

(a) One-half of:

(1) Except as otherwise provided in subsection 2:

(I) The regular compensation of the trustee and of any person providing ~~{investment}~~ advisory or custodial services to the trustee ~~{;~~

~~***—2. Except as otherwise ordered by the court, one-half of all} whose compensation is based on the value of the trust's principal or a portion thereof; and***~~

(II) All expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests;

~~{3. All the other ordinary} and~~

(2) All other expenses incurred in connection with the administration, management or preservation of trust property ~~{and the distribution of income;}~~ not specifically mentioned in subparagraph (1) or in paragraph (b), including ~~{interest,}~~ ordinary repairs ~~{}~~ on trust property, regularly recurring taxes assessed against principal ~~{}~~ and recurring premiums on insurance covering the loss of a principal asset.

(b) All expenses related to the distribution of income, including interest, the expenses of a proceeding or other matter that concerns primarily the income interest ~~{;~~ and

~~***—4. All} and the recurring premiums on insurance covering the loss of {a principal asset or the loss of} income from or use of {the} an asset.***~~

2. The amount payable from income for compensation and other expenses specifically mentioned in subparagraph (1) of paragraph (a) of subsection 1 must not exceed the applicable income percentage of income for the accounting period.

3. The trustee of a trust that became irrevocable before October 1, 2011, and whose trust instrument does not otherwise address the allocation of compensation and other expenses specifically mentioned in subparagraph (1) of paragraph (a) of subsection 1, shall notify each adult beneficiary who, at the time the notice is provided, is a person to whom or for whose benefit net income of the trust presently is or may be payable, of the right to elect to apply the limitation set forth in subsection 2 to the trust.

4. Such an election:

(a) Must be evidenced by a written election to apply the limitation set forth in subsection 2 to the trust which is signed by a majority of the adult beneficiaries described in subsection 3; and

(b) May be applied to the disbursement of income only after a majority of the adult beneficiaries described in subsection 3 have so elected to apply the limitation set forth in subsection 2 to the trust.

5. For the purposes of determining a majority pursuant to subsection 4, each adult beneficiary described in subsection 3 has:

(a) One vote if, pursuant to the terms of the trust instrument, the trustee has the discretion to make distributions to two or more such beneficiaries in equal or unequal amounts; and

(b) One vote for each percentage of income to which that beneficiary is entitled if, pursuant to the terms of the trust instrument, the trustee is required to pay a specific percentage of the net income to two or more such beneficiaries.

6. Except as otherwise provided in subsection 7, the trustee shall provide the notice required pursuant to this section to each adult beneficiary described in subsection 3 at least three times, not less than 30 days apart. The notice must:

(a) Be given by personal delivery or by certified or registered mail to the beneficiary's last known address;

(b) Be in at least 12-point type or font except that the provision in which the beneficiary makes the election to apply the limitation set forth in subsection 2 to the trust must be in at least 16-point bold type or font;

(c) Describe the availability of such an election;

(d) Describe the effect of such an election on the distribution of income from the trust; and

(e) Inform the beneficiary of the manner in which such an election may be made.

7. An adult beneficiary described in subsection 3 may:

(a) By written notice given to the trustee by personal delivery or by certified or registered mail or as otherwise directed by the trustee, consent

to a different form of notice or waive the right to receive notice pursuant to this section; and

(b) Elect to apply the limitation set forth in subsection 2 to the trust at any time after the date on which the first notice is personally delivered or mailed to any such beneficiary.

8. The provisions of subsection 2:

(a) Apply to a trust that becomes irrevocable on or after October 1, 2011.

(b) Do not apply to a trust that became irrevocable before October 1, 2011, unless a majority of adult beneficiaries described in subsection 3 elect to apply the limitation in the manner provided in subsection 4.

9. As used in this section, "applicable income percentage" means:

(a) For an accounting period that includes a calendar year, the interest rate fixed on January 1 of that year pursuant to subsection 1 of NRS 99.040, plus 2 percentage points; and

(b) For an accounting period that includes a portion of a calendar year, the income percentage described in paragraph (a) prorated for that portion of the calendar year included in the accounting period.

Sec. 183. NRS 164.905 is hereby amended to read as follows:

164.905 1. A trustee shall make the following disbursements from principal:

(a) The remaining portion of the disbursements described in ~~{subsections}~~ **subsection 1** ~~{and 2}~~ of NRS 164.900;

(b) All the trustee's compensation calculated on principal as a fee for acceptance, distribution or termination, and disbursements made to prepare property for sale;

(c) Payments on the principal of a trust debt;

(d) Expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property;

(e) Premiums paid on a policy of insurance not described in subsection ~~{4}~~ **1** of NRS 164.900 of which the trust is the owner and beneficiary;

(f) Estate, inheritance and other transfer taxes, including penalties, apportioned to the trust; and

(g) Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common law claims by third parties, and defending claims based on environmental matters.

2. If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall

transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

Sec. 184. Chapter 165 of NRS is hereby amended by adding thereto the provisions set forth as sections 185 to 198, inclusive, of this act.

Sec. 185. *As used in NRS 165.135 and sections 185 to 198, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 186 to 191, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 186. *"Accounting period" means the period for which the trustee is accounting, and except as otherwise provided in this section, commencing with the first day following the previous accounting period and ending on the date specified by the trustee or on the date specified by the court if the account is ordered by the court. If the account is an initial account, the account commences on the day the trustee became the trustee.*

Sec. 187. *"Broad power of appointment" means a power of appointment held by a person, commonly referred to as a power holder, that can be exercised in favor of:*

- 1. The power holder, without any restriction or limitation; or*
- 2. Any person other than one or more of the following:*
 - (a) The power holder;*
 - (b) The power holder's estate;*
 - (c) The power holder's creditors; or*
 - (d) The creditors of the power holder's estate.*

Sec. 188. *"Current beneficiary" means a distribution beneficiary to whom or for whose benefit the trustee is authorized or required to make distributions of income or principal at any time during the accounting period.*

Sec. 189. *"Distribution beneficiary" has the meaning ascribed to it in NRS 163.415.*

Sec. 190. *"Remainder beneficiary" means a beneficiary who will become a current beneficiary upon the death of an existing current beneficiary or upon the occurrence of some other event that may occur during the beneficiary's lifetime, regardless of whether the beneficiary's share is subject to elimination under a power of appointment other than a broad power of appointment.*

Sec. 191. *"Remote beneficiary" means a beneficiary who may become a current beneficiary upon the death of two or more persons or upon the occurrence of some other event that cannot possibly occur during the beneficiary's lifetime.*

Sec. 192. *1. The following provisions apply to the extent that the trust instrument does not expressly provide otherwise:*

- (a) The trustee shall provide an account to each current beneficiary and to each remainder beneficiary upon request but is not required to provide an account to a remote beneficiary;*

(b) A trustee is not required to provide an account more than once in any calendar year unless ordered by a court to do so upon good cause shown;

(c) Each account provided to a beneficiary must comply with the provisions of subsection 3 or 4 of NRS 165.135;

(d) In addition to other methods of providing an account to a beneficiary, a trustee may provide an account to a beneficiary by electronic mail or through a secure website on the Internet;

(e) While a trust is revocable, the trustee is not required to provide an account to any person other than a person having the right of revocation except that a trustee of such a trust shall provide an account if:

(1) A court-appointed guardian of the trust estate requests an account on behalf of the settlor; or

(2) The court, in considering a petition filed under NRS 164.015, determines that the settlor is incompetent or is susceptible to undue influence and directs the trustee to provide an account, specifying the nature and extent of the account to be provided and the person or persons who are entitled to receive the account;

(f) While an irrevocable trust in its entirety is subject to a broad power of appointment, the trustee is not required to provide an account for that trust to any person other than the power holder;

(g) The cost of an account must be charged as provided in the Uniform Principal and Income Act (1997) as set forth in chapter 164 of NRS;

(h) An account shall be deemed approved by a beneficiary who received a copy of the account if no written objection thereto is given to the trustee within 120 days after the date on which the trustee provided the account to that beneficiary;

(i) An account shall be deemed approved by a minor, unborn or unknown beneficiary if it is deemed approved as to an adult beneficiary who has a similar interest;

(j) A trustee is not required to provide to a beneficiary information that does not affect the beneficiary's interest in the trust, and an adult beneficiary may, by a written declaration that is signed by that beneficiary, waive the right to receive any information otherwise required to be provided pursuant to the provisions of subsection 3 or 4 of NRS 165.135; and

(k) For the purposes of paragraph (h), a beneficiary shall be deemed to have received a copy of an account provided by the trustee to the beneficiary by electronic mail or through a secure website on the Internet if the trustee:

(1) Sent the beneficiary an electronic mail in a manner that complies with subsection 1 of NRS 719.320 and the beneficiary received the electronic mail in a manner that complies with subsection 2 of NRS 719.320; and

(2) Attached the account to the electronic mail as an electronic record or included in the electronic mail a notice to the beneficiary indicating the availability of the account on the secure website.

2. As used in this section:

(a) "Electronic mail" has the meaning ascribed to it in NRS 41.715.

(b) "Electronic record" has the meaning ascribed to it in NRS 132.117.

Sec. 193. Notwithstanding any provision to the contrary in the trust instrument:

1. If the amount distributable to a current beneficiary is affected by the amount of administrative expenses or is affected by the allocation of receipts and disbursements to income or principal, the trustee shall, upon request, provide an account annually to the current beneficiary. An account provided to a current beneficiary pursuant to this subsection must comply with the provisions of subsection 3 or 4 of NRS 165.135, except to the extent that the current beneficiary agrees otherwise in writing.

2. Except as otherwise provided in this subsection, upon request, an account must be provided annually to each remainder beneficiary of an irrevocable trust. A beneficiary who has been eliminated by the exercise of a power of appointment has no right to request or receive an account pursuant to this subsection.

3. A trustee, at the expense of the trust, may provide:

(a) An unrequested account to one or more beneficiaries at any time; and

(b) More information to beneficiaries, including, without limitation, remote beneficiaries, than is required under the trust instrument or by law.

4. Unless the court determines that there is clear and convincing evidence that the trustee was acting in good faith, a trustee who fails to provide an account when required pursuant to NRS 165.135 and sections 185 to 198, inclusive, of this act is personally liable to each beneficiary who requested the account in writing for all costs reasonably incurred by each such beneficiary to enforce NRS 165.135 and sections 185 to 198, inclusive, of this act, including, without limitation, reasonable attorney's fees and court costs. The trustee may not expend trust funds therefor.

Sec. 194. A beneficiary may send a written demand for an account pursuant to NRS 165.135 and sections 185 to 198, inclusive, of this act to the trustee in accordance with the following procedure:

1. The demand on the trustee must be sent to the trustee or to the trustee's attorney of record and the demand must include, without limitation:

(a) The identity of the demanding beneficiary, including the beneficiary's mailing address or the address of the beneficiary's attorney;

(b) The accounting period for which an account is demanded; and

(c) The nature and extent of the account demanded and the legal basis for the demand.

2. *Within 14 days after the trustee has received a demand for an account from a beneficiary, the trustee shall notify the demanding beneficiary of the trustee's acceptance or rejection of the demand. The trustee shall:*

(a) Provide an account within 60 days after receipt of the demand, unless that time is modified by consent of the beneficiary or by order of the court if the trustee accepts the beneficiary's demand for an account; or

(b) Set forth the grounds for rejecting the beneficiary's demand for an account in the notice of rejection and inform the beneficiary that the beneficiary has 60 days in which to petition the court to review the rejection if the trustee rejects the beneficiary's demand for an account.

3. *The demand by the beneficiary and the notice of acceptance or rejection of the demand by the trustee must be delivered by first-class mail, personal delivery or commercial carrier. If delivery of the demand or of the notice is in dispute, proof of delivery may be established by a return receipt or other proof of delivery provided by the person making the delivery or by affidavit of the person who arranged for the delivery setting forth the delivery address, the method of delivery arranged for and the actions taken by that person to arrange for the delivery.*

4. *If the trustee fails to accept or reject a beneficiary's demand for an account as required by subsection 2, the beneficiary's demand shall be deemed rejected.*

Sec. 195. 1. *A beneficiary whose demand for an account in compliance with section 194 of this act is rejected or deemed rejected must file a petition seeking the court's review of the trustee's rejection within 60 days after the rejection date as described in subsection 2. A petition filed pursuant to this section may also seek additional relief pursuant to NRS 153.031.*

2. *If the trustee rejects the beneficiary's demand for an account, the rejection date is the date on which the trustee provides the beneficiary with a notice of rejection. If the trustee fails to accept or reject the beneficiary's demand, the rejection date is deemed to be 14 days after the beneficiary gave the trustee the demand.*

3. *If the court has not previously accepted jurisdiction over the trust, the beneficiary must petition the court to confirm the appointment of the trustee pursuant to NRS 164.010. Such a petition may be combined with the petition for the court's review of the trustee's rejection.*

4. *The clerk shall set the petition for hearing, and the petitioner shall give notice to all interested persons for the period and in the manner provided in NRS 155.010. The notice must state the filing of the petition, the object and the time and place of the hearing.*

5. *If one or more other beneficiaries with interests substantially similar to the petitioner request to join the petition at or before the hearing, the court shall consider the other beneficiaries to be additional petitioners*

without requiring those beneficiaries to file separate petitions or to give separate notices of the hearing.

6. At the hearing, as to each petitioner, the court may enter an order:

(a) Compelling the trustee to provide an account to the petitioner and specifying the nature and extent of the account to be provided;

(b) Declaring that the petitioner is not entitled to an account and setting forth the reason or reasons the petitioner is not so entitled; or

(c) Compelling the trustee to provide an account to the petitioner as described in paragraph (a) and authorizing an independent review of the account using the procedure set forth in section 196 of this act.

7. Except as otherwise provided in subsection 3 of NRS 153.031 and subsection 4 of section 193 of this act, each petitioner shall pay his or her own expenses, including, without limitation, attorney's fees, that arise in conjunction with filing a petition pursuant to this section.

Sec. 196. If, while considering a petition filed pursuant to section 195 of this act, the court finds that the beneficiary is entitled to an account pursuant to this section and that the trust instrument authorizes or directs the trustee not to provide the account with the disclosures required by this section, the court shall, upon the beneficiary's request, compel the trustee to confidentially provide an account in accordance with the following procedure:

1. If the beneficiary has not been previously provided with a copy of the trust instrument, the court shall direct the trustee to provide the court and each reviewer selected pursuant to subsection 2 with a copy of the trust instrument, or such portions as the court deems to be pertinent to the determination of the adequacy of the trustee's account and to the enforcement of the beneficiary's rights under the trust.

2. The court shall direct the account to be provided confidentially to the court and to one or more reviewers selected by the beneficiary. The court may direct that the account be filed with the court clerk under seal or delivered to the court for in camera review. The account provided must contain the information required by this section without regard to any trust provision restricting the information to be provided to the requesting beneficiary.

3. A reviewer must be either a certified public accountant or an attorney.

4. Subject to the provisions of paragraph (b) of subsection 5, the beneficiary requesting the account must pay for the services of each reviewer. The expense of preparing the account must be paid as an expense of the trust.

5. Each reviewer must agree that:

(a) The account provided must be reviewed confidentially and must not be provided to the beneficiary except as otherwise provided in paragraph (b) or in an order of the court; and

(b) The reviewer's duty is to review the account and to prepare a written report, which must be filed with the court clerk under seal or submitted to the court for in camera review, informing the court if there is anything that would indicate that the trust, as it affects the beneficiary's interest, has not been or may not have been properly administered or accounted for in accordance with applicable law, the trust instrument and generally accepted accounting principles applicable to trusts. At the same time a copy of the reviewer's report is provided to the court, a copy of each reviewer's report must be delivered to the trustee or to the trustee's attorney of record.

6. The trustee may submit to the court and to each reviewer an objection to the report of a reviewer within 10 days after the trustee received the reviewer's report. The trustee shall submit the objections to the court and to each reviewer in the same manner as the trustee provided the account. The court may consider each reviewer's report and the objections of the trustee with or without a hearing. If the court, after considering the report of any reviewer and any objection submitted by the trustee, finds that the trust, as it affects the beneficiary's interest, has not been or may not have been properly administered or accounted for in accordance with applicable law, the trust instrument and generally accepted accounting principles applicable to trusts, in addition to any other relief granted by the court pursuant to NRS 153.031 or section 195 of this act, the court shall enter an order granting the relief necessary to protect the beneficiary's interests or to allow the beneficiary to enforce his or her rights under the trust.

7. An order granting relief described in subsection 6 may include one or more of the following:

(a) A directive to the trustee to provide the beneficiary an account which complies with the provisions of subsection 3 or 4 of NRS 165.135, together with such additional information as the beneficiary may require to properly enforce his or her rights under the trust;

(b) A directive to the trustee to provide further annual accounts required under this section without further court order;

(c) A directive to the trustee to provide the court and each reviewer a more complete account or such additional information as the court deems necessary to determine if the trust is being properly administered in compliance with the trust instrument and applicable law;

(d) A directive to the trustee to take action to remedy or mitigate the effects of any improper administration of the trust;

(e) A declaration relieving each reviewer from any further obligation of confidentiality; and

(f) Any such additional relief as the court deems proper to ensure the trustee's compliance with the trust instrument and applicable law and to allow enforcement of the beneficiary's rights.

8. If the beneficiary is granted any relief by the court on the basis that the trust was not properly administered or accounted for, the provisions of

subsection 3 of NRS 153.031 and subsection 4 of section 193 of this act apply with regard to the reimbursement of costs incurred by the beneficiary.

Sec. 197. *1. Upon request by a beneficiary who is entitled to receive an account pursuant to the terms of NRS 165.135 and sections 185 to 198, inclusive, of this act, a trustee shall provide a copy of the trust instrument to that beneficiary except as expressly provided otherwise in the trust instrument.*

2. Notwithstanding the provisions of subsection 1 or any provision to the contrary in the trust instrument, the court may direct the trustee to provide a beneficiary who is entitled to receive an account pursuant to the terms of NRS 165.135 and sections 185 to 198, inclusive, of this act a copy of the trust instrument, or such portions as the court deems to be pertinent to the determination of the adequacy of the trustee's account and to the enforcement of the beneficiary's rights under the trust.

3. Except as otherwise provided in section 196 of this act or by order of the court for good cause shown, the trustee must not be compelled to provide a copy of the trust instrument to a person who is not a beneficiary of the trust or a person who is not entitled to an account of the trust pursuant to the provisions of NRS 165.135 and sections 185 to 198, inclusive, of this act.

Sec. 198. *Except as otherwise provided in a trust instrument, a person holding a power of appointment pursuant to a nontestamentary trust does not owe a fiduciary duty to any person and is not liable to any person with respect to the exercise or nonexercise of the power of appointment.*

Sec. 199. NRS 165.135 is hereby amended to read as follows:

165.135 *1.* ~~The trustee of a nontestamentary trust shall {,not less often than annually,} furnish to each beneficiary {who is currently entitled to receive income pursuant to the terms of the trust, to each residuary beneficiary who is then living, to each specific beneficiary then living who has not received complete distribution, and to any surety on the bond of the trustee of the trust} an account {showing:~~

- ~~— 1. The period which the account covers;~~
- ~~— 2. In a separate schedule:~~
 - ~~— (a) Additions to trust principal during the accounting period with the dates and sources of acquisition;~~
 - ~~— (b) Investments collected, sold or charged off during the accounting period;~~
 - ~~— (c) Investments made during the accounting period, with the date, source and cost of each;~~
 - ~~— (d) Deductions from principal during the accounting period, with the date and purpose of each; and~~
 - ~~— (e) The trust principal, invested or uninvested, on hand at the end of the accounting period, reflecting the approximate market value thereof;~~
- ~~— 3. In a separate schedule:~~

- ~~— (a) Trust income on hand at the beginning of the accounting period, and in what form held;~~
- ~~— (b) Trust income received during the accounting period, when and from what source;~~
- ~~— (c) Trust income paid out during the accounting period, when, to whom and for what purpose; and~~
- ~~— (d) Trust income on hand at the end of the accounting period and how invested;~~
- ~~— 4. A statement of any unpaid claims with the reason for failure to pay them; and~~
- ~~— 5. A brief summary of the account.] in accordance with the provisions of this section and sections 185 to 198, inclusive, of this act.~~

2. At a minimum, the trustee shall furnish an account to each beneficiary in accordance with the terms and conditions stated in the trust instrument. The cost of each account must be allocated to income and principal as provided in the trust instrument.

3. Except as otherwise provided in this section, an account provided by a trustee to a beneficiary who is entitled to an account pursuant to this section and sections 185 to 198, inclusive, of this act must include:

- (a) A statement indicating the accounting period;*
- (b) With respect to the trust principal:*

(1) The trust principal held at the beginning of the accounting period, and in what form held, and the approximate market value thereof at the beginning of the accounting period;

(2) Additions to the trust principal during the accounting period, with the dates and sources of acquisition;

(3) Investments collected, sold or charged off during the accounting period;

(4) Investments made during the accounting period, with the date, source and cost of each investment;

(5) Any deductions from the trust principal during the accounting period, with the date and purpose of each deduction; and

(6) The trust principal, invested or uninvested, on hand at the end of the accounting period, reflecting the approximate market value thereof at that time;

- (c) With respect to trust income, the trust income:*

(1) On hand at the beginning of the accounting period, and in what form held;

(2) Received during the accounting period, when and from what source;

(3) Paid out during the accounting period, when, to whom and for what purpose; and

(4) On hand at the end of the accounting period and how invested;

(d) A statement of unpaid claims with the reason for failure to pay them; and

(e) A brief summary of the account.

4. In lieu of the information required to be provided by a trustee to a beneficiary pursuant to subsection 3, a trustee may provide to such a beneficiary a statement indicating the accounting period and a financial report of the trust which is prepared by a certified public accountant and which summarizes the information required by paragraphs (b) to (e), inclusive, of subsection 3. Upon request, the trustee shall make all the information used in the preparation of the financial report available to each beneficiary who was provided a copy of the financial report.

5. For the purposes of NRS 165.135 and sections 185 to 198, inclusive, of this act, the information provided by a trustee to a beneficiary pursuant to subsection 4 shall be deemed to be an account.

Sec. 200. NRS 165.160 is hereby amended to read as follows:

165.160 1. 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.~~ as otherwise provided by a specific statute, federal law or common law, the terms of a trust instrument may expand, restrict, eliminate or otherwise vary the rights and interests of beneficiaries in any manner that is not illegal or against public policy, including, without limitation, specifying:

(a) The right to be informed of the beneficiary's interest for a period of time;

(b) The grounds for removing a fiduciary;

(c) The circumstances, if any, in which the fiduciary must diversify investments; and

(d) A fiduciary's powers, duties, standard of care, rights of indemnification and liability to persons whose interests arise from the trust instrument.

2. Nothing in this section shall be construed to:

(a) Authorize the exculpation or indemnification of a fiduciary for the fiduciary's own willful misconduct or gross negligence; or

(b) Preclude a court of competent jurisdiction from removing a fiduciary because of the fiduciary's willful misconduct or gross negligence.

3. The rule that statutes in derogation of the common law are to be strictly construed has no application to this section. This section must be liberally construed to give maximum effect to the principle of freedom of disposition and to the enforceability of trust instruments.

Sec. 201. Chapter 166 of NRS is hereby amended by adding thereto the provisions set forth as sections 202 and 203 of this act.

Sec. 202. *1. A trust administered under the laws of another state, or under the laws of a foreign jurisdiction, is a spendthrift trust pursuant to this chapter if:*

(a) The trustee of the trust complies with any requirements set forth in the trust instrument and any requirements of the laws of the state or jurisdiction from which the trust is being transferred;

(b) The trustee or other person having the power to transfer the domicile of the trust declares such intent to transfer in writing;

(c) The writing declaring the intent to transfer the domicile of the trust is delivered to the trustee, if it is executed by a person other than the trustee; and

(d) All requirements of this chapter are satisfied simultaneously with, or immediately after, the change of domicile.

2. For purposes of NRS 166.170, if the domicile of an existing trust is transferred from another state or from a foreign jurisdiction to this State and the laws of the other state or jurisdiction are similar to the provisions of this chapter, the transfer shall be deemed to have occurred:

(a) On the date on which the settlor of the trust transferred assets into the trust if the applicable law of the trust has at all times been substantially similar to the provisions of this chapter; or

(b) On the earliest date on which the applicable laws of the trust were substantially similar to the provisions of this chapter.

Sec. 203. *The settlor of a spendthrift trust has only those powers and rights that are conferred to the settlor by the trust instrument. An agreement or understanding, express or implied, between the settlor and the trustee that attempts to grant or permit the retention of greater rights or authority than is stated in the trust instrument is void.*

Sec. 204. NRS 166.015 is hereby amended to read as follows:

166.015 1. Unless the writing declares to the contrary, expressly, this chapter governs the construction, operation and enforcement, in this State, of all spendthrift trusts created in or outside this State if:

(a) All or part of the land, rents, issues or profits affected are in this State;

(b) All or part of the personal property, interest of money, dividends upon stock and other produce thereof, affected, are in this State;

(c) The declared domicile of the creator of a spendthrift trust affecting personal property is in this State; or

(d) At least one trustee qualified under subsection 2 has powers that include maintaining records and preparing income tax returns for the trust, and all or part of the administration of the trust is performed in this State.

2. If the settlor is a beneficiary of the trust, at least one trustee of a spendthrift trust must be:

(a) A natural person who resides and has his or her domicile in this State;

(b) A trust company that:

(1) Is organized under federal law or under the laws of this State or another state; and

(2) Maintains an office in this State for the transaction of business; or

(c) A bank that:

(1) Is organized under federal law or under the laws of this State or another state;

(2) Maintains an office in this State for the transaction of business; and

(3) Possesses and exercises trust powers.

~~{3. Except as otherwise provided in subsection 1, this chapter also governs the construction, operation and enforcement, outside of this State, of all spendthrift trusts created in this State, except so far as prohibited by valid laws of other states. Unless the writing declares to the contrary, expressly, it shall be deemed to be made in the light of this chapter and all other acts relating to spendthrift trusts enacted in this State.}~~

Sec. 205. 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 ~~is~~:

~~—(a) Is "irrevocable"}~~ *meets the requirements of paragraph (b) of subsection 1 even if {the} under the terms of the writing:*

(a) The settlor may prevent a distribution from the trust {or} ;

(b) The settlor holds a special lifetime or testamentary {special} power of appointment for similar power.

~~—(b) Does not "require" a distribution to the settlor if the trust instrument provides that the settlor may receive it only in the discretion of another person.}~~ *that cannot be exercised in favor of the settlor, the settlor's estate, a creditor of the settlor or a creditor of the settlor's estate;*

(c) The settlor is a beneficiary of a trust that qualifies as a charitable remainder trust pursuant to 26 U.S.C. § 664, or any successor provision, even if the settlor has the right to release the settlor's retained interest in such a trust, in whole or in part, in favor of one or more of the remainder beneficiaries of the trust;

(d) The settlor is authorized or entitled to receive a percentage of the value of the trust each year as specified in the trust instrument of the initial value of the trust assets or their value determined from time to time pursuant to the trust instrument, but not exceeding:

(1) The amount that may be defined as income pursuant to 26 U.S.C. § 643(b); or

(2) With respect to benefits from any qualified retirement plan or any eligible deferred compensation plan, the minimum required distribution as defined in 26 U.S.C. § 4974(b);

(e) The settlor is authorized or entitled to receive income or principal from a grantor retained annuity trust paying out a qualified annuity interest within the meaning of 26 C.F.R. § 25.2702-3(b) or a grantor retained unitrust paying out a qualified unitrust interest within the meaning of 26 C.F.R. § 25.2702-3(c);

(f) The settlor is authorized or entitled to use real property held under a qualified personal residence trust as described in 26 C.F.R. § 25.2702-5(c), and any successor provision, or the settlor may possess or actually possesses a qualified annuity interest within the meaning of that term as described in 26 C.F.R. § 25.2702-3(b), and any successor provision;

(g) The settlor is authorized to receive income or principal from the trust, but only subject to the discretion of another person; or

(h) The settlor is authorized to use real or personal property owned by the trust.

3. Except for the power of the settlor to make distributions to himself or herself 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.

4. As used in this section, "remainder beneficiary" has the meaning ascribed to it in NRS 164.785.

Sec. 206. 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 the person 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 the person discovers or reasonably should have discovered the transfer,
 ↳ whichever is later.

(b) If the person 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 **by clear and convincing evidence** that the transfer of property was a fraudulent transfer pursuant to chapter 112 of NRS or ~~was otherwise wrongful as to the~~ **that the transfer violates a legal obligation owed to the creditor under a contract or a valid court order that is legally enforceable by that creditor**. In the absence of such **clear and convincing** 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. *A person other than a beneficiary or settlor may not bring a claim against a trustee of a spendthrift trust unless the person can show by clear and convincing evidence that the trustee acted in violation of the laws of this State, knowingly and in bad faith, and the trustee's actions directly caused the damages suffered by the person. As used in this subsection, "trustee" includes a cotrustee, if any, and a predecessor trustee.*

7. *If more than one transfer is made to a spendthrift trust:*

(a) The subsequent transfer to the spendthrift trust must be disregarded for the purpose of determining whether a person may bring an action pursuant to subsection 1 with respect to a prior transfer to the spendthrift trust; and

(b) Any distribution to a beneficiary from the spendthrift trust shall be deemed to have been made from the most recent transfer made to the spendthrift trust.

8. *Notwithstanding any other provision of law, no action of any kind, including, without limitation, an action to enforce a judgment entered by a court or other body having adjudicative authority, may be brought at law or in equity against the trustee of a spendthrift trust if, as of the date the action is brought, an action by a creditor with respect to a transfer to the spendthrift trust would be barred pursuant to this section.*

9. *For purposes of this section, if a trustee exercises his or her discretion or authority to distribute trust income or principal to or for a beneficiary of the spendthrift trust, by appointing the property of the original spendthrift trust in favor of a second spendthrift trust for the benefit of one or more of the beneficiaries as authorized by NRS 163.556, the time of the transfer for purposes of this section shall be deemed to have occurred on the date the settlor of the original spendthrift trust transferred assets into the original spendthrift trust, regardless of the fact that the*

property of the original spendthrift trust may have been transferred to a second spendthrift trust.

10. As used in this section:

(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. 207. NRS 253.0415 is hereby amended to read as follows:

253.0415 1. The public administrator shall:

(a) Investigate:

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

(2) Whether there is any qualified person who is willing and able to serve as administrator of the estate of an intestate decedent to determine whether he or she is eligible to serve in that capacity.

(3) Whether there are beneficiaries named on any asset of the estate or whether any deed upon death executed pursuant to NRS 111.109 is on file with the county recorder.

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

(c) Upon court order, act as administrator of the estate of an intestate decedent, regardless of the amount of assets in the estate of the decedent if no other qualified person is willing and able to serve.

2. The public administrator shall not administer any estate:

(a) Held in joint tenancy unless all joint tenants are deceased; *or*

(b) ~~{For which a beneficiary form has been registered pursuant to NRS 111.480 to 111.650, inclusive; or~~

~~—(e)} For which a deed upon death has been executed pursuant to NRS 111.109.~~

3. As used in this section, "intestate decedent" means a person who has died without leaving a valid will, trust or other estate plan.

Sec. 208. NRS 678.630 is hereby amended to read as follows:

678.630 1. Any account payable to a trustee for another person may be paid to the trustee on demand.

2. ~~{Unless a credit union has received written notice of the terms of any trust other than the form of the account, payment may be made to the:~~

~~—(a) Personal representative or heirs of a deceased trustee if proof of death is presented to the credit union showing that the decedent was the survivor of all other persons named on the account either as trustee or beneficiary; or~~

~~—(b) Beneficiary upon presentation to the credit union of proof of death showing that such beneficiary or beneficiaries survived all persons named as trustees.~~

~~—3.} The protection provided a credit union in {subsections 1 and 2}~~
subsection 1 has no bearing on the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of funds in, or withdrawn from, multiple-party accounts.

Sec. 209. NRS 111.480, 111.490, 111.500, 111.510, 111.520, 111.530, 111.540, 111.550, 111.560, 111.570, 111.580, 111.590, 111.600, 111.610, 111.620, 111.630, 111.640, 111.650, 133.105, 663.025, 673.370, 677.614, 678.580, 678.590, 678.600, 678.610, 678.620 and 678.640 are hereby repealed.

Sec. 210. The amendatory provisions of:

1. Sections 73 and 177 of this act apply to existing wills, whenever created.

2. Sections 185 to 199, inclusive, of this act apply to nontestamentary trusts, whenever created, but shall not be construed to require a trustee to modify or update an account that:

(a) Has been approved by the court or by the trust's beneficiaries; or

(b) Is deemed approved by the trust's beneficiaries pursuant to the provisions of the trust instrument or pursuant to paragraph (h) of subsection 1 of section 192 of this act.

LEADLINES OF REPEALED SECTIONS

111.480 Short title; uniformity of application and construction.

111.490 Definitions.

111.500 "Beneficiary" defined.

111.510 "Beneficiary form" defined.

111.520 "Register" defined.

111.530 "Registering entity" defined.

111.540 "Security" defined.

111.550 Applicability.

111.560 Persons eligible to obtain registration; manner in which multiple owners of registered securities hold title.

111.570 Validity of registration.

111.580 Designation of beneficiary required for registration.

111.590 Words or abbreviations indicating registration.

111.600 Effect of designation of beneficiary on ownership of registered securities; cancellation or modification of registration.

111.610 Disposition of registered securities upon death of owner.

111.620 Transfer on death of registered security is contractual and not testamentary; rights of creditors.

111.630 Offer or acceptance of requests for registration by registering entity.

111.640 Right of registering entity to establish terms and conditions for receiving and effectuating registrations; substitution and identification of beneficiaries.

111.650 Liability of registering entity.

133.105 Transfer of security issued in registered form or beneficiary form effective without compliance with formal requirements of chapter.

663.025 Deposits in trust.

673.370 Payment to beneficiary on death of trustee; payment as valid discharge of association.

677.614 Payment of withdrawal value and interest to beneficiary upon death of fiduciary.

678.580 Presumptions concerning ownership of accounts.

678.590 Multiple-party accounts: Proportional ownership; tenancy in common.

678.600 Multiple-party accounts: Survivorship.

678.610 Trust accounts.

678.620 Payment as valid discharge of credit union.

678.640 Payment of multiple-party accounts.

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. 231 to Senate Bill No. 221 makes two primary changes to the bill. First, it revises Section 46 as it pertains to certain benefits paid for Medicaid through the Division of Health Care Financing and Policy to maintain the federal three-year statute of limitations for recovery, which is not subject to the one-year limitation otherwise provided in the bill. Second, it amends Section 182, and adds Section 180.5, so that the revisions contained in the bill regarding compensation of a trustee will apply only to new trusts and not existing trusts, except under certain circumstances.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 227.

Bill read second time.

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

Amendment No. 196.

"SUMMARY—Revises provisions governing the financial administration of the Real Estate Division of the Department of Business and Industry. (BDR 54-982)"

"AN ACT relating to state financial administration; creating the Account for Real Estate Administration in the State General Fund; requiring money that is collected from the imposition of certain fees and charges to be deposited into the Account; requiring money in the Account to be used to defray certain costs and expenses of the Real Estate Division of the

Department of Business and Industry; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain fees, penalties and charges that are collected by the Real Estate Commission, the Commission of Appraisers of Real Estate, the Real Estate Administrator and the Real Estate Division of the Department of Business and Industry to be deposited into the State General Fund. (NRS 119.118, 645.140, 645C.240, 645D.140) Existing law also provides that certain money received by the Commission for Common-Interest Communities and Condominium Hotels, a hearing panel or the Division pursuant to certain laws concerning the regulation of community managers and certain personnel must be deposited in the Account for Common-Interest Communities and Condominium Hotels. (NRS 116A.220) Section 1 of this bill creates the Account for Real Estate Administration in the State General Fund and requires the Administrator to administer the Account. Sections 1-3, 7 and 9 of this bill require the Real Estate Commission, the Commission of Appraisers of Real Estate, the Administrator, the Commission for Common-Interest Communities and Condominium Hotels, a hearing panel and the Division to deposit money that is collected from the imposition of certain fees and charges into the Account and sections 1-3 require money that is collected from the imposition of a fine or penalty be deposited into the State General Fund. Sections 1-3, 7 and 9 also require the money in the Account to be used to defray certain costs and expenses of the Division and require the interest and income earned on the money and any balance at the end of the fiscal year to be credited to the Account. until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out its duties. After the amount the Division is authorized to expend in a fiscal year has been deposited, all money received by the Division must be deposited into the State General Fund.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 645.140 is hereby amended to read as follows:

645.140 1. *There is hereby created the Account for Real Estate Administration in the State General Fund. The Administrator shall administer the Account.*

2. ~~*{The interest and income earned on the money in the Account and any amount remaining in the Account at the end of a fiscal year, after deducting any applicable charges, must be credited to the Account.*~~

~~—3.7~~ *All claims against the Account must be paid as other claims against the State are paid.*

~~{4.7}~~ *3. The money deposited into the Account or credited to the Account pursuant to this section must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.*

~~{5.}~~ **4.** Except as otherwise provided in this section ~~{.}~~ *and NRS 645.314, 645.6058 and 645.842*, all ~~{fees, penalties and charges}~~ **money** received by the Division pursuant to ~~{NRS 645.410, 645.660 and 645.830}~~ **this chapter** must be deposited with the State Treasurer for credit to the ~~{State General Fund.}~~ **Account and accounted for separately ~~{.}~~ until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out the provisions of this chapter. After the amount the Division is authorized to expend in a fiscal year has been deposited into the Account, all money received by the Division must be deposited with the State Treasurer for credit to the State General Fund.**

~~{6.}~~ **5.** *The Commission and the Division shall deposit any money collected from the imposition of any fine or penalty pursuant to this chapter with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission or Division may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.*

~~{7.}~~ **6.** The fees received by the Division ~~{.}~~
 — (a) From the sale of publications, must be retained by the Division to pay the costs of printing and distributing publications.
 — (b) ~~For~~ **for** examinations ~~{.}~~ must be retained by the Division to pay the costs of the administration of examinations.
~~{.}~~ Any surplus of the fees retained by the Division **for the administration of examinations** must be deposited with the State Treasurer for credit to the ~~{State General Fund.}~~

— **2.** Money for the support of the Division must be provided by direct legislative appropriation, and be paid out on claims as other claims against the State are paid.

— **3.** **Account.**

~~{8.}~~ **7.** Each member of the Commission is entitled to receive:
 (a) A salary of not more than \$150 per day, as fixed by the Commission, while engaged in the business of the Commission; and
 (b) A per diem allowance and travel expenses at a rate fixed by the Commission, while engaged in the business of the Commission. The rate must not exceed the rate provided for state officers and employees generally.

~~{4.}~~ ~~{9.}~~ **8.** While engaged in the business of the Commission, each employee of the Commission is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Commission. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 2. NRS 645C.240 is hereby amended to read as follows:

645C.240 1. Except as otherwise provided in ~~{subsections 2 and 3.}~~ **this section**, all ~~{fees, penalties and other charges}~~ **money** received by the Division pursuant to this chapter must be deposited with the State Treasurer for credit to the ~~{State General Fund.}~~

~~2.} Account for Real Estate Administration created by NRS 645.140 and accounted for separately ~~for~~ until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out the provisions of this chapter. After the amount the Division is authorized to expend in a fiscal year has been deposited into the Account, all money received by the Division must be deposited with the State Treasurer for credit to the State General Fund.~~

2. The money deposited into the Account or credited to the Account pursuant to this section must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.

3. The Commission and the Division shall deposit any money collected from the imposition of any fine or penalty pursuant to this chapter with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission or Division may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

4. Fees received by the Division ~~for~~:

—(a) From the sale of publications, must be retained by the Division to pay the costs of printing and distributing publications.

—(b) ~~For~~ for examinations ~~for~~ must be retained by the Division to pay the costs of the administration of examinations.

~~for~~ Any surplus of the fees retained by the Division *for the administration of examinations* must be deposited with the State Treasurer for credit to the ~~State General Fund.~~

—3.} *Account.*

5. The portion of the fees collected by the Division pursuant to NRS 645C.450 for the issuance or renewal of a certificate or license as a residential appraiser or the issuance or renewal of a certificate as a general appraiser which is used for payment of the registry fee to the *Federal* Financial Institutions Examination Council pursuant to 12 U.S.C. § 3338, must be retained by the Division for payment to the *Federal* Financial Institutions Examination Council.

~~4. Money for the support of the Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.}~~

Sec. 3. NRS 645D.140 is hereby amended to read as follows:

645D.140 1. ~~{All fees, penalties and other charges}~~ *Except as otherwise provided in this section, all money* received by the Division pursuant to this chapter must be deposited with the State Treasurer for credit to the ~~{State General Fund.~~

—2. Money for the support of the Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.} *Account for Real Estate Administration created by NRS 645.140 and accounted for*

separately ~~for~~ until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out the provisions of this chapter. After the amount the Division is authorized to expend in a fiscal year has been deposited into the Account, all money received by the Division must be deposited with the State Treasurer for credit to the State General Fund.

2. The money deposited into the Account or credited to the Account pursuant to this section must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.

3. The Administrator and Division shall deposit any money collected from the imposition of any fine or penalty pursuant to this chapter with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Administrator or Division may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

Sec. 4. NRS 116.620 is hereby amended to read as follows:

116.620 1. Except as otherwise provided in this section ~~for~~ and within the limits of [legislative appropriations,] money available for this purpose, the Division may employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.

3. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the Attorney General by the Commission or the Division.

Sec. 5. ~~NRS 116.630 is hereby amended to read as follows:~~

~~—116.630— 1. There is hereby created the Account for Common-Interest Communities and Condominium Hotels in the State General Fund. The Account must be administered by the Administrator.~~

~~—2. Except as otherwise provided in subsection 3, all money received by the Commission, a hearing panel or the Division pursuant to this chapter or chapter 116A or 116B of NRS, including, without limitation, the fees collected pursuant to NRS 116.31155, 116A.220 and 116B.620, must be deposited into the Account.~~

~~—3. If the Commission imposes a fine or penalty, the Commission shall deposit the money collected from the imposition of the fine or penalty with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.~~

~~— 4. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.~~

~~— 5. The money in the Account must be used [solely] to defray:~~

~~— (a) The costs and expenses of the Division, the Commission and the Office of the Ombudsman; and~~

~~— (b) If authorized by the Commission or any regulations adopted by the Commission, the costs and expenses of subsidizing proceedings for mediation and arbitration conducted pursuant to NRS 38.300 to 38.360, inclusive; and~~

~~— (c) If authorized by the Legislature or by the Interim Finance Committee if the Legislature is not in session, the costs and expenses of administering the Division.] (Deleted by amendment.)~~

Sec. 6. NRS 116A.210 is hereby amended to read as follows:

116A.210 1. Except as otherwise provided in this section ~~f,7~~ and within the limits of [legislative appropriations,] **money available for this purpose,** the Division may employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.

3. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the Attorney General by the Commission or the Division.

Sec. 7. NRS 116A.220 is hereby amended to read as follows:

116A.220 1. Except as otherwise provided in subsection ~~f2,~~ 3, all money received by the Commission, a hearing panel or the Division pursuant to this chapter must be deposited ~~[into the Account for Common-Interest Communities and Condominium Hotels created pursuant to NRS 116.630.]~~ **with the State Treasurer for credit to the Account for Real Estate Administration created by NRS 645.140 and accounted for separately until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out the provisions of this chapter. After the amount the Division is authorized to expend in a fiscal year has been deposited into the Account, all money received by the Division must be deposited with the State Treasurer for credit to the State General Fund.**

2. The money deposited into the Account or credited to the Account pursuant to this section must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.

3. If the Commission imposes a fine or penalty, the Commission shall deposit the money collected from the imposition of the fine or penalty with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission may present a claim to the State Board of

Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

~~{3. Money for the support of the Commission and Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.}~~

Sec. 8. NRS 116B.810 is hereby amended to read as follows:

116B.810 1. Except as otherwise provided in this section ~~and within the limits of legislative appropriations,~~ **money available for this purpose,** the Division may employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.

3. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the Attorney General by the Commission or the Division.

Sec. 9. NRS 119.118 is hereby amended to read as follows:

119.118 ~~{A}~~

1. Except as otherwise provided in NRS 119.150, all fees and charges received by the Division ~~shall~~ must be deposited in the ~~{General Fund in the State Treasury. Funds for the support of the Division shall be provided by direct legislative appropriation, and shall be paid out on claims as other claims against the State are paid.}~~ Account for Real Estate Administration created by NRS 645.140 and accounted for separately ~~and until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out the provisions of this chapter. After the amount the Division is authorized to expend in a fiscal year has been deposited into the Account, all money received by the Division must be deposited with the State Treasurer for credit to the State General Fund.~~

2. The money deposited into the Account must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.

Sec. 10. NRS 645C.610 is hereby repealed.

Sec. 11. This act becomes effective upon passage and approval for the purpose of adopting any regulations that are necessary to carry out the provisions of this act and on October 1, 2011, for all other purposes.

TEXT OF REPEALED SECTION

645C.610 Disposition of money collected. If the Commission imposes a fine or a penalty or the Division collects an amount for the registration of an appraisal management company, the Commission or Division, as applicable, shall deposit the amount collected with the State Treasurer for credit to the State General Fund. The Commission may present a claim to the

State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay an attorney's fee or the cost of an investigation, or both.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 196 to Senate Bill No. 227 provides that all money received by the Real Estate Division must be deposited with the State Treasurer for credit to the Account for Real Estate Administration (Account) in the State General Fund, until the amount in a fiscal year reaches the amount authorized for expenditure by the Division in that year. Any excess must be deposited for credit to the State General Fund.

Additionally, the amendment provides that money collected in connection with the administration of the *Nevada Revised Statutes* chapters addressing Common-Interest Communities and Condominium Hotels shall also be deposited into the Account until the amount the Division is authorized to spend in a fiscal year for Common-Interest Community administration purposes has been deposited. Any excess must again be deposited for credit to the State General Fund.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 232.

Bill read second time.

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

Amendment No. 345.

"SUMMARY—Removes certain tracts of local governmental and private land from the state definition of the Spring Mountains National Recreation Area. (BDR S-181)"

"AN ACT relating to land use planning; removing certain tracts of local governmental and private land from the state definition of the Spring Mountains National Recreation Area; **providing that such tracts may only be used for facilities and operations related to outdoor recreational activities; prohibiting a local government from authorizing certain types of development on such tracts;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing state law defines the boundaries of the Spring Mountains National Recreation Area. (Section 7 of chapter 198, Statutes of Nevada 2009, pp. 735-36) Within the boundaries of the Spring Mountains National Recreation Area, local governments are restricted from exercising certain powers of land use and zoning. (NRS 244.154, 268.105, 269.617, 278.0239)

This bill removes four tracts of nonfederal land from the defined boundaries of the Spring Mountains National Recreation Area. ~~It thus allowing those tracts to be zoned and developed in accordance with state and local law.~~ **This bill also provides that such tracts may only be used for facilities and operations related to outdoor recreational activities.**

Finally, this bill prohibits a local government from authorizing any of the following on such tracts: (1) certain types of transient lodging; (2) gas stations; (3) grocery stores; (4) restaurant franchises; and (5) residential development of more than 1 home per 2 acres.

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

Section 1. Section 7 of chapter 198, Statutes of Nevada 2009, at page 735, is hereby amended to read as follows:

Sec. 7. ~~{As}~~

1. *Except as otherwise provided in subsection 2, as* used in this act, "Spring Mountains National Recreation Area" means the following tracts of land:

~~{1-}~~ **(a)** All of sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35 and 36, Township 17 South, Range 53 East, MDM;

~~{2-}~~ **(b)** The west half of section 3, all of sections 4, 5, 6, 7, 8 and 9, the west half of section 10 and all of sections 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, Township 17 South, Range 54 East, MDM;

~~{3-}~~ **(c)** All of sections 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, Township 17 South, Range 55 East, MDM;

~~{4-}~~ **(d)** All of section 31, Township 17 South, Range 56 East, MDM;

~~{5-}~~ **(e)** All of section 1, Township 18 South, Range 53 East, MDM;

~~{6-}~~ **(f)** All of sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35 and 36, Township 18 South, Range 54 East, MDM;

~~{7-}~~ **(g)** All of Township 18 South, Range 55 East, MDM;

~~{8-}~~ **(h)** All of Township 18 South, Range 56 East, MDM;

~~{9-}~~ **(i)** All of sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35, Township 18 South, Range 57 East, MDM;

~~{10-}~~ **(j)** All of sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14 and 15, Township 19 South, Range 54 East, MDM;

~~{11-}~~ **(k)** All of sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18, the east half of section 20 and all of sections 21, 22, 23, 24, 25, 26, 27, 34, 35 and 36, Township 19 South, Range 55 East, MDM;

~~{12-}~~ **(l)** All of Township 19 South, Range 56 East, MDM;

~~{13-}~~ **(m)** All of Township 19 South, Range 57 East, MDM;

~~{14-}~~ **(n)** All of sections 6, 7, 18, 19, 30 and 31, Township 19 South, Range 58 East, MDM;

~~{15-}~~ **(o)** All of sections 1, 2, 3, 10, 11, 12, 13, 14, 24 and 25, Township 20 South, Range 55 East, MDM;

{16-} (p) All of sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35 and 36, Township 20 South, Range 56 East, MDM;

{17-} (q) All of sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35, Township 20 South, Range 57 East, MDM;

{18-} (r) All of sections 6 and 7, Township 20 South, Range 58 East, MDM;

{19-} (s) All of sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35 and 36, Township 21 South, Range 56 East, MDM;

{20-} (t) All of sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35, Township 21 South, Range 57 East, MDM;

{21-} (u) All of sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 35 and 36, Township 22 South, Range 57 East, MDM;

{22-} (v) All of section 19, all of section 20 except the northeast quarter and all of sections 29 and 30, Township 22 South, Range 58 East, MDM;

{23-} (w) All of sections 1, 2, 11, 12, 13, 14, 24 and 25, Township 23 South, Range 57 East, MDM; and

{24-} (x) All of sections 7, 8, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29 and 30, Township 23 South, Range 58 East, MDM.

2. *"Spring Mountains National Recreation Area" does not include the following tracts of land:*

(a) Clark County Parcel: *Beginning at a point 500 feet south of the north quarter corner of section 10, Township 19 South, Range 56 East, MDM, and running thence west 871.20 feet; thence south 250 feet; thence east 871.20 feet; thence north 250 feet to the point of beginning.*

(b) Parcel I: *That portion of the south half (S 1/2) of the southeast quarter (SE 1/4) of the northeast quarter (NE 1/4) and that portion of the northeast quarter (NE 1/4) of the southeast quarter (SE 1/4) of section 3, Township 19 South, Range 56 East, MDM, according to the original survey of Township 19 South, Range 56 East, MDM, approved October 14, 1881 (said approved parcels now being a portion of Government Tract 40 according to independent resurvey of Township 19 South, Range 56 East, approved January 25, 1939), lying northerly of the northwest line of State Highway Route No. 52, the whole of which is more particularly described as follows: Beginning at the point of intersection of the aforementioned northeast line of State Highway Route No. 52 with the west line of said Tract 40; thence north 39°39' east a distance of 697.67 feet to tan angle point of said*

northwest line; thence north $40^{\circ}50'24''$ east a distance of 90.00 feet to a point; thence on a straight line to the northwest corner of the aforementioned south half (S 1/2) of the southeast quarter (SE 1/4) of the northeast quarter (NE 1/4) of said section 3, said point also being a point on the west line of said Tract 40; thence southerly along the last mentioned west line to the point of beginning.

(c) Parcel II: All that portion of the south half (S 1/2) of the southeast quarter (SE 1/4) of the northeast quarter (NE 1/4), together with all of that portion of the northeast quarter (NE 1/4) of the southeast quarter (SE 1/4) of section 3, Township 19 South, Range 56 East, MDM, according to the original survey of Township 19 South, Range 56 East, MDM, approved October 14, 1881 (said parcel now being a portion of Government Tract 40 according to independent resurvey of Township 19 South, Range 56 East, approved January 25, 1939), lying southerly of the southwest line of State Highway Route No. 52.

(1) Excepting therefrom all of said land lying within the boundaries of Camp Lady of the Snows, as shown by map thereof on file in Book 5 of Plats, Page 45, in the Office of the County Recorder of Clark County, Nevada.

(2) Further excepting therefrom that portion of Government Tract 40 according to independent resurvey of Township 19 South, Range 56 East, MDM, approved January 25, 1939, described as follows: Commencing at that certain corner common to sections 2, 3, 10 and 11, Township 19 South, Range 56 East, MDM; thence north $72^{\circ}23'27''$ east, 482.61 feet to corner no. 4 of said Tract, the true point of beginning; thence north along the boundary line of said Tract 40, 659 feet to a point on the southeasterly right-of-way line of State Highway Route No. 52; thence north $39^{\circ}39'$ east along said right-of-way line 568 feet; thence south $50^{\circ}21'$ east 200 feet; thence north $39^{\circ}39'$ east 100 feet; thence south $32^{\circ}40'$ east 308 feet to a point on the boundary line of Block 1 of Camp Lady of the Snows, as shown in Book 5 of Plats, Page 45, Clark County, Nevada Records; thence following said boundary line the following courses and distances: south $57^{\circ}35'$ west 90 feet; south $28^{\circ}43'$ west 261 feet; south $29^{\circ}40'$ west 276 feet; south $1^{\circ}45'$ west 155 feet; south $10^{\circ}24'$ east 131 feet; thence leaving said boundary line, west 443.5 feet to the true point of beginning.

(3) Further excepting therefrom that portion of Government Tract 40 according to independent resurvey of Township 19 South, Range 56 East, MDM, approved January 25, 1939, more particularly described as follows: Commencing at G.L.O. brass cap common to sections 2, 3, 10 and 11, Township 19 South, Range 56 East, MDM; thence north $72^{\circ}23'27''$ east a distance of 482.61 feet

to the brass cap for corner no. 4 of Tract 40; thence due north 659 feet to the intersection of the highway right-of-way; thence along highway right-of-way which bears north 39°39' east a distance of 538 feet to the center of entering road to Camp Lady of the Snows Recreation Ground; thence continuing on this bearing a distance of 30 feet to the true point of beginning; thence south 18°35' a distance of 200 feet; thence north 39°39' east a distance of 100 feet; thence north 18°35' west a distance of 200 feet to highway right-of-way on east side of highway; thence south 39°39' west along highway right-of-way to the true point of beginning.

(d) Parcel III: That portion of Tract 40 according to independent resurvey of a portion of section 2, Township 19 South, Range 56 East, MDM, approved January 25, 1939, Clark County, Nevada, described as follows: Commencing at the southwest corner of section 2 of said Township and Range; thence north 72°23'27" east a distance of 482.61 feet to cap of said Tract 40; thence north along the west line of said Tract 40 a distance of 659 feet to a point on the easterly right-of-way line of State Highway 52; thence along said easterly right-of-way line north 39°39' east a distance of 60 feet to the true point of beginning; thence right angles south 50°21' east a distance of 162 feet to a point; thence south 64°30'31" east 385.72 feet to a point on the westerly boundary line of Camp Lady of the Snows subdivision as shown by map thereof on file in Book 5 of Plats, Page 45, in the Office of the County Recorder of Clark County, Nevada; thence north 29°40' east 101.02 feet to a point; thence continuing along said Camp Lady of the Snows westerly line north 28°43' east a distance of 261.0 feet to a point; thence north 57°35' east along said westerly line of said Camp Lady of the Snows to a point which is the most northerly corner of Lot 11, Block 1, of said Camp Lady of the Snows subdivision; thence north 36°31'57" west a distance of 308+ feet; thence south 39°39' west a distance of 100 feet; thence north 50°21' west 35+ feet; thence south 39°39' west a distance of 100 feet; thence north 18°35' west 200 feet to a point on the easterly right-of-way line of said Highway 52; thence south 39°39' west a distance of 500 feet to the true point of beginning.

(1) Subject to an easement for a well site 25' x 25' square, the north and south lines of which are parallel with each other and run south 50°21' east, and the center which are parallel with each other and run south 50°21' east and the center of which square is an existing well located a point north 34°50' east 984.30 feet from the southwest corner of said section 2.

(2) *Subject further to an easement for a public roadway and other purposes, 15 feet wide along the southerly boundary of the above described tract, commencing at said true point of beginning and running south 50°21' east a distance of 130+ feet to a point on the southerly boundary of said tract which is south 39°39' west from said existing well; thence as an easement 30 feet wide, the center line of which runs north 39°39' east from said last described point to said well site.*

(3) *Subject further to an easement for an existing water line 4 feet wide running southeasterly from said well site to a point on the southerly boundary line of said tract.*

(4) *Subject further to an easement in favor of the defendant, his or her heirs and assigns, within the last described roadway easement, for a water line 4 feet wide along the center line of the roadway easements hereinabove described, plus a 4 feet wide easement from said well to said southerly boundary line, and plus a 4 feet wide easement running from said true point of beginning along the westerly boundary line of the above described tract and along the easterly right-of-way of said Highway 52, a distance of 508 feet.*

Sec. 2. 1. Notwithstanding any provision of law to the contrary, a local government shall not, in regulating the use of those lands described in subsection 2 of section 7 of chapter 198, Statutes of Nevada 2009, at page 735, as amended by section 1 of this act, authorize any of the following:

- (a) A hotel, inn, motel, motor court, boardinghouse or lodging house.
- (b) A gas station retailer.
- (c) A store which is principally devoted to the sale of consumable products or food for human consumption off the premises of the store. The provisions of this paragraph do not prohibit the operation of a snack bar for the dispensing of foodstuffs and beverages.
- (d) A restaurant franchise.
- (e) Any residential development of more than 1 home per 2 acres.

2. Notwithstanding any provision of law to the contrary, the Nevada Gaming Commission shall not issue a license for any land described in subsection 2 of section 7 of chapter 198, Statutes of Nevada 2009, at page 735, as amended by section 1 of this act.

3. Notwithstanding any provision of law to the contrary, lands described in subsection 2 of section 7 of chapter 198, Statutes of Nevada 2009, at page 735, as amended by section 1 of this act, may only be used for facilities and operations related to outdoor recreational activities.

Senator Lee moved the adoption of the amendment.

Remarks by Senators Lee and Parks.

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

SENATOR LEE:

Amendment No. 345 to Senate Bill No. 232 sets forth specific development prohibitions on the use of the land set aside in the bill, including:

Hotel, inn, motel, motor court, boardinghouse, or lodging house;

Gas station retailer;

Store which is principally devoted to the sale of consumable products or food for human consumption off the premises of the land, except that the operation of a snack bar would not be prohibited;

A restaurant franchise; and

Any residential development of more than one home per two acres;

It provides that the Nevada Gaming Commission shall not issue a license for any land described in the bill.

It provides that the lands described in the bill must only be used for facilities and operations related to outdoor recreational activities.

SENATOR PARKS:

Where is the land located?

SENATOR LEE:

Up Lee Canyon Road where the ski and snowboard resort is, and down the hill about a tenth of a mile.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 234.

Bill read second time.

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

Amendment No. 485.

"SUMMARY—Revises provisions relating to motor vehicle dealers. (BDR 43-386)"

"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; 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; revising the provision regarding the compensation owed to a dealer upon the termination or discontinuance of a franchise;~~ revising provisions relating to unfair practices; ~~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 ~~¶ in certain circumstances and provides that any such 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 on which 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 17 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 9 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 and make of vehicles.~~

~~¶ Sections 13 and 14 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. Section 15 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.~~

Section 16 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 which provides that if the seller elects to rescind the contract, the seller must provide ~~written~~ notice to the buyer not less than 20 days after the date of the contract.

~~¶ Under existing law, a manufacturer or distributor is required to pay a dealer compensation for the dealer's inventory of new vehicles, parts and accessories, equipment and place of business if the manufacturer or distributor terminates the dealer's franchise in certain circumstances. (NRS 482.363521) Section 8 of this bill requires the manufacturer or distributor to compensate the dealer for the fair market value of the franchise as of the day before the termination is announced. Section 8 also revises the method used to determine the compensation owed to a dealer for the dealer's place of business.~~

Section 10 of this bill provides that a refusal to accept an amended claim for parts and labor or a claim that was not filed before the manufacturer's deadline that is submitted within ~~120~~ **60** days after the claim was first filed or was due is an unfair practice. **Section 10** also makes an audit confirming a warranty repair, sales incentive or rebate performed more than ~~6~~ **9** months after a claim was made an unfair practice. **Section 11** of this bill prohibits a manufacturer from preventing a dealer from disclosing a ~~defect~~ **service, repair guidance or recall notice** or providing certain information relating to warranty coverage.

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:

~~117~~ **(a) To alter substantially an existing facility of the dealer; or**

~~127~~ **(b) To construct a new facility,**

↪ for any new vehicles that are handled by the dealer ~~17~~ 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 and NRS 482.36311 to 482.36425, inclusive, and section 3 of this act.

Sec. 3. A manufacturer shall not modify the franchise of a dealer or take any adverse action against a dealer that sells a vehicle which is later exported outside the United States, unless the dealer had actual knowledge of or reasonably should have known of the exportation of the vehicle.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. 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 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. 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 ~~between the dealer and the manufacturer being purchased.~~ offered to other dealers of the same line and make of vehicles.

Sec. 10. NRS 482.36385 is hereby amended to read as follows:

482.36385 It is an unfair act or practice for any manufacturer, distributor or factory branch, directly or through any representative, to:

1. Compete with a dealer. A manufacturer or distributor shall not be deemed to be competing when operating a previously existing dealership temporarily for a reasonable period, or in a bona fide retail operation which is for sale to any qualified person at a fair and reasonable price, or in a bona fide relationship in which a person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions.

2. Discriminate unfairly among its dealers, or fail without good cause to comply with franchise agreements, with respect to warranty reimbursement or authority granted to its dealers to make warranty adjustments with retail customers.

3. Fail to compensate a dealer fairly for the work and services which the dealer is required to perform in connection with the delivery and preparation obligations under any franchise, or fail to compensate a dealer fairly for labor, parts and other expenses incurred by the dealer under the manufacturer's warranty agreements. The manufacturer shall set forth in writing the respective obligations of a dealer and the manufacturer in the preparation of a vehicle for delivery, and as between them a dealer's liability for a defective product is limited to the obligation so set forth. Fair compensation includes diagnosis and reasonable administrative and clerical costs. The dealer's compensation for parts and labor to satisfy a warranty must not be less than the amount of money charged to its various retail customers for parts and labor that are not covered by a warranty. If parts are supplied by the manufacturer, including exchanged parts and assembled

components, the dealer is entitled with respect to each part to an amount not less than the dealer's normal retail markup for the part. This subsection does not apply to compensation for any part, system, fixture, appliance, furnishing, accessory or feature of a motor home or recreational vehicle that is designed, used and maintained primarily for nonvehicular, residential purposes.

4. Fail to ~~pay~~ :

(a) **Pay** all claims made by dealers for compensation for delivery and preparation work, transportation claims, special campaigns and work to satisfy warranties within 30 days after approval, or fail to approve or disapprove such claims within 30 days after receipt ~~[- or disapprove]~~ ;

(b) **Disapprove** any claim without notice to the dealer in writing of the grounds for disapproval ~~[-]~~ ;

(c) **Accept an amended claim for labor and parts if the amended claim is submitted not later than** ~~[-120 days after the claim being amended was first submitted; or~~

~~(d) Accept a claim for labor and parts which was not submitted within the time required by the manufacturer due to neglect or mistake by the dealer if the claim is submitted not later than 120 days after the date on which the claim was required to be submitted.]~~ **60 days after the date on which the manufacturer or distributor notifies the dealer that the claim has been disapproved and the disapproval was based on the dealer's failure to comply with a specific requirement for processing the claim, including, without limitation, a clerical error or other administrative technicality that does not relate to the legitimacy of the claim.**

↪ Failure to approve or disapprove or to pay within the specified time limits in an individual case does not constitute a violation of this section if the failure is because of reasons beyond the control of the manufacturer, distributor or factory branch.

5. Sell a new vehicle to a person who is not licensed as a new vehicle dealer under the provisions of this chapter.

6. Use false, deceptive or misleading advertising or engage in deceptive acts in connection with the manufacturer's or distributor's business.

7. Perform an audit to confirm a warranty repair, sales incentive or rebate more than ~~[-12]~~ ~~[-6]~~ **9** months after the date ~~[-of the transaction.]~~ **on which the claim was made. An audit of a dealer's records pursuant to this subsection may be conducted by the manufacturer or distributor on a reasonable basis, and a dealer's claim for warranty or sales incentive compensation must not be denied except for good cause, including, without limitation, performance of nonwarranty repairs, lack of material documentation, fraud or misrepresentation. A dealer's failure to comply with the specific requirements of the manufacturer or distributor for processing the claim does not constitute grounds for the denial of the claim or the reduction of the amount of compensation to the dealer if reasonable documentation or other evidence has been presented to substantiate the claim. The**

manufacturer or distributor shall not deny a claim or reduce the amount of compensation to the dealer for warranty repairs to resolve a condition discovered by the dealer during the course of a separate repair.

8. Prohibit or prevent a dealer from appealing the results of an audit to confirm a warranty repair, sales incentive or rebate, or to require that such an appeal be conducted at a location other than the dealer's place of business.

Sec. 11. NRS 482.36389 is hereby amended to read as follows:

482.36389 A manufacturer shall not ~~require~~ :

1. **Require** a dealer to disclose information concerning a customer to the manufacturer or a third party if the customer objects or the disclosure is otherwise unlawful ~~to~~ ; or

2. **Prohibit or prevent a dealer from disclosing a ~~defect~~ service, repair guidance or recall notice that is documented by the manufacturer or notifying customers of available warranty coverage and expiration dates of existing warranty coverage.**

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. NRS 97.299 is hereby amended to read as follows:

97.299 1. The Commissioner of Financial Institutions shall prescribe, by regulation, forms for the application for credit and contracts to be used in the sale of vehicles if:

(a) The sale involves the taking of a security interest to secure all or a part of the purchase price of the vehicle;

(b) The application for credit is made to or through the seller of the vehicle;

(c) The seller is a dealer; and

(d) The sale is not a commercial transaction.

2. The forms prescribed pursuant to subsection 1 must meet the requirements of NRS 97.165, must be accepted and acted upon by any lender to whom the application for credit is made and, in addition to the information required in NRS 97.185 and required to be disclosed in such a transaction by federal law, must:

(a) Identify and itemize the items embodied in the cash sale price, including the amount charged for a contract to service the vehicle after it is purchased.

(b) In specifying the amount of the buyer's down payment, identify the amounts paid in money and allowed for property given in trade and the amount of any manufacturer's rebate applied to the down payment.

(c) Contain a description of any property given in trade as part of the down payment.

(d) Contain a description of the method for calculating the unearned portion of the finance charge upon prepayment in full of the unpaid total of payments as prescribed in NRS 97.225.

(e) Contain a provision that default on the part of the buyer is only enforceable to the extent that:

- (1) The buyer fails to make a payment as required by the agreement; or
- (2) The prospect of payment, performance or realization of collateral is significantly impaired. The burden of establishing the prospect of significant impairment is on the seller.

(f) *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.*

(g) 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. 17. (Deleted by amendment.)

Sec. 17.5. The Commissioner of Financial Institutions shall adopt the regulations required by section 16 of this act on or before October 1, 2011.

Sec. 18. 1. This section and sections ~~11 to 16, inclusive,~~ 16 and 17.5 of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2011, ~~11~~, for all other purposes.

2. ~~{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. Section 17 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.] Sections 1 to 15, inclusive, and 17 of this act become effective on October 1, 2011.~~

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. 485 to Senate Bill No. 234 provides that a manufacturer shall not require a motor vehicle dealer to alter an existing facility or construct a new one unless the project constitutes a reasonable facility requirement in accordance with the franchise agreement. If a manufacturer requires a substantial alteration or the construction of a new facility, the requirement constitutes a modification of the franchise for certain purposes under the *Nevada Revised Statutes*.

If a manufacturer is purchased by another manufacturer, a dealer must be offered a franchise agreement that is substantially similar to one offered to other dealers of the same line and make of vehicles.

The amendment makes certain changes to the procedure for a dealer to file a claim with a manufacturer and in the process for conducting an audit of warranty repair work. It also deletes provisions relating to dealer reimbursements, licensing of brokers and agents, and resale of certain used vehicles.

Senator Kieckhefer disclosed that his father-in-law and his wife, at times, work in this business.

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 Health and Human Services:

Amendment No. 333.

"SUMMARY—Makes various changes concerning required training for employees who administer medication to a child at certain entities that have custody of the child pursuant to the order of a court. (BDR 40-796)"

"AN ACT relating to protection of children; requiring the Administrator of the Health Division of the Department of Health and Human Services to

approve or provide , to the extent possible, for training programs concerning the administration and management of medication for employees of certain entities that have custody of children pursuant to the order of a court; requiring ~~for an employee~~ certain employees of certain entities that have custody of such children successfully to complete a training program before administering medication to a child; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain employees of certain entities that have custody of children pursuant to the order of a court to receive training on a variety of topics, including the administration of medication to children. (NRS 62B.250, 63.190, 424.0365, 432A.177, 433B.175, 449.037) **Section 1** of this bill requires the Administrator of the Health Division of the Department of Health and Human Services , to the extent possible, to ensure that adequate training is available in this State to provide necessary instruction concerning the administration and management of medication to employees of public and private entities that have custody of children pursuant to the order of a court. In addition, the Administrator is required to maintain a list of approved training programs and make the list available on the Internet website of the Department. **Section 2** of this bill requires ~~for an employee~~ certain employees of a medical facility that accepts custody of children pursuant to the order of a court successfully to complete a training program that has been approved by the Administrator before the employee may be allowed to administer medication to a child in the facility. **Sections 8-12** of this bill impose the same requirement concerning the completion of a training program on an employee of: (1) a public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children; (2) a state facility for the detention or commitment of children; (3) a specialized foster home or a group foster home; (4) a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court; and (5) a treatment facility and any other facility of the Division of Child and Family Services of the Department of Health and Human Services into which a child may be committed by a court order.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Administrator shall, to the extent possible, ensure that adequate training concerning the administration and management of medication is available to employees of a governmental facility for children, a private facility for children, a group foster home or a specialized foster home that has custody of children pursuant to the order of a court. Such training must include, without limitation, instruction concerning the manner in which to:*

- (a) Document the orders of the treating physician;
 - (b) Administer medication to a child;
 - (c) Store, handle and dispose of medication;
 - (d) Document the administration of medication and any errors in the administration of medication;
 - (e) Minimize errors in the administration of medication; and
 - (f) Address errors in the administration of medication.
2. To ensure that adequate training is available pursuant to subsection 1, the Administrator may:

- (a) Approve training programs offered by public or private entities that have the appropriate expertise to provide such training; and
- (b) ~~Provide~~ To the extent that money is available for that purpose, provide for training programs through the Health Division.

3. The Administrator shall maintain a list of programs that are approved to provide the training described in subsection 1 and shall cause the list to be placed on the Internet website maintained by the Department.

4. The Administrator is not required to comply with the provisions of chapter 233B of NRS to approve or provide for training programs pursuant to this section.

5. As used in this section:

(a) "Governmental facility for children" has the meaning ascribed to it in NRS 218G.520.

(b) "Group foster home" has the meaning ascribed to it in NRS 424.015.

(c) "Private facility for children" has the meaning ascribed to it in NRS 218G.535.

(d) "Specialized foster home" has the meaning ascribed to it in NRS 424.018.

Sec. 2. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a medical facility that has custody of children pursuant to the order of a court shall ensure that each employee of the medical facility who will administer medication to such children receives training at least annually in the administration and management of medication through a program approved or provided by the Administrator of the Health Division pursuant to section 1 of this act.

2. The medical facility shall not allow an employee to administer medication to a child in its custody pursuant to the order of a court unless the employee has successfully completed such training.

3. The provisions of this section do not apply to an employee of ~~the~~ :

(a) A residential facility for groups who is required to complete the training and examination set forth in subsection 6 of NRS 449.037.

(b) A medical facility who has a license or certificate issued pursuant to chapter 630, 632 or 633 of NRS.

Sec. 3. NRS 449.070 is hereby amended to read as follows:

449.070 The provisions of NRS 449.001 to 449.240, inclusive, ***and section 2 of this act*** do not apply to:

1. Any facility conducted by and for the adherents of any church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing in the practice of the religion of the church or denomination, except that such a facility shall comply with all regulations relative to sanitation and safety applicable to other facilities of a similar category.

2. Foster homes as defined in NRS 424.014.

3. Any medical facility or facility for the dependent operated and maintained by the United States Government or an agency thereof.

Sec. 4. NRS 449.160 is hereby amended to read as follows:

449.160 1. The Health Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.001 to 449.240, inclusive, ***and section 2 of this act*** upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.001 to 449.245, inclusive, ***and section 2 of this act***, or of any other law of this State or of the standards, rules and regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.

(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to this chapter, if such approval is required.

(f) Failure to comply with the provisions of NRS 449.2486.

2. In addition to the provisions of subsection 1, the Health Division may revoke a license to operate a facility for the dependent if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Health Division shall maintain a log of any complaints that it receives relating to activities for which the Health Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The

Health Division shall provide to a facility for the care of adults during the day:

(a) A summary of a complaint against the facility if the investigation of the complaint by the Health Division either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

➤ The facility shall make the information available to the public pursuant to NRS 449.2486.

4. On or before February 1 of each odd-numbered year, the Health Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Health Division pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Health Division pursuant to subsection 2.

Sec. 5. NRS 449.163 is hereby amended to read as follows:

449.163 1. If a medical facility or facility for the dependent violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, **and section 2 of this act**, or any condition, standard or regulation adopted by the Board, the Health Division, in accordance with the regulations adopted pursuant to NRS 449.165, may:

(a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;

(b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;

(c) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and

(d) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:

(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. If a violation by a medical facility or facility for the dependent relates to the health or safety of a patient, an administrative penalty imposed pursuant to paragraph (c) of subsection 1 must be in a total amount of not less than \$1,000 and not more than \$10,000 for each patient who was harmed or at risk of harm as a result of the violation.

3. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (c) of subsection 1, the Health Division may:

(a) Suspend the license of the facility until the administrative penalty is paid; and

(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

4. The Health Division may require any facility that violates any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, ***and section 2 of this act***, or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.

5. Any money collected as administrative penalties pursuant to this section must be accounted for separately and used to protect the health or property of the residents of the facility in accordance with applicable federal standards.

Sec. 6. NRS 449.220 is hereby amended to read as follows:

449.220 1. The Health Division may bring an action in the name of the State to enjoin any person, state or local government unit or agency thereof from operating or maintaining any facility within the meaning of NRS 449.001 to 449.240, inclusive ~~†~~, ***and section 2 of this act***:

(a) Without first obtaining a license therefor; or

(b) After his or her license has been revoked or suspended by the Health Division.

2. It is sufficient in such action to allege that the defendant did, on a certain date and in a certain place, operate and maintain such a facility without a license.

Sec. 7. NRS 449.240 is hereby amended to read as follows:

449.240 The district attorney of the county in which the facility is located shall, upon application by the Health Division, institute and conduct the prosecution of any action for violation of any provisions of NRS 449.001 to 449.245, inclusive ~~†~~, ***and section 2 of this act***.

Sec. 8. NRS 62B.250 is hereby amended to read as follows:

62B.250 1. A public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, shall ensure that each employee who comes into direct contact with children who are in custody receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:

(a) Controlling the behavior of children;

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

(c) The rights of children in the institution or agency;

(d) Suicide awareness and prevention;

(e) The administration of medication to children;

(f) Applicable state and federal constitutional and statutory rights of children in the institution or agency;

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

(h) Such other matters as required by the Division of Child and Family Services.

2. *The training received pursuant to paragraph (e) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department of Health and Human Services pursuant to section 1 of this act. A public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, shall not allow an employee to administer medication to a child in its custody unless the employee has successfully completed such training.*

3. The Division of Child and Family Services shall adopt regulations necessary to carry out the provisions of this section.

Sec. 9. NRS 63.190 is hereby amended to read as follows:

63.190 1. The superintendent of a facility shall ensure that each employee who comes into direct contact with children in the facility receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:

- (a) Controlling the behavior of children;
- (b) Policies and procedures concerning the use of force and restraint on children;
- (c) The rights of children in the facility;
- (d) Suicide awareness and prevention;
- (e) The administration of medication to children;
- (f) Applicable state and federal constitutional and statutory rights of children in the home;
- (g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility; and
- (h) Such other matters as required by the Administrator of the Division of Child and Family Services.

2. *The training received pursuant to paragraph (e) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department of Health and Human Services pursuant to section 1 of this act. The superintendent of a facility shall not allow an employee to administer medication to a child in its custody unless the employee has successfully completed such training.*

3. The Administrator of the Division of Child and Family Services shall provide direction to the superintendent of each facility concerning the manner in which to carry out the provisions of this section.

Sec. 10. NRS 424.0365 is hereby amended to read as follows:

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

- (a) Controlling the behavior of children;
- (b) Policies and procedures concerning the use of force and restraint on children;
- (c) The rights of children in the home;
- (d) Suicide awareness and prevention;
- (e) The administration of medication to children;
- (f) Applicable state and federal constitutional and statutory rights of children in the home;
- (g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the home; and
- (h) Such other matters as required by the licensing authority or pursuant to regulations of the Division.

2. *The training received pursuant to paragraph (e) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department of Health and Human Services pursuant to section 1 of this act. A licensee that operates a specialized foster home or a group foster home shall not allow an employee to administer medication to a child in such a home unless the employee has successfully completed such training.*

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

Sec. 11. NRS 432A.177 is hereby amended to read as follows:

432A.177 1. A licensee that operates a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court, including, without limitation, an emergency shelter, shall ensure that each employee who comes into direct contact with children in the facility receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:

- (a) Controlling the behavior of children;
- (b) Policies and procedures concerning the use of force and restraint on children;
- (c) The rights of children in the facility;
- (d) Suicide awareness and prevention;
- (e) The administration of medication to children;
- (f) Applicable state and federal constitutional and statutory rights of children in the facility;
- (g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility; and

(h) Such other matters as required by the Board.

2. *The training received pursuant to paragraph (e) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department pursuant to section 1 of this act. A licensee that operates a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court, including, without limitation, an emergency shelter, shall not allow an employee to administer medication to a child in the child care facility unless the employee has successfully completed such training.*

3. The Board shall adopt regulations necessary to carry out the provisions of this section.

Sec. 12. NRS 433B.175 is hereby amended to read as follows:

433B.175 1. The Administrator shall ensure that each employee who comes into direct contact with children at any treatment facility and any other division facility into which a child may be committed by a court order receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:

- (a) Controlling the behavior of children;
- (b) Policies and procedures concerning the use of force and restraint on children;
- (c) The rights of children in the facility;
- (d) Suicide awareness and prevention;
- (e) The administration of medication to children;
- (f) Applicable state and federal constitutional and statutory rights of children in the facility;
- (g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility; and
- (h) Such other matters as required by the Board.

2. *The training received pursuant to paragraph (e) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department pursuant to section 1 of this act. The Administrator of the Division of Child and Family Services shall not allow an employee to administer medication to a child at any treatment facility and any other division facility into which a child may be committed by a court order unless the employee has successfully completed such training.*

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

Sec. 13. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and a hearing as required by law, impose an administrative fine of not more than \$10,000 for each violation on, recover reasonable investigative fees and costs incurred from, suspend, revoke, deny the issuance or renewal of or place conditions on the

license of, and place on probation or impose any combination of the foregoing on any nursing facility administrator or administrator of a residential facility for groups who:

(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.

(b) Has obtained his or her license by the use of fraud or deceit.

(c) Violates any of the provisions of this chapter.

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.001 to 449.240, inclusive, **and section 2 of this act**, as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

(e) Violates any regulation of the Board prescribing additional standards of conduct for nursing facility administrators or administrators of residential facilities for groups, including, without limitation, a code of ethics.

(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the nursing facility administrator or administrator of a residential facility for groups and the patient or resident for the financial or other gain of the licensee.

2. The Board shall give a licensee against whom proceedings are brought pursuant to this section written notice of a hearing pursuant to NRS 233B.121 and 241.034. A licensee may waive, in writing, his or her right to attend the hearing.

3. The Board may compel the attendance of witnesses or the production of documents or objects by subpoena. The Board may adopt regulations that set forth a procedure pursuant to which the Chair of the Board may issue subpoenas on behalf of the Board. Any person who is subpoenaed pursuant to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.

4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

5. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

Sec. 14. 1. An employee of a governmental facility for children, a group foster home, a private facility for children or a specialized foster home that has custody of a child pursuant to the order of a court who has not successfully completed training in the administration and management of medication through a program that has been approved by the Administrator of the Health Division of the Department of Health and Human Services as required pursuant to sections 2 and 8 to 12, inclusive, of this act, as applicable, on January 1, 2012, may continue to administer medication to a child in the custody of the facility or home if the person is authorized to do so

on January 1, 2012, but must complete such training on or before March 31, 2012.

2. As used in this section:

(a) "Governmental facility for children" has the meaning ascribed to it in NRS 218G.520.

(b) "Group foster home" has the meaning ascribed to it in NRS 424.015.

(c) "Private facility for children" has the meaning ascribed to it in NRS 218G.535.

(d) "Specialized foster home" has the meaning ascribed to it in NRS 424.018.

Sec. 15. This act becomes effective upon passage and approval for the purpose of taking such actions as are necessary to ensure that adequate training programs concerning the administration and management of medication are available in this State and for performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and on January 1, 2012, for all other purposes.

Senator Copenig moved the adoption of the amendment.

Remarks by Senator Copenig.

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

Amendment No. 333 revises the following provision to Senate Bill No. 246: it specifies that to the extent possible the Health Division must ensure that adequate training concerning the administration of medication to children is available in the State. Specifically, it makes concessions for limits in funding for that purpose.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 249.

Bill read second time.

The following amendment was proposed by the Committee on Revenue:

Amendment No. 463.

"SUMMARY—Makes various changes relating to administration of taxes on property. (BDR 32-793)"

"AN ACT relating to the taxation of property; revising the provisions governing the administration of certain exemptions from taxation, the determination of the taxable value of the community units of a common-interest community, the conversion of mobile or manufactured homes from real to personal property, ~~to certain appeals of the taxable value of property on the unsecured tax roll,~~ the payment of taxes on personal property in installments, and the determination of when an overpayment of taxes on personal property will not be refunded or a deficiency in the payment of such taxes will be exempted from collection; postponing the prospective expiration of certain provisions for the funding of accounts for the acquisition and improvement of technology in the offices of county assessors ~~and~~ and revising the authorized uses of such accounts; repealing

certain requirements relating to the minimum valuation of certain land; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides various exemptions from property taxes for surviving spouses, persons who are blind and veterans, if the persons claiming the exemptions are bona fide residents of this State, and requires the county assessors to mail annually to each person who claims such an exemption a form for the renewal of the exemption. (NRS 361.080, 361.085, 361.090, 361.091) **Section 1** of this bill clarifies that these tax exemptions do not apply to a person who holds an identification card indicating that the person is only a seasonal resident of this State, unless the person has actually resided in Nevada for at least 6 months. **Sections 2-5** of this bill authorize the county assessors to provide, upon request, the forms for renewal by electronic means and to authorize the return of those forms by electronic means.

Under existing law, the taxable value of the common elements of a common-interest community must be allocated on an equal basis to each of the community units of that common-interest community. (NRS 361.233) **Section 6** of this bill instead requires, under certain conditions, the allocation of that taxable value to the community units in accordance with a formula for allocation set forth in the declaration creating the common-interest community or, if there is no such declaration, in the recorded deeds for the community units.

Under existing law, a mobile or manufactured home may not be converted from real to personal property and removed from the real property to which it is affixed unless the county assessor certifies that the current taxes on that home and real property have been paid. (NRS 361.2445) **Section 7** of this bill instead requires this certification from the county tax receiver.

~~† Existing law authorizes an appeal to the county board of equalization of any change in the taxable value of property which is made by the county assessor after the assessment roll has been closed for publication and of the taxable value of property which the owner believes to exceed the full cash value of that property. (NRS 361.310, 361.357) Pursuant to sections 8 and 9 of this bill, such an appeal of the taxable value of any property on the unsecured tax roll may not result in any reduction in the taxable value of any other property on the secured tax roll.†~~

Existing law authorizes a taxpayer, upon request, to pay the personal property taxes imposed on the property of a business in installments if the total taxes exceed \$10,000 and certain other conditions are met. (NRS 361.483) **Section 10** of this bill revises this authorization to include the taxes imposed on personal property which is not the property of a business, to require the total amount of taxes to exceed \$5,000 and to allow the installment payments only if the pertinent tax bill is issued on or before September 15.

Under existing law, an overpayment of personal property taxes in an amount which is less than the average cost of collecting taxes in this State must be paid into the county general fund unless the taxpayer requests a refund within 6 months, and a deficiency in the payment of personal property taxes must be exempted from collection efforts if the deficiency is less than that average cost of collecting taxes. (NRS 361.485) **Section 11** of this bill requires, when calculating the amount paid to determine the existence and amount of such an overpayment or deficiency, the inclusion of the amount of any applicable penalties paid and the amount of any applicable partial abatements of taxes.

Existing law provides various exemptions from the governmental services taxes otherwise due on vehicles of surviving spouses, persons who are blind and veterans and requires the county assessors to mail annually to each person who claims such an exemption a form for the renewal of the exemption. (NRS 371.101, 371.102, 371.103, 371.104) **Sections 12-15** of this bill authorize the county assessors to provide, upon request, the forms for renewal by electronic means.

Under existing law, 2 percent of the property taxes collected for each county on personal property and the net proceeds of mines must be deposited into an account for the acquisition and improvement of technology in the office of the county assessor. (NRS 361.530, 362.170) **Section 16** of this bill provides for the continuation of this funding during the next biennium by postponing its prospective expiration until June 30, 2013. **Section 15.5 of this bill revises the authorized uses of the money in such an account.**

Existing law requires persons who desire to claim a property tax exemption for personal property which is in transit through this State to make their claims in the form and manner prescribed by the regulations of the Department of Taxation. (NRS 361.170) Existing law also requires county assessors to assess all patented land and land held under a state land contract at a minimum rate of \$1.25 per acre and requires county assessors to pay the difference between that amount and the amount of any lower assessments of that land. (NRS 361.230) **Section 17** of this bill repeals these requirements.

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

Section 1. NRS 361.015 is hereby amended to read as follows:

361.015 "Bona fide resident" means a person who ~~has~~:

~~1. Established~~ :

1. *Has established* a residence in the State of Nevada; and

2. ~~Actually~~ *Has*:

(a) *Actually* resided in this state for at least 6 months ; or ~~has a~~

(b) A valid driver's license or identification card issued by the Department of Motor Vehicles of this state ~~+~~ , *other than such an identification card which indicates that the person is a seasonal resident.*

Sec. 2. NRS 361.080 is hereby amended to read as follows:

361.080 1. The property of surviving spouses, not to exceed the amount of \$1,000 assessed valuation, is exempt from taxation, but no such exemption may be allowed to anyone but a bona fide resident of this State, and must be allowed in but one county in this State to the same family.

2. For the purpose of this section, property in which the surviving spouse has any interest shall be deemed the property of the surviving spouse.

3. The person claiming such an exemption must file with the county assessor an affidavit declaring that the person is a bona fide resident of this State and that the exemption has been claimed in no other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall , ***except as otherwise provided in this subsection***, mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. ***If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail. The county assessor may authorize the return of the form by electronic means in accordance with the provisions of chapter 719 of NRS.***

4. A surviving spouse is not entitled to the exemption provided by this section in any fiscal year beginning after any remarriage, even if the remarriage is later annulled.

5. If any person files a false affidavit or provides false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which the person is not entitled, the person is guilty of a gross misdemeanor.

6. Beginning with the 2005-2006 Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July 2003 to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

Sec. 3. NRS 361.085 is hereby amended to read as follows:

361.085 1. The property of each person who is blind, not to exceed the amount of \$3,000 of assessed valuation, is exempt from taxation, including community property to the extent only of the interest therein of the person who is blind, but no such exemption may be allowed to anyone but a bona fide resident of this State, and must be allowed in but one county in this State on account of the same person.

2. The person claiming such an exemption must file with the county assessor an affidavit declaring that the person is a bona fide resident of the State of Nevada who meets all the other requirements for the exemption and that the exemption is not claimed in any other county in this State. The affidavit must be made before the county assessor or a notary public. After

the filing of the original affidavit, the county assessor shall , *except as otherwise provided in this subsection*, mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. *If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail. The county assessor may authorize the return of the form by electronic means in accordance with the provisions of chapter 719 of NRS.*

3. Upon first claiming the exemption in a county the claimant shall furnish to the assessor a certificate of a licensed physician setting forth that the physician has examined the claimant and has found him or her to be a person who is blind.

4. If any person files a false affidavit or provides false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which the person is not entitled, the person is guilty of a gross misdemeanor.

5. Beginning with the 2005-2006 Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July 2003 to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

6. As used in this section, "person who is blind" includes any person whose visual acuity with correcting lenses does not exceed 20/200 in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than 20°.

Sec. 4. NRS 361.090 is hereby amended to read as follows:

361.090 1. The property, to the extent of \$2,000 assessed valuation, of any actual bona fide resident of the State of Nevada who:

(a) Has served a minimum of 90 continuous days on active duty, who was assigned to active duty at some time between April 21, 1898, and June 15, 1903, or between April 6, 1917, and November 11, 1918, or between December 7, 1941, and December 31, 1946, or between June 25, 1950, and May 7, 1975, or between September 26, 1982, and December 1, 1987, or between October 23, 1983, and November 21, 1983, or between December 20, 1989, and January 31, 1990, or between August 2, 1990, and April 11, 1991, or between December 5, 1992, and March 31, 1994, or between November 20, 1995, and December 20, 1996;

(b) Has served on active duty in connection with carrying out the authorization granted to the President of the United States in Public Law 102-1; or

(c) Has served on active duty in connection with a campaign or expedition for service in which a medal has been authorized by the Government of the United States, regardless of the number of days served on active duty, ➡ and who received, upon severance from service, an honorable discharge or certificate of satisfactory service from the Armed Forces of the United States, or who, having so served, is still serving in the Armed Forces of the United States, is exempt from taxation.

2. For the purpose of this section, the first \$2,000 assessed valuation of property in which an applicant has any interest shall be deemed the property of the applicant.

3. The exemption may be allowed only to a claimant who files an affidavit with his or her claim for exemption on real property pursuant to NRS 361.155. The affidavit may be filed at any time by a person claiming exemption from taxation on personal property.

4. The affidavit must be made before the county assessor or a notary public and filed with the county assessor. It must state that the affiant is a bona fide resident of the State of Nevada who meets all the other requirements of subsection 1 and that the exemption is not claimed in any other county in this State. After the filing of the original affidavit, the county assessor shall , ***except as otherwise provided in this subsection***, mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➡ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. ***If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail. The county assessor may authorize the return of the form by electronic means in accordance with the provisions of chapter 719 of NRS.***

5. Persons in actual military service are exempt during the period of such service from filing the annual forms for renewal of the exemption, and the county assessors shall continue to grant the exemption to such persons on the basis of the original affidavits filed. In the case of any person who has entered the military service without having previously made and filed an affidavit of exemption, the affidavit may be filed in his or her behalf during the period of such service by any person having knowledge of the facts.

6. Before allowing any veteran's exemption pursuant to the provisions of this chapter, the county assessor shall require proof of status of the veteran, and for that purpose shall require production of an honorable discharge or certificate of satisfactory service or a certified copy thereof, or such other proof of status as may be necessary.

7. If any person files a false affidavit or produces false proof to the county assessor or a notary public and, as a result of the false affidavit or

false proof, the person is allowed a tax exemption to which the person is not entitled, the person is guilty of a gross misdemeanor.

8. Beginning with the 2005-2006 Fiscal Year, the monetary amounts in subsections 1 and 2 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July 2003 to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

Sec. 5. NRS 361.091 is hereby amended to read as follows:

361.091 1. A bona fide resident of the State of Nevada who has incurred a permanent service-connected disability and has been honorably discharged from the Armed Forces of the United States, or his or her surviving spouse, is entitled to an exemption.

2. The amount of exemption is based on the total percentage of permanent service-connected disability. The maximum allowable exemption for total permanent disability is the first \$20,000 assessed valuation. A person with a permanent service-connected disability of:

(a) Eighty to 99 percent, inclusive, is entitled to an exemption of \$15,000 assessed value.

(b) Sixty to 79 percent, inclusive, is entitled to an exemption of \$10,000 assessed value.

➤ For the purposes of this section, any property in which an applicant has any interest is deemed to be the property of the applicant.

3. The exemption may be allowed only to a claimant who has filed an affidavit with his or her claim for exemption on real property pursuant to NRS 361.155. The affidavit may be made at any time by a person claiming an exemption from taxation on personal property.

4. The affidavit must be made before the county assessor or a notary public and be filed with the county assessor. It must state that the affiant is a bona fide resident of the State of Nevada, that the affiant meets all the other requirements of subsection 1 and that the exemption is not claimed in any other county within this State. After the filing of the original affidavit, the county assessor shall , *except as otherwise provided in this subsection*, mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➤ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. *If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail. The county assessor may authorize the return of the form by electronic means in accordance with the provisions of chapter 719 of NRS.*

5. Before allowing any exemption pursuant to the provisions of this section, the county assessor shall require proof of the applicant's status, and for that purpose shall require the applicant to produce an original or certified copy of:

(a) An honorable discharge or other document of honorable separation from the Armed Forces of the United States which indicates the total percentage of his or her permanent service-connected disability;

(b) A certificate of satisfactory service which indicates the total percentage of his or her permanent service-connected disability; or

(c) A certificate from the Department of Veterans Affairs or any other military document which shows that he or she has incurred a permanent service-connected disability and which indicates the total percentage of that disability, together with a certificate of honorable discharge or satisfactory service.

6. A surviving spouse claiming an exemption pursuant to this section must file with the county assessor an affidavit declaring that:

(a) The surviving spouse was married to and living with the veteran who incurred a permanent service-connected disability for the 5 years preceding his or her death;

(b) The veteran was eligible for the exemption at the time of his or her death or would have been eligible if the veteran had been a resident of the State of Nevada;

(c) The surviving spouse has not remarried; and

(d) The surviving spouse is a bona fide resident of the State of Nevada.

➤ The affidavit required by this subsection is in addition to the certification required pursuant to subsections 4 and 5. After the filing of the original affidavit required by this subsection, the county assessor shall , ***except as otherwise provided in this subsection***, mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. ***If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail. The county assessor may authorize the return of the form by electronic means in accordance with the provisions of chapter 719 of NRS.***

7. If a veteran or the surviving spouse of a veteran submits, as proof of disability, documentation that indicates a percentage of permanent service-connected disability for more than one permanent service-connected disability, the amount of the exemption must be based on the total of those combined percentages, not to exceed 100 percent.

8. If a tax exemption is allowed under this section, the claimant is not entitled to an exemption under NRS 361.090.

9. If any person files a false affidavit or produces false proof to the county assessor or a notary public and, as a result of the false affidavit or

false proof, the person is allowed a tax exemption to which the person is not entitled, the person is guilty of a gross misdemeanor.

10. Beginning with the 2005-2006 Fiscal Year, the monetary amounts in subsection 2 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July 2003 to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

Sec. 6. NRS 361.233 is hereby amended to read as follows:

361.233 1. Notwithstanding any other provision of law:

(a) Any ad valorem taxes or special assessments assessed upon any real property within a common-interest community:

(1) Must be assessed upon the community units and not upon the common-interest community as a whole; and

(2) Must not be assessed upon any common elements of the common-interest community.

(b) ~~{The}~~ ***Except as otherwise provided in subsection 2, the*** taxable value of each parcel:

(1) Composed solely of a community unit must consist of:

(I) The taxable value of that community unit; and

(II) A percentage of the taxable value of all the common elements of that common-interest community which is equal to 1 divided by the total number of community units in that common-interest community; or

(2) Composed of a community unit and any portion of the common elements of the common-interest community must consist of:

(I) The taxable value of that community unit only; and

(II) A percentage of the taxable value of all the common elements of that common-interest community which is equal to 1 divided by the total number of community units in that common-interest community.

2. If the declaration for a common-interest community or, in the absence of such a declaration, the recorded deeds for the community units of a common-interest community:

(a) Provide for the allocation to the community units of, except for any minor variations because of rounding, all the interests in the common elements of the common-interest community; or

(b) Do not provide for the allocation described in paragraph (a) but provide for the allocation to the community units of, except for any minor variations because of rounding, all the liabilities for the common expenses of the common-interest community,

↪ and the formula for allocation provided in the declaration or deeds differs from the formula for allocation set forth in sub-subparagraph (II) of subparagraph (1) of paragraph (b) of subsection 1 and sub-subparagraph (II) of subparagraph (2) of paragraph (b) of subsection 1, those sub-subparagraphs do not apply to the common-interest

community, and the taxable value of the common elements of the common-interest community must be allocated to the community units in accordance with the formula for allocation provided in the declaration or deeds.

3. The Nevada Tax Commission shall adopt such regulations as it determines to be appropriate to ensure that this section is carried out in a uniform and equal manner that does not result in the double taxation of any common elements of a common-interest community.

~~{3-}~~ 4. For the purposes of this section:

(a) "Ad valorem tax" means an ad valorem tax levied by any governmental entity or political subdivision in this State on or after July 1, 2006.

(b) "Common elements" means the physical portion of a common-interest community, including, without limitation, any landscaping, swimming pools, fitness centers, community centers, maintenance and service areas, parking areas, hallways, elevators and mechanical rooms, which is:

(1) Intended for the general benefit of and potential use by all the owners of the community units and their invitees; and

(2) Owned:

(I) By the community association;

(II) By any person on behalf or for the benefit of the owners of the community units; or

(III) Jointly by the owners of the community units.

(c) "Common-interest community" means real property with respect to which a person, by virtue of his or her ownership of a community unit, is obligated to pay for any real property other than that unit. The term includes a common-interest community governed by the provisions of chapter 116 of NRS, a condominium hotel governed by the provisions of chapter 116B of NRS, a condominium project governed by the provisions of chapter 117 of NRS and any time-share project, planned unit development or other real property which is organized as a common-interest community in this State.

(d) "Community association" means an association whose membership:

(1) Consists exclusively of the owners of the community units or their elected or appointed representatives; and

(2) Is a required condition of the ownership of a community unit.

(e) "Community unit" means a physical portion of a common-interest community, other than the common elements, which is:

(1) Designated for separate ownership or occupancy; and

(2) Intended for:

(I) Residential use by the owner of that unit and his or her invitees; or

(II) Commercial use by the owner of that unit for the generation of revenue from any persons other than the owners of community units in that common-interest community and their invitees.

(f) *"Declaration" means any instrument, however denominated, that creates a common-interest community, including any amendment to an instrument.*

(g) "Special assessment" means a special assessment levied by any governmental entity or political subdivision in this State on or after July 1, 2006.

Sec. 7. NRS 361.2445 is hereby amended to read as follows:

361.2445 1. A mobile or manufactured home which has been converted to real property pursuant to NRS 361.244 may not be removed from the real property to which it is affixed unless, at least 30 days before removing the mobile or manufactured home:

(a) The owner:

(1) Files with the Division an affidavit stating that the sole purpose for converting the mobile or manufactured home from real to personal property is to effect a transfer of the title to the mobile or manufactured home;

(2) Files with the Division the affidavit of consent to the removal of the mobile or manufactured home of each person who holds any legal interest in the real property to which the mobile or manufactured home is affixed; and

(3) Gives written notice to the county assessor of the county in which the real property is situated; and

(b) The county ~~assessor~~ **tax receiver** certifies in writing that all taxes for the fiscal year on the mobile or manufactured home and the real property to which the mobile or manufactured home is affixed have been paid.

2. The county assessor shall not remove a mobile or manufactured home from the tax rolls until:

(a) The county assessor has received verification that there is no security interest in the mobile or manufactured home or the holders of security interests have agreed in writing to the conversion of the mobile or manufactured home to personal property; and

(b) An affidavit of conversion of the mobile or manufactured home from real to personal property has been recorded in the county recorder's office of the county in which the real property to which the mobile or manufactured home was affixed is situated.

3. A mobile or manufactured home which is physically removed from real property pursuant to this section shall be deemed to be personal property immediately upon its removal.

4. The Department shall adopt:

(a) Such regulations as are necessary to carry out the provisions of this section; and

(b) A standard form for the affidavits required by this section.

5. Before the owner of a mobile or manufactured home that has been converted to personal property pursuant to this section may transfer ownership of the mobile or manufactured home, he or she must obtain a certificate of ownership from the Division.

6. For the purposes of this section, the removal of a mobile or manufactured home from real property includes the detachment of the mobile or manufactured home from its foundation, other than temporarily for the purpose of making repairs or improvements to the mobile or manufactured home or the foundation.

7. An owner who physically removes a mobile or manufactured home from real property in violation of this section is liable for all legal costs and fees, plus the actual expenses, incurred by a person who holds any interest in the real property to restore the real property to its former condition. Any judgment obtained pursuant to this section may be recorded as a lien upon the mobile or manufactured home so removed.

8. As used in this section:

(a) "Division" means the Manufactured Housing Division of the Department of Business and Industry.

(b) "Owner" means any person who holds an interest in the mobile or manufactured home or the real property to which the mobile or manufactured home is affixed evidenced by a conveyance or other instrument which transfers that interest to him or her and is recorded in the office of the county recorder of the county in which the mobile or manufactured home and real property are situated, but does not include the owner or holder of a right-of-way, easement or subsurface property right appurtenant to the real property.

Sec. 8. ~~NRS 361.310 is hereby amended to read as follows:~~

~~361.310 1. On or before January 1 of each year, the county assessor of each of the several counties shall complete the assessment roll, and shall take and subscribe to an affidavit written therein to the effect that he or she has made diligent inquiry and examination to ascertain all the property within the county subject to taxation, and required to be assessed by the county assessor, and that he or she has assessed the property on the assessment roll equally and uniformly, according to the best of his or her judgment, information and belief, at the rate provided by law. A copy of the affidavit must be filed immediately by the assessor with the Department. The failure to take or subscribe to the affidavit does not in any manner affect the validity of any assessment contained in the assessment roll.~~

~~2. The county assessor shall close the roll as to all changes on the day he or she delivers it for publication. The roll may be reopened beginning the next day:~~

~~(a) For changes that occur before July 1 in:~~

- ~~(1) Ownership;~~
- ~~(2) Improvements as a result of new construction, destruction or removal;~~
- ~~(3) Land parceling;~~
- ~~(4) Site improvements;~~
- ~~(5) Zoning or other legal or physical restrictions on use;~~
- ~~(6) Actual use, including changes in agricultural or open space use;~~

- ~~(7) Exemptions; or~~
- ~~(8) Items of personal property on the secured roll;~~
- ~~(b) To correct assessments because of a clerical, typographical or mathematical error; or~~
- ~~(c) To correct overassessments because of a factual error in existence, size, quantity, age, use or zoning, or legal or physical restrictions on use.~~
- 3. ~~Any changes made after the roll is reopened pursuant to subsection 2 may be appealed to the county board of equalization in the current year or the next succeeding year. *No appeal under this subsection of the taxable value of any property placed on the unsecured tax roll for a fiscal year may result in a reduction in the taxable value of any property placed on the secured tax roll for that fiscal year.*~~
- 4. ~~Each county assessor shall keep a log of all changes in value made to the secured tax roll after it has been reopened. On or before October 31 of each year, the county assessor shall transmit a copy of the log to the board of county commissioners and the Nevada Tax Commission. **(Deleted by amendment.)**~~

Sec. 9. ~~[NRS 361.357 is hereby amended to read as follows:~~

~~361.357 1. The owner of any real or personal property placed on:~~

~~(a) The secured tax roll who believes that the full cash value of his or her property is less than the taxable value computed for the property in the current assessment year may, not later than January 15 of the fiscal year in which the assessment was made, appeal to the county board of equalization. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.~~

~~(b) The unsecured tax roll which was assessed on or after May 1 and on or before December 15 who believes that the full cash value of his or her property is less than the taxable value computed for the property in the current assessment year may, not later than the following January 15, appeal to the county board of equalization. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.~~

~~2. Before a person may file an appeal pursuant to subsection 1, the person must complete a form provided by the county assessor to appeal the assessment to the county board of equalization. The county assessor may, before providing such a form, require the person requesting the form to provide the parcel number or other identification number of the property that is the subject of the planned appeal.~~

~~3. *[If] Except as otherwise provided in subsection 4, if the county board of equalization finds that the full cash value of the property on January 1 immediately preceding the fiscal year for which the taxes are levied is less than the taxable value computed for the property, the board shall correct the land value or fix a percentage of obsolescence to be deducted from the otherwise computed taxable value of the improvements, or both, to make the taxable value of the property correspond as closely as possible to its full cash value.*~~

~~4. No appeal under this section [may].~~

~~(a) May result in an increase in the taxable value of the property.~~

~~(b) Of the taxable value of any property placed on the unsecured tax roll for a fiscal year may result in a reduction in the taxable value of any property placed on the secured tax roll for that fiscal year.] (Deleted by amendment.)~~

Sec. 10. NRS 361.483 is hereby amended to read as follows:

361.483 1. Except as otherwise provided in ~~{subsection 6}~~ **this section** and NRS 361.736 to 361.7398, inclusive, taxes assessed upon the real property tax roll and upon mobile or manufactured homes are due on the third Monday of August.

2. Taxes assessed upon the real property tax roll may be paid in four approximately equal installments if the taxes assessed on the parcel exceed \$100.

3. Except as otherwise provided in this section, taxes assessed upon a mobile or manufactured home may be paid in four installments if the taxes assessed exceed \$100.

4. If a taxpayer owns at least 25 mobile or manufactured homes in a county that are leased for commercial purposes, and those mobile or manufactured homes have not been converted to real property pursuant to NRS 361.244, taxes assessed upon those homes may be paid in four installments if, not later than July 31, the taxpayer returns to the county assessor the written statement of personal property required pursuant to NRS 361.265.

5. Except as otherwise provided in this section and NRS 361.505, taxes assessed upon personal property may be paid in four approximately equal installments if:

(a) The total personal property taxes assessed exceed ~~{ \$10,000; }~~ **\$5,000;**

(b) Not later than July 31, the taxpayer returns to the county assessor the written statement of personal property required pursuant to NRS 361.265;

(c) The taxpayer files with the county assessor, or county treasurer if the county treasurer has been designated to collect taxes, a written request to be billed in ~~{quarterly}~~ installments and includes with the request a copy of the written statement of personal property required pursuant to NRS 361.265; ~~{and}~~

(d) The *owner of the* personal property assessed ~~{is the property of a business and the business}~~ has paid ~~{its}~~ **all the** personal property taxes **assessed on the property** without accruing penalties for the immediately preceding 2 fiscal years in any county in the State ~~{ }~~ **; and**

(e) Not later than September 15, the county tax receiver issues to the taxpayer an individual tax bill for the personal property which itemizes the dates on which the installments are due. If that tax bill is issued on or after August 1 and on or before September 15, the first two installments are due on the first Monday of October, the third installment on the first Monday of January, and the fourth installment on the first Monday of March.

6. ~~HH~~ *Except as otherwise provided in subsection 5, if* a person elects to pay in installments, the first installment is due on the third Monday of August, the second installment on the first Monday of October, the third installment on the first Monday of January, and the fourth installment on the first Monday of March.

7. If any person charged with taxes which are a lien on real property fails to pay:

(a) Any one installment of the taxes on or within 10 days following the day the taxes become due, there must be added thereto a penalty of 4 percent.

(b) Any two installments of the taxes, together with accumulated penalties, on or within 10 days following the day the later installment of taxes becomes due, there must be added thereto a penalty of 5 percent of the two installments due.

(c) Any three installments of the taxes, together with accumulated penalties, on or within 10 days following the day the latest installment of taxes becomes due, there must be added thereto a penalty of 6 percent of the three installments due.

(d) The full amount of the taxes, together with accumulated penalties, on or within 10 days following the first Monday of March, there must be added thereto a penalty of 7 percent of the full amount of the taxes.

8. Any person charged with taxes which are a lien on a mobile or manufactured home who fails to pay the taxes within 10 days after an installment payment is due is subject to the following provisions:

(a) A penalty of 10 percent of the taxes due; and

(b) The county assessor may proceed under NRS 361.535.

9. If any property tax postponed pursuant to NRS 361.736 to 361.7398, inclusive, becomes due and payable and the person charged with that tax fails to make the required payment within 10 days after it becomes due, there must be added thereto a penalty of 7 percent of the amount of the tax that is due. If the required payment is not paid within 30 days after it becomes due, there must be added thereto all penalties and interest that would have accrued had the property tax not been postponed pursuant to NRS 361.736 to 361.7398, inclusive.

10. The ex officio tax receiver of a county shall notify each person in the county who is subject to a penalty pursuant to this section of the provisions of NRS 360.419 and 361.4835.

Sec. 11. NRS 361.485 is hereby amended to read as follows:

361.485 1. Whenever any tax is paid to the ex officio tax receiver, he or she shall appropriately record the payment and the date thereof on the tax roll contiguously with the name of the person or the description of the property liable for the taxes, and shall give a receipt for the payment if requested by the taxpayer.

2. If the assessment roll is maintained on magnetic storage files in a computer system, the requirement of subsection 1 is met if the system is capable of producing, as printed output, the assessment roll with the dates of

payments shown opposite the name of the person or the description of the property liable for the taxes.

3. If the amount of taxes *and penalties* paid on personal property ~~is~~ , ***together with the amount of any partial abatements of those taxes to which the taxpayer may be entitled:***

(a) Results in an overpayment that is less than the average cost of collecting property taxes in this State as determined by the Nevada Tax Commission, the ex officio tax receiver shall pay the amount of the overpayment into the county treasury for the benefit of the general fund of the county, unless the taxpayer who made the overpayment requests a refund within 6 months after the original payment. All interest paid on money deposited in the county treasury pursuant to this paragraph is the property of the county.

(b) Results in a deficiency, the amount of the deficiency, other than a payment for a penalty, must be exempted from collection if the amount of the deficiency is less than the average cost of collecting property taxes in this State as determined by the Nevada Tax Commission.

4. If the amount of taxes paid on real property:

(a) Results in an overpayment that does not exceed the amount due by more than \$5, the ex officio tax receiver shall pay the amount of the overpayment into the county treasury for the benefit of the general fund of the county, unless the taxpayer who made the overpayment requests a refund within 6 months after the original payment. All interest paid on money deposited in the county treasury pursuant to this paragraph is the property of the county.

(b) Results in a deficiency that is \$5 or less than the amount due, the ex officio tax receiver may exempt the amount of the deficiency from collection.

Sec. 12. NRS 371.101 is hereby amended to read as follows:

371.101 1. Vehicles registered by surviving spouses, not to exceed the amount of \$1,000 determined valuation, are exempt from taxation, but the exemption must not be allowed to anyone but actual bona fide residents of this State, and must be filed in but one county in this State to the same family.

2. For the purpose of this section, vehicles in which the surviving spouse has any interest shall be deemed to belong entirely to that surviving spouse.

3. The person claiming the exemption shall file with the Department in the county where the exemption is claimed an affidavit declaring his or her residency and that the exemption has been claimed in no other county in this State for that year. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall , ***except as otherwise provided in this subsection***, mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. ***If so***

requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail.

4. A surviving spouse is not entitled to the exemption provided by this section in any fiscal year beginning after any remarriage, even if the remarriage is later annulled.

5. Beginning with the 2005-2006 Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from December 2003 to the December preceding the fiscal year for which the adjustment is calculated.

Sec. 13. NRS 371.102 is hereby amended to read as follows:

371.102 1. Vehicles registered by a person who is blind, not to exceed the amount of \$3,000 determined valuation, are exempt from taxation, but the exemption must not be allowed to anyone but bona fide residents of this State, and must be filed in but one county in this State on account of that person.

2. The person claiming the exemption must file with the county assessor of the county where the exemption is claimed an affidavit declaring that the person is an actual bona fide resident of the State of Nevada, that he or she is a person who is blind and that the exemption is claimed in no other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall , ***except as otherwise provided in this subsection***, mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. ***If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in accordance with the provisions of chapter 719 of NRS.***

3. Upon first claiming the exemption in a county, the claimant shall furnish to the county assessor a certificate of a physician licensed under the laws of this State setting forth that the physician has examined the claimant and has found him or her to be a person who is blind.

4. Beginning with the 2005-2006 Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from December 2003 to the December preceding the fiscal year for which the adjustment is calculated.

5. As used in this section, "person who is blind" includes any person whose visual acuity with correcting lenses does not exceed 20/200 in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than 20 degrees.

Sec. 14. NRS 371.103 is hereby amended to read as follows:

371.103 1. Vehicles, to the extent of \$2,000 determined valuation, registered by any actual bona fide resident of the State of Nevada who:

(a) Has served a minimum of 90 days on active duty, who was assigned to active duty at some time between April 21, 1898, and June 15, 1903, or between April 6, 1917, and November 11, 1918, or between December 7, 1941, and December 31, 1946, or between June 25, 1950, and May 7, 1975, or between September 26, 1982, and December 1, 1987, or between October 23, 1983, and November 21, 1983, or between December 20, 1989, and January 31, 1990, or between August 2, 1990, and April 11, 1991, or between December 5, 1992, and March 31, 1994, or between November 20, 1995, and December 20, 1996;

(b) Has served a minimum of 90 continuous days on active duty none of which was for training purposes, who was assigned to active duty at some time between January 1, 1961, and May 7, 1975;

(c) Has served on active duty in connection with carrying out the authorization granted to the President of the United States in Public Law 102-1; or

(d) Has served on active duty in connection with a campaign or expedition for service in which a medal has been authorized by the Government of the United States, regardless of the number of days served on active duty,

↳ and who received, upon severance from service, an honorable discharge or certificate of satisfactory service from the Armed Forces of the United States, or who, having so served, is still serving in the Armed Forces of the United States, is exempt from taxation.

2. For the purpose of this section, the first \$2,000 determined valuation of vehicles in which such a person has any interest shall be deemed to belong to that person.

3. A person claiming the exemption shall file annually with the Department in the county where the exemption is claimed an affidavit declaring that he or she is an actual bona fide resident of the State of Nevada who meets all the other requirements of subsection 1 and that the exemption is claimed in no other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall , *except as otherwise provided in this subsection, mail a form for:*

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

↳ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. *If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail.*

4. Persons in actual military service are exempt during the period of such service from filing annual affidavits of exemption and the Department shall grant exemptions to those persons on the basis of the original affidavits filed. In the case of any person who has entered the military service without having

previously made and filed an affidavit of exemption, the affidavit may be filed in his or her behalf during the period of such service by any person having knowledge of the facts.

5. Before allowing any veteran's exemption pursuant to the provisions of this chapter, the Department shall require proof of status of the veteran, and for that purpose shall require production of an honorable discharge or certificate of satisfactory service or a certified copy thereof, or such other proof of status as may be necessary.

6. If any person files a false affidavit or produces false proof to the Department, and as a result of the false affidavit or false proof a tax exemption is allowed to a person not entitled to the exemption, the person is guilty of a gross misdemeanor.

7. Beginning with the 2005-2006 Fiscal Year, the monetary amounts in subsections 1 and 2 must be adjusted for each fiscal year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from December 2003 to the December preceding the fiscal year for which the adjustment is calculated.

Sec. 15. NRS 371.104 is hereby amended to read as follows:

371.104 1. A bona fide resident of the State of Nevada who has incurred a permanent service-connected disability and has been honorably discharged from the Armed Forces of the United States, or his or her surviving spouse, is entitled to a veteran's exemption from the payment of governmental services taxes on vehicles of the following determined valuations:

(a) If he or she has a disability of 100 percent, the first \$20,000 of determined valuation.

(b) If he or she has a disability of 80 to 99 percent, inclusive, the first \$15,000 of determined valuation.

(c) If he or she has a disability of 60 to 79 percent, inclusive, the first \$10,000 of determined valuation.

2. For the purpose of this section, the first \$20,000 of determined valuation of vehicles in which an applicant has any interest shall be deemed to belong entirely to that person.

3. A person claiming the exemption shall file annually with the Department in the county where the exemption is claimed an affidavit declaring that he or she is a bona fide resident of the State of Nevada who meets all the other requirements of subsection 1 and that the exemption is claimed in no other county within this State. After the filing of the original affidavit, the county assessor shall , *except as otherwise provided in this subsection*, mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

↳ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by

mail by the person claiming the exemption. *If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail.*

4. Before allowing any exemption pursuant to the provisions of this section, the Department shall require proof of the applicant's status, and for that purpose shall require production of:

(a) A certificate from the Department of Veterans Affairs that the veteran has incurred a permanent service-connected disability, which shows the percentage of that disability; and

(b) Any one of the following:

(1) An honorable discharge;

(2) A certificate of satisfactory service; or

(3) A certified copy of either of these documents.

5. A surviving spouse claiming an exemption pursuant to this section must file with the Department in the county where the exemption is claimed an affidavit declaring that:

(a) The surviving spouse was married to and living with the veteran with a disability for the 5 years preceding his or her death;

(b) The veteran with a disability was eligible for the exemption at the time of his or her death; and

(c) The surviving spouse has not remarried.

➤ The affidavit required by this subsection is in addition to the certification required pursuant to subsections 3 and 4. After the filing of the original affidavit required by this subsection, the county assessor shall , *except as otherwise provided in this subsection*, mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. *If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail.*

6. If a tax exemption is allowed under this section, the claimant is not entitled to an exemption under NRS 371.103.

7. If any person makes a false affidavit or produces false proof to the Department, and as a result of the false affidavit or false proof the person is allowed a tax exemption to which he or she is not entitled, the person is guilty of a gross misdemeanor.

8. Beginning with the 2005-2006 Fiscal Year, the monetary amounts in subsections 1 and 2 must be adjusted for each fiscal year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from December 2003 to the December preceding the fiscal year for which the adjustment is calculated.

Sec. 15.5. NRS 250.085 is hereby amended to read as follows:

250.085 1. The board of county commissioners of each county shall by ordinance create in the county general fund an account to be designated as

the Account for the Acquisition and Improvement of Technology in the Office of the County Assessor.

2. The money in the Account:

(a) Must be accounted for separately and not as a part of any other account; and

(b) Must not be used to replace or supplant any money available from other sources to acquire technology for and improve technology used in the office of the county assessor.

3. The money in the Account must be used to acquire technology for or improve the technology used in the office of the county assessor ~~or by another entity with operational impact on the office of the county assessor,~~ including, without limitation, the payment of costs associated with acquiring or improving technology for converting and archiving records, purchasing hardware and software, maintaining the technology, training employees in the operation of the technology and contracting for professional services relating to the technology. ~~At the discretion of the county assessor, the money may be used by other county offices that do business with the county assessor.~~

4. On or before July 1 of each year, the county assessor shall submit to the board of county commissioners a report of the projected expenditures of the money in the Account for the following fiscal year. Any money remaining in the Account at the end of a fiscal year that has not been committed for expenditure reverts to the county general fund.

Sec. 16. Section 57 of chapter 496, Statutes of Nevada 2005, as last amended by chapter 287, Statutes of Nevada 2009, at page 1232, is hereby amended to read as follows:

Sec. 57. 1. This section and sections 52.1 to 52.8, inclusive, of this act become effective upon passage and approval.

2. Sections 1 to 22, inclusive, 24 to 28, inclusive, 42 to 52, inclusive, and 53 to 56, inclusive, of this act become effective on July 1, 2005.

3. Sections 29 to 41, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) On July 1, 2006, for all other purposes.

4. Section 23 of this act becomes effective on July 1, ~~2011~~ **2013**.

5. Section 43 of this act expires by limitation on June 30, ~~2011~~ **2013**.

Sec. 17. NRS 361.170 and 361.230 are hereby repealed.

Sec. 18. The provisions of sections 1, 6 and 17 of this act do not apply to or affect the assessment of any taxes, the application or administration of any exemptions from taxation or the valuation of any property for any fiscal year beginning before July 1, 2012.

Sec. 19. 1. This section and sections 2 to 5, inclusive, ~~and 8 to 16,~~ **10 to 15**, inclusive, **and 16** of this act become effective upon passage and approval.

2. Sections 1, 6, 7, **15.5**, 17 and 18 of this act become effective on July 1, 2011.

TEXT OF REPEALED SECTIONS

361.170 Claims for exemption: Requirements. Any person, copartnership, association or corporation making claim to no situs status on any property under NRS 361.160 to 361.185, inclusive, shall do so in the form and manner prescribed by the Department. All such claims shall be accompanied by a certification of the warehouse company as to the status on its books of the property involved.

361.230 Minimum valuation of patented land and land held under state land contract.

1. No patented land of any description in the State of Nevada owned by any individual, partnership, association, estate, corporation or otherwise, and no land held under any state land contract, shall be assessed for less than \$1.25 per acre by the county assessors of the various counties.

2. If the county board of equalization shall ascertain that any land within its county has been assessed upon a valuation of less than \$1.25 per acre, or has not been assessed at all, the board shall notify the county assessor immediately to pay into the county treasury the taxes due on such land, in such a sum as will yield the full amount of taxes due upon such land upon its true value, which valuation shall not be less than \$1.25 per acre. If a county assessor fails to pay such taxes within 10 days after such notification by the county board of equalization, the district attorney shall file and prosecute diligently a suit against the county assessor and his or her surety or sureties on his or her official bond for the amount of such taxes.

Senator Leslie moved the adoption of the amendment.

Remarks by Senator Leslie.

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

Amendment No. 463 to Senate Bill No. 249 deletes Sections 8 and 9 of the bill, which retain provisions of current law regarding appeals of property on the unsecured tax roll.

The amendment changes how property tax commissions retained by county assessors for technology improvements may be used by removing provisions that allow money in the Technology Fund to be used by other county offices that do business with the county assessors, and adding provisions that specify money in the Fund may be used to acquire or improve technology used by another entity with operational impact on the office of the county assessor.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 250.

Bill read second time.

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

Amendment No. 537.

"SUMMARY—Makes various changes relating to state financial administration. (BDR 31-749)"

"AN ACT relating to state financial administration; revising provisions governing state budgeting; making various other changes relating to state financial administration; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Chief of the Budget Division of the Department of Administration is required to prepare a proposed budget for the Executive Department of the State Government for each biennium for the Governor's approval and submission to the Legislature. In preparing that proposed budget, the Chief is prohibited from exceeding a limit on total proposed expenditures calculated with a formula involving a base budget that is equal to the total expenditures in the 1975-1977 biennium, which is multiplied by a certain population growth percentage obtained from the United States Department of Commerce and an inflation or deflation percentage based on figures from the United States Department of Labor. (NRS 353.185, 353.213)

Section 2 of this bill revises that formula by ~~requiring first an estimation of the total proposed expenditures, which utilizes a base equal to the total expenditures from Fiscal Years 2005-2007, and provides for the population growth percentage to be determined using figures from the State Demographer, and for the inflation or deflation percentage to be based on a comparison between the most recent estimate of the Economic Forum of the state and local government consumption expenditures and the gross investment component of the Gross Domestic Product to the same component as calculated in the last quarter of 2006 by the Bureau of Economic Analysis of the United States Department of Commerce.~~ **requiring that the base for each biennium be the immediately preceding 60-month rolling average of total expenditure, less any expenditure that has been removed from the State General Fund. This 60-month rolling average will first apply to the Governor's proposed budget developed in 2012, so the 60-month rolling average in 2012 will consider expenditures between 2007 and 2012.** **Section 2** further requires that the actual total proposed expenditures in the Governor's proposed budget be based on a comparison between the estimation of total proposed expenditures, the total legislative appropriations made in the previous biennium and the most recent forecast for revenues in the State General Fund made by the Economic Forum. **Finally, section 2 provides that if the most recent forecast by the Economic Forum of revenues in the State exceeds the limit upon total proposed expenditures, the Chief must include in the proposed budget: (1) a transfer of 60 percent of such excess amount to the Fund to Stabilize the Operation of the State Government; and (2) the use of 40 percent of such excess amount for only capital expenditures, reducing unfunded liabilities, providing one-time matching funds for grants, employee training and education, and acquisition or improvement of technology.**

Sections 1 and 4 of this bill require that if the actual revenue of the State during a biennium exceeds the total expenditures from the State General Fund appropriated and authorized by the Legislature for such biennium: (1) 60 percent of such amount must be deposited into the Fund to Stabilize the Operation of the State Government; and (2) 40 percent of such amount may only be used in a future biennium for capital expenditures, reducing unfunded liabilities, providing one-time matching funds for grants, employee training and education, acquisition or improvement of technology, and supplementary appropriations.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 353 of NRS is hereby amended by adding thereto a new section to read as follows:

If the total actual revenue of the State during a biennium exceeds the total expenditures from the State General Fund appropriated and authorized by the Legislature for such biennium, 40 percent of the amount of such excess may only be used in a future biennium for the following purposes:

1. Capital expenditures.
2. Reducing unfunded liabilities of the State.
3. Providing one-time matching funds for grants.
4. Employee training and education.
5. Acquisition or improvement of technology.
6. Supplementary appropriations.

~~[Section 1.]~~ Sec. 1.5. NRS 353.185 is hereby amended to read as follows:

353.185 The powers and duties of the Chief are:

1. To appraise the quantity and quality of services rendered by each agency in the Executive Department of the State Government, and the needs for such services and for any new services.

2. To develop plans for improvements and economies in organization and operation of the Executive Department, and to install such plans as are approved by the respective heads of the various agencies of the Executive Department, or as are directed to be installed by the Governor or the Legislature.

3. To cooperate with the State Public Works Board in developing comprehensive, long-range plans for capital improvements and the means for financing them.

4. To devise and prescribe the forms for reports on the operations of the agencies in the Executive Department to be required periodically from the several agencies in the Executive Department, and to require the several agencies to make such reports.

5. To prepare the executive budget report for the Governor's approval and submission to the Legislature.

6. To prepare a proposed budget for the Executive Department of the State Government for the next 2 fiscal years, which must:

(a) Present a complete financial plan for the next 2 fiscal years;

(b) Set forth all proposed expenditures for the administration, operation and maintenance of the departments, institutions and agencies of the Executive Department of the State Government, including those operating on funds designated for specific purposes by the Constitution or otherwise, which must include a separate statement of:

(1) The anticipated expense, including personnel, for the operation and maintenance of each capital improvement to be constructed during the next 2 fiscal years and of each capital improvement constructed on or after July 1, 1999, which is to be used during those fiscal years or a future fiscal year; and

(2) The proposed source of funding for the operation and maintenance of each capital improvement, including personnel, to be constructed during the next 2 fiscal years;

(c) Set forth all charges for interest and debt redemption during the next 2 fiscal years, including, without limitation, the debt service on the note or notes authorized by NRS 349.074 as if the note or notes were issued in the amount necessary to comply with ~~{the minimum reserve requirements in}~~ NRS 353.213;

(d) Set forth all expenditures for capital projects to be undertaken and executed during the next 2 fiscal years, and which must, to the extent practicable, provide that each capital project which exceeds a cost of \$10,000,000 be scheduled to receive funding for design and planning during one biennium and funding for construction in the subsequent biennium; and

(e) Set forth the anticipated revenues of the State Government, and any other additional means of financing the expenditures proposed for the next 2 fiscal years.

7. To examine and approve work programs and allotments to the several agencies in the Executive Department, and changes therein.

8. To examine and approve statements and reports on the estimated future financial condition and the operations of the agencies in the Executive Department of the State Government and the several budgetary units that have been prepared by those agencies and budgetary units, before the reports are released to the Governor, to the Legislature or for publication.

9. To receive and deal with requests for information as to the budgetary status and operations of the executive agencies of the State Government.

10. To prepare such statements of unit costs and other statistics relating to cost as may be required from time to time, or requested by the Governor or the Legislature.

11. To do and perform such other and further duties relative to the development and submission of an adequate proposed budget for the Executive Department of the State Government of the State of Nevada as the Governor may require.

Sec. 2. NRS 353.213 is hereby amended to read as follows:

353.213 1. ~~It~~ *Except as otherwise provided in this section, in preparing the proposed budget for the Executive Department of the State Government for each biennium, the Chief shall not exceed the limit upon total proposed expenditures for purposes other than construction and reducing any unfunded accrued liability of the State Retirees' Health and Welfare Benefits Fund created by NRS 287.0436 from the State General Fund ~~calculated~~ estimated pursuant to this section. The base for each biennium is the immediately preceding 60-month rolling average of total expenditure, for the purposes limited, from the State General Fund appropriated and authorized by the Legislature ~~for the biennium beginning on July 1, 1975, 2005,~~ , except that if any expenditure is removed from the State General Fund, the 60-month rolling average must be adjusted to account for such removal.*

2. The limit *upon total proposed expenditures imposed pursuant to subsection 1* for each biennium is calculated as follows:

(a) ~~The~~ ~~estimated by multiplying the~~ amount of expenditure constituting the base is multiplied by the percentage of change in population ~~for the current biennium from the population on July 1, 1974,~~ as determined pursuant to subsection 5, and this product is added to or subtracted from the amount of expenditure constituting the base.

(b) ~~The amount calculated pursuant to paragraph (a) is multiplied~~ ~~2006, then multiplying the product~~ by the percentage of inflation or deflation ~~for~~ as determined pursuant to subsection 6, and this product is added to or subtracted from the amount calculated pursuant to paragraph (a).

~~(c) Subject to the limitations of this paragraph:~~

~~(1) If the amount resulting from the calculations pursuant to paragraphs (a) and (b) represents a net increase over the base biennium, the Chief may increase the proposed expenditure accordingly.~~

~~(2) If the amount represents a net decrease, the Chief shall decrease the proposed expenditure accordingly.~~

~~(3) If the amount is the same as in the base biennium, that amount is the limit of permissible proposed expenditure.~~

3. ~~The~~ ~~Commencing with the proposed budget for the period that begins on July 1, 2011, and ends on June 30, 2013, the~~ proposed budget for each fiscal year of the biennium must provide for a reserve of :

(a) Not less than 5 percent or more than 10 percent of the total of all proposed appropriations from the State General Fund for the operation of all departments, institutions and agencies of the State Government and authorized expenditures from the State General Fund for the regulation of gaming for that fiscal year; and

(b) Commencing with the proposed budget for the period that begins on July 1, 2011, and ends on June 30, 2013, 1 percent of the total anticipated revenue for each of the 2 fiscal years of the biennium for which the budget is proposed, as projected by the Economic Forum for each of those fiscal years

pursuant to paragraph (d) ~~((e))~~ of subsection 1 of NRS 353.228 and as adjusted by any changes or adjustments to state revenue that are recommended in the proposed budget for those fiscal years.

4. *In preparing the proposed budget for the upcoming biennium, the Chief shall compare the limit upon total proposed expenditures estimated pursuant to subsection 2 with the most recent forecast by the Economic Forum of revenues in the State General Fund pursuant to NRS 353.228 and the total expenditures, for the purposes limited in subsection 1, from the State General Fund appropriated and authorized by the Legislature for the current biennium as follows:*

(a) *If the most recent forecast by the Economic Forum of revenues in the State General Fund is greater than the limit upon total proposed expenditures estimated pursuant to subsection 2, then the amount of the proposed budget cannot exceed the limit upon total proposed expenditures estimated pursuant to subsection 2.*

(b) *If the most recent forecast by the Economic Forum of revenues in the State General Fund is less than the limit upon total proposed expenditures estimated pursuant to subsection 2 and:*

(1) *Greater than the total expenditures, for the purposes limited in subsection 1, from the State General Fund appropriated and authorized by the Legislature for the current biennium, then the amount of the proposed budget cannot exceed the most recent forecast by the Economic Forum of revenues in the State General Fund; or*

(2) *Less than the total expenditures, for the purposes limited in subsection 1, from the State General Fund appropriated and authorized by the Legislature for the current biennium, then the amount of the proposed budget cannot exceed the smaller of:*

(I) *The total expenditures, for the purposes limited in subsection 1, from the State General Fund appropriated and authorized by the Legislature for the current biennium; or*

(II) *The most recent forecast by the Economic Forum of revenues in the State General Fund plus the amount available for appropriation from the Fund to Stabilize the Operation of the State Government created by NRS 353.288.*

5. ~~{The revised estimate} {percentage of change in}~~ For purposes of paragraph (a) of subsection 2, the population for the State ~~{issued by the United States Department of Commerce as of July 1, 1974, must be used and the}~~ as of July 1 preceding the biennium for which the budget is being prepared must be compared to the population as of July 1 preceding the current biennium. Based on such comparison, the Governor shall certify the percentage of increase or decrease in population . {for each succeeding biennium. The}

6. For purposes of paragraph (b) of subsection 2, the Consumer Price Index published by the United States Department of Labor for July 1 preceding {each} the biennium {must be used in determining} for which the

~~budget is being prepared must be compared to the Consumer Price Index published by the United States Department of Labor for July 1 preceding the current biennium to determine the~~ ~~to be used in the calculations made pursuant to subsection 2 is the ratio of the forecast of the population of the State made on July 1 of the second fiscal year of the upcoming biennium by the demographer employed pursuant to NRS 360.283 to the population of the State on July 1, 2006. The~~ percentage of inflation or deflation ~~to be used in the calculations made pursuant to subsection 2 is the ratio of the most recent estimate provided by the Economic Forum pursuant to NRS 353.228 of the state and local government consumption expenditures and gross investment component of the Gross Domestic Product of the United States for the September to December quarter of the second fiscal year of the upcoming biennium to the value of the state and local government consumption expenditures and gross investment component of the Gross Domestic Product of the United States for the September 2006 to December 2006 quarter as specified by the Bureau of Economic Analysis of the United States Department of Commerce.~~

~~{5.}~~ ~~{6.}~~ 7. The Chief may exceed the limit to the extent necessary to meet situations in which there is a threat to life or property.

~~{6.}~~ ~~{7.}~~ 8. If the most recent forecast by the Economic Forum of revenues in the State exceeds the limit upon total proposed expenditures estimated pursuant to subsection 2, the proposed budget must include:

(a) A transfer of 60 percent of such excess amount to the Fund to Stabilize the Operation of the State Government; and

(b) The use of 40 percent of such excess amount for only the following purposes:

- (1) Capital expenditures.
- (2) Reducing unfunded liabilities of the State.
- (3) Providing one-time matching funds for grants.
- (4) Employee training and education.
- (5) Acquisition or improvement of technology.

9. As used in this section, "unfunded accrued liability" means a liability with an actuarially determined value which exceeds the value of the assets in the fund from which payments are made to discharge the liability.

Sec. 3. ~~{NRS 353.228 is hereby amended to read as follows:~~

~~353.228 1. The Economic Forum impaneled pursuant to NRS 353.226 shall:~~

~~(a) Make such projections for economic indicators as it deems necessary to ensure that an accurate estimate is produced pursuant to [paragraph (b);] paragraphs (b) and (c);~~

~~(b) Provide an accurate estimate of the revenue that will be collected by the State for general, unrestricted uses, and not for special purposes, during the biennium that begins on July 1 of the year following the date on which the Economic Forum was empaneled;~~

~~(c) Provide an accurate estimate of the state and local government consumption expenditures and gross investment component of the Gross Domestic Product of the United States as required pursuant to NRS 353.213, based on information from the Legislative Counsel Bureau, the Budget Division of the Department of Administration and other sources as provided in subsection 4;~~

~~(d) Request such technical assistance as the Economic Forum deems necessary from the Technical Advisory Committee created by NRS 353.229;~~

~~[(d)] (e) On or before December 1 of the year in which the Economic Forum was empaneled, prepare a written report of its projections of economic indicators and estimate of future state revenue required by paragraphs (a), [and] (b) and (c) and present the report to the Governor and the Legislature; and~~

~~[(e)] (f) On or before May 1 of the year following the year in which the Economic Forum was empaneled, prepare a written report confirming or revising the projections of economic indicators and estimate of future state revenue contained in the report prepared pursuant to paragraph [(d)] (e) and present the report to the Governor and the Legislature.~~

~~2. The Economic Forum may make preliminary projections of economic indicators and estimates of future state revenue at any time. Any such projections and estimates must be made available to the various agencies of the State through the Chief.~~

~~3. The Economic Forum may request information directly from any state agency. A state agency that receives a reasonable request for information from the Economic Forum shall comply with the request as soon as is reasonably practicable after receiving the request.~~

~~4. To carry out its duties pursuant to this section, the Economic Forum may consider any information received from the Technical Advisory Committee and any other information received from independent sources.~~

~~5. Copies of the projections and estimates made pursuant to this section must be made available to the public by the Director of the Legislative Counsel Bureau for the cost of reproducing the material.] **(Deleted by amendment.)**~~

Sec. 4. NRS 353.288 is hereby amended to read as follows:

353.288 1. The Fund to Stabilize the Operation of the State Government is hereby created as a special revenue fund. Except as otherwise provided in subsections 3 and 4, each year after the close of the previous fiscal year and before the issuance of the State Controller's annual report, the State Controller shall transfer from the State General Fund to the Fund to Stabilize the Operation of the State Government:

(a) Forty percent of the unrestricted balance of the State General Fund, as of the close of the previous fiscal year, which remains after subtracting an amount equal to 7 percent of all appropriations made from the State General Fund during that previous fiscal year for the operation of all departments,

institutions and agencies of State Government and for the funding of schools;
~~and~~

(b) Commencing with the fiscal year that begins on July 1, 2011, 1 percent of the total anticipated revenue for the fiscal year in which the transfer will be made, as projected by the Economic Forum for that fiscal year pursuant to paragraph (c) ~~(((~~ of subsection 1 of NRS 353.228 and as adjusted by any legislation enacted by the Legislature that affects state revenue for that fiscal year ~~); and~~

(c) Subject to the limitations set forth in paragraphs (a) and (b), if the total actual revenue of the State during a biennium exceeds the total expenditures from the State General Fund appropriated and authorized by the Legislature for such biennium, an amount equal to 60 percent of the amount of such excess.

2. Money transferred pursuant to subsection 1 to the Fund to Stabilize the Operation of the State Government is a continuing appropriation solely for the purpose of authorizing the expenditure of the transferred money for the purposes set forth in this section.

3. The balance in the Fund to Stabilize the Operation of the State Government, excluding the aggregate balance in the Disaster Relief Account and the Emergency Assistance Subaccount, must not exceed 20 percent of the total of all appropriations from the State General Fund for the operation of all departments, institutions and agencies of the State Government and for the funding of schools and authorized expenditures from the State General Fund for the regulation of gaming for the fiscal year in which that revenue will be transferred to the Fund to Stabilize the Operation of the State Government.

4. Except as otherwise provided in this subsection and NRS 353.2735, beginning with the fiscal year that begins on July 1, 2003, the State Controller shall, at the end of each quarter of a fiscal year, transfer from the State General Fund to the Disaster Relief Account created pursuant to NRS 353.2735 an amount equal to not more than 10 percent of the aggregate balance in the Fund to Stabilize the Operation of the State Government during the previous quarter, excluding the aggregate balance in the Disaster Relief Account and the Emergency Assistance Subaccount created pursuant to NRS 414.135. The State Controller shall not transfer more than \$500,000 for any quarter pursuant to this subsection.

5. The Chief of the Budget Division of the Department of Administration may submit a request to the State Board of Examiners to transfer money from the Fund to Stabilize the Operation of the State Government to the State General Fund:

(a) If the total actual revenue of the State falls short by 5 percent or more of the total anticipated revenue for the biennium in which the transfer will be made, as determined by the Legislature, or the Interim Finance Committee if the Legislature is not in session; or

(b) If the Legislature, or the Interim Finance Committee if the Legislature is not in session, and the Governor declare that a fiscal emergency exists.

6. The State Board of Examiners shall consider a request made pursuant to subsection 5 and shall, if it finds that a transfer should be made, recommend the amount of the transfer to the Interim Finance Committee for its independent evaluation and action. The Interim Finance Committee is not bound to follow the recommendation of the State Board of Examiners.

7. If the Interim Finance Committee finds that a transfer recommended by the State Board of Examiners should and may lawfully be made, the Committee shall by resolution establish the amount and direct the State Controller to transfer that amount to the State General Fund. The State Controller shall thereupon make the transfer.

8. In addition to the manner of allocation authorized pursuant to subsections 5, 6 and 7, the money in the Fund to Stabilize the Operation of the State Government may be allocated directly by the Legislature to be used for any other purpose.

Sec. 5. 1. This act becomes effective on July 1, 2011.

2. Section ~~HH~~ 1.5 of this act expires by limitation on June 30, 2013.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

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

Amendment No. 537 to Senate Bill No. 250 resets the base of total expenditures for the purposes of preparing the Executive Budget to include a "60-month rolling average" of total expenditures from the State General Fund beginning with the biennium commencing on July 1, 2007.

It specifies that any expenditure that is removed from the State General Fund must be adjusted in the 60-month rolling average.

It changes the baseline population figure used in the budget calculation using the 60-month rolling average to the population estimate from July 1, 2007.

It retains original language in the NRS, which provides that the percentage of inflation or deflation for the calculation of the executive budget is determined based on the Consumer Price Index of the United States Department of Labor.

It provides that if the most recent forecast by the Economic Forum of revenues in the State exceeds the limit upon total proposed expenditures, the proposed budget must provide that 60 percent of such excess amount be transferred to the Rainy Day Fund, and 40 percent be used for only capital expenditures, reducing unfunded liabilities, providing one-time matching funds for grants, employee training and education, and the acquisition or improvement of technology.

It provides that if the actual revenue of the State during a biennium exceeds the total expenditures from the State General Fund, appropriated and authorized by the Legislature, 60 percent of such excess amount must be deposited into the Rainy Day Fund, and 40 percent must only be used in a future biennium for capital expenditures, reducing unfunded liabilities, providing one-time matching funds for grants, employee training and education, the acquisition or improvement of technology, and supplementary appropriations.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bills Nos. 164, 227, 250 be re-referred to the Committee on Finance upon return from reprint.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 254.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 381.

"SUMMARY—Revises provisions relating to common-interest communities. (BDR 10-264)"

"AN ACT relating to common-interest communities; revising procedures for alternative dispute resolution of certain claims relating to common-interest communities; ~~authorizing an association to assess against a unit the common expenses incurred in defending against certain claims;~~ revising provisions governing the review of certain books, papers and records of an association; revising provisions governing the confidentiality of certain documents and information obtained by the Real Estate Division of the Department of Business and Industry; revising the penalties for filing frivolous, false or fraudulent claims; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1, 2 and 6-21 of this bill revise the procedures for: (1) the alternative dispute resolution of civil actions which relate to any governing documents or covenants, conditions or restrictions applicable to residential property; and (2) administrative proceedings which relate to a violation of existing law governing common-interest communities and condominium hotels. **Sections 10 and 18** require a person to include in a written claim filed with the Real Estate Division of the Department of Business and Industry all claims which: (1) allege a violation of the governing documents or covenants, conditions or restrictions; and (2) allege a violation of existing law governing common-interest communities and condominium hotels. Under **sections 1 and 15**, the ~~Division~~ **Ombudsman for Owners in Common-Interest Communities and Condominium Hotels** must refer all claims to a mediator, and the Commission for Common-Interest Communities and Condominium Hotels ~~may~~ **shall** adopt regulations **establishing the maximum amount of the fees and costs of the mediation** and governing the manner in which ~~the~~ **such** fees and costs ~~of the mediation~~ are paid. If the mediation does not result in a settlement of the claim, **sections 1 and 15** require the mediator to refer the claim: (1) to arbitration if the claim relates to the governing documents or covenants, conditions or restrictions applicable to the property; and (2) to the Division if the claim relates to a violation of a provision of existing law governing common-interest communities ~~for condominium hotels~~. If the claim is

referred to an arbitrator, the arbitration is conducted in accordance with (1) the rules of the American Arbitration Association or other comparable rules for speedy arbitration approved by the Division or the Commission; and (2) existing law governing the arbitration of such claims. If the claim is referred to the Division, **section 11** requires the Division to determine whether good cause exists to proceed with a hearing on the alleged violation and, if good cause exists, to refer the claim to the Ombudsman ~~for Owners in Common Interest Communities and Condominium Hotels.~~ or file a complaint with the Commission. If the claim is referred to the Ombudsman, the parties do not resolve the alleged violation with the assistance of the Ombudsman and ~~the~~ the Division, after investigation, makes certain findings, the Administrator of the Division must file a formal complaint with the Commission. ~~for refer the claimant and respondent to a hearing.~~

Sections 5, 10 and 18 of this bill revise the penalties which may be imposed against a person who files with the Division a frivolous, false or fraudulent claim and provide for penalties against a person who files a claim with the Division for the purpose of delay or harassment. ~~Section 3 of this bill authorizes a unit owners' association to impose an assessment of the expenses of defending such a claim against the unit's owner who filed the claim.~~

Section 4 of this bill provides that, unless and until a complaint is filed by the Real Estate Administrator, ~~for the Administrator refers a claim for hearing,~~ the executive board is not required to make available certain **confidential** documents and information relating to certain claims filed with the Division.

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Not later than 5 days after receipt of a written response filed with the Division pursuant to subsection ~~6~~ 5 of NRS 116.760, the Division shall provide:

(a) To the claimant, a copy of the response.

(b) To the parties, the list of mediators maintained by the Division pursuant to NRS 38.340.

2. The parties may select a mediator from the list of mediators provided pursuant to subsection 1. If the parties fail to agree upon a mediator, the ~~Division~~ Ombudsman shall appoint a mediator from the list of mediators maintained by the Division. Any mediator selected by the parties or appointed by the ~~Division~~ Ombudsman must be available within the geographic area. Upon appointing a mediator, the ~~Division~~ Ombudsman shall provide the name of the mediator to the parties.

3. Not later than 5 days after his or her selection or appointment pursuant to subsection 2, the mediator shall provide to the parties an

informational statement relating to a mediation conducted pursuant to this section. The written informational statement:

- (a) Must be in a form approved by the Commission;*
- (b) Must be written in plain English;*
- (c) Must explain the procedures and applicable law relating to a mediation conducted pursuant to this section, including, without limitation, the confidentiality of the mediation, the nature of the mediation process, the enforceability of a settlement obtained through mediation and the procedures for resolution of the claim if the parties fail to reach a settlement through mediation; and*
- (d) Must be accompanied by a separate form acknowledging that the party has received and read the informational statement and agrees to comply with the provisions of law governing the confidentiality of the mediation, which must be returned to the mediator by the party not later than 10 days after receipt of the informational statement.*

4. Unless otherwise provided by an agreement of the parties, a mediation conducted pursuant to this section must be completed within 60 days after the selection or appointment of the mediator.

5. Upon the conclusion of the settlement discussions, any agreement obtained through mediation conducted pursuant to this section must be reduced to writing by the mediator and signed by the parties. The mediator shall provide a copy of the written agreement signed by the parties to each party and to the Division. Any written agreement received by the Division pursuant to this subsection is confidential. The agreement may be enforced as any other written agreement. Except as otherwise provided in this section and subject to any regulations adopted by the Commission, the parties are responsible for the payment of all fees and costs of mediation in the manner provided by the mediator. The Commission ~~may~~ shall adopt regulations governing the maximum amount that may be charged for fees and costs of mediation and the manner in which ~~the~~ such fees and costs of mediation are paid.

6. The Division may provide for the payment of the fees of a mediator selected or appointed pursuant to this section from the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630, to the extent that:

- (a) The Commission approves the payment; and*
- (b) There is money available in the Account for this purpose.*

7. If either party fails to participate in the mediation or if, within 60 days after the selection or appointment of the mediator or any longer period agreed to by the parties, the parties are unable with the assistance of the mediator to resolve any of the disputes included in the written claim, the mediator shall, not later than 5 days after the conclusion of the mediation:

- (a) Certify to the ~~Division~~ Ombudsman that the mediation was unsuccessful; and*

(b) Recommend that the claim be referred:

(1) To arbitration pursuant to NRS 38.330, if the claim relates to any governing documents or covenants, conditions or restrictions applicable to the real estate which is the subject of the claim; or

(2) To the Division for proceedings pursuant to this section and NRS 116.745 to 116.795, inclusive, if the claim relates to an alleged violation of a provision of this chapter ~~+~~ or any regulation adopted pursuant thereto ~~for an order of the Commission or a hearing panel.~~

→ The mediator may not provide any other information relating to the mediation to the Division, and the Division, the Commission and a hearing panel may not request from the mediator any other information relating to the mediation.

8. No admission, representation or statement made during a mediation conducted pursuant to this section, not otherwise discoverable or obtainable, is admissible as evidence or subject to discovery in a civil action or administrative proceeding.

9. As used in this section, "geographic area" has the meaning ascribed to it in NRS 38.330.

Sec. 2. NRS 116.085 is hereby amended to read as follows:

116.085 "Respondent" means a person against whom:

1. ~~{An affidavit}~~ *A claim* has been filed pursuant to NRS ~~38.320~~ or 116.760.

2. A complaint has been filed ~~for who has been referred to a hearing before the Commission or a hearing panel~~ pursuant to NRS 116.765.

Sec. 3. ~~{NRS 116.3115 is hereby amended to read as follows:~~

~~116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.~~

~~2. Except for assessments under subsections 4 to 7, inclusive:~~

~~(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.~~

~~(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that~~

~~is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements and any other portion of the common interest community that the association is obligated to maintain, repair, replace or restore over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements or any other portion of the common interest community that the association is obligated to maintain, repair, replace or restore are necessary. Notwithstanding any provision of the governing documents to the contrary, to establish adequate reserves pursuant to this paragraph, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common interest community. Any such assessments imposed by the executive board must be based on the study of the reserves of the association conducted pursuant to NRS 116.31152.~~

~~3.— Any assessment for common expenses or installment thereof that is 60 days or more past due bears interest at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date the assessment becomes past due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the balance is satisfied.~~

~~4.— Except as otherwise provided in the governing documents:~~

~~(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;~~

~~(b) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and~~

~~(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.~~

~~5.— Assessments to pay a judgment against the association may be made only against the units in the common interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.~~

~~6.— [If any common expense is caused by the misconduct of any unit's owner, the] The association may assess [that] a common expense exclusively against [his or her] a unit [.] if the common expense is for the legal fees and costs incurred by an association to defend a proceeding initiated by a claim which was:~~

~~(a) Filed with the Division by the unit's owner pursuant to NRS 38.320 or 116.760; and~~

~~(b) Found by the Commission or a hearing panel to have been filed in violation of subsection 9 of NRS 38.320 or subsection 9 or 10 of NRS 116.760.~~

~~7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.~~

~~8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.~~

~~9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting. } (Deleted by amendment.)~~

Sec. 4. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community and during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, including, without limitation, any architectural plan or specification submitted by a unit's owner to the association during an approval process required by the governing documents, except for those records described in subsection 2; ~~and~~

(c) Any document, including, without limitation, minutes of an executive board meeting, a reserve study and a budget, if the document:

(1) Is in the process of being developed for final consideration by the executive board; and

(2) Has not been placed on an agenda for final approval by the executive board ~~}; and~~

(d) Except as otherwise provided by law, any document or information which is:

(1) Submitted to the Division in response to a claim filed with the Division pursuant to NRS 38.320 or 116.760;

(2) Received from the Division as a result of the filing of a claim pursuant to NRS 38.320 or 116.760 or an investigation of that claim; or

(3) Otherwise required to be kept confidential by the Division pursuant to subsection 1 of NRS 116.757,

↪ ~~unless and until the Administrator files a formal complaint for refers the claimant and respondent to a hearing before~~ **with the Commission . for a hearing panel.**

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If the Ombudsman is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an amount in excess of \$10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

6. If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request and without charge, provide equal space to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.

7. If an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal

space to opposing views and opinions of a unit's owner, tenant or resident of the common-interest community.

8. The association and its officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to subsection 6 or 7.

9. As used in this section:

(a) "Issue of official interest" includes, without limitation:

(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, the election of members of the executive board; and

(2) The enactment or adoption of rules or regulations that will affect a common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or

(3) An official bulletin board that is available to each unit's owner,

↳ which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.

Sec. 5. NRS 116.675 is hereby amended to read as follows:

116.675 1. The Commission may appoint one or more hearing panels. Each hearing panel must consist of one or more independent hearing officers. An independent hearing officer may be, without limitation, a member of the Commission or an employee of the Commission.

2. The Commission may by regulation delegate to one or more hearing panels the power of the Commission to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter.

3. While acting under the authority of the Commission, a hearing panel and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the Commission and its members.

4. A final order of a hearing panel:

(a) May be appealed to the Commission if, not later than 20 days after the date that the final order is issued by the hearing panel, any party aggrieved by the final order files a written notice of appeal with the Commission.

(b) Must be reviewed and approved by the Commission if, not later than 40 days after the date that the final order is issued by the hearing panel, the Division, upon the direction of the Chair of the Commission, provides written notice to all parties of the intention of the Commission to review the final order.

5. *If the Commission finds that an appeal from a final order of a hearing panel is filed in bad faith or without reasonable cause for the*

purpose of delay or harassment, the Commission may impose any of the sanctions set forth in subsection ~~9~~ 8 of NRS 116.760 against the person who filed the appeal.

Sec. 6. NRS 116.745 is hereby amended to read as follows:

116.745 As used in NRS 116.745 to 116.795, inclusive, *and section 1 of this act*, unless the context otherwise requires, "violation" means a violation of any provision of this chapter, any regulation adopted pursuant thereto or any order of the Commission or a hearing panel.

Sec. 7. NRS 116.750 is hereby amended to read as follows:

116.750 1. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, *and section 1 of this act*, the Division and the Ombudsman have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take appropriate action against any person who commits a violation, including, without limitation:

- (a) Any association and any officer, employee or agent of an association.
- (b) Any member of an executive board.
- (c) Any community manager who holds a certificate and any other community manager.
- (d) Any person who is registered as a reserve study specialist, or who conducts a study of reserves, pursuant to chapter 116A of NRS.
- (e) Any declarant or affiliate of a declarant.
- (f) Any unit's owner.
- (g) Any tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto.

2. The jurisdiction set forth in subsection 1 applies to any officer, employee or agent of an association or any member of an executive board who commits a violation and who:

- (a) Currently holds his or her office, employment, agency or position or who held the office, employment, agency or position at the commencement of proceedings against him or her.
- (b) Resigns his or her office, employment, agency or position:
 - (1) After the commencement of proceedings against him or her; or
 - (2) Within 1 year after the violation is discovered or reasonably should have been discovered.

Sec. 8. NRS 116.755 is hereby amended to read as follows:

116.755 1. The rights, remedies and penalties provided by NRS 116.745 to 116.795, inclusive, *and section 1 of this act* are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity.

2. If the Commission, a hearing panel or another agency or officer elects to take a particular action or pursue a particular remedy or penalty authorized by NRS 116.745 to 116.795, inclusive, *and section 1 of this act* or another specific statute, that election is not exclusive and does not preclude the

Commission, the hearing panel or another agency or officer from taking any other actions or pursuing any other remedies or penalties authorized by NRS 116.745 to 116.795, inclusive, **and section 1 of this act** or another specific statute.

3. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, **and section 1 of this act**, the Commission or a hearing panel shall not intervene in any internal activities of an association except to the extent necessary to prevent or remedy a violation.

Sec. 9. NRS 116.757 is hereby amended to read as follows:

116.757 1. Except as otherwise provided in this section and NRS 239.0115, a ~~{written affidavit}~~ **claim and a response** filed with the Division pursuant to NRS **38.320 or** 116.760, all documents and other information filed with the ~~{written affidavit}~~ **claim or response** and all documents and other information compiled as a result of an investigation conducted to determine whether to file a formal complaint with the Commission are confidential. ~~{The}~~ **Except as otherwise provided in this section, the** Division shall not disclose any information that is confidential pursuant to this subsection, in whole or in part, to any person, including, without limitation, a person who is the subject of an investigation or complaint, unless and until a ~~f~~

~~(a) The Administrator refers a claimant and respondent for a hearing before the Commission or a hearing panel and the disclosure is required pursuant to subsection 3.~~

~~(b) A~~ formal complaint is filed pursuant to subsection ~~{2}~~ ~~{4}~~ 3 and the disclosure is required pursuant to subsection ~~{2}~~ ~~{4}~~ 3.

2. **The Division may disclose a claim and response filed with the Division pursuant to NRS 38.320 or 116.760 and any documents or other information filed with the claim or response to:**

(a) The parties to the claim, as required by NRS 38.320 or 116.760 or section 1 or 15 of this act;

(b) The mediator selected or appointed pursuant to section 1 or 15 of this act; and

(c) An arbitrator selected or appointed pursuant to NRS 38.330.

3. ~~{If the Administrator refers a claimant and respondent for a hearing before the Commission or a hearing panel, the claim and the response to that claim filed with the Division pursuant to NRS 38.320 or 116.760 and all documents and information considered by the Commission or a hearing panel when determining whether to impose discipline or take other administrative action pursuant to NRS 116.745 to 116.795, inclusive, and section 1 of this act are public records.~~

~~4.~~ A formal complaint filed by the Administrator with the Commission and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline or take other administrative action pursuant to NRS 116.745 to 116.795, inclusive, **and section 1 of this act** are public records.

Sec. 10. NRS 116.760 is hereby amended to read as follows:

116.760 1. Except as otherwise provided in this section, a person who is aggrieved by an alleged violation may, not later than 1 year after the person discovers or reasonably should have discovered the alleged violation, file with the Division a written ~~{affidavit that sets forth the facts constituting the alleged violation. The affidavit may allege any actual damages suffered by the aggrieved person as a result of the alleged violation.}~~ ***claim pursuant to this section. A claim may not be filed pursuant to this section if:***

(a) *The claimant previously filed a claim with the Division; and*

(b) *At the time the claimant filed the previous claim, the claimant was aware or reasonably should have been aware of the facts and circumstances underlying the current claim.*

2. An aggrieved person may not file ~~{such an affidavit}~~ *a claim pursuant to this section* unless *all administrative procedures specified in the governing documents have been exhausted* and the aggrieved person has provided the respondent by certified mail, return receipt requested, with written notice of the alleged violation set forth in the ~~{affidavit}~~ *claim*. The notice must:

(a) Be mailed to the respondent's last known address.

(b) Specify, in reasonable detail, the alleged violation, any actual damages suffered by the aggrieved person as a result of the alleged violation, and any corrective action proposed by the aggrieved person.

3. A ~~{written affidavit}~~ *claim* filed with the Division pursuant to this section or NRS 38.320 must be ~~{~~:

(a) ~~On~~ *on* a form ~~{prescribed}~~ *approved* by the ~~{Division}~~.

(b) ~~Be accompanied by evidence that:~~

~~{+}~~ *Commission and must include:*

(a) *The complete names, addresses and telephone numbers of all parties to the claim.*

(b) *A statement of whether all administrative procedures specified in the governing documents have been exhausted.*

(c) *A specific statement of the nature of the claim, including, without limitation, a description, in reasonable detail, of:*

(1) *The alleged violation of the provisions of this chapter ~~{+}~~ or any regulation adopted pursuant thereto or ~~{an order of the Commission or a hearing panel}~~ an alleged violation of the governing documents;*

(2) *Any alleged damages suffered by the aggrieved person as a result of the actions underlying the claim; and*

(3) *Any corrective action proposed by the claimant.*

(d) *A statement that:*

(1) *The claimant has given the respondent written notice of the claim;*

(2) *The respondent has been given a reasonable opportunity after receiving the written notice to correct the alleged violation ~~{+}~~ of the provisions of this chapter or any regulation adopted pursuant thereto or an alleged violation of the governing documents; and*

~~[(2)]~~ (3) Reasonable efforts to resolve the alleged violation have failed.

(e) *All claims of which the claimant is aware or reasonably should be aware, including, without limitation, any claims that relate to a violation of the governing documents applicable to the real estate which is the subject of the claim.*

(f) *Such other information as the Division may require by regulation.*

4. ~~[(The claim must be accompanied by a reasonable fee as determined by the Division.)]~~

~~5.]~~ *Upon the filing of a claim that satisfies the requirements of this section, the Division shall serve a copy of the claim on the respondent by certified mail, return receipt requested, to his or her last known address. [The claim so served must be accompanied by a statement prepared by the Division which explains the procedures for alternative dispute resolution set forth in NRS 38.300 to 38.360, inclusive, and section 15 of this act.]*

~~6.]~~ 5. *Upon being served pursuant to subsection ~~[(5.)]~~ 4, the person upon whom a copy of the claim was served shall, not later than 30 days after the date of service, file a written response with the Division. The response must:*

(a) *Contain an admission or a denial of the allegations contained in the claim and any defenses upon which the respondent will rely; and*

(b) *Be delivered personally to the Division or mailed to the Division by certified mail, return receipt requested. ~~[(f.) and~~*

~~(e) Be accompanied by a reasonable fee as determined by the Division.]~~

~~7.]~~ 6. *The Division may consolidate multiple claims involving the same parties for the purposes of a mediation conducted pursuant to section 1 of this act.*

~~[(8.)]~~ 7. *By filing a claim or response with the Division pursuant to this section, a person is certifying that to the best of the person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances:*

(a) *The claim or response is not being filed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of proceedings before the Division or the Commission; and*

(b) *The allegations and other factual contentions in the claim or response have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.*

~~[(9.)]~~ 8. *If a person files a claim pursuant to this section or NRS 38.320 which the person knows is false or fraudulent or if a person files such a claim in bad faith or without reasonable cause for the purpose of harassment, the Commission or a hearing panel may ~~impose~~ :*

(a) *Impose an administrative fine of not more than \$1,000 against ~~any~~ the person who ~~knowingly files a false or fraudulent affidavit with the Division.] filed the claim;~~*

(b) Issue an order directing the person who filed the claim to pay the costs incurred by the Division as a result of that filing, including, without limitation, the costs incurred by the Division in investigating the allegations in the claim;

~~f (c) Issue an order directing the person who filed the claim to pay the reasonable costs and attorney's fees incurred by the respondent as a result of the filing of the claim; or~~

~~(d)~~ or

(c) Take any combination of the actions set forth in paragraphs (a) ~~and~~ or (b). ~~and (e).~~

~~10. 9.~~ If a person files a frivolous claim with the Division pursuant to this section or NRS 38.320, the Commission ~~for a hearing panel~~ may ~~or~~

~~(a) Issue~~ issue an order directing the person who filed the frivolous claim to pay the costs incurred by the Division as a result of that filing, including, without limitation, the costs incurred by the Division in investigating the allegations in the claim. ~~or~~

~~(b) Issue an order directing the person who filed the frivolous claim to pay the reasonable costs and attorney's fees incurred by the respondent as a result of the filing of the claim.~~

Sec. 11. NRS 116.765 is hereby amended to read as follows:

116.765 1. Upon ~~receipt of an affidavit that complies with the provisions of NRS 116.760,~~ referral of a claim to the Division pursuant to subsection 7 of section 1 of this act or subsection 7 of section 15 of this act, the Division shall ~~refer~~ determine whether good cause exists to proceed with a hearing on the alleged violation. If, after investigating the alleged violation, the Division determines that the allegations in the claim are not frivolous, false or fraudulent and that good cause exists to proceed with a hearing on the alleged violation, the Administrator shall:

(a) File a formal complaint with the Commission, with the Division as complainant, and schedule a hearing on the complaint before the Commission or a hearing panel; or

(b) Refer the ~~affidavit~~ claim to the Ombudsman. ~~or~~

~~(c) Refer the claimant and respondent to a hearing before the Commission or a hearing panel.~~

2. ~~The~~ If the Administrator refers a claim to the Ombudsman pursuant to subsection 1, the Ombudsman shall give such guidance to the parties as the Ombudsman deems necessary to assist the parties to resolve the alleged violation.

~~3.~~ If the parties are unable to resolve the alleged violation with the assistance of the Ombudsman, the Ombudsman shall provide to the Division a report concerning the alleged violation and , **except as otherwise provided in subsection 4,** any information collected by the Ombudsman during his or her efforts to assist the parties to resolve the alleged violation.

~~4.~~ 3. Upon receipt of the report from the Ombudsman ~~or~~ pursuant to subsection 2, the Division shall conduct an investigation to determine

whether good cause exists to proceed with a hearing on the alleged violation.

f

5. If, after investigating the alleged violation, the Division determines that the allegations in the ~~affidavit~~ **claim** are not frivolous, false or fraudulent and that good cause exists to proceed with a hearing on the alleged violation, the Administrator shall file ~~file~~

~~(a) File~~ a formal complaint with the Commission, **with the Division as complainant**, and schedule a hearing on the complaint before the Commission or a hearing panel. ~~for~~

~~(b) Refer the claimant and respondent to a hearing before the Commission or a hearing panel.~~

4. **No admission, representation or statement made in the course of the Ombudsman's efforts to assist the parties to resolve the alleged violation, not otherwise discoverable or obtainable, is admissible as evidence or subject to discovery in a civil action or administrative proceeding.**

Sec. 12. NRS 116.770 is hereby amended to read as follows:

116.770 1. Except as otherwise provided in subsection 2, if the Administrator files a formal complaint with the Commission, ~~for refers the claimant and respondent to a hearing before the Commission or a hearing panel,~~ the Commission or a hearing panel shall hold a hearing on the complaint not later than 90 days after the date that the complaint is filed. ~~for the claimant and respondent are referred to a hearing, whichever is applicable.~~

2. The Commission or the hearing panel may continue the hearing upon its own motion or upon the written request of a party to the complaint, for good cause shown, including, without limitation, the existence of proceedings for mediation or arbitration or a civil action involving the facts that constitute the basis of the complaint.

3. The Division shall give the respondent **and, if the Division is not a party to the hearing, the claimant** written notice of the date, time and place of the hearing ~~on the complaint~~ at least 30 days before the date of the hearing. The notice must be:

(a) Delivered personally to the **claimant and** respondent or mailed to the **claimant and** respondent by certified mail, return receipt requested, to ~~this or her~~ **their** last known ~~address.~~ **addresses.**

(b) Accompanied by:

(1) A copy of the complaint; ~~for, if the Division did not file a complaint, the claim and response filed pursuant to NRS 38.320 or 116.760;~~ and

(2) Copies of all communications, reports, affidavits and depositions in the possession of the Division that are relevant to the complaint. ~~for, if the Division did not file a complaint, the claim and response filed pursuant to NRS 38.320 or 116.760.~~

4. At any hearing ~~on the complaint,~~ **held pursuant to this section**, the Division ~~for the claimant, whichever is applicable,~~ may not present

evidence that was obtained after the notice was given to the respondent pursuant to this section, unless the Division ~~for claimant~~ proves to the satisfaction of the Commission or the hearing panel that:

(a) The evidence was not available, after diligent investigation by the Division ~~, for the claimant,~~ before such notice was given to the respondent; and

(b) The evidence was given or communicated to the respondent immediately after it was obtained by the Division ~~, for claimant.~~

5. ~~{The}~~ ***If the Administrator files a formal complaint, the*** respondent must file an answer not later than 30 days after the date that notice of the complaint is delivered or mailed by the Division. The answer must:

(a) Contain an admission or a denial of the allegations contained in the complaint and any defenses upon which the respondent will rely; and

(b) Be delivered personally to the Division or mailed to the Division by certified mail, return receipt requested.

6. If the ***Administrator files a formal complaint and the*** respondent does not file an answer within the time required by subsection 5, the Division may, after giving the respondent written notice of the default, request the Commission or the hearing panel to enter a finding of default against the respondent. The notice of the default must be delivered personally to the respondent or mailed to the respondent by certified mail, return receipt requested, to his or her last known address.

Sec. 13. NRS 116.775 is hereby amended to read as follows:

116.775 ~~{Any}~~ ***If the Administrator files a formal complaint with the Commission,*** ~~for refers the claimant and respondent to a hearing before the Commission or a hearing panel,~~ ***any*** party to the complaint ~~for any party to the claim, as applicable,~~ may be represented by an attorney at any hearing on the complaint ~~, for claim.~~

Sec. 14. NRS 116.780 is hereby amended to read as follows:

116.780 1. After conducting its hearings on ~~the~~ ***a*** complaint ~~that~~ ***filed by the Administrator or a claim referred by the Administrator,*** the Commission or the hearing panel shall render a final decision on the merits of the complaint ***or claim*** not later than 20 days after the date of the final hearing.

2. The Commission or the hearing panel shall notify all parties to the complaint ***or claim*** of its decision in writing by certified mail, return receipt requested, not later than 60 days after the date of the final hearing. The written decision must include findings of fact and conclusions of law.

Sec. 15. Chapter 38 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Not later than 5 days after receipt of a written response filed with the Division pursuant to subsection 6 of NRS 38.320, the Division shall provide:

(a) To the claimant, a copy of the response.

(b) To the parties, the list of mediators maintained by the Division pursuant to NRS 38.340.

2. The parties may select a mediator from the list of mediators provided pursuant to subsection 1. If the parties fail to agree upon a mediator, the ~~the Division~~ Ombudsman shall appoint a mediator from the list of mediators maintained by the Division. Any mediator selected by the parties or appointed by the ~~the Division~~ Ombudsman must be available within the geographic area. Upon appointing a mediator, the ~~the Division~~ Ombudsman shall provide the name of the mediator to the parties.

3. Not later than 5 days after his or her selection or appointment pursuant to subsection 2, the mediator shall provide to the parties an informational statement relating to a mediation conducted pursuant to this section. The informational statement:

(a) Must be in a form approved by the Commission;

(b) Must be written in plain English;

(c) Must explain the procedures and applicable law relating to a mediation conducted pursuant to this section, including, without limitation, the confidentiality of the mediation, the nature of the mediation process, the enforceability of a settlement obtained through mediation and the procedures for resolution of the claim if the parties fail to reach a settlement through mediation; and

(d) Must be accompanied by a separate form acknowledging that the party has received and read the informational statement and agrees to comply with the provisions of law governing the confidentiality of the mediation, which must be returned to the mediator by the party not later than 10 days after receipt of the informational statement.

4. Unless otherwise provided by an agreement of the parties, a mediation conducted pursuant to this section must be completed within 60 days after the selection or appointment of the mediator.

5. Upon the conclusion of the settlement discussions, any agreement obtained through mediation conducted pursuant to this section must be reduced to writing by the mediator and signed by the parties. The mediator shall provide a copy of the written agreement signed by the parties to each party and the Division. Any written agreement received by the Division pursuant to this subsection is confidential. The agreement may be enforced as any other written agreement. Except as otherwise provided in this section and subject to any regulations adopted by the Commission, the parties are responsible for the payment of all fees and costs of mediation in the manner provided by the mediator. The Commission ~~may~~ shall adopt regulations governing the maximum amount that may be charged for fees and costs of mediation and the manner in which ~~the~~ such fees and costs of mediation are paid.

6. The Division may provide for the payment of the fees for a mediator selected or appointed pursuant to this section from the Account for

Common-Interest Communities and Condominium Hotels created by NRS 116.630, to the extent that:

- (a) The Commission approves the payment; and*
- (b) There is money available in the Account for this purpose.*

7. If either party fails to participate in the mediation or if, within 60 days after the selection or appointment of the mediator or any longer period agreed to by the parties, the parties are unable with the assistance of the mediator to resolve any of the disputes included in the claim, the mediator shall, not later than 5 days after the conclusion of the mediation:

- (a) Certify to the ~~Division~~ Ombudsman that the mediation was unsuccessful; and*
- (b) Recommend that the claim be referred:*

(1) To arbitration pursuant to NRS 38.330, if the claim relates to any governing documents or covenants, conditions or restrictions applicable to the real estate which is the subject of the claim; or

(2) To the Division for proceedings pursuant to NRS 116.745 to 116.795, inclusive, and section 1 of this act, if the claim relates to an alleged violation of a provision of chapter 116 of NRS ~~for~~ or any regulation adopted pursuant thereto ~~for an order of the Commission or a hearing panel.~~

↪ The mediator may not provide any other information relating to the mediation to the Division, and the Division, the Commission and a hearing panel may not request from the mediator any other information relating to the mediation.

8. No admission, representation or statement made during a mediation conducted pursuant to this section, not otherwise discoverable or obtainable, is admissible as evidence or subject to discovery in a civil action or administrative proceeding.

9. As used in this section, "geographic area" has the meaning ascribed to in NRS 38.330.

Sec. 16. NRS 38.300 is hereby amended to read as follows:

38.300 As used in NRS 38.300 to 38.360, inclusive, *and section 15 of this act*, unless the context otherwise requires:

- 1. ~~["Assessments" means:~~

~~(a) Any charge which an association may impose against an owner of residential property pursuant to a declaration of covenants, conditions and restrictions, including any late charges, interest and costs of collecting the charges; and~~

~~(b) Any penalties, fines, fees and other charges which may be imposed by an association pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 or subsections 10, 11 and 12 of NRS 116B.420.~~

~~2.]~~ "Association" has the meaning ascribed to it in NRS 116.011 or 116B.030.

- ~~{3.}~~ 2. "Charges" means:

(a) Any charge which an association may impose against an owner of residential property pursuant to the governing documents of an association or a declaration of covenants, conditions and restrictions, including, without limitation, any assessments, penalties and fines and any late charges, interest and costs of collecting the charges; and

(b) Any penalties, fines, fees and other charges which may be imposed by an association pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102, subsection 4 of NRS 116.310312 or subsections 10, 11 and 12 of NRS 116B.420.

3. "Civil action" includes an action for money damages or equitable relief. The term does not include an action in equity *solely for the purpose of seeking or obtaining interim or provisional relief of any kind, including, without limitation, injunctive relief* ~~in which~~, *where* there is an immediate threat of irreparable harm, or an action relating to the *ownership of* title to residential property. *As used in this subsection, "irreparable harm" means harm or an injury for which the remedy of damages or monetary compensation is inadequate and does not exist solely because a claim involves real estate.*

4. "Commission" means the Commission for Common-Interest Communities and Condominium Hotels created by NRS 116.600.

5. "Division" means the Real Estate Division of the Department of Business and Industry.

~~5-7~~ 6. "Governing documents" has the meaning ascribed to it in NRS 116.049 or 116B.110.

7. ~~"Hearing panel" means a hearing panel appointed by the Commission pursuant to NRS 116.675.~~

~~8-7~~ "Residential property" includes, but is not limited to, real estate within a ~~planned community~~ **common-interest community** subject to the provisions of chapter 116 of NRS or real estate within a condominium hotel subject to the provisions of chapter 116B of NRS. The term does not include commercial property if no portion thereof contains property which is used for residential purposes.

Sec. 17. NRS 38.310 is hereby amended to read as follows:

38.310 1. No civil action based upon a claim relating to:

(a) The interpretation, application, ~~for~~ enforcement **or violation** of any **governing documents or** covenants, conditions or restrictions applicable to residential property ~~for any bylaws, rules or regulations adopted by an association; or~~

(b) The procedures used for increasing, decreasing or imposing ~~additional assessments~~ **charges** upon residential property, ~~for~~

~~(c) A violation of a provision of chapter 116 of NRS, any regulation adopted pursuant thereto or an order of the Commission or Division issued pursuant thereto.~~

↪ may be commenced in any court in this State unless the action has been submitted to mediation or arbitration ~~alternative dispute resolution~~

pursuant to the provisions of NRS 38.300 to 38.360, inclusive, and ~~if the civil action concerns real estate within a planned community subject to the provisions of chapter 116 of NRS or real estate within a condominium hotel subject to the provisions of chapter 116B of NRS, all administrative procedures specified in any covenants, conditions or restrictions applicable to the property or in any bylaws, rules and regulations of an association have been exhausted.~~ ***section 15 of this act.***

2. A court shall dismiss any civil action which is commenced in violation of the provisions of subsection 1.

Sec. 18. NRS 38.320 is hereby amended to read as follows:

38.320 1. Any civil action described in NRS 38.310 must be submitted for mediation or arbitration ~~[alternative dispute resolution]~~ by filing a written claim with the Division ~~[The claim]~~ ***pursuant to this section. A claim may not be filed pursuant to this section if:***

(a) The claimant previously filed a claim with the Division; and

(b) At the time the claimant filed the previous claim, the claimant was aware or reasonably should have been aware of the facts and circumstances underlying the current claim.

2. ***A claim may not be filed with the Division pursuant to this section unless:***

(a) The claimant has provided the respondent by certified mail, return receipt requested, at his or her last known address, with written notice of the claim which specifies, in reasonable detail:

(1) The nature of the claim;

(2) Any actual damages suffered by the claimant as a result of the actions underlying the claim; and

(3) Any corrective action proposed by the claimant; and

(b) If the claim concerns real estate within a common-interest community subject to the provisions of chapter 116 of NRS or real estate within a condominium hotel subject to the provisions of chapter 116B of NRS, all administrative procedures specified in the governing documents applicable to the property or in any bylaws, rules and regulations of the association have been exhausted.

3. ***A claim filed with the Division pursuant to subsection 1 must be on a form approved by the Commission and must include:***

(a) The complete names, addresses and telephone numbers of all parties to the claim. { }

(b) If the claim concerns real estate within a common-interest community subject to the provisions of chapter 116 of NRS, a statement of whether all administrative procedures specified in the governing documents have been exhausted.

(c) A specific statement of the nature of the claim { }

(e) A statement of whether the person wishes to have the claim submitted to a mediator or to an arbitrator and, if the person wishes to have the claim

submitted to an arbitrator, whether the person agrees to binding arbitration; and

~~(d)~~ , including, without limitation, a description, in reasonable detail, of:

(1) Any alleged violation of the governing documents or conditions, covenants or restrictions applicable to the real estate that is the subject of the claim;

(2) Any alleged damages suffered by the claimant as a result of the actions underlying the claim; and

(3) Any corrective action proposed by the claimant.

(d) A statement that:

(1) The respondent has been given written notice of the claim;

(2) The respondent has been given a reasonable opportunity after receiving the written notice to correct or remedy the claim; and

(3) Reasonable efforts to resolve the claim have failed.

(e) All claims of which the claimant is aware or reasonably should be aware, including, without limitation, any claims which relate to a violation of a provision of chapter 116 of NRS, any regulation adopted pursuant thereto or an order of the Commission or a hearing panel issued pursuant thereto.

(f) Such other information as the Division may require ~~to~~

~~2.~~ by regulation.

4. The ~~written~~ claim must be accompanied by a reasonable fee as determined by the Division.

~~3.~~ 5. Upon the filing of ~~the written~~ a claim ~~that satisfies the requirements of this section,~~ the claimant ~~Division~~ shall serve a copy of the claim ~~in the manner prescribed in Rule 4 of the Nevada Rules of Civil Procedure for the service of a summons and complaint.~~ **on the respondent by certified mail, return receipt requested, to his or her last known address.** The claim so served must be accompanied by a statement ~~explaining~~ **prepared by the Division which explains** the procedures for mediation and arbitration ~~alternative dispute resolution~~ set forth in NRS 38.300 to 38.360, inclusive ~~to~~

~~4.~~ , and section 15 of this act.

6. Upon being served pursuant to subsection ~~3.~~ 5, the person upon whom a copy of the ~~written~~ claim was served shall, within 30 days after the date of service, file a written ~~answer~~ **response** with the Division. The ~~answer~~ **response** must ~~be~~ :

(a) Contain an admission or a denial of the allegations contained in the claim and any defenses upon which the respondent will rely;

(b) Be delivered personally to the Division or mailed to the Division by certified mail, return receipt requested; and

(c) Be accompanied by a reasonable fee as determined by the Division.

7. *The Division may consolidate multiple claims involving the same parties for the purposes of a mediation conducted pursuant to section 15 of this act.*

8. *By filing a claim or response with the Division pursuant to this section, a person is certifying that to the best of the person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances:*

(a) *The claim or response is not being filed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of proceedings before the Division or the Commission; and*

(b) *The allegations and other factual contentions in the claim or response have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.*

9. *If a person files a claim pursuant to this section which the person knows is false or fraudulent or if a person files such a claim in bad faith or without reasonable cause for the purpose of harassment, or if the claim is frivolous, the Commission or a hearing panel may impose the penalties set forth in subsection 8 or 9 ~~for 10~~ of NRS 116.760, whichever is applicable.*

Sec. 19. NRS 38.330 is hereby amended to read as follows:

38.330 1. If ~~all parties named in a written claim filed pursuant to NRS 38.320 agree to have the claim submitted for mediation, the parties shall reduce the agreement to writing and shall select a mediator from the list of mediators maintained by the Division pursuant to NRS 38.340. Any mediator selected must be available within the geographic area. If the parties fail to agree upon a mediator, the Division shall appoint a mediator from the list of mediators maintained by the Division. Any mediator appointed must be available within the geographic area. Unless otherwise provided by an agreement of the parties, mediation must be completed within 60 days after the parties agree to mediation. Any agreement obtained through mediation conducted pursuant to this section must, within 20 days after the conclusion of mediation, be reduced to writing by the mediator and a copy thereof provided to each party. The agreement may be enforced as any other written agreement. Except as otherwise provided in this section, the parties are responsible for all costs of mediation conducted pursuant to this section.~~

2. ~~If all the parties named in the claim do not agree to mediation, the parties shall select an arbitrator from~~ ***, pursuant to subsection 7 of section 1 of this act or subsection 7 of section 15 of this act, a mediator recommends that a claim be referred to arbitration, the Division shall, not later than 10 days after receipt of the referral, provide to the parties the list of arbitrators maintained by the Division pursuant to NRS 38.340. ~~[Any arbitrator selected must be available within the geographic area.] The parties may select an arbitrator from that list.~~ If the parties fail to agree upon an arbitrator, the Division shall appoint an arbitrator from the list maintained by the Division. Any arbitrator selected by the parties or appointed by the***

Division must be available within the geographic area. Upon appointing an arbitrator, the Division shall provide the name of the arbitrator to each party.

2. An arbitrator ***selected or appointed pursuant to subsection 1*** shall, not later than 5 days after the arbitrator's selection or appointment, ~~provide to the parties an informational statement relating to the arbitration of a claim pursuant to this section. The {written} informational statement:~~

(a) ***Must be in a form approved by the Commission;***

(b) Must be written in plain English;

~~{(b)}~~ (c) Must explain the procedures and applicable law relating to the arbitration of a claim conducted pursuant to this section, including, without limitation, the procedures, timelines and applicable law relating to confirmation of an award pursuant to NRS 38.239, vacation of an award pursuant to NRS 38.241, judgment on an award pursuant to NRS 38.243, and any applicable statute or court rule governing the award of attorney's fees or costs to any party; and

~~{(e)}~~ (d) Must be accompanied by a separate form acknowledging that the party has received and read the informational statement, which must be returned to the arbitrator by the party not later than 10 days after receipt of the informational statement.

3. ***Arbitration conducted pursuant to this section must be nonbinding arbitration, unless all the parties agree in writing to binding arbitration.***

4. The Division may provide for the payment of the fees for ~~{a mediator or}~~ an arbitrator selected or appointed pursuant to this section from the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630, to the extent that:

(a) The Commission ~~{for Common-Interest Communities and Condominium Hotels}~~ approves the payment; and

(b) There is money available in the account for this purpose.

~~{4.}~~ 5. ***Unless all the parties to the arbitration otherwise agree in writing, the arbitration of a claim pursuant to this section must be conducted in accordance with:***

(a) The rules of the American Arbitration Association or its successor organization concerning the manner in which to provide speedy arbitration; or

(b) Other comparable rules for speedy arbitration approved by the Commission or the Division.

6. Except as otherwise provided in this section and except where inconsistent with the provisions of NRS 38.300 to 38.360, inclusive, ***and section 15 of this act***, the arbitration of a claim pursuant to this section must be conducted in accordance with the provisions of NRS 38.231, 38.232, 38.233, 38.236 to 38.239, inclusive, 38.242 and 38.243. At any time during the arbitration of a claim relating to the interpretation, application, ~~{or}~~ enforcement ***or violation*** of any ***governing documents or*** covenants, conditions or restrictions applicable to residential property, ~~{or any bylaws,~~

~~rules or regulations adopted by an association,]~~ the arbitrator may issue an order prohibiting the action upon which the claim is based. An award must be made within 30 days after the conclusion of arbitration, unless a shorter period is agreed upon by the parties to the arbitration.

~~[5.]~~ ***The arbitrator shall provide a copy of a final arbitration award to the Division.***

~~[6.]~~ ***7. Except as otherwise provided in subsection 4 and subject to any regulations adopted by the Commission, the parties to an arbitration conducted pursuant to this section are responsible for the payment of all fees and costs of arbitration in the manner provided by the arbitrator.***

~~[7.]~~ ***8. If [all the parties have agreed to] an arbitration conducted pursuant to this section is nonbinding arbitration, any party to the nonbinding arbitration may, within 30 days after a decision and award have been served upon the parties, commence a civil action in the proper court concerning the claim which was submitted for arbitration. Any complaint filed in such an action must contain a sworn statement indicating that the issues addressed in the complaint have been arbitrated pursuant to the provisions of NRS 38.300 to 38.360, inclusive [1], and section 15 of this act. If such an action is not commenced within that period, any party to the arbitration may, within 1 year after the service of the award, apply to the proper court for a confirmation of the award pursuant to NRS 38.239.***

~~[6.]~~ ~~[8.]~~ ***9. If all the parties agree in writing to [binding] arbitration, the arbitration must be conducted in accordance with the provisions of this chapter. An award procured pursuant to such binding arbitration may be vacated and a rehearing granted upon application of a party pursuant to the provisions of NRS 38.241.***

~~[7.]~~ ~~[9.]~~ ***10. If, after the conclusion of binding arbitration, a party:***

(a) Applies to have an award vacated and a rehearing granted pursuant to NRS 38.241; or

(b) Commences a civil action based upon any claim which was the subject of arbitration,

↳ the party shall, if the party fails to obtain a more favorable award or judgment than that which was obtained in the initial ~~[binding]~~ arbitration, pay all costs and reasonable attorney's fees incurred by the opposing party after the application for a rehearing was made or after the complaint in the civil action was filed.

~~[8.]~~ ~~Upon request by a party, the Division shall provide a statement to the party indicating the amount of the fees for a mediator or an arbitrator selected or appointed pursuant to this section.~~

~~9.]~~ ~~[10.]~~ ***11. As used in this section, "geographic area" means an area within 150 miles from any residential property or association which is the subject of a written claim submitted pursuant to NRS 38.320.***

Sec. 20. NRS 38.340 is hereby amended to read as follows:

38.340 **1.** For the purposes of NRS 38.300 to 38.360, inclusive, **and section 15 of this act and 116.745 to 116.795, inclusive, and section 1 of this act**, the Division shall establish and maintain:

~~1-1~~ **(a)** A list of mediators and arbitrators who are available for mediation and arbitration of claims. The list must include mediators and arbitrators who, as determined by the Division, have received training and experience in mediation or arbitration and in the resolution of disputes concerning associations, including, without limitation, the interpretation, application and enforcement of **governing documents**, covenants, conditions and restrictions pertaining to residential property and the articles of incorporation, bylaws, rules and regulations of an association. In establishing and maintaining the list, the Division may use lists of qualified persons maintained by any organization which provides mediation or arbitration services. Before including a mediator or arbitrator on a list established and maintained pursuant to this ~~section~~, **subsection**, the Division may require the mediator or arbitrator to present proof satisfactory to the Division that the mediator or arbitrator has received the training and experience required for mediators or arbitrators pursuant to this ~~section~~.

~~2-1~~ **subsection.**

(b) A document which contains a written explanation of the procedures for mediating and arbitrating claims pursuant to NRS 38.300 to 38.360, inclusive ~~1-1~~ , **and section 15 of this act and 116.745 to 116.795, inclusive, and section 1 of this act.**

(c) **A record of each final arbitration award of an arbitration conducted pursuant to NRS 38.330 which is indexed by topic and made available to the public through any means deemed appropriate by the Division.**

2. Upon the request of a party to a mediation or arbitration conducted pursuant to NRS 38.300 to 38.360, inclusive, and section 15 of this act and 116.745 to 116.795, inclusive, and section 1 of this act, the Division shall provide a statement to the party indicating the amount of the fees for a mediator selected or appointed pursuant to section 1 or 15 of this act or an arbitrator selected or appointed pursuant to NRS 38.330.

Sec. 21. NRS 38.350 is hereby amended to read as follows:

38.350 Any statute of limitations applicable to a claim described in **subsection 1** of NRS 38.310 is tolled from the time the claim is submitted for mediation or arbitration pursuant to NRS 38.320 , **38.330 or 116.760, as applicable**, until the conclusion of mediation or arbitration of the claim and the period for vacating the award has expired.

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. 381 to Senate Bill No. 254 assigns responsibility for appointing a mediator to the Ombudsman, rather than the Real Estate Division, and changes references to "alternative dispute resolution" to clarify that the intent is for "mediation and arbitration."

It requires the Commission on Common-Interest Communities and Condominium Hotels to adopt regulations for the maximum amount that may be charged for mediation costs and fees.

It deletes Section 3 of the bill that would have allowed a homeowners' association to impose an assessment on a unit's owner for defending certain claims.

It deletes from Section 9 provisions that would have allowed the Administrator of the Real Estate Division to refer a case for hearing before the Commission.

It makes various procedural revisions to: (a) the documents that must be included with a claim; (b) the responsibilities of a claimant if the claim is false or fraudulent; and (c) the requirement that arbitration is conducted in accordance with established rules and procedures.

Senator Copening disclosed that she is an employee of a community association.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 264.

Bill read second time.

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

Amendment No. 330.

"SUMMARY—Revises provisions concerning the regulation of certain medical facilities. (BDR 40-15)"

"AN ACT relating to public health; revising requirements for various reports concerning the care provided by certain medical and related facilities; ~~requiring certain reports of adverse health events to be made public;~~ revising provisions relating to administrative fines collected by the Health Division of the Department of Health and Human Services; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain medical facilities to submit to the Health Division of the Department of Health and Human Services reports of sentinel events. (NRS 439.835) The term "sentinel event" is defined for the purposes of these reports to mean an unexpected occurrence at the facility which involves facility-acquired infection, death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of a serious adverse outcome. (NRS 439.830) ~~[This bill replaces references to "sentinel event" with "adverse health event" throughout the Nevada Revised Statutes. Section 1 of this bill defines "adverse health event" as the occurrence of an identifiable and measurable event involving the provision of health care to a patient which resulted in or has the potential of causing harm to the patient. Section 15 of this bill requires the State Board of Health to adopt regulations which set forth the events that must be reported as adverse health events, which must include, without limitation, events of concern to the public, facility-acquired infections, death, serious injury and related events.]~~ The Health Division is required to prepare annual reports concerning those reports which were submitted by medical facilities located in a county

whose population is 100,000 or more (currently Clark and Washoe Counties). (NRS 439.840) **Section 5** of this bill requires the Health Division to prepare such annual reports for medical facilities in every county and to make those reports available on the Department's website. **Section 5** also requires the Health Division to report that information publicly ~~for medical facilities which treat 25 or more patients per day~~ in a format which allows **for** comparisons of medical facilities.

Existing law requires medical facilities which provide care to 25 or more patients per day to submit information to the Internet-based surveillance system established and maintained by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services and requires the Health Division to analyze that information. (NRS 439.847) **Section 9** of this bill requires the Health Division to report that information publicly in a format which allows **for** comparisons of medical facilities.

~~Sections 16-19~~ **15.3-17** of this bill require hospitals ~~and surgical centers for ambulatory patients~~ to submit, as part of the ~~programs~~ **program** to increase public awareness of health care information ~~+~~ **concerning hospitals**, data relating to the readmission of a patient if the readmission was **potentially** preventable and **clinically** related to the initial ~~treatment received by~~ **admission of** the patient. **Section 20** of this bill requires the Department **of Health and Human Services** to post that information on an Internet website. **Section 16 also authorizes the Department to report certain information concerning the quality of care provided by hospitals if it can be determined from reports already submitted to the Department.** Existing law authorizes the Department to seek injunctive relief or civil penalties against facilities that violate the reporting requirements. (NRS 439A.300, 439A.310)

Sections 21, 22, 24 and 25 of this bill authorize the Health Division to use money which is collected as administrative penalties to administer and carry out the provisions of chapter 449 of NRS and to protect the health and property of the patients and residents of facilities.

~~Sections 23 and 26-34 of this bill amend existing provisions of law to refer to "adverse health event." Section 36 of this bill directs the Legislative Counsel to prepare the supplements to the Nevada Revised Statutes and Nevada Administrative Code consistent with the provisions of this bill.~~

Section 35 of this bill repeals NRS 439.825 ~~+~~ ~~439.830~~ and 439.850.

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

Section 1. ~~{Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~"Adverse health event" means the occurrence of an identifiable and measurable event involving the provision of health care to a patient which results in or has the potential of causing harm to the patient.~~ **(Deleted by amendment.)**

Sec. 2. ~~{NRS 439.800 is hereby amended to read as follows:~~

~~439.800 As used in NRS 439.800 to 439.890, inclusive, and section 1 of this act, unless the context otherwise requires, the words and terms defined in NRS 439.802 to [439.830,] 439.820, inclusive, have the meanings ascribed to them in those sections. (Deleted by amendment.)~~

Sec. 3. ~~[NRS 439.835 is hereby amended to read as follows:~~

~~439.835 1. Except as otherwise provided in subsection 2:~~

~~(a) A person who is employed by a medical facility shall, within 24 hours after becoming aware of [a sentinel] an adverse health event that occurred at the medical facility, notify the patient safety officer of the facility of the [sentinel] adverse health event; and~~

~~(b) The patient safety officer shall, within 13 days after receiving notification pursuant to paragraph (a), report the [date, the time and a brief description of the sentinel] adverse health event to:~~

~~(1) The Health Division [;] in the format prescribed by the State Board of Health pursuant to subsection 3; and~~

~~(2) The representative designated pursuant to NRS 439.855, if that person is different from the patient safety officer.~~

~~2. If the patient safety officer of a medical facility personally discovers or becomes aware, in the absence of notification by another employee, of [a sentinel] an adverse health event that occurred at the medical facility, the patient safety officer shall, within 14 days after discovering or becoming aware of the [sentinel] adverse health event, report the [date, time and brief description of the sentinel] adverse health event to:~~

~~(a) The Health Division [;] in the format prescribed by the State Board of Health pursuant to subsection 3; and~~

~~(b) The representative designated pursuant to NRS 439.855, if that person is different from the patient safety officer.~~

~~3. The State Board of Health shall prescribe the manner in which reports of [sentinel] adverse health events must be made pursuant to this section [;], including without limitation, the:~~

~~(a) Format for submitting reports of adverse health events to the Health Division, which must be consistent with national standardized formats for such reports, including without limitation, the Common Formats most recently released by the Agency for Healthcare Research and Quality; and~~

~~(b) Content of the reports, which must be consistent with national standardized reports of adverse health events, including without limitation, the information contained in the Serious Reportable Events in Healthcare report of the National Quality Forum.] (Deleted by amendment.)~~

Sec. 4. ~~[NRS 439.837 is hereby amended to read as follows:~~

~~439.837 A medical facility shall, upon reporting [a sentinel] an adverse health event pursuant to NRS 439.835, conduct an investigation concerning the causes or contributing factors, or both, of the [sentinel] adverse health event and implement a plan to remedy the causes or contributing factors, or both, of the [sentinel] adverse health event.] (Deleted by amendment.)~~

Sec. 5. NRS 439.840 is hereby amended to read as follows:

439.840 1. The Health Division shall:

(a) Collect and maintain reports received pursuant to NRS 439.835 and 439.843 and any additional information requested by the Health Division pursuant to NRS 439.841;

(b) Ensure that such reports, and any additional documents created from such reports, are protected adequately from fire, theft, loss, destruction and other hazards and from unauthorized access;

(c) Annually prepare a report of sentinel ~~adverse health~~ events reported pursuant to NRS 439.835 by a medical facility, ~~located in a county whose population is 100,000 or more,~~ including, without limitation, the type of event, the number of **events**, **the rate of occurrence of events**, and the medical facility which reported the event ~~{}~~, **and provide the report for inclusion on the Internet website maintained pursuant to NRS 439A.270;** and

(d) Annually prepare a summary of the reports received pursuant to NRS 439.835 and provide a summary for inclusion on the Internet website maintained pursuant to NRS 439A.270. The Health Division shall maintain the confidentiality of the **patient, the provider of health care or other member of the staff of the medical facility identified in the** reports submitted pursuant to NRS 439.835 when preparing the annual summary pursuant to this paragraph.

2. Except as otherwise provided in this section and NRS 239.0115, reports received pursuant to NRS 439.835 and subsection 1 of NRS 439.843 and any additional information requested by the Health Division pursuant to NRS 439.841 are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

3. ***The report prepared pursuant to paragraph (c) of subsection 1 must provide to the public information concerning each medical facility which provided medical services and care ~~to an average of 25 or more patients during each business day~~ in the immediately preceding calendar year and must:***

(a) Be presented in a manner that allows a person to view and compare the information for the medical facilities;

(b) Be readily accessible and understandable by a member of the general public;

(c) Use standard statistical methodology, including without limitation, risk-adjusted methodology when applicable, and include the description of the methodology and data limitations contained in the report; ~~and~~

(d) Not identify a patient, provider of health care or other member of the staff of the medical facility;

(e) Not be reported for a medical facility if reporting the data would risk identifying a patient; and

(f) Not include data concerning sentinel events that occurred before October 1, 2010, unless the medical facility allows the Health Division access to data from before that date.

Sec. 6. ~~NRS 439.841 is hereby amended to read as follows:~~

~~439.841 1. Upon receipt of a report pursuant to NRS 439.835, the Health Division may, as often as deemed necessary by the Administrator to protect the health and safety of the public, request additional information regarding the [sentinel] ~~adverse health~~ event or conduct an audit or investigation of the medical facility.~~

~~2. A medical facility shall provide to the Health Division any information requested in furtherance of a request for information, an audit or an investigation pursuant to this section.~~

~~3. If the Health Division conducts an audit or investigation pursuant to this section, the Health Division shall, within 30 days after completing such an audit or investigation, report its findings to the State Board of Health.~~

~~4. A medical facility which is audited or investigated pursuant to this section shall pay to the Health Division the actual cost of conducting the audit or investigation.~~ **(Deleted by amendment.)**

Sec. 7. NRS 439.843 is hereby amended to read as follows:

439.843 1. On or before March 1 of each year, each medical facility shall provide to the Health Division, in the form prescribed by the State Board of Health, a summary of the reports submitted by the medical facility pursuant to NRS 439.835 during the immediately preceding calendar year. The summary must include, without limitation:

(a) The total number and types of sentinel ~~[adverse health]~~ events reported by the medical facility, if any;

(b) A copy of the patient safety plan established pursuant to NRS 439.865;

(c) A summary of the membership and activities of the patient safety committee established pursuant to NRS 439.875; and

(d) Any other information required by the State Board of Health concerning the reports submitted by the medical facility pursuant to NRS 439.835.

2. On or before June 1 of each year, the Health Division shall submit to the State Board of Health an annual summary of the reports and information received by the Health Division pursuant to this section. The annual summary must include, without limitation, a compilation of the information submitted pursuant to subsection 1 and any other pertinent information deemed necessary by the State Board of Health concerning the reports submitted by the medical facility pursuant to NRS 439.835. The Health Division shall maintain the confidentiality of the *patient, the provider of health care or other member of the staff of the medical facility identified in the reports submitted pursuant to NRS 439.835 and any other identifying information of a person* requested by the State Board of Health concerning those reports when preparing the annual summary pursuant to this section.

Sec. 8. NRS 439.845 is hereby amended to read as follows:

439.845 1. The Health Division shall analyze and report trends regarding sentinel ~~[adverse health]~~ events.

2. When the Health Division receives notice from a medical facility that the medical facility has taken corrective action to remedy the causes or contributing factors, or both, of a sentinel ~~an adverse health~~ event, the Health Division shall:

- (a) Make a record of the information;
- (b) Ensure that the information is ~~aggregated~~ **released in a manner** so as not to reveal the identity of a specific ~~person or medical facility;~~ **patient, provider of health care or member of the staff of the facility;** and
- (c) At least quarterly, report its findings regarding the analysis of ~~aggregated~~ trends of sentinel ~~adverse health~~ events ~~to the Repository for Health Care Quality Assurance.~~ **on the Internet website maintained pursuant to NRS 439A.270.**

Sec. 9. NRS 439.847 is hereby amended to read as follows:

439.847 1. Each medical facility which provided medical services and care to an average of 25 or more patients during each business day in the immediately preceding calendar year shall, within 120 days after becoming eligible, participate in the secure, Internet-based surveillance system established by the Division of Healthcare Quality Promotion of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services that integrates patient and health care personnel safety surveillance systems. As part of that participation, the medical facility shall provide, at a minimum, the information required by the Health Division pursuant to this subsection. The Health Division shall by regulation prescribe the information which must be provided by a medical facility, including, without limitation, information relating to infections and procedures.

2. Each medical facility which provided medical services and care to an average of less than 25 patients during each business day in the immediately preceding calendar year may participate in the secure, Internet-based surveillance system established by the Division of Healthcare Quality Promotion of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services that integrates patient and health care personnel safety surveillance systems.

3. A medical facility that participates in the secure, Internet-based surveillance system established by the Division of Healthcare Quality Promotion shall ~~authorize~~ :

(a) **Authorize** the Health Division to access all information submitted to the system ~~[- and the Health Division shall enter into an agreement with the Division of Healthcare Quality Promotion to carry out the provisions of this section.] ; and~~

(b) **Provide consent for the Health Division to include information submitted to the system in the reports posted pursuant to paragraph (b) of subsection 4, including without limitation, permission to identify the medical facility that is the subject of each report.**

4. The Health Division shall ~~analyze~~ :

(a) *Analyze* the information submitted to the system by medical facilities pursuant to this section and recommend regulations and legislation relating to the reporting required pursuant to NRS 439.800 to 439.890, inclusive ~~and section 1 of this act.~~

(b) *Annually prepare a report of the information submitted to the system by each medical facility pursuant to this section and provide the reports for inclusion on the Internet website maintained pursuant to NRS 439A.270. The information must be reported in a manner that allows a person to compare the information for the medical facilities.*

(c) *Enter into an agreement with the Division of Healthcare Quality Promotion to carry out the provisions of this section.*

Sec. 10. ~~[NRS 439.855 is hereby amended to read as follows:~~

~~439.855 1. Each medical facility that is located within this state shall designate a representative for the notification of patients who have been involved in [sentinel] adverse health events at that medical facility.~~

~~2. A representative designated pursuant to subsection 1 shall, not later than 7 days after discovering or becoming aware of [a sentinel] an adverse health event that occurred at the medical facility, provide notice of that fact to each patient who was involved in that [sentinel] adverse health event.~~

~~3. The provision of notice to a patient pursuant to subsection 2 must not, in any action or proceeding, be considered an acknowledgment or admission of liability.~~

~~4. A representative designated pursuant to subsection 1 may or may not be the same person who serves as the facility's patient safety officer.]~~

(Deleted by amendment.)

Sec. 11. ~~[NRS 439.870 is hereby amended to read as follows:~~

~~439.870 1. A medical facility shall designate an officer or employee of the facility to serve as the patient safety officer of the medical facility.~~

~~2. The person who is designated as the patient safety officer of a medical facility shall:~~

~~(a) Serve on the patient safety committee.~~

~~(b) Supervise the reporting of all [sentinel] adverse health events alleged to have occurred at the medical facility, including, without limitation, performing the duties required pursuant to NRS 439.835.~~

~~(c) Take such action as he or she determines to be necessary to ensure the safety of patients as a result of an investigation of any [sentinel] adverse health event alleged to have occurred at the medical facility.~~

~~(d) Report to the patient safety committee regarding any action taken in accordance with paragraph (c).]~~ **(Deleted by amendment.)**

Sec. 12. ~~[NRS 439.875 is hereby amended to read as follows:~~

~~439.875 1. A medical facility shall establish a patient safety committee.~~

~~2. Except as otherwise provided in subsection 3:~~

~~(a) A patient safety committee established pursuant to subsection 1 must be composed of:~~

~~(1) The patient safety officer of the medical facility.~~

~~(2) At least three providers of health care who treat patients at the medical facility, including, without limitation, at least one member of the medical, nursing and pharmaceutical staff of the medical facility.~~

~~(3) One member of the executive or governing body of the medical facility.~~

~~(b) A patient safety committee shall meet at least once each month.~~

~~3. The Administrator shall adopt regulations prescribing the composition and frequency of meetings of patient safety committees at medical facilities having fewer than 25 employees and contractors.~~

~~4. A patient safety committee shall:~~

~~(a) Receive reports from the patient safety officer pursuant to NRS 439.870.~~

~~(b) Evaluate actions of the patient safety officer in connection with all reports of [sentinel] adverse health events alleged to have occurred at the medical facility.~~

~~(c) Review and evaluate the quality of measures carried out by the medical facility to improve the safety of patients who receive treatment at the medical facility.~~

~~(d) Make recommendations to the executive or governing body of the medical facility to reduce the number and severity of [sentinel] adverse health events that occur at the medical facility.~~

~~(e) At least once each calendar quarter, report to the executive or governing body of the medical facility regarding:~~

~~(1) The number of [sentinel] adverse health events that occurred at the medical facility during the preceding calendar quarter; and~~

~~(2) Any recommendations to reduce the number and severity of [sentinel] adverse health events that occur at the medical facility.~~

~~5. The proceedings and records of a patient safety committee are subject to the same privilege and protection from discovery as the proceedings and records described in NRS 49.265. (Deleted by amendment.)~~

Sec. 13. ~~[NRS 439.880 is hereby amended to read as follows:~~

~~439.880 No person is subject to any criminal penalty or civil liability for libel, slander or any similar cause of action in tort if the person, without malice:~~

~~1. Reports [a sentinel] an adverse health event to a governmental entity with jurisdiction or another appropriate authority;~~

~~2. Notifies a governmental entity with jurisdiction or another appropriate authority of [a sentinel] an adverse health event;~~

~~3. Transmits information regarding [a sentinel] an adverse health event to a governmental entity with jurisdiction or another appropriate authority;~~

~~4. Compiles, prepares or disseminates information regarding [a sentinel] an adverse health event to a governmental entity with jurisdiction or another appropriate authority; or~~

~~5. Performs any other act authorized pursuant to NRS 439.800 to 439.890, inclusive [], and section 1 of this act. (Deleted by amendment.)~~

Sec. 14. ~~[NRS 439.885 is hereby amended to read as follows:~~

~~439.885 1. If a medical facility:~~

~~(a) Commits a violation of any provision of NRS 439.800 to 439.890, inclusive, and section 1 of this act or for any violation for which an administrative sanction pursuant to NRS 449.163 would otherwise be applicable; and~~

~~(b) Of its own volition, reports the violation to the Administrator,~~

~~such a violation must not be used as the basis for imposing an administrative sanction pursuant to NRS 449.163.~~

~~2. If a medical facility commits a violation of any provision of NRS 439.800 to 439.890, inclusive, and section 1 of this act and does not, of its own volition, report the violation to the Administrator, the Health Division may, in accordance with the provisions of subsection 3, impose an administrative sanction:~~

~~(a) For failure to report [a sentinel]-an adverse health event, in an amount not to exceed \$100 per day for each day after the date on which the [sentinel] adverse health event was required to be reported pursuant to NRS 439.835;~~

~~(b) For failure to adopt and implement a patient safety plan pursuant to NRS 439.865, in an amount not to exceed \$1,000 for each month in which a patient safety plan was not in effect; and~~

~~(c) For failure to establish a patient safety committee or failure of such a committee to meet pursuant to the requirements of NRS 439.875, in an amount not to exceed \$2,000 for each violation of that section.~~

~~3. Before the Health Division imposes an administrative sanction pursuant to subsection 2, the Health Division shall provide the medical facility with reasonable notice. The notice must contain the legal authority, jurisdiction and reasons for the action to be taken. If a medical facility wants to contest the action, the facility may file an appeal pursuant to the regulations of the State Board of Health adopted pursuant to NRS 449.165 and 449.170. Upon receiving notice of an appeal, the Health Division shall hold a hearing in accordance with those regulations.~~

~~4. An administrative sanction collected pursuant to this section must be accounted for separately and used by the Health Division to provide training and education to employees of the Health Division, employees of medical facilities and members of the general public regarding issues relating to the provision of quality and safe health care.] (Deleted by amendment.)~~

Sec. 15. ~~[NRS 439.890 is hereby amended to read as follows:~~

~~439.890 The State Board of Health shall adopt [such]-~~

~~1. Regulations which set forth the events that must be reported as adverse health events pursuant to NRS 439.835. The regulations must require the reporting of:~~

~~(a) Events which are of concern to the public and to providers of health care;~~

~~(b) Events which are of such a nature that the risk of occurrence is significantly influenced by the policies and procedures of the medical facility in which the event occurred;~~

~~(c) Facility-acquired infections;~~

~~(d) Death;~~

~~(e) Serious physical or psychological injury to a patient, including without limitation, the loss of limb or function; and~~

~~(f) Other events which are reported in the Serious Reportable Events in Healthcare report of the National Quality Forum and the Common Formats of the Agency for Healthcare Research and Quality.~~

~~2. Such other regulations as the Board determines to be necessary or advisable to carry out the provisions of NRS 439.800 to 439.890, inclusive [—], and section 1 of this act.] (Deleted by amendment.)~~

Sec. 15.3. Chapter 439A of NRS is hereby amended by adding thereto a new section to read as follows:

"Potentially preventable readmission" means an unplanned readmission of a patient which:

1. Occurs not more than 30 days after the patient is discharged;

2. Is clinically related to the initial admission; and

3. Was preventable.

Sec. 15.7. NRS 439A.200 is hereby amended to read as follows:

439A.200 As used in NRS 439A.200 to 439A.290, inclusive, **and section 15.3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 439A.205 and 439A.210 **and section 15.3 of this act** have the meanings ascribed to them in those sections.

Sec. 16. NRS 439A.220 is hereby amended to read as follows:

439A.220 1. The Department shall establish and maintain a program to increase public awareness of health care information concerning the hospitals in this State. The program must be designed to assist consumers with comparing the quality of care provided by the hospitals in this State and the charges for that care.

2. The program must include, without limitation, the collection, maintenance and provision of information concerning:

(a) Inpatients and outpatients of each hospital in this State as reported in the forms submitted pursuant to NRS 449.485;

(b) The quality of care provided by each hospital in this State as determined by applying uniform measures of quality prescribed by the Department pursuant to NRS 439A.230;

(c) The quality of care provided by each hospital in this State as determined by applying measures of quality endorsed by the entities described in subparagraph (1) of paragraph (b) of subsection 1 of NRS 439A.230, if such measures can be applied to the information reported in the forms submitted pursuant to NRS 449.485;

(d) How consistently each hospital follows recognized practices to prevent the infection of patients, to speed the recovery of patients and to avoid medical complications of patients;

~~[(d)]~~ **(e)** For each hospital, the total number of patients discharged, the average length of stay and the average billed charges, reported ~~for the 50 most frequent~~ by diagnosis-related groups for inpatients and for the 50 medical treatments for outpatients that the Department determines are most useful for consumers; ~~and]~~

~~[(e)]~~ **(f)** The total number of patients discharged from the hospital [who were subsequently readmitted to a medical facility for treatment or care which was preventable and was related to a medical treatment originally provided at the hospital] and the total number of potentially preventable readmissions, which must be expressed as a rate of occurrence of potentially preventable readmissions, and the average length of stay and the average billed charges for those potentially preventable readmissions; and

~~[(f)]~~ **(g)** Any other information relating to the charges imposed and the quality of the services provided by the hospitals in this State which the Department determines is:

- (1) Useful to consumers;
- (2) Nationally recognized; and
- (3) Reported in a standard and reliable manner.

3. As used in this section, "diagnosis-related group" means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

Sec. 17. NRS 439A.230 is hereby amended to read as follows:

439A.230 1. The Department shall, by regulation:

(a) Prescribe the information that each hospital in this State must submit to the Department for the program established pursuant to NRS 439A.220.

(b) Prescribe the measures of quality for hospitals that are required pursuant to paragraph (b) of subsection 2 of NRS 439A.220. In adopting the regulations, the Department shall:

(1) Use the measures of quality endorsed by the Agency for Healthcare Research and Quality, the National Quality Forum, Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services, a quality improvement organization of the Centers for Medicare and Medicaid Services and the Joint Commission ; ~~[on Accreditation of Healthcare Organizations;] [, including without limitation:]~~

- ~~— (I) Vascular catheter-associated infections;~~
- ~~— (II) Catheter-associated urinary tract infections;~~
- ~~— (III) Deep vein thrombosis;~~
- ~~— (IV) Pressure ulcers which have attained stage III or IV;~~
- ~~— (V) Falls and related trauma;~~
- ~~— (VI) Foreign objects retained after surgical procedures;~~
- ~~— (VII) Surgical site infections;~~

~~===== (VIII) Air embolism; and~~

~~===== (IX) Poor glycemic control;]~~

(2) Prescribe a reasonable number of measures of quality which must not be unduly burdensome on the hospitals; and

(3) Take into consideration the financial burden placed on the hospitals to comply with the regulations.

➤ The measures prescribed pursuant to this paragraph must report health outcomes of hospitals, which do not necessarily correlate with the inpatient diagnosis-related groups or the outpatient treatments that are posted on the Internet website pursuant to NRS 439A.270.

(c) *Prescribe the manner in which a hospital must determine whether the readmission of a patient must be reported pursuant to NRS 439A.220 as a potentially preventable readmission and the form for submission of such information.*

(d) Require each hospital to:

(1) Provide the information prescribed in paragraphs (a) , ~~and~~ (b) **and (c)** in the format required by the Department; and

(2) Report the information separately for inpatients and outpatients.

2. The information required pursuant to this section and NRS 439A.220 must be submitted to the Department not later than 45 days after the last day of each calendar month.

3. If a hospital fails to submit the information required pursuant to this section or NRS 439A.220 or submits information that is incomplete or inaccurate, the Department shall send a notice of such failure to the hospital and to the Health Division of the Department.

Sec. 18. ~~[NRS 439A.240 is hereby amended to read as follows:~~

~~439A.240 1. The Department shall establish and maintain a program to increase public awareness of health care information concerning the surgical centers for ambulatory patients in this State. The program must be designed to assist consumers with comparing the quality of care provided by the surgical centers for ambulatory patients in this State and the charges for that care.~~

~~2. The program must include, without limitation, the collection, maintenance and provision of information concerning:~~

~~(a) The charges imposed on outpatients by each surgical center for ambulatory patients in this State as reported in the forms submitted pursuant to NRS 439A.250;~~

~~(b) The quality of care provided by each surgical center for ambulatory patients in this State as determined by applying uniform measures of quality prescribed by the Department pursuant to NRS 439A.250;~~

~~(c) How consistently each surgical center for ambulatory patients follows recognized practices to prevent the infection of patients, to speed the recovery of patients and to avoid medical complications of patients;~~

~~(d) For each surgical center for ambulatory patients, the total number of patients discharged and the average billed charges, reported for 50 medical~~

treatments for outpatients that the Department determines are most useful for consumers; [and]

~~(e) The total number of patients discharged from the surgical center for ambulatory patients who were subsequently readmitted to a medical facility for treatment or care which was preventable and was related to a medical treatment originally provided at the surgical center for ambulatory patients and the average length of stay and the average billed charges for those readmissions; and~~

~~(f) Any other information relating to the charges imposed and the quality of the services provided by the surgical centers for ambulatory patients in this State which the Department determines is:~~

~~(1) Useful to consumers;~~

~~(2) Nationally recognized; and~~

~~(3) Reported in a standard and reliable manner.} (Deleted by amendment.)~~

Sec. 19. ~~{NRS 439A.250 is hereby amended to read as follows:~~

~~439A.250—1. The Department shall, by regulation:~~

~~(a) Prescribe the information that each surgical center for ambulatory patients in this State must submit to the Department for the program as set forth in NRS 439A.240 and the form for submission of such information.~~

~~(b) Prescribe the measures of quality for surgical centers for ambulatory patients that are required pursuant to paragraph (b) of subsection 2 of NRS 439A.240. In adopting the regulations, the Department shall:~~

~~(1) Use measures of quality which are substantially similar to those required pursuant to subparagraph (1) of paragraph (b) of subsection 1 of NRS 439A.230;~~

~~(2) Prescribe a reasonable number of measures of quality which must not be unduly burdensome on the surgical centers for ambulatory patients; and~~

~~(3) Take into consideration the financial burden placed on the surgical centers for ambulatory patients to comply with the regulations.~~

~~↪ The measures prescribed pursuant to this paragraph must report health outcomes of surgical centers for ambulatory patients, which do not necessarily correlate with the outpatient treatments posted on the Internet website pursuant to NRS 439A.270.~~

~~(c) Prescribe the manner in which a surgical center for ambulatory patients must determine whether the readmission of a patient must be reported pursuant to NRS 439A.240 and the form for submission of such information.~~

~~(d) Require each surgical center for ambulatory patients to provide the information prescribed in paragraphs (a) , [and] (b) and (c) in the format required by the Department.~~

~~{(d)} (e) Prescribe which surgical centers for ambulatory patients in this State must participate in the program established pursuant to NRS 439A.240.~~

~~2. The information required pursuant to this section and NRS 439A.240 must be submitted to the Department not later than 45 days after the last day of each calendar month.~~

~~3. If a surgical center for ambulatory patients fails to submit the information required pursuant to this section or NRS 439A.240 or submits information that is incomplete or inaccurate, the Department shall send a notice of such failure to the surgical center for ambulatory patients and to the Health Division of the Department.~~ **(Deleted by amendment.)**

Sec. 20. NRS 439A.270 is hereby amended to read as follows:

439A.270 1. The Department shall establish and maintain an Internet website that includes the information concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State as required by the programs established pursuant to NRS 439A.220 and 439A.240. The information must:

(a) Include, for each hospital in this State, the ~~total~~ :

(1) Total number of patients discharged, the average length of stay and the average billed charges, reported for the 50 most frequent diagnosis-related groups for inpatients and 50 medical treatments for outpatients that the Department determines are most useful for consumers; and

*(2) Total number of potentially preventable readmissions reported pursuant to NRS 439A.220, the rate of occurrence of potentially preventable readmissions, and the average length of stay and average billed charges of those potentially preventable readmissions, reported by the diagnosis-related group for inpatients ~~and the medical treatments for outpatients~~ *for which the patient originally received treatment at the hospital;**

(b) Include, for each surgical center for ambulatory patients in this State, the ~~total~~ *—*

~~*(1) Total*~~ number of patients discharged and the average billed charges, reported for 50 medical treatments for outpatients that the Department determines are most useful for consumers; ~~and~~

~~*(2) Total number of readmissions reported pursuant to NRS 439A.240 and the average length of stay and the average billed charges of those readmissions, reported by the type of treatment the patient originally received at the surgical center for ambulatory patients;*~~

(c) Be presented in a manner that allows a person to view and compare the information for the hospitals by:

- (1) Geographic location of each hospital;
- (2) Type of medical diagnosis; and
- (3) Type of medical treatment;

(d) Be presented in a manner that allows a person to view and compare the information for the surgical centers for ambulatory patients by:

- (1) Geographic location of each surgical center for ambulatory patients;
- (2) Type of medical diagnosis; and

- (3) Type of medical treatment;
- (e) Be presented in a manner that allows a person to view and compare the information separately for:
 - (1) The inpatients and outpatients of each hospital; and
 - (2) The outpatients of each surgical center for ambulatory patients;
- (f) Be readily accessible and understandable by a member of the general public;
- (g) ***Include the annual summary of reports of ~~adverse health~~ sentinel events prepared pursuant to paragraph (c) of subsection 1 of NRS 439.840;***
- (h) Include the annual summary of reports of sentinel ~~adverse health~~ events prepared pursuant to paragraph (d) of subsection 1 of NRS 439.840; ~~and~~
- ~~(h)~~ (i) ***Include the reports of information prepared for each medical facility pursuant to paragraph (b) of subsection 4 of NRS 439.847; and***
- (j) Provide any other information relating to the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State which the Department determines is:
 - (1) Useful to consumers;
 - (2) Nationally recognized; and
 - (3) Reported in a standard and reliable manner.
- 2. The Department shall:
 - (a) Publicize the availability of the Internet website;
 - (b) Update the information contained on the Internet website at least quarterly;
 - (c) Ensure that the information contained on the Internet website is accurate and reliable;
 - (d) Ensure that the information contained on the Internet website is aggregated so as not to reveal the identity of a specific inpatient or outpatient of a hospital;
 - (e) Post a disclaimer on the Internet website indicating that the information contained on the website is provided to assist with the comparison of hospitals and is not a guarantee by the Department or its employees as to the charges imposed by the hospitals in this State or the quality of the services provided by the hospitals in this State, including, without limitation, an explanation that the actual amount charged to a person by a particular hospital may not be the same charge as posted on the website for that hospital;
 - (f) Provide on the Internet website established pursuant to this section a link to the Internet website of the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services; and
 - (g) Upon request, make the information that is contained on the Internet website available in printed form.
- 3. As used in this section, "diagnosis-related group" means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

Sec. 21. NRS 449.0305 is hereby amended to read as follows:

449.0305 1. Except as otherwise provided in subsection 5, a person must obtain a license from the Board to operate a business that provides referrals to residential facilities for groups.

2. The Board shall adopt:

(a) Standards for the licensing of businesses that provide referrals to residential facilities for groups;

(b) Standards relating to the fees charged by such businesses;

(c) Regulations governing the licensing of such businesses; and

(d) Regulations establishing requirements for training the employees of such businesses.

3. A licensed nurse, social worker, physician or hospital, or a provider of geriatric care who is licensed as a nurse or social worker, may provide referrals to residential facilities for groups through a business that is licensed pursuant to this section. The Board may, by regulation, authorize a public guardian or any other person it determines appropriate to provide referrals to residential facilities for groups through a business that is licensed pursuant to this section.

4. A business that is licensed pursuant to this section or an employee of such a business shall not:

(a) Refer a person to a residential facility for groups that is not licensed.

(b) Refer a person to a residential facility for groups that is owned by the same person who owns the business.

➤ A person who violates the provisions of this subsection is liable for a civil penalty to be recovered by the Attorney General in the name of the State Board of Health for the first offense of not more than \$10,000 and for a second or subsequent offense of not less than \$10,000 nor more than \$20,000. Unless otherwise required by federal law, the State Board of Health shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used ~~{for the enforcement of this section and the protection of}~~ **to administer and carry out the provisions of this chapter and to protect** the health, safety, well-being and property of **the patients and** residents of ~~{residential}~~ facilities ~~{for groups}~~ **in accordance with applicable state and federal standards.**

5. This section does not apply to a medical facility that is licensed pursuant to NRS 449.001 to 449.240, inclusive, on October 1, 1999.

Sec. 22. NRS 449.163 is hereby amended to read as follows:

449.163 1. If a medical facility or facility for the dependent violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, or any condition, standard or regulation adopted by the Board, the Health Division, in accordance with the regulations adopted pursuant to NRS 449.165, may:

(a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;

(b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;

(c) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and

(d) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:

(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. If a violation by a medical facility or facility for the dependent relates to the health or safety of a patient, an administrative penalty imposed pursuant to paragraph (c) of subsection 1 must be in a total amount of not less than \$1,000 and not more than \$10,000 for each patient who was harmed or at risk of harm as a result of the violation.

3. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (c) of subsection 1, the Health Division may:

(a) Suspend the license of the facility until the administrative penalty is paid; and

(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

4. The Health Division may require any facility that violates any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.

5. Any money collected as administrative penalties pursuant to this section must be accounted for separately and used to *administer and carry out the provisions of this chapter and to* protect the health ~~for~~, *safety, well-being and* property of the *patients and* residents of ~~the facility~~ *facilities* in accordance with applicable *state and* federal standards.

Sec. 23. ~~[NRS 449.205 is hereby amended to read as follows:~~

~~449.205 1. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against:~~

~~(a) An employee of the medical facility or a person acting on behalf of the employee who in good faith:~~

~~(1) Reports to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, information relating to the conduct of a physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;~~

~~(2) Reports [a sentinel] an adverse health event to the Health Division pursuant to NRS 439.835; or~~

~~— (3) Cooperates or otherwise participates in an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of Osteopathic Medicine or another governmental entity relating to conduct described in subparagraph (1) or (2); or~~

~~— (b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility and who:~~

~~— (1) In accordance with the policy, if any, established by the medical facility;~~

~~— (I) Reports to his or her immediate supervisor, in writing, that he or she does not possess the knowledge, skill or experience to comply with an assignment to provide nursing services to a patient; and~~

~~— (II) Refuses to provide to a patient nursing services for which, as verified by documentation in the personnel file of the registered nurse, licensed practical nurse or nursing assistant concerning his or her competence to provide various nursing services, he or she does not possess the knowledge, skill or experience to comply with the assignment to provide nursing services to the patient, unless the refusal constitutes unprofessional conduct as set forth in chapter 632 of NRS or any regulations adopted pursuant thereto;~~

~~— (2) In good faith, reports to the medical facility, the Board of Medical Examiners, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity;~~

~~— (I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;~~

~~— (II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the medical facility or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or~~

~~— (III) Any other concerns regarding the medical facility, the agents and employees thereof or any situation that reasonably could result in harm to patients; or~~

~~— (3) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing;~~

~~— 2. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility~~

~~because the employee, registered nurse, licensed practical nurse or nursing assistant has taken an action described in subsection 1.~~

~~— 3. A medical facility or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility to take an action described in subsection 1.~~

~~— 4. As used in this section:~~

~~— (a) "Good faith" means honesty in fact in the reporting of the information or in the cooperation in the investigation concerned.~~

~~— (b) "Physician" means a person licensed to practice medicine pursuant to chapter 630 or 633 of NRS.~~

~~— (c) "Retaliate or discriminate":~~

~~— (1) Includes, without limitation, any of the following actions if taken solely because the employee, registered nurse, licensed practical nurse or nursing assistant took an action described in subsection 1:~~

~~— (I) Frequent or undesirable changes in the location where the person works;~~

~~— (II) Frequent or undesirable transfers or reassignments;~~

~~— (III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;~~

~~— (IV) A demotion;~~

~~— (V) A reduction in pay;~~

~~— (VI) The denial of a promotion;~~

~~— (VII) A suspension;~~

~~— (VIII) A dismissal;~~

~~— (IX) A transfer; or~~

~~— (X) Frequent changes in working hours or workdays.~~

~~— (2) Does not include an action described in sub-subparagraphs (I) to (X), inclusive, of subparagraph (1) if the action is taken in the normal course of employment or as a form of discipline. **(Deleted by amendment.)**~~

Sec. 24. NRS 449.210 is hereby amended to read as follows:

449.210 1. Except as otherwise provided in subsection 2 and NRS 449.24897, a person who operates a medical facility or facility for the dependent without a license issued by the Health Division is guilty of a misdemeanor.

2. A person who operates a residential facility for groups without a license issued by the Health Division:

(a) Is liable for a civil penalty to be recovered by the Attorney General in the name of the Health Division for the first offense of not more than \$10,000 and for a second or subsequent offense of not less than \$10,000 or more than \$20,000;

(b) Shall move all of the persons who are receiving services in the residential facility for groups to a residential facility for groups that is licensed at his or her own expense; and

(c) May not apply for a license to operate a residential facility for groups for a period of 6 months after the person is punished pursuant to this section.

3. Unless otherwise required by federal law, the Health Division shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used ~~{for the protection of}~~ **to administer and carry out the provisions of this chapter and to protect** the health, safety, ~~{and}~~ well-being **and property of the patients** ~~{, including}~~ **and** residents of ~~{residential}~~ facilities ~~{for groups}~~ **in accordance with applicable state and federal standards.**

Sec. 25. NRS 449.2496 is hereby amended to read as follows:

449.2496 1. A person who operates or maintains a home for individual residential care without a license issued by the Health Division pursuant to NRS 449.249 is liable for a civil penalty, to be recovered by the Attorney General in the name of the Health Division, for the first offense of \$10,000 and for a second or subsequent offense of not less than \$10,000 nor more than \$20,000.

2. Unless otherwise required by federal law, the Health Division shall deposit civil penalties collected pursuant to this section into a separate account in the State General Fund ~~{in the State Treasury}~~ to be used ~~{for the protection of}~~ **to administer and carry out the provisions of this chapter and to protect** the health, safety, well-being and property of **the** patients ~~{, including}~~ **and** residents of facilities ~~{found deficient by the Health Division}~~ **in accordance with applicable state and federal standards.**

3. A person against whom a civil penalty is assessed by the court pursuant to subsection 1:

(a) Shall move, at that person's own expense, all persons receiving services in the home for individual residential care to a licensed home for individual residential care.

(b) May not apply for a license to operate a home for individual residential care until 6 months have elapsed since the penalty was assessed.

Sec. 26. ~~{NRS 630.130 is hereby amended to read as follows:~~

~~— 630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:~~

~~— (a) Enforce the provisions of this chapter;~~

~~— (b) Establish by regulation standards for licensure under this chapter;~~

~~— (c) Conduct examinations for licensure and establish a system of scoring for those examinations;~~

~~— (d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and~~

~~— (e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.~~

~~— 2. — On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:~~

~~— (a) — Disciplinary action taken by the Board during the previous biennium against physicians for malpractice or negligence;~~

~~— (b) — Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections 3 and 4 of NRS 630.307 and NRS 690B.250 and 690B.260; and~~

~~— (c) — Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and types of surgeries performed by each holder of a license to practice medicine and the occurrence of [sentinel] *adverse health* events arising from such surgeries, if any.~~

~~➔ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.~~

~~— 3. — The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.} **(Deleted by amendment.)**~~

Sec. 27. ~~{NRS 630.133 is hereby amended to read as follows:~~

~~— 630.133 — 1. — The Board shall immediately notify the Health Division of the Department of Health and Human Services if the Board identifies [a sentinel] *an adverse health* event which is required to be reported by a medical facility pursuant to NRS 439.835.~~

~~— 2. — Except as otherwise provided in NRS 239.0115, any information provided to the Health Division pursuant to this section relating to the identification of [a sentinel] *an adverse health* event is confidential, not subject to subpoena or discovery and not subject to inspection by the general public.} **(Deleted by amendment.)**~~

Sec. 28. ~~{NRS 630.293 is hereby amended to read as follows:~~

~~— 630.293 — 1. — A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against:~~

~~— (a) — An employee of the physician or a person acting on behalf of the employee who in good faith;~~

~~— (1) — Reports to the Board of Medical Examiners information relating to the conduct of the physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients; or~~

~~— (2) — Reports [a sentinel] *an adverse health* event to the Health Division of the Department of Health and Human Services pursuant to NRS 439.835;~~

~~— (b) — A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and who;~~

~~— (1) In good faith, reports to the physician, the Board of Medical Examiners, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity;~~

~~— (I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;~~

~~— (II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the physician or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or~~

~~— (III) Any other concerns regarding the physician, the agents and employees thereof or any situation that reasonably could result in harm to patients; or~~

~~— (2) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing; or~~

~~— (c) An employee of the physician, a person acting on behalf of the employee or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and who cooperates or otherwise participates in an investigation or proceeding conducted by the Board of Medical Examiners or another governmental entity relating to conduct described in paragraph (a) or (b);~~

~~— 2. A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the physician or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician because the employee, registered nurse, licensed practical nurse or nursing assistant has taken an action described in subsection 1;~~

~~— 3. A physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the physician or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician to take an action described in subsection 1;~~

~~— 4. As used in this section:~~

~~— (a) "Good faith" means honesty in fact in the reporting of the information or in the cooperation of the investigation concerned;~~

~~— (b) "Retaliate or discriminate":~~

~~— (1) Includes, without limitation, any of the following actions if taken solely because the employee, registered nurse, licensed practical nurse or nursing assistant took an action described in subsection 1:~~

- ~~— (I) Frequent or undesirable changes in the location where the person works;~~
- ~~— (II) Frequent or undesirable transfers or reassignments;~~
- ~~— (III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;~~
- ~~— (IV) A demotion;~~
- ~~— (V) A reduction in pay;~~
- ~~— (VI) The denial of a promotion;~~
- ~~— (VII) A suspension;~~
- ~~— (VIII) A dismissal;~~
- ~~— (IX) A transfer; or~~
- ~~— (X) Frequent changes in working hours or workdays.~~

~~— (2) Does not include an action described in sub-paragraphs (I) to (X), inclusive, of subparagraph (1) if the action is taken in the normal course of employment or as a form of discipline.]~~ **(Deleted by amendment.)**

Sec. 29. ~~[NRS 630.30665 is hereby amended to read as follows:~~

~~— 630.30665 1. The Board shall require each holder of a license to practice medicine to submit annually to the Board, on a form provided by the Board, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his or her office or any other facility, excluding any surgical care performed;~~

~~— (a) At a medical facility as that term is defined in NRS 449.0151; or~~

~~— (b) Outside of this State.~~

~~— 2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice medicine to submit a report annually to the Board concerning the occurrence of any [sentinel] adverse health event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the State Board of Health for reporting information pursuant to NRS 439.835.~~

~~— 3. Each holder of a license to practice medicine shall submit the reports required pursuant to subsections 1 and 2 whether or not the holder of the license performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to subsection 9 of NRS 630.306.~~

~~— 4. The Board shall:~~

~~— (a) Collect and maintain reports received pursuant to subsections 1 and 2;~~

~~— (b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access; and~~

~~— (c) Submit to the Health Division a copy of the report submitted pursuant to subsection 1. The Health Division shall maintain the confidentiality of such reports in accordance with subsection 5.~~

~~— 5. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1 or 2 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.~~

~~— 6. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.~~

~~— 7. In addition to any other remedy or penalty, if a holder of a license to practice medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice medicine with notice and opportunity for a hearing, impose against the holder of a license to practice medicine an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license pursuant to this subsection. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.~~

~~— 8. As used in this section:~~

~~— (a) "Adverse health event" has the meaning ascribed to it in section 1 of this act.~~

~~— (b) "Conscious sedation" has the meaning ascribed to it in NRS 449.436.~~

~~— [(b)] (c) "Deep sedation" has the meaning ascribed to it in NRS 449.437.~~

~~— [(c)] (d) "General anesthesia" has the meaning ascribed to it in NRS 449.438.~~

~~— [(d)] (e) "Health Division" has the meaning ascribed to it in NRS 449.009.~~

~~— [(e) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.]] (Deleted by amendment.)~~

Sec. 30. ~~[NRS 632.121 is hereby amended to read as follows:~~

~~— 632.121 1. The Board shall immediately notify the Health Division of the Department of Health and Human Services if the Board identifies [a sentinel] an adverse health event which is required to be reported by a medical facility pursuant to NRS 439.835.~~

~~— 2. Except as otherwise provided in NRS 239.0115, any information provided to the Health Division pursuant to this section relating to the identification of [a sentinel] an adverse health event is confidential, not subject to subpoena or discovery and not subject to inspection by the general public.] (Deleted by amendment.)~~

Sec. 31. ~~[NRS 633.283 is hereby amended to read as follows:~~

~~— 633.283 — 1. The Board shall immediately notify the Health Division of the Department of Health and Human Services if the Board identifies [a sentinel] *an adverse health* event which is required to be reported by a medical facility pursuant to NRS 439.835.~~

~~— 2. Except as otherwise provided in NRS 239.0115, any information provided to the Health Division pursuant to this section relating to the identification of [a sentinel] *an adverse health* event is confidential, not subject to subpoena or discovery and not subject to inspection by the general public. — (Deleted by amendment.)~~

Sec. 32. ~~[NRS 633.286 is hereby amended to read as follows:]~~

~~— 633.286 — 1. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:~~

~~— (a) Disciplinary action taken by the Board during the previous biennium against osteopathic physicians for malpractice or negligence;~~

~~— (b) Information reported to the Board during the previous biennium pursuant to NRS 633.526, 633.527, subsections 3 and 4 of NRS 633.533 and NRS 690B.250 and 690B.260; and~~

~~— (c) Information reported to the Board during the previous biennium pursuant to NRS 633.524, including, without limitation, the number and types of surgeries performed by each holder of a license to practice osteopathic medicine and the occurrence of [sentinel] *adverse health* events arising from such surgeries, if any.~~

~~— 2. The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person. — (Deleted by amendment.)~~

Sec. 33. ~~[NRS 633.505 is hereby amended to read as follows:]~~

~~— 633.505 — 1. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against:~~

~~— (a) An employee of the osteopathic physician or a person acting on behalf of the employee who in good faith:~~

~~— (1) Reports to the State Board of Osteopathic Medicine information relating to the conduct of the osteopathic physician which may constitute grounds for initiating disciplinary action against the osteopathic physician or which otherwise raises a reasonable question regarding the competence of the osteopathic physician to practice medicine with reasonable skill and safety to patients; or~~

~~— (2) Reports [a sentinel] *an adverse health* event to the Health Division of the Department of Health and Human Services pursuant to NRS 439.835;~~

~~— (b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and who:~~

~~— (1) In good faith, reports to the osteopathic physician, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity;~~

~~— (I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;~~

~~— (II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the osteopathic physician or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or~~

~~— (III) Any other concerns regarding the osteopathic physician, the agents and employees thereof or any situation that reasonably could result in harm to patients; or~~

~~— (2) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing; or~~

~~— (c) An employee of the osteopathic physician, a person acting on behalf of the employee or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and who cooperates or otherwise participates in an investigation or proceeding conducted by the State Board of Osteopathic Medicine or another governmental entity relating to conduct described in paragraph (a) or (b).~~

~~— 2. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the osteopathic physician or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician because the employee, registered nurse, licensed practical nurse or nursing assistant has taken an action described in subsection 1.~~

~~— 3. An osteopathic physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the osteopathic physician or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician to take an action described in subsection 1.~~

~~— 4. As used in this section:~~

~~— (a) "Good faith" means honesty in fact in the reporting of the information or in the cooperation in the investigation concerned.~~

~~— (b) "Retaliate or discriminate":~~

~~— (1) Includes, without limitation, any of the following actions if taken solely because the employee, registered nurse, licensed practical nurse or nursing assistant took an action described in subsection 1:~~

~~— (I) Frequent or undesirable changes in the location where the person works;~~

~~— (II) Frequent or undesirable transfers or reassignments;~~

~~— (III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;~~

~~— (IV) A demotion;~~

~~— (V) A reduction in pay;~~

~~— (VI) The denial of a promotion;~~

~~— (VII) A suspension;~~

~~— (VIII) A dismissal;~~

~~— (IX) A transfer; or~~

~~— (X) Frequent changes in working hours or workdays.~~

~~— (2) Does not include an action described in sub-subparagraphs (I) to (X), inclusive, of subparagraph (1) if the action is taken in the normal course of employment or as a form of discipline.~~ **(Deleted by amendment.)**

Sec. 34. ~~[NRS 633.524 is hereby amended to read as follows:~~

~~— 633.524 1. The Board shall require each holder of a license to practice osteopathic medicine issued pursuant to this chapter to submit annually to the Board, on a form provided by the Board, and in the format required by the Board by regulation, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his or her office or any other facility, excluding any surgical care performed:~~

~~— (a) At a medical facility as that term is defined in NRS 449.0151; or~~

~~— (b) Outside of this State.~~

~~— 2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice osteopathic medicine to submit a report annually to the Board concerning the occurrence of any [sentinel] *adverse health* event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the State Board of Health for reporting information pursuant to NRS 439.835.~~

~~— 3. Each holder of a license to practice osteopathic medicine shall submit the reports required pursuant to subsections 1 and 2 whether or not the holder of the license performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to NRS 633.511.~~

~~— 4. The Board shall:~~

~~— (a) Collect and maintain reports received pursuant to subsections 1 and 2;~~

~~— (b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access; and~~

~~—(c) Submit to the Health Division a copy of the report submitted pursuant to subsection 1. The Health Division shall maintain the confidentiality of such reports in accordance with subsection 5.~~

~~—5. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1 or 2 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.~~

~~—6. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.~~

~~—7. In addition to any other remedy or penalty, if a holder of a license to practice osteopathic medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice osteopathic medicine with notice and opportunity for a hearing, impose against the holder of a license an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license to practice osteopathic medicine. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.~~

~~—8. As used in this section:~~

~~—(a) "Adverse health event" has the meaning ascribed to it in section 1 of this act.~~

~~—(b) "Conscious sedation" has the meaning ascribed to it in NRS 449.436.~~

~~—[(b)] (c) "Deep sedation" has the meaning ascribed to it in NRS 449.437.~~

~~—[(c)] (d) "General anesthesia" has the meaning ascribed to it in NRS 449.438.~~

~~—[(d)] (e) "Health Division" has the meaning ascribed to it in NRS 449.009.~~

~~—[(e) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.]] (Deleted by amendment.)~~

Sec. 35. NRS 439.825 ~~[, 439.830]~~ and 439.850 are hereby repealed.

Sec. 36. ~~[In preparing supplements to the Nevada Revised Statutes and the Nevada Administrative Code, the Legislative Counsel shall make such changes as necessary so that the Nevada Revised Statutes and the Nevada Administrative Code use the term "adverse health event" in lieu of the term "sentinel event."]] (Deleted by amendment.)~~

Sec. 37. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTIONS

439.825 "Repository" defined. "Repository" means the Repository for Health Care Quality Assurance created by NRS 439.850.

~~† 439.830 "Sentinel event" defined. "Sentinel event" means an unexpected occurrence involving facility-acquired infection, death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of a serious adverse outcome. The term includes loss of limb or function.†~~

439.850 Repository for Health Care Quality Assurance: Creation; function.

1. The Repository for Health Care Quality Assurance is hereby created within the Health Division.

2. The Repository shall, to the extent of legislative appropriation and authorization, function as a clearinghouse of information relating to aggregated trends of sentinel events.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 330 revises the provisions to Senate Bill No. 264 by replacing the previous provisions related to "adverse health event" and returns to the current statutory term "sentinel events." Also, the amendment removes the definition of adverse health events.

The amendment provides that certain information may be reported as a rate of occurrence of events under certain circumstances.

It specifies that certain data for a medical facility may not be reported if the data would risk identifying a patient.

It removes the provision that limited the requirement to report to a medical facility which provided medical services and care to an average of 25 or more patients during each business day in the immediately preceding calendar year.

It limits the reporting of potentially preventable readmission data to hospitals.

It authorizes the Department to report certain information concerning the quality of care provided by hospitals if it can be determined from reports already submitted to the Department.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 265.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 230.

"SUMMARY—Revises provisions governing sentencing of criminal offenders and determining eligibility of prisoners for parole. (BDR 14-311)"

"AN ACT relating to offenders; requiring the aggregation of certain consecutive sentences of imprisonment imposed on an offender; making credits earned by a prisoner to reduce his or her sentence applicable to an aggregated sentence; revising the manner in which credits are earned to reduce the minimum term of imprisonment; **revising provisions relating to**

the parole of certain prisoners; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a person who is convicted of committing more than one crime may be sentenced to serve the sentences imposed for each crime concurrently or consecutively. If a person is sentenced to serve consecutive sentences, he or she must complete or be paroled from one sentence before beginning to serve the next sentence. (NRS 176.035) Existing law further provides that for crimes committed on or after July 1, 2009, if two or more sentences of life imprisonment with the possibility of parole are imposed, the minimum sentences are aggregated for purposes of determining parole eligibility. By aggregating the minimum sentences, the prisoner is not paroled from the first offense separately, but rather becomes eligible for parole after the minimum aggregate term of imprisonment has been served. (NRS 213.1213) If the crimes were committed before July 1, 2009, existing law authorizes a prisoner serving two or more sentences of life imprisonment with the possibility of parole to request to have the sentences aggregated. Otherwise, parole eligibility continues to be determined for each sentence separately.

Section 1 of this bill provides that when a court imposes consecutive sentences, those sentences must be aggregated if the crimes were committed on or after July 1, 2012, unless any of the sentences includes a sentence of life without the possibility of parole or death. **Section 9** of this bill further provides that a prisoner who is serving consecutive sentences ~~for crimes committed before July 1, 2012,~~ may submit a request to the Director of the Department of Corrections to make an irrevocable election to aggregate any remaining sentences for which parole has not previously been considered. **Sections 1 and 9** provide that sentences for offenses which are entered at different times may not be aggregated. For example, a felony that is committed while serving a sentence for another felony may not be aggregated with the earlier sentence. By aggregating sentences, a prisoner will become eligible for parole after the minimum aggregate term of imprisonment has been served. **Section 13** of this bill limits the current aggregation of multiple life sentences so that the sentences for any crime committed on or after July 1, 2012, will be aggregated in the manner provided in **sections 1 and 9**.

Existing law further provides that prisoners may earn certain credits to reduce their sentences. Most credits earned reduce only the maximum term of imprisonment, however, in some cases, the credits earned reduce both the minimum and maximum terms of imprisonment. When the credits are authorized to be deducted from the minimum term of imprisonment, the credits are deducted from the minimum term until the offender becomes eligible for parole. (NRS 209.4465) **Section 4** of this bill instead provides that for offenses committed on or after July 1, 2012, such credits may reduce the minimum term imposed by the sentence by not more than 58 percent.

Sections 2-8 of this bill revise provisions governing credits earned by offenders to reduce their sentences to ensure that the credits also apply to aggregated sentences. **Section 9** of this bill further clarifies that with respect to such credits, the credits apply to the aggregated sentences to the same extent that they would apply had the sentences not been aggregated. **Sections 10-18** of this bill make technical changes to various statutes to include necessary references to aggregated sentences.

Existing law also requires under certain circumstances that a prisoner who was sentenced to life imprisonment with the possibility of parole and who was less than 16 years of age at the time the prisoner committed the offense for which he or she was imprisoned be: (1) granted parole from his or her current term of imprisonment to his or her subsequent term of imprisonment, if the prisoner still has a consecutive sentence to be served; or (2) released on parole if the prisoner does not have a consecutive sentence to be served. (NRS 213.1215) Section 14 of this bill provides that the State Board of Parole Commissioners is not required to release such a prisoner on parole if: (1) the prisoner is determined to be a high risk to reoffend; or (2) the Board determines that there is a reasonable probability that the prisoner will be a danger to public safety while on parole. Section 16 of this bill provides that such a prisoner released on parole whose parole is revoked for a violation of any rule or regulation governing his or her conduct cannot be considered again for release on parole pursuant to his or her qualification under such provisions but may be considered for release on parole pursuant to other provisions of law.

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

Section 1. NRS 176.035 is hereby amended to read as follows:

176.035 1. Except as otherwise provided in subsection ~~{2}~~ 3, whenever a person is convicted of two or more offenses, and sentence has been pronounced for one offense, the court in imposing any subsequent sentence may provide that the sentences subsequently pronounced run either concurrently or consecutively with the sentence first imposed. Except as otherwise provided in subsections ~~{2}~~ 3 and ~~{3}~~ 4, if the court makes no order with reference thereto, all such subsequent sentences run concurrently. *For offenses committed on or after July 1, 2012, if the court imposes the sentences to run consecutively, the court must pronounce the minimum and maximum aggregate terms of imprisonment pursuant to subsection 2, unless the defendant is sentenced to life imprisonment without the possibility of parole or death.*

2. *When aggregating terms of imprisonment pursuant to subsection 1:*

(a) *If at least one sentence imposes a maximum term of imprisonment for life with the possibility of parole, the court must aggregate the minimum terms of imprisonment to determine the minimum aggregate term of imprisonment, and the maximum aggregate term of imprisonment*

shall be deemed to be imprisonment in the state prison for life with the possibility of parole.

(b) If all the sentences impose a minimum and maximum term of imprisonment, the court must aggregate the minimum terms of imprisonment to determine the minimum aggregate term of imprisonment and must aggregate the maximum terms of imprisonment to determine the maximum aggregate term of imprisonment.

3. Except as otherwise provided in this subsection, whenever a person under sentence of imprisonment for committing a felony commits another crime constituting a felony and is sentenced to another term of imprisonment for that felony, the latter term must not begin until the expiration of all prior terms ~~1-1~~ , *including the expiration of any prior aggregated terms*. If the person is a probationer at the time the subsequent felony is committed, the court may provide that the latter term of imprisonment run concurrently with any prior terms or portions thereof. If the person is sentenced to a term of imprisonment for life without the possibility of parole, the sentence must be executed without reference to the unexpired term of imprisonment and without reference to eligibility for parole.

~~13-1~~ 4. Whenever a person under sentence of imprisonment commits another crime constituting a misdemeanor or gross misdemeanor, the court shall provide expressly whether the sentence subsequently pronounced runs concurrently or consecutively with the one first imposed.

~~14-1~~ 5. Whenever a person under sentence of imprisonment commits another crime for which the punishment is death, the sentence must be executed without reference to the unexpired term of imprisonment.

~~15-1~~ 6. This section does not prevent the State Board of Parole Commissioners from paroling a person under consecutive sentences of imprisonment from a current term of imprisonment to a subsequent term of imprisonment.

Sec. 2. NRS 209.443 is hereby amended to read as follows:

209.443 1. Every offender who is sentenced to prison after June 30, 1969, for a crime committed before July 1, 1985, who has no serious infraction of the regulations of the Department, the terms and conditions of his or her residential confinement, or the laws of the State recorded against the offender, and who performs in a faithful, orderly and peaceable manner the duties assigned to the offender, must be allowed:

(a) For the period the offender is actually incarcerated under sentence; and

(b) For the period the offender is in residential confinement,

➔ a deduction of 2 months for each of the first 2 years, 4 months for each of the next 2 years and 5 months for each of the remaining years of the term, and pro rata for any part of a year where the actual term served is for more or less than a year. Credit must be recorded on a monthly basis as earned for actual time served.

2. The credits earned by an offender must be deducted from the maximum term *or the maximum aggregate term* imposed by the sentence ,

as applicable, and, except as otherwise provided in subsection 5, must apply to eligibility for parole.

3. In addition to the credits for good behavior provided for in subsection 1, the Board shall adopt regulations allowing credits for offenders whose diligence in labor or study merits such credits and for offenders who donate their blood for charitable purposes. The regulations must provide that an offender is entitled to the following credits for educational achievement:

- (a) For earning a general educational development certificate, 30 days.
- (b) For earning a high school diploma, 60 days.
- (c) For earning an associate degree, 90 days.

4. Each offender is entitled to the deductions allowed by this section if the offender has satisfied the conditions of subsection 1 or 3 as determined by the Director.

5. Credits earned pursuant to this section do not apply to eligibility for parole if a statute specifies a minimum sentence which must be served before a person becomes eligible for parole.

Sec. 3. NRS 209.446 is hereby amended to read as follows:

209.446 1. Every offender who is sentenced to prison for a crime committed on or after July 1, 1985, but before July 17, 1997, who has no serious infraction of the regulations of the Department, the terms and conditions of his or her residential confinement, or the laws of the State recorded against the offender, and who performs in a faithful, orderly and peaceable manner the duties assigned to the offender, must be allowed:

- (a) For the period the offender is actually incarcerated under sentence;
 - (b) For the period the offender is in residential confinement; and
 - (c) For the period the offender is in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888,
- ➔ a deduction of 10 days from the offender's sentence for each month the offender serves.

2. In addition to the credit provided for in subsection 1, the Director may allow not more than 10 days of credit each month for an offender whose diligence in labor and study merits such credits. In addition to the credits allowed pursuant to this subsection, an offender is entitled to the following credits for educational achievement:

- (a) For earning a general educational development certificate, 30 days.
- (b) For earning a high school diploma, 60 days.
- (c) For earning an associate degree, 90 days.

3. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, program for reentry of offenders and parolees into the community, conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is entitled to the entire 20 days of credit each month which is authorized in subsections 1 and 2.

4. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

5. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

6. Credits earned pursuant to this section:

(a) Must be deducted from the maximum term *or the maximum aggregate term* imposed by the sentence ~~to~~, *as applicable*; and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence which must be served before a person becomes eligible for parole.

Sec. 4. NRS 209.4465 is hereby amended to read as follows:

209.4465 1. An offender who is sentenced to prison for a crime committed on or after July 17, 1997, who has no serious infraction of the regulations of the Department, the terms and conditions of his or her residential confinement or the laws of the State recorded against the offender, and who performs in a faithful, orderly and peaceable manner the duties assigned to the offender, must be allowed:

(a) For the period the offender is actually incarcerated pursuant to his or her sentence;

(b) For the period the offender is in residential confinement; and

(c) For the period the offender is in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888,

↳ a deduction of 20 days from his or her sentence for each month the offender serves.

2. In addition to the credits allowed pursuant to subsection 1, the Director may allow not more than 10 days of credit each month for an offender whose diligence in labor and study merits such credits. In addition to the credits allowed pursuant to this subsection, an offender is entitled to the following credits for educational achievement:

(a) For earning a general educational development certificate, 60 days.

(b) For earning a high school diploma, 90 days.

(c) For earning his or her first associate degree, 120 days.

3. The Director may, in his or her discretion, authorize an offender to receive a maximum of 90 days of credit for each additional degree of higher education earned by the offender.

4. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, program for reentry of offenders and parolees into the community, conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire 30 days of credit each month that is allowed pursuant to subsections 1 and 2.

5. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

6. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

7. Except as otherwise provided in ~~subsection~~ **subsections 8 ~~and~~ 9**, credits earned pursuant to this section:

(a) Must be deducted from the maximum term **or the maximum aggregate term** imposed by the sentence ~~and~~, **as applicable**; and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.

8. Credits earned pursuant to this section by an offender who has not been convicted of:

(a) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim;

(b) A sexual offense that is punishable as a felony;

(c) A violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 that is punishable as a felony; or

(d) A category A or B felony,

↪ apply to eligibility for parole and , **except as otherwise provided in subsection 9**, must be deducted from the minimum term **or the minimum aggregate term** imposed by the sentence , **as applicable**, until the offender becomes eligible for parole and must be deducted from the maximum term **or the maximum aggregate term** imposed by the sentence ~~and~~, **as applicable**.

9. **Credits earned pursuant subsection 8 may reduce the minimum term imposed by the sentence by not more than 58 percent for an offender who:**

(a) **Is serving a sentence for an offense committed on or after July 1, 2012; or**

(b) **On or after July 1, 2012, makes an irrevocable election to have his or her consecutive sentences aggregated pursuant to section 9 of this act.**

Sec. 5. NRS 209.447 is hereby amended to read as follows:

209.447 1. An offender who is sentenced after June 30, 1991, for a crime committed before July 1, 1985, and who is released on parole for a term less than life must, if the offender has no serious infraction of the terms and conditions of his or her parole or the laws of this state recorded against the offender, be allowed for the period the offender is actually on parole a deduction of 2 months for each of the first 2 years, 4 months for each of the next 2 years and 5 months for each of the remaining years of the term, and pro rata for any part of a year where the actual term served is for more or less than a year. Credit must be recorded on a monthly basis as earned.

2. An offender who is sentenced after June 30, 1991, for a crime committed on or after July 1, 1985, and who is released on parole for a term less than life must, if the offender has no serious infraction of the terms and conditions of his or her parole or the laws of this state recorded against the offender, be allowed for the period the offender is actually on parole a deduction of 10 days from the offender's sentence for each month the offender serves.

3. An offender is entitled to the deductions authorized by this section only if the offender satisfies the conditions of subsection 1 or 2, as determined by the Director. The Chief Parole and Probation Officer or other person responsible for the supervision of an offender shall report to the Director the failure of an offender to satisfy those conditions.

4. Credits earned pursuant to this section must, in addition to any credits earned pursuant to NRS 209.443, 209.446, 209.4465, 209.4475, 209.448 and 209.449, be deducted from the maximum term *or the maximum aggregate term* imposed by the sentence ~~{ }~~, *as applicable*.

5. The Director shall maintain records of the credits to which each offender is entitled pursuant to this section.

Sec. 6. NRS 209.4475 is hereby amended to read as follows:

209.4475 1. In addition to any credits earned pursuant to NRS 209.447, an offender who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life must be allowed for the period the offender is actually on parole a deduction of 20 days from the offender's sentence for each month the offender serves if:

(a) The offender is current with any fee to defray the costs of his or her supervision pursuant to NRS 213.1076; and

(b) The offender is current with any payment of restitution required pursuant to NRS 213.126.

2. In addition to any credits earned pursuant to subsection 1 and NRS 209.447, the Director may allow not more than 10 days of credit each month for an offender:

(a) Who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life; and

(b) Whose diligence in labor or study merits such credits.

3. An offender is entitled to the deductions authorized by this section only if the offender satisfies the conditions of subsection 1 or 2, as determined by the Director. The Chief Parole and Probation Officer or other person responsible for the supervision of an offender shall report to the Director the failure of an offender to satisfy those conditions.

4. Credits earned pursuant to this section must, in addition to any credits earned pursuant to NRS 209.443, 209.446, 209.4465, 209.447, 209.448 and 209.449, be deducted from the maximum term *or the maximum aggregate term* imposed by the sentence ~~{ }~~, *as applicable*.

5. The Director shall maintain records of the credits to which each offender is entitled pursuant to this section.

Sec. 7. NRS 209.448 is hereby amended to read as follows:

209.448 1. An offender who has no serious infraction of the regulations of the Department or the laws of the State recorded against the offender must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of not more than 60 days from the maximum term *or the maximum aggregate term* of the offender's sentence, *as applicable*, for the successful completion of a program of

treatment for the abuse of alcohol or drugs which is conducted jointly by the Department and a person who is licensed as a clinical alcohol and drug abuse counselor, licensed or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern or a clinical alcohol and drug abuse counselor intern, pursuant to chapter 641C of NRS.

2. The provisions of this section apply to any offender who is sentenced on or after October 1, 1991.

Sec. 8. NRS 209.449 is hereby amended to read as follows:

209.449 1. An offender who has no serious infraction of the regulations of the Department, the terms and conditions of his or her residential confinement, or the laws of the State recorded against the offender must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of 60 days from the maximum term *or the maximum aggregate term* of the offender's sentence , *as applicable*, for the successful completion of:

- (a) A program of vocational education and training; or
- (b) Any other program approved by the Director.

2. If the offender completes such a program with meritorious or exceptional achievement, the Director may allow not more than 60 days of credit in addition to the 60 days allowed for completion of the program.

Sec. 9. Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other provision of law, if a prisoner is sentenced pursuant to NRS 176.035 to serve two or more consecutive sentences, the terms of which have been aggregated:

(a) The prisoner shall be deemed to be eligible for parole from all such sentences after serving the minimum aggregate term of imprisonment; and

(b) The Board is not required to consider the prisoner for parole until the prisoner has served the minimum aggregate term of imprisonment.

2. For purposes of determining parole eligibility, a prisoner whose sentences have been aggregated may earn credit pursuant to NRS 209.433 to 209.449, inclusive, which must be deducted from the minimum aggregate term of imprisonment or the maximum aggregate term of imprisonment, as applicable. Such credits may be earned only to the extent that the credits would otherwise be earned had the sentences not been aggregated.

3. Except as otherwise provided in subsection 3 of NRS 176.035, a prisoner who is serving consecutive sentences which have not been aggregated ~~for offenses committed before July 1, 2012, may submit a request to the Director of the Department of Corrections to determine the effect of aggregating the sentences. After the Director informs the prisoner of the effect of aggregating the sentences, including, without limitation, any effect on the amount of credits that may be earned to reduce the minimum and maximum terms of imprisonment and when the prisoner may be eligible~~

~~for parole, the prisoner~~ *may submit a written request to the Director to make an irrevocable election to have the sentences aggregated. If the prisoner makes such an irrevocable election to have the sentences aggregated and:*

(a) The prisoner has not been considered for parole on any of the sentences, the Department of Corrections shall aggregate the sentences in the manner set forth in NRS 176.035 and the Board is not required to consider the prisoner for parole until the prisoner has served the minimum aggregate term of imprisonment.

(b) The prisoner has been considered for parole on one or more of the sentences, the Department of Corrections shall aggregate only the sentences for which parole has not been considered. The Board is not required to consider the prisoner for parole on the aggregated sentences until the prisoner has served the minimum aggregate term of imprisonment.

Sec. 10. NRS 213.1085 is hereby amended to read as follows:

213.1085 1. The Board shall appoint an Executive Secretary, who is in the unclassified service of the State.

2. The Executive Secretary must be selected on the basis of his or her training, experience, capacity and interest in correctional services.

3. The Board shall supervise the activities of the Executive Secretary.

4. The Executive Secretary is the Secretary of the Board and shall perform such duties in connection therewith as the Board may require, including, but not limited to, preparing the agenda for board meetings and answering correspondence from prisoners in the state prison.

5. The Executive Secretary shall prepare a list at least 30 days before any scheduled action by the Board showing each person then eligible for parole indicating:

- (a) The name of the prisoner;
- (b) The crime for which the prisoner was convicted;
- (c) The county in which the prisoner was sentenced;
- (d) The date of the sentence;
- (e) The length of the sentence, including the minimum term *or minimum aggregate term, as applicable*, and *the* maximum term *or maximum aggregate term, as applicable*, of imprisonment or the definite term of imprisonment, if one is imposed;
- (f) The amount of time actually served in the state prison;
- (g) The amount of credit for time previously served in a county jail; and
- (h) The amount of credit allowed to reduce the sentence of the prisoner pursuant to chapter 209 of NRS.

➡ The Executive Secretary shall send copies to all law enforcement agencies in this state and to other persons whom the Executive Secretary deems appropriate, at least 30 days before any scheduled action by the Board. Each law enforcement agency that receives the list shall make the list available for public inspection during normal business hours.

Sec. 11. NRS 213.1099 is hereby amended to read as follows:

213.1099 1. Except as otherwise provided in this section and NRS 213.1214 and 213.1215, the Board may release on parole a prisoner who is otherwise eligible for parole pursuant to NRS 213.107 to 213.157, inclusive.

2. In determining whether to release a prisoner on parole, the Board shall consider:

(a) Whether there is a reasonable probability that the prisoner will live and remain at liberty without violating the laws;

(b) Whether the release is incompatible with the welfare of society;

(c) The seriousness of the offense and the history of criminal conduct of the prisoner;

(d) The standards adopted pursuant to NRS 213.10885 and the recommendation, if any, of the Chief; and

(e) Any documents or testimony submitted by a victim notified pursuant to NRS 213.130.

3. When a person is convicted of a felony and is punished by a sentence of imprisonment, the person remains subject to the jurisdiction of the Board from the time the person is released on parole under the provisions of this chapter until the expiration of the maximum term *or the maximum aggregate term* of imprisonment imposed by the court, *as applicable*, less any credits earned to reduce his or her sentence pursuant to chapter 209 of NRS.

4. Except as otherwise provided in NRS 213.1215, the Board may not release on parole a prisoner whose sentence to death or to life without possibility of parole has been commuted to a lesser penalty unless it finds that the prisoner has served at least 20 consecutive years in the state prison, is not under an order to be detained to answer for a crime or violation of parole or probation in another jurisdiction, and that the prisoner does not have a history of:

(a) Recent misconduct in the institution, and that the prisoner has been recommended for parole by the Director of the Department of Corrections;

(b) Repetitive criminal conduct;

(c) Criminal conduct related to the use of alcohol or drugs;

(d) Repetitive sexual deviance, violence or aggression; or

(e) Failure in parole, probation, work release or similar programs.

5. In determining whether to release a prisoner on parole pursuant to this section, the Board shall not consider whether the prisoner will soon be eligible for release pursuant to NRS 213.1215.

6. The Board shall not release on parole an offender convicted of an offense listed in NRS 179D.097 until the Central Repository for Nevada Records of Criminal History has been provided an opportunity to give the notice required pursuant to NRS 179D.475.

Sec. 12. NRS 213.120 is hereby amended to read as follows:

213.120 1. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed before July 1, 1995, may be paroled when the prisoner has served one-third of the definite period of time for which the prisoner has been sentenced pursuant to NRS 176.033, less any credits earned to reduce his or her sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed on or after July 1, 1995, may be paroled when the prisoner has served the minimum term of imprisonment imposed by the court. Except as otherwise provided in NRS 209.4465, any credits earned to reduce his or her sentence pursuant to chapter 209 of NRS while the prisoner serves the minimum term of imprisonment may reduce only the maximum term *or the maximum aggregate term, as applicable*, of imprisonment imposed and must not reduce the minimum term *or the minimum aggregate term, as applicable*, of imprisonment.

Sec. 13. NRS 213.1213 is hereby amended to read as follows:

213.1213 1. If a prisoner is sentenced pursuant to NRS 176.035 to serve two or more concurrent sentences, whether or not the sentences are identical in length or other characteristics, eligibility for parole from any of the concurrent sentences must be based on the sentence which requires the longest period before the prisoner is eligible for parole.

2. Notwithstanding any other provision of law, if a prisoner is sentenced pursuant to NRS 176.035 to serve two or more consecutive sentences of life imprisonment with the possibility of parole:

(a) For offenses committed on or after July 1, 2009 ~~†~~ , ***but before July 1, 2012:***

- (1) All minimum sentences for such offenses must be aggregated;
- (2) The prisoner shall be deemed to be eligible for parole from all such sentences after serving the minimum aggregate sentence; and
- (3) The Board is not required to consider the prisoner for parole until the prisoner has served the minimum aggregate sentence.

(b) For offenses committed before July 1, 2009, in cases in which the prisoner has not previously been considered for parole for any such offenses:

(1) The prisoner may, by submitting a written request to the Director of the Department of Corrections ~~†~~ ***before July 1, 2012***, make an irrevocable election to have the minimum sentences for such offenses aggregated; and

(2) If the prisoner makes such an irrevocable election to have the minimum sentences for such offenses aggregated, the Board is not required to consider the prisoner for parole until the prisoner has served the minimum aggregate sentence.

Sec. 14. NRS 213.1215 is hereby amended to read as follows:

213.1215 1. Except as otherwise provided in this section and in cases where a consecutive sentence is still to be served, if a prisoner sentenced to imprisonment for a term of 3 years or more:

(a) Has not been released on parole previously for that sentence; and
 (b) Is not otherwise ineligible for parole,
 ➔ the prisoner must be released on parole 12 months before the end of his or her maximum term ~~12~~ **or maximum aggregate term, as applicable**, as reduced by any credits the prisoner has earned to reduce his or her sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in this section, a prisoner who was sentenced to life imprisonment with the possibility of parole and who was less than 16 years of age at the time that the prisoner committed the offense for which the prisoner was imprisoned must, if the prisoner still has a consecutive sentence to be served, be granted parole from his or her current term of imprisonment to his or her subsequent term of imprisonment or must, if the prisoner does not still have a consecutive sentence to be served, be released on parole, if:

(a) The prisoner has served the minimum term of imprisonment **or the minimum aggregate term of imprisonment** imposed by the court ~~12~~, **as applicable**;

(b) The prisoner has completed a program of general education or an industrial or vocational training program;

(c) The prisoner has not been identified as a member of a group that poses a security threat pursuant to the procedures for identifying security threats established by the Department of Corrections; and

(d) The prisoner has not, within the immediately preceding 24 months:

(1) Committed a major violation of the regulations of the Department of Corrections; or

(2) Been housed in disciplinary segregation.

3. **If a prisoner who meets the criteria set forth in subsection 2 is determined to be a high risk to reoffend pursuant to NRS 213.1214, the Board is not required to release the prisoner on parole pursuant to this section. If the prisoner is not granted parole, a rehearing date must be scheduled pursuant to NRS 213.142.**

~~4.~~ **5.** The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his or her release.

~~44~~ **5.** Each parolee so released must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122.

~~15~~ **6.** If the Board finds ~~1~~, ~~at least 2 months before a prisoner would otherwise be paroled pursuant to subsection 1 or 2~~ that there is a reasonable probability that ~~the~~ **a prisoner considered for release on parole pursuant to subsection 1** will be a danger to public safety while on parole, the Board may require the prisoner to serve the balance of his or her sentence and not grant the parole. ~~provided for in subsection 1 or 2.~~ If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 1, ~~for 2,~~ the Board shall provide to the prisoner a written statement of its reasons for denying parole.

7. If the Board finds that there is a reasonable probability that a prisoner considered for release on parole pursuant to subsection 2 will be a danger to public safety while on parole, the Board is not required to grant the parole and shall schedule a rehearing pursuant to NRS 213.142. Except as otherwise provided in subsection 3 of NRS 213.1519, if a prisoner is not granted parole pursuant to this subsection, the criteria set forth in subsection 2 must be applied at each subsequent hearing until the prisoner is granted parole or expires his or her sentence. If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 2, the Board shall provide to the prisoner a written statement of its reasons for denying parole, along with specific recommendations of the Board, if any, to improve the possibility of granting parole the next time the prisoner may be considered for parole.

~~16.1~~ 8. If the prisoner is the subject of a lawful request from another law enforcement agency that the prisoner be held or detained for release to that agency, the prisoner must not be released on parole, but released to that agency.

~~17.1~~ 9. If the Division has not completed its establishment of a program for the prisoner's activities during his or her parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established.

~~18.1~~ 10. For the purposes of this section, the determination of the 12-month period before the end of a prisoner's term must be calculated without consideration of any credits the prisoner may have earned to reduce his or her sentence had the prisoner not been paroled.

Sec. 15. NRS 213.15185 is hereby amended to read as follows:

213.15185 1. A prisoner who is paroled and leaves the State without permission from the Board or who does not keep the Board informed as to his or her location as required by the conditions of his or her parole shall be deemed an escaped prisoner and arrested as such.

2. Except as otherwise provided in subsection 2 of NRS 213.1519, if parole is lawfully revoked and the parolee is thereafter returned to prison, the parolee forfeits all previously earned credits for good behavior earned to reduce his or her sentence pursuant to chapter 209 of NRS and shall serve any part of the unexpired maximum term *or the maximum aggregate term, as applicable*, of his or her original sentence as may be determined by the Board.

3. Except as otherwise provided in subsection 2 of NRS 213.1519, the Board may restore any credits forfeited pursuant to subsection 2.

4. Except as otherwise provided in NRS 213.15187, the time a person is an escaped prisoner is not time served on his or her term of imprisonment.

Sec. 16. NRS 213.1519 is hereby amended to read as follows:

213.1519 1. Except as otherwise provided in ~~subsection 2.1~~ subsections 2 and 3, a parolee whose parole is revoked by decision of the Board for a violation of any rule or regulation governing his or her conduct:

(a) Forfeits all credits for good behavior previously earned to reduce his or her sentence pursuant to chapter 209 of NRS; and

(b) Must serve such part of the unexpired maximum term *or the maximum aggregate term, as applicable*, of his or her original sentence as may be determined by the Board ~~11~~, with rehearing dates scheduled pursuant to NRS 213.142.

↪ The Board may restore any credits forfeited under this subsection.

2. A parolee released on parole pursuant to subsection 1 of NRS 213.1215 whose parole is revoked for having been convicted of a new felony:

(a) Forfeits all credits for good behavior previously earned to reduce his or her sentence pursuant to chapter 209 of NRS;

(b) Must serve the entire unexpired maximum term *or the maximum aggregate term, as applicable*, of his or her original sentence; and

(c) May not again be released on parole during his or her term of imprisonment.

3. A parolee released on parole pursuant to subsection 2 of NRS 213.1215 whose parole is revoked for a violation of any rule or regulation governing his or her conduct:

(a) Forfeits all credits for good behavior previously earned to reduce his or her sentence pursuant to chapter 209 of NRS;

(b) Must serve such part of the unexpired maximum term or the maximum aggregate term, as applicable, of his or her original sentence as may be determined by the Board; and

(c) Must not be considered again for release on parole pursuant to subsection 2 of NRS 213.1215 but may be considered for release on parole pursuant to NRS 213.1099, with rehearing dates scheduled pursuant to NRS 213.142.

↪ The Board may restore any credits forfeited under this subsection.

Sec. 17. NRS 213.625 is hereby amended to read as follows:

213.625 1. Except as otherwise provided in this section, if a judicial program has been established in the judicial district in which a prisoner or parolee may be paroled, the Chair of the Board may, after consulting with the Division, refer a prisoner who is being considered for parole or a parolee who has violated a term or condition of his or her parole to the reentry court if the Chair believes that the person:

(a) Would participate successfully in and benefit from a judicial program; and

(b) Has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his or her crime.

2. Except as otherwise provided in this section, if the Chair is notified by the reentry court pursuant to NRS 209.4883 that a person should be ordered

to participate in a judicial program, the Board may, in accordance with the provisions of this section:

(a) If the person is a prisoner who is being considered for parole, upon the granting of parole to the prisoner, require as a condition of parole that the person participate in and complete the judicial program; or

(b) If the person is a parolee who has violated a term or condition of his or her parole, order the parolee to participate in and complete the judicial program as a condition of the continuation of his or her parole and in lieu of revoking his or her parole and returning the parolee to confinement.

3. If a prisoner who has been assigned to the custody of the Division to participate in a judicial program pursuant to NRS 209.4886 is being considered for parole:

(a) The Board shall, if the Board grants parole to the prisoner, require as a condition of parole that the person continue to participate in and complete the judicial program.

(b) The Board is not required to refer the prisoner to the reentry court pursuant to subsection 1 or to obtain prior approval of the reentry court pursuant to NRS 209.4883 for the prisoner to continue participating in the judicial program while the prisoner is on parole.

4. In determining whether to order a person to participate in and complete a judicial program pursuant to this section, the Board shall consider:

(a) The criminal history of the person; and

(b) The safety of the public.

5. The Board shall adopt regulations requiring persons who are ordered to participate in and complete a judicial program pursuant to this section to reimburse the reentry court and the Division for the cost of their participation in a judicial program, to the extent of their ability to pay.

6. The Board shall not order a person to participate in a judicial program if the time required to complete the judicial program is longer than the unexpired maximum term *or the maximum aggregate term, as applicable*, of the person's original sentence.

Sec. 18. NRS 213.632 is hereby amended to read as follows:

213.632 1. Except as otherwise provided in this section, if a correctional program has been established by the Director in the county in which an offender or parolee may be paroled, the Chair of the Board may, after consulting with the Division, refer a prisoner who is being considered for parole or a parolee who has violated a term or condition of his or her parole to the Director if the Chair believes that the person:

(a) Would participate successfully in and benefit from a correctional program; and

(b) Has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his or her crime.

2. Except as otherwise provided in this section, if the Chair is notified by the Director pursuant to NRS 209.4887 that a person is suitable to participate in a correctional program, the Board may, in accordance with the provisions of this section:

(a) If the person is an offender who is being considered for parole, upon the granting of parole to the offender, require as a condition of parole that the offender participate in and complete the correctional program; or

(b) If the person is a parolee who has violated a term or condition of his or her parole, order the parolee to participate in and complete the correctional program as a condition of the continuation of his or her parole and in lieu of revoking his or her parole and returning the parolee to confinement.

3. If an offender who has been assigned to the custody of the Division to participate in a correctional program pursuant to NRS 209.4888 is being considered for parole, the Board shall, if the Board grants parole to the offender, require as a condition of parole that the offender continue to participate in and complete the correctional program.

4. In determining whether to order a person to participate in and complete a correctional program pursuant to this section, the Board shall consider:

(a) The criminal history of the person; and

(b) The safety of the public.

5. The Board shall adopt regulations requiring persons who are ordered to participate in and complete a correctional program pursuant to this section to reimburse the Department of Corrections and the Division for the cost of their participation in a correctional program, to the extent of their ability to pay.

6. The Board shall not order a person to participate in a correctional program if the time required to complete the correctional program is longer than the unexpired maximum term *or the maximum aggregate term, as applicable*, of the person's original sentence.

Sec. 19. This act becomes effective on July 1, 2012.

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 230 to Senate Bill No. 265 revises Section 9 concerning an inmate's ability to voluntarily choose to have his or her consecutive sentences aggregated. The ability to aggregate consecutive sentences for those already incarcerated remains in place, but the requirement that the crimes must have occurred before July 1, 2012, is eliminated. Also deleted is the responsibility of the Department of Corrections to inform the inmate of the effect of aggregating the sentences.

The amendment also addresses inmates who were 16 years of age when the crime was committed and who are sentenced to life in prison the possibility of parole. For these inmates, the amendment makes two changes to existing law. First, it provides that the Board of Parole Commissioners is not required to release the inmate on parole if he is considered a high risk to

reoffend or there is a reasonable probability that he will be a danger to the public. And second, if the inmate is released on parole and then violates the conditions of parole, he cannot be considered again for release on parole pursuant to his original qualification as an inmate under age 16, but must instead be considered for release pursuant to other provisions of law.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 274.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bills Nos. 265, 274 be re-referred to the Committee on Finance upon return from reprint.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 293.

Bill read second time.

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

Amendment No. 402.

"SUMMARY—Makes various changes relating to certain nonprofit organizations. (BDR 3-1011)"

"AN ACT relating to nonprofit organizations; ~~limiting the liability of~~ **requiring** nonprofit organizations which provide certain jobs and day training services or which operate certain rehabilitation facilities or workshops, ~~requiring that an organization~~ **to be approved by** ~~on file and~~ **in good standing with** the Secretary of State as a ~~bona fide~~ nonprofit organization **and meet certain other requirements** as a condition of participating in ~~one of those~~ **such** programs; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes nonprofit organizations to provide certain jobs and day training services or to operate certain rehabilitation facilities or workshops. (NRS 435.130-435.310, chapter 615 of NRS) ~~Section 1 of this bill provides that nonprofit organizations which provide those services or operate those facilities or workshops and which are approved by the Secretary of State as bona fide nonprofit organizations have their liability in tort limited for their participation in those programs.~~ **Section 2** of this bill requires organizations which provide certain jobs and day training services to ~~apply to~~ **be on file and in good standing with** the Secretary of State ~~annually for approval that the organizations are bona fide~~ **as** nonprofit organizations, ~~and~~ **and further requires such organizations to provide certain financial information to the Division of Mental Health and Developmental Services of the Department of Health and Human Services.** **Section 4** of this bill requires organizations which operate certain rehabilitation facilities or workshops to ~~apply to~~ **be on file and in good**

standing with the Secretary of State ~~annually for approval that the organizations are bona fide~~ as nonprofit organizations, ~~††~~ and further requires such organizations to provide certain financial information to the Department of Employment, Training and Rehabilitation.

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

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

~~—1. An award for damages in an action sounding in tort brought against a nonprofit organization that:~~

~~—(a) Is a provider of jobs and day training services as defined in NRS 435.176 which is recognized as exempt pursuant to the provisions of 26 U.S.C. § 501(c)(3);~~

~~—(b) Has been issued a certificate by the Division of Mental Health and Developmental Services of the Department of Health and Human Services pursuant to NRS 435.130 to 435.310, inclusive, and section 2 of this act; and~~

~~—(c) Has been approved by the Secretary of State as a bona fide nonprofit organization pursuant to section 2 of this act;~~

~~—or against an employee of the nonprofit organization arising out of an act or omission within the scope of the employee's duties or employment with respect to the jobs and day training services may not exceed the sum of \$100,000, exclusive of interest computed from the date of judgment, to or for the benefit of the claimant. An award may not include any amount as exemplary or punitive damages.~~

~~—2. An award for damages in an action sounding in tort brought against a nonprofit organization that:~~

~~—(a) Is operating a rehabilitation facility or workshop established by the Department of Employment, Training and Rehabilitation pursuant to chapter 615 of NRS; and~~

~~—(b) Has been approved by the Secretary of State as a bona fide nonprofit organization pursuant to section 4 of this act;~~

~~—or against an employee of the nonprofit organization arising out of an act or omission within the scope of the employee's duties or employment with respect to the facility or workshop may not exceed the sum of \$100,000, exclusive of interest computed from the date of judgment, to or for the benefit of the claimant. An award may not include any amount as exemplary or punitive damages.† (Deleted by amendment.)~~

Sec. 2. Chapter 435 of NRS is hereby amended by adding thereto a new section to read as follows:

~~††~~ **Before being issued a certificate by the Division pursuant to NRS 435.225 and annually thereafter as a condition of certification, an organization must ~~be approved by~~ :**

1. Be on file and in good standing with the Secretary of State as a ~~bona fide~~ nonprofit organization pursuant to ~~this section.~~ The organization must file an application for approval with the Office of the

~~Secretary of State on a form prescribed by the Secretary of State. The application must:~~

~~— (a) Include a copy of the organization's federal income tax return for the most recent year and such other information as is required by the Secretary of State to make the determination required by subsection 2; and~~

~~— (b) Be accompanied by an application fee established by the Secretary of State which is estimated to cover the cost of making the determination required by subsection 2.~~

~~— 2. If the Secretary of State determines that the organization:~~

~~— (a) Operates exclusively for public benefit;~~

~~— (b) Is not owned or controlled by a natural person or a for-profit entity and operated for the benefit of the person or entity; and~~

~~— (c) Is in compliance with the laws of this State concerning nonprofit organizations;~~

~~→ the Secretary of State shall approve the applicant as a bona fide nonprofit organization.} title 7 of NRS;~~

2. Submit to the Division an annual audit of the financial statements of the organization that is conducted by an independent certified public accountant; and

3. Submit to the Division the most recent federal tax return of the organization, including, without limitation, Form 990, or its successor form, and the Schedule L and Schedule R of such return, or the successor forms of such schedules, which include an itemization of:

(a) Any transaction during the federal tax year of the organization in which an economic benefit is provided by the organization to a director, officer or board member of the organization, or any other person who has substantial influence over the organization, and in which the value of the economic benefit provided by the organization exceeds the value of the consideration received by the organization;

(b) Any loans to or from the organization which are received by or from a director, officer or board member of the organization, a person who has substantial influence over the organization or a family member of such director, officer, board member or person and which remain outstanding at the end of the federal tax year of the organization;

(c) Any grants or other assistance from the organization during the federal tax year of the organization which benefit a director, officer or board member of the organization, a person who has substantial influence over the organization or a family member of such director, officer, board member or person;

(d) Business transactions during the federal tax year of the organization between the organization and a director, officer or board member of the organization, a person who has substantial influence over the organization or a family member of such director, officer, board member or person which exceed, in the aggregate, \$100,000, or a single business transaction that exceeds \$10,000; and

(e) All related party transactions including, without limitation, the receipt of interest, royalties, annuities or rent, the sale or purchase of assets or services, the sharing of facilities, equipment or employees, and the transfer of cash or property.

Sec. 3. NRS 435.140 is hereby amended to read as follows:

435.140 As used in NRS 435.130 to 435.310, inclusive, *and section 2 of this act*, unless the context otherwise requires, the words and terms defined in NRS 435.172, 435.176 and 435.179 have the meanings ascribed to them in those sections.

Sec. 4. Chapter 615 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[[~~ *Before participating in a training or rehabilitative program of a rehabilitation facility or workshop established by the Department pursuant to this chapter and annually thereafter as a condition of participation, an organization must ~~be approved by~~:*

1. Be on file and in good standing with the Secretary of State as a ~~bona fide~~ nonprofit organization pursuant to ~~this section~~. The organization must file an application for approval with the Office of the Secretary of State on a form prescribed by the Secretary of State. The application must:

~~— (a) Include a copy of the organization's federal income tax return for the most recent year and such other information as is required by the Secretary of State to make the determination required by subsection 2; and~~

~~— (b) Be accompanied by an application fee established by the Secretary of State which is estimated to cover the cost of making the determination required by subsection 2.~~

~~— 2. If the Secretary of State determines that the organization:~~

~~— (a) Operates exclusively for public benefit;~~

~~— (b) Is not owned or controlled by a natural person or a for-profit entity and operated for the benefit of the person or entity; and~~

~~— (c) Is in compliance with the laws of this State concerning nonprofit organizations;~~

~~→ the Secretary of State shall approve the applicant as a bona fide nonprofit organization.] title 7 of NRS;~~

2. Submit to the Department an annual audit of the financial statements of the organization that is conducted by an independent certified public accountant; and

3. Submit to the Department the most recent federal tax return of the organization, including, without limitation, Form 990, or its successor form, and the Schedule L and Schedule R of such return, or the successor forms of such schedules, which include an itemization of:

(a) Any transaction during the federal tax year of the organization in which an economic benefit is provided by the organization to a director, officer or board member of the organization, or any other person who has substantial influence over the organization, and in which the value of the

economic benefit provided by the organization exceeds the value of the consideration received by the organization;

(b) Any loans to or from the organization which are received by or from a director, officer or board member of the organization, a person who has substantial influence over the organization or a family member of such director, officer, board member or person and which remain outstanding at the end of the federal tax year of the organization;

(c) Any grants or other assistance from the organization during the federal tax year of the organization which benefit a director, officer or board member of the organization, a person who has substantial influence over the organization or a family member of such director, officer, board member or person;

(d) Business transactions during the federal tax year of the organization between the organization and a director, officer or board member of the organization, a person who has substantial influence over the organization or a family member of such director, officer, board member or person which exceed, in the aggregate, \$100,000, or a single business transaction that exceeds \$10,000; and

(e) All related party transactions including, without limitation, the receipt of interest, royalties, annuities or rent, the sale or purchase of assets or services, the sharing of facilities, equipment or employees, and the transfer of cash or property.

Sec. 5. Notwithstanding the provisions of sections 2 and 4 of this act, a nonprofit organization required to ~~be approved by the Secretary of State pursuant to~~ **comply with** section 2 or 4 of this act ~~as a bona fide nonprofit organization that is participating~~ **to participate** in a program pursuant to NRS 435.130 to 435.310, inclusive, or chapter 615 of NRS, respectively, may continue to participate in those programs until January 1, 2012. Such a nonprofit organization must ~~be approved by the Secretary of State as a bona fide nonprofit organization~~ **comply with such provisions** on or before January 1, 2012. If such a nonprofit organization is not ~~approved by the Secretary of State pursuant to~~ **in compliance with** the appropriate section on or before January 1, 2012, it may not continue to participate in the program after that date.

Sec. 6. This act becomes effective on July 1, 2011.

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. 402 to Senate Bill No. 293 deletes most of the original bill.

The amendment requires certain nonprofit organizations to be on file and in good standing with the Secretary of State.

It also requires the nonprofit organizations to provide certain financial information to the Division of Mental Health and Developmental Services of the Department of Health and Human Services and the Department of Employment, Training and Rehabilitation.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 299.

Bill read second time.

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

Amendment No. 426.

"SUMMARY—Revises provisions relating to the care of animals. (BDR 50-388)"

"AN ACT relating to animals; requiring the board of county commissioners of each county and the governing body of each incorporated city to adopt an ordinance requiring ~~for certain~~ commercial breeders of dogs or cats to obtain a permit to act as a breeder ~~++~~ **under certain circumstances**; setting forth the requirements for the issuance of those permits; ~~removing operators of animal shelters from the group of persons who must comply with certain standards of care for certain animals; providing that certain standards of care for animals apply to the care for all animals kept by certain persons;~~ making various ~~other~~ changes to the standards of care for ~~those animals;~~ **dogs and cats**; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law specifies standards for the care of dogs and cats by kennel and cattery operators, cat and dog breeders and sellers, and operators of animal shelters. (NRS 574.360-574.440) **Section ++ 1.3** of this bill **defines "breeder" as a person who operates a commercial establishment engaged in the business of breeding dogs or cats for sale or trade.** **Section 1.6 of this bill** requires the board of county commissioners of each county and the governing body of each incorporated city to adopt an ordinance requiring each ~~person who operates a commercial establishment engaged in the business of breeding dogs or cats for sale or trade~~ **breeder** to obtain an annual permit to do so from the board or governing body or from the animal control agency of the applicable county or city. **Section ++ 1.6** also requires the applicable authority to issue the permit and assign a permit number to each breeder who applies for a permit, pays any prescribed fee and complies with any other requirement established by the ordinance. Each permit issued must specify the premises at which the person may act as a breeder, and the number of the permit assigned to a breeder must be displayed in all advertising in which the breeder offers a dog or cat for sale or trade and on any receipt of sale of a dog or cat sold by the breeder. **Section ++ 1.6** also authorizes an ~~authorized~~ **animal control** agent of the applicable board or governing body or animal control agency to enter and inspect the specified premises of a breeder during any reasonable hour for the purpose of enforcing the animal care provisions of chapter 574 of NRS. Finally, **section ++ 1.6** authorizes the ordinances required pursuant to this

bill to provide for the suspension, revocation or denial of a permit for violating those animal care provisions.

~~{Section 3 of this bill removes operators of animal shelters from the group of persons who must comply with the standards of care specified in NRS 574.360-574.440.}~~ **Section 1.9 of this bill prohibits a breeder from selling a dog or cat unless a registered microchip has been subcutaneously inserted into the dog or cat and the dog or cat has had its required vaccination for rabies. In addition, section 1.9 prohibits a breeder from selling a dog or cat without a written sales contract and further prohibits a breeder from breeding a female dog before she is 18 months old or more than once a year. Sections 4 and 8-13 of this bill** ~~{provide that certain standards of care apply to the care of all animals, not just dogs and cats, and also}~~ **make various changes to {those} certain standards, of care for dogs and cats.**

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

Section 1. Chapter 574 of NRS is hereby amended by adding thereto ~~a new section to read as follows:~~ **the provisions set forth as sections 1.3, 1.6 and 1.9 of this act.**

Sec. 1.3. "Breeder" means a dealer, operator or other person who is responsible for the operation of a commercial establishment engaged in the business of breeding dogs or cats for sale or trade.

Sec. 1.6. 1. In addition to any ordinance adopted pursuant to NRS 244.189 or 244.359, the board of county commissioners of each county, if its jurisdiction to enact and enforce ordinances relating to animals is not limited by an interlocal agreement, shall adopt an ordinance requiring each breeder in an unincorporated area of the county to obtain an annual permit to act as a breeder issued by the board or by the animal control agency of the county, if any.

2. In addition to any ordinance adopted pursuant to NRS 266.325, the city council or other governing body of each incorporated city, whether organized under general law or special charter, if its jurisdiction to enact and enforce ordinances relating to animals is not limited by an interlocal agreement, shall adopt an ordinance requiring each breeder in the incorporated area of the city to obtain an annual permit to act as a breeder issued by the city council or other governing body or by the animal control agency, of the city, if any.

3. After a board of county commissioners or a city council or other governing body of an incorporated city adopts an ordinance pursuant to subsection 1 or 2, as applicable, the board or governing body shall issue a permit and assign a permit number to each breeder who:

(a) Submits an application on a form and in the manner prescribed by the ordinance;

(b) Pays a fee ~~f, not to exceed \$50,~~ prescribed by the ordinance; and

(c) Complies with any other requirements prescribed by the ordinance.

4. *Each permit issued pursuant to subsection 3 must specify the address of the premises at which the person may act as a breeder.*

5. *The number of the permit assigned to a breeder pursuant to subsection 3 must be displayed in all advertising in which the breeder offers a dog or cat for sale and on any receipt of sale of a dog or cat sold by the breeder.*

6. *For the purpose of enforcing the provisions of NRS 574.360 to 574.440, inclusive, as those provisions apply to breeders, any ~~authorized~~ animal control agent of the issuing authority may enter and inspect the premises specified on the permit at any reasonable hour.*

7. *An ordinance adopted pursuant to subsection 1 or 2 may provide for the suspension, revocation or denial of a permit for a violation of the provisions of NRS 574.360 to 574.440, inclusive, as those provisions apply to breeders.*

~~§ 8. As used in this section, "breeder" means a dealer, operator or other person who is responsible for the operation of a commercial establishment engaged in the business of breeding dogs or cats for sale or trade.~~

Sec. 1.9. A breeder shall not:

1. Sell a dog or cat:

(a) Unless the dog or cat has had:

(1) A registered microchip subcutaneously inserted into the dog or cat; and

(2) All its required vaccinations for rabies; or

(b) Without providing a written sales contract to the purchaser; or

2. Breed a female dog:

(a) Before she is 18 months old; or

(b) More than once a year.

Sec. 2. NRS 574.210 is hereby amended to read as follows:

574.210 As used in NRS 574.210 to 574.510, inclusive, ~~and section 1.7~~ **sections 1.3, 1.6 and 1.9 of this act**, unless the context otherwise requires, the words and terms defined in NRS 574.220 to 574.330, inclusive, **and section 1.3 of this act** have the meanings ascribed to them in those sections.

Sec. 3. ~~NRS 574.290 is hereby amended to read as follows:~~

~~—574.290 "Operator" means a person responsible for the operation of [:~~

~~—1. A] a cattery, kennel or commercial establishment engaged in the business of selling animals. [;~~ or

~~—2. An animal shelter.]] (Deleted by amendment.)~~

Sec. 4. NRS 574.310 is hereby amended to read as follows:

574.310 "Primary enclosure" means a structure used to restrict the immediate movement of a dog or cat ~~an animal~~ to a limited amount of space, such as a room, pen, run, cage, compartment or hutch ~~}, and in which an animal is regularly so restricted for more than 7 hours during a 24-hour period.~~

Sec. 5. NRS 574.340 is hereby amended to read as follows:

574.340 1. The provisions of NRS 574.210 to 574.510, inclusive, ~~and~~ ~~section 1.3, 1.6 and 1.9 of this act~~ do not apply to:

~~1.1~~ (a) The exhibition, production, marketing or disposal of any livestock, poultry, fish or other agricultural commodity ~~or~~

~~2.1~~ or animal.

(b) Activities for which a license is required by the provisions of chapter 466 of NRS.

~~3.1~~ (c) The housing of domestic cats or dogs kept as pets or cared for, without remuneration other than payment for reasonable expenses relating to the care of the cats or dogs, on behalf of another person in a home environment.

~~4.1~~ (d) The exhibition of dogs or cats.

2. As used in this section:

(a) "Animal" has the meaning ascribed to it in NRS 564.010.

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

Sec. 6. NRS 574.350 is hereby amended to read as follows:

574.350 No member, agent or officer of a society for the prevention of cruelty to animals may enforce the provisions of NRS 574.210 to 574.510, inclusive ~~1.1~~, ~~and~~ ~~section 1.3, 1.6 and 1.9 of this act.~~

Sec. 7. ~~NRS 574.360 is hereby amended to read as follows:~~

~~574.360 An operator shall ensure that:~~

~~1. The buildings and grounds at all locations where [dogs or cats] animals are kept:~~

~~(a) Are clean and in good repair; and~~

~~(b) Do not become accumulated with trash.~~

~~2. Housing facilities:~~

~~(a) Are constructed and maintained in such a manner as to:~~

~~(1) Protect the [dogs or cats] animals inside from injury;~~

~~(2) Prevent the [dogs or cats] animals inside from escaping; and~~

~~(3) Restrict the entrance of other [dogs and cats.] animals.~~

~~(b) Have adequate and reliable sources of electrical power and potable water available.] (Deleted by amendment.)~~

Sec. 8. ~~NRS 574.370 is hereby amended to read as follows:~~

~~574.370 An operator shall:~~

~~1. Provide all [dogs and cats] animals with primary enclosures located indoors, except [dogs and cats] animals that are acclimated to the outdoor environment.~~

~~2. Ensure that the interior of a housing facility for indoor primary enclosures is constructed and maintained in such a manner as to be substantially impervious to moisture and to facilitate regular cleaning.~~

~~3. Provide a suitable method to eliminate excessive water from the interior of a housing facility for indoor primary enclosures. Any drains must be constructed and maintained in such a manner as to avoid foul odors. Any closed system for drainage must be equipped with traps that prevent the release of sewage into the housing facility.~~

~~— 4. Ensure that indoor primary enclosures are constructed and maintained in such a manner as to:~~

~~— (a) Protect the [dogs or cats] *animals* inside from excessive illumination while providing an ample amount of light, by natural or artificial means, or both, of a sufficient distribution and intensity to allow for routine inspection and cleaning.~~

~~— (b) Provide a sufficient amount of heat when necessary to protect the [dogs or cats] *animals* inside from cold and to maintain their health and comfort. The ambient temperature of an indoor primary enclosure in which one or more [cats or dogs] *animals* are kept must not be allowed to fall below 50 degrees Fahrenheit, unless each [cat or dog] *animal* is acclimated to a lower temperature.~~

~~— (c) Provide adequate ventilation at all times to maintain the health and comfort of the [dogs or cats] *animals* inside. The system of ventilation must provide fresh air by means of windows, doors, vents or air conditioning, and be designed to maintain drafts, odors and the condensation of moisture at a minimum. If the ambient temperature reaches 85 degrees Fahrenheit or greater, air conditioning, exhaust fans and vents, or other auxiliary ventilation must be provided.] **(Deleted by amendment.)**~~

Sec. 9. NRS 574.380 is hereby amended to read as follows:

574.380 If dogs or cats ~~*animals*~~ are kept outdoors, an operator shall:

1. Provide a suitable method for the rapid drainage of surface water from the area where each dog or cat ~~*animal*~~ is kept.

2. Provide each dog or cat ~~*animal*~~ with a sufficient amount of shelter to:

(a) Remain dry from rain and snow;

(b) Have enough shade to protect itself from any direct sunlight that is likely to cause overheating or discomfort; ~~and~~

(c) *Remain cool during a period for which the National Weather Service has issued a heat advisory;*

(d) *Protect the animal from wind which creates a wind chill below 50 degrees Fahrenheit or for which the National Weather Service has issued a high wind warning; and*

(e) Remain warm when the atmospheric temperature falls below 50 degrees Fahrenheit. If the ambient temperature falls below ~~[the temperature to which a dog or cat is acclimated.]~~ *50 degrees Fahrenheit*, the operator shall provide such an additional amount of clean bedding material or other protection as necessary for the dog or cat ~~*animal*~~ to remain warm.

3. After considering the ambient temperature, provide each dog or cat ~~*animal*~~ with a sufficient amount of food and water necessary to sustain it in a healthy condition at that temperature.

Sec. 10. NRS 574.390 is hereby amended to read as follows:

574.390 1. An operator shall ensure that a primary enclosure ~~[is]~~ :

~~1-1~~ (a) *Has a solid floor;*

~~1-2~~ (b) *Is not stacked on top of another primary enclosure; and*

~~3.]~~ (c) Is constructed and maintained in such a manner as to:

~~1.]~~ ~~((a))~~ (1) Protect the dogs or cats ~~feach animal~~ inside from injury;

~~2.]~~ ~~((b))~~ (2) Prevent the dogs or cats ~~feach animal~~ inside from escaping;

~~3.]~~ ~~((c))~~ (3) Keep other dogs or cats ~~animals~~ out;

~~4.]~~ ~~((d))~~ (4) Allow the dogs or cats ~~feach animal~~ inside convenient access to food and water;

~~5.]~~ ~~((e))~~ (5) Enable the dogs or cats ~~feach animal~~ inside to remain clean and dry; ~~and~~

~~6.]~~ ~~((f))~~ (6) Provide sufficient space for each dog or cat ~~animal~~ inside to turn about freely and to stand, sit and lie in a comfortable, normal position ~~;~~ **and**

~~((g))~~ (7) ***Prevent ~~feach animal~~ the dogs or cats inside from biting, stinging, or otherwise harming an animal or person outside of the primary enclosure.***

2. The provisions of paragraphs (a) and (b) of subsection 1 do not apply to an animal shelter.

Sec. 11. NRS 574.430 is hereby amended to read as follows:

574.430 An operator shall ensure that:

1. Insects, ectoparasites and avian, mammalian and reptilian pests are kept under control.

2. Supplies of food and bedding material are stored in facilities that afford adequate protection from infestation or contamination by vermin.

3. *For primary enclosures used to restrict the immediate movement of a dog or cat:*

(a) Excreta are removed ~~from primary enclosures~~ at least once daily to prevent contamination and to reduce to a minimum odors and the risk of disease ~~[- A primary enclosure must be] ; and~~

(b) ***Each such primary enclosure is*** disinfected at least once daily and before placing another dog or cat in the primary enclosure. If a hosing or flushing method of cleaning is used, all dogs and cats must be removed from the primary enclosure and adequate measures must be taken to protect the dogs and cats in other primary enclosures from being contaminated with water and other wastes.

4. ~~Other~~ ***Primary enclosures used to restrict the immediate movement of an animal other than a dog or cat*** are cleaned, washed and disinfected at least once every 2 weeks to prevent any accumulation of debris or excreta and to reduce to a practical minimum substances and organisms injurious to the health of animals or humans.

5. Pens or runs with hard surfaces, and cages and rooms, are sanitized at least once every 2 weeks by:

(a) Washing them with water of a temperature not less than 120 degrees Fahrenheit and with soap or detergent;

(b) Washing all soiled surfaces with a safe and effective disinfectant; or

(c) Cleaning all soiled surfaces with live steam.

6. Pens or runs with gravel, sand or dirt surfaces are cleaned as often as necessary by removing and replacing the soiled gravel, sand or dirt.

7. Sewage, solid wastes, soiled bedding, dead animals and debris are removed from housing facilities regularly and disposed of properly.

8. Facilities for disposal are maintained in such a manner as to reduce to a minimum odors and the risk of disease or infestation by vermin.

9. Adequate facilities, such as washrooms, basins or sinks, are provided for the cleanliness of persons handling animals.

Sec. 12. ~~[NRS 574.440 is hereby amended to read as follows:]~~

~~—574.440— An operator shall, with the approval of a veterinarian, establish and maintain a program to control disease and care for the health of [dogs and cats.] animals. As part of this program, an operator shall ensure that:~~

~~—1. Each [dog and cat] animal is observed daily by the person directly responsible for its care, or by someone else under that person's direct supervision.~~

~~—2. Blind, lame, injured, ill or diseased [dogs and cats] animals are provided with the appropriate veterinary care that is consistent with the purposes for which [a dog or cat] an animal is being kept or humanely euthanized.~~

~~—3. Any [dogs or cats] animals under quarantine or being treated for a communicable disease are kept separate from other [dogs and cats.] animals.]~~

(Deleted by amendment.)

Sec. 13. ~~[NRS 574.500 is hereby amended to read as follows:]~~

~~—574.500— A retailer, dealer, [or] operator or person responsible for the operation of an animal shelter shall not separate a dog or cat from its mother until it is 8 weeks of age or accustomed to taking food or nourishment other than by nursing, whichever is later.] (Deleted by amendment.)~~

Sec. 14. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

Amendment No. 426 to Senate Bill No. 299 makes various changes. It adds language clarifying who is required to adopt ordinances for permitting breeders, based on the entity that is responsible for animal regulations.

It deletes the language providing a maximum fee of \$50 for issuing a permit to a breeder.

It changes "any authorized agent" to "any animal control agent" for purposes of enforcing the provisions of the bill.

It adds provisions that a breeder shall not sell a dog or cat unless the dog or cat has a microchip inserted and the dog or cat has all required vaccinations. Also adds language stipulating that a female dog may not be bred before she is 18 months old or more than once a year.

It deletes provisions in the bill that would have changed references to "dog or cat" to "an animal".

It deletes the change to the definition of "operator," which makes the provisions of the bill apply to animal shelters.

It exempts animal shelters from provisions prohibiting stacking cages on top of each other and requiring an enclosure has a solid floor.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 300.

Bill read second time.

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

Amendment No. 236.

"SUMMARY—Revises provisions governing certain billing and related practices of ~~certains larger~~ hospitals. (BDR 40-797)"

"AN ACT relating to medical facilities; revising provisions governing billing and related practices of ~~certains larger~~ hospitals; revising requirements relating to notices of billing practices which must be provided to patients of certain hospitals; providing administrative penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires major hospitals with 200 or more beds to reduce by at least 30 percent the total billed charges for hospital services provided to inpatients who: (1) do not have insurance; (2) are not eligible for a government program which provides medical assistance; and (3) make arrangements to pay the hospital bill. (NRS 439B.260) ~~[Section 1 of this bill revises the definition of a major hospital to include hospitals with 150 or more beds.]~~

Section 2 of this bill specifies that the reduction in total billed charges applies only to inpatients who do not have health insurance and specifically excludes policies of insurance such as casualty and property insurance for purposes of determining whether an inpatient has insurance. Existing law requires major hospitals to give patients, upon discharge, notice of the provisions concerning the reduction of billed charges. (NRS 449.730) **Section 2** additionally requires major hospitals to include such a notice on or with the first statement of the hospital bill provided to each patient. Existing law prescribes civil and administrative penalties which are applicable to a violation of the provisions of **section 2**. (NRS 439B.500)

Section 3 of this bill prohibits a hospital from collecting any amount owed to the hospital for hospital care from the proceeds or potential proceeds of a civil action or from an insurer other than a health insurer if the patient was covered by health insurance. ~~[for a public program which may pay all or part of the bill.]~~

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

Section 1. ~~[NRS 439B.115 is hereby amended to read as follows:
—439B.115 "Major hospital" means a hospital in this State which has
[200] 150 or more licensed or approved beds, or any hospital in a group of
affiliated hospitals in a county which have a combined total of [200] 150 or~~

~~more licensed or approved beds, that is not operated by a federal, state or local governmental agency.] (Deleted by amendment.)~~

Sec. 2. NRS 439B.260 is hereby amended to read as follows:

439B.260 1. A major hospital shall reduce or discount the total billed charge by at least 30 percent for hospital services provided to an inpatient who:

(a) Has no *policy of health* insurance or other contractual ~~provision for the payment of the charge by~~ *agreement with* a third party ~~that provides health coverage for the charge;~~

(b) Is not eligible for coverage by a state or federal program of public assistance that would provide for the payment of the charge; and

(c) Makes reasonable arrangements within 30 days after ~~discharge~~ *the date that notice was sent pursuant to subsection 2* to pay the hospital bill.

2. *A major hospital shall include on or with the first statement of the hospital bill provided to the patient after his or her discharge a notice of* ~~the~~ *reduction or discount available pursuant to this section, including, without limitation, notice of the criteria a patient must satisfy to qualify for a reduction or discount.* ~~and~~

~~Any policies and procedures the hospital may have adopted to reduce charges for services provided to persons or to provide discounted services to persons, which policies and procedures are in addition to any reduction or discount required to be provided pursuant to this section. The notice required by this paragraph must describe the criteria a patient must satisfy to qualify for the additional reduction or discount, including, without limitation, any relevant limitations on income and any relevant requirements as to the period within which the patient must arrange to make payment.]~~

3. A major hospital or patient who disputes the reasonableness of arrangements made pursuant to paragraph (c) of subsection 1 may submit the dispute to the Bureau for Hospital Patients for resolution as provided in NRS 223.575.

~~3.]~~ 4. A major hospital shall reduce or discount the total billed charge of its outpatient pharmacy by at least 30 percent to a patient who is eligible for Medicare.

5. *As used in this section, "third party" means:*

(a) *An insurer, as that term is defined in NRS 679B.540;*

(b) *A health benefit plan, as that term is defined in NRS 689A.540, for employees which provides coverage for services and care at a hospital;*

(c) *A participating public agency, as that term is defined in NRS 287.04052, and any other local governmental agency of the State of Nevada which provides a system of health insurance for the benefit of its officers and employees, and the dependents of officers and employees, pursuant to chapter 287 of NRS; or*

(d) *Any other insurer or organization providing health coverage or benefits in accordance with state or federal law.*

↪ *The term does not include an insurer that provides coverage under a policy of casualty or property insurance.*

Sec. 3. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

~~1.1~~

1. Except as otherwise provided in subsection 2, if a hospital provides hospital care to a person who has a policy of health insurance ~~for who may be eligible for Medicaid, the Children's Health Insurance Program or any other public program which may pay all or part of the bill,~~ that provides health coverage for care provided at that hospital, the hospital shall proceed with any efforts to collect on any amount owed to the hospital for the hospital care in accordance with the provisions of NRS 449.757 and shall not collect or attempt to collect that amount from:

~~1.1~~ (a) Any proceeds or potential proceeds of a civil action brought by or on behalf of the patient, including, without limitation, any amount awarded for medical expenses; or

~~1.2~~ (b) An insurer other than a health insurer, including, without limitation, an insurer that provides coverage under a policy of casualty or property insurance.

2. This section does not apply to:

(a) Amounts owed to the hospital under the policy of health insurance that are not collectible; or

(b) Medicaid, the Children's Health Insurance Program or any other public program which may pay all or part of the bill.

3. This section does not limit any rights of a patient to contest an attempt to collect an amount owed to a hospital, including, without limitation, contesting a lien obtained by a hospital.

Sec. 4. NRS 449.751 is hereby amended to read as follows:

449.751 As used in NRS 449.751 to 449.759, inclusive, *and section 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 449.753 and 449.755 have the meanings ascribed to them in those sections.

Sec. 5. NRS 449.757 is hereby amended to read as follows:

449.757 1. When a person receives hospital care, the hospital must not proceed with any efforts to collect on any amount owed to the hospital for the hospital care from the responsible party, other than for any copayment or deductible, if the responsible party has health insurance or may be eligible for Medicaid, the Children's Health Insurance Program or any other public program which may pay all or part of the bill, until the hospital has submitted a bill to the *health* insurance company or public program and the *health* insurance company or public program has made a determination concerning payment of the claim.

2. Collection efforts may begin and interest may begin to accrue on any amount owed to the hospital for hospital care which remains unpaid by the responsible party not sooner than 30 days after the responsible party is sent a

bill by mail stating the amount that he or she is responsible to pay which has been established after receiving a determination concerning payment of the claim by any insurer or public program and after applying any discounts. Interest must accrue at a rate which does not exceed the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date on which the payment becomes due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the payment is satisfied.

3. Except for the interest authorized pursuant to subsection 2 and any court costs and attorney's fees awarded by a court, no other fees may be charged concerning the amount that remains unpaid, including, without limitation, collection fees, other attorney's fees or any other fees or costs.

Senator Copenig moved the adoption of the amendment.

Remarks by Senator Copenig.

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

Amendment No. 236 revises the provisions to Senate Bill No. 300 by removing the provision that redefined a major hospital to include hospitals with 150 or more beds.

It removes the prohibition from a hospital collecting any amount owed to the hospital for hospital care from the proceeds or potential proceeds of a civil action or from an insurer other than a health insurer if the patient was covered by a public program which may pay all or part of the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 329.

Bill read second time.

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

Amendment No. 403.

"SUMMARY—Revises provisions governing prescriptions. (BDR 54-904)"

"AN ACT relating to pharmacy; **authorizing certain education and training to be provided to practitioners concerning the management by a patient of medications of the patient;** requiring practitioners to ~~include on a prescription the symptom or purpose for which a drug is prescribed;~~ **post a sign informing patients of the right to have** the symptom or purpose for which a drug is prescribed be included on the label of the container of the drug; ~~requiring a pharmacy to provide the contents of a prescription to a person authorized by the patient for whom the prescription was originally issued; providing a penalty;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes, but does not require, a practitioner to ask a patient if the patient wishes to have included on the label of a prescription the

symptom or purpose for which the drug is dispensed and, if the patient so requests, requires the practitioner to include such information on the written prescription. (NRS 639.2352) ~~{Sections 1.3 and 7 of this bill require the practitioner to include the symptom or purpose for which the drug is dispensed on the written prescription. Section 2 also requires the practitioner to ask the patient if the patient wants such}~~ **Section 2 of this bill requires practitioners to post signs in English and Spanish informing patients of the right to have certain** information included on the label attached to the container of the drug. ~~{and to include on the written prescription a notation whether the symptom or purpose for which the drug is dispensed must be included on the label. Section 6 of this bill requires that a prescription filled by a practitioner be dispensed in a container with a label that clearly shows the symptom or purpose for which the drug is prescribed, if the prescription contains a notation that the symptom or purpose must be included on the label as requested by the patient.~~

~~Existing law prohibits a pharmacist from sharing the contents of a prescription except with certain authorized persons, including the patient, certain practitioners or pharmacists, members or investigators of certain boards and agencies, insurance carriers, persons authorized by court order and certain peace officers. (NRS 639.238) Section 4 of this bill authorizes a pharmacist to share the contents of a prescription with a person authorized by the patient or a parent or legal guardian of the patient.}~~ **Sections 1.3 and 1.7 of this bill require the Board of Medical Examiners and the State Board of Osteopathic Medicine to encourage physicians to obtain continuing education concerning methods of educating patients about how to effectively manage medications. Section 6.5 of this bill authorizes the State Board of Pharmacy or the Investigation Division of the Department of Public Safety, in cooperation with the Health Division of the Department of Health and Human Services, to carry out education and training regarding the rights of patients to have the symptom or purpose of a medication printed on the label attached to the container for that medication.**

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

Section 1. ~~{NRS 639.23284 is hereby amended to read as follows:~~
~~639.23284 1. Every pharmacy located outside Nevada that provides mail order service to a resident of Nevada:~~
~~—(a) Shall report to the Board any change of information that appears on its license and pay the fee required by regulation of the Board.~~
~~—(b) Shall make available for inspection all pertinent records, reports, documents or other material or information required by the Board.~~
~~—(c) As required by the Board, must be inspected by the Board or:~~
~~—(1) The regulatory board or licensing authority of the state or country in which the pharmacy is located; or~~
~~—(2) The Drug Enforcement Administration.~~

~~— (d) As required by the Board, shall provide the following information concerning each prescription for a drug that is shipped, mailed or delivered to a resident of Nevada:~~

~~— (1) The name of the patient;~~

~~— (2) The name of the prescriber;~~

~~— (3) The number of the prescription;~~

~~— (4) The date of the prescription;~~

~~— (5) The name of the drug;~~

~~— (6) The symptom or purpose for which the drug is prescribed [, if requested by the patient];~~

~~— (7) A notation whether the symptom or purpose for which the drug is prescribed must be included on the label attached to the container of the drug pursuant to NRS 639.2352; and~~

~~— [(7)] (8) The strength and quantity of the dose.~~

~~2. In addition to complying with the requirements of subsection 1, every Canadian pharmacy which is licensed by the Board and which has been recommended by the Board pursuant to subsection 4 of NRS 639.2328 for inclusion on the Internet website established and maintained pursuant to subsection 9 of NRS 223.560 that provides mail order service to a resident of Nevada shall not sell, distribute or furnish to a resident of this State:~~

~~— (a) A controlled substance;~~

~~— (b) A prescription drug that has not been approved by the federal Food and Drug Administration;~~

~~— (c) A generic prescription drug that has not been approved by the federal Food and Drug Administration;~~

~~— (d) A prescription drug for which the federal Food and Drug Administration has withdrawn or suspended its approval; or~~

~~— (e) A quantity of prescription drugs at one time that includes more drugs than are prescribed to the patient as a 3-month supply of the drugs.] **(Deleted by amendment.)**~~

Sec. 1.3. NRS 630.253 is hereby amended to read as follows:

630.253 1. The Board shall, as a prerequisite for the:

(a) Renewal of a license as a physician assistant; or

(b) Biennial registration of the holder of a license to practice medicine,

➤ require each holder to comply with the requirements for continuing education adopted by the Board.

2. These requirements:

(a) May provide for the completion of one or more courses of instruction relating to risk management in the performance of medical services.

(b) Must provide for the completion of a course of instruction, within 2 years after initial licensure, relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction. The course must provide at least 4 hours of instruction that includes instruction in the following subjects:

(1) An overview of acts of terrorism and weapons of mass destruction;

- (2) Personal protective equipment required for acts of terrorism;
- (3) Common symptoms and methods of treatment associated with exposure to, or injuries caused by, chemical, biological, radioactive and nuclear agents;
- (4) Syndromic surveillance and reporting procedures for acts of terrorism that involve biological agents; and
- (5) An overview of the information available on, and the use of, the Health Alert Network.

➤ The Board may thereafter determine whether to include in a program of continuing education additional courses of instruction relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction.

3. The Board shall encourage each holder of a license who treats or cares for persons who are more than 60 years of age to receive, as a portion of their continuing education, education in geriatrics and gerontology, including such topics as:

- (a) The skills and knowledge that the licensee needs to address aging issues;
- (b) Approaches to providing health care to older persons, including both didactic and clinical approaches;
- (c) The biological, behavioral, social and emotional aspects of the aging process; and
- (d) The importance of maintenance of function and independence for older persons.

4. *The Board shall encourage each holder of a license to practice medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.*

5. As used in this section:

- (a) "Act of terrorism" has the meaning ascribed to it in NRS 202.4415.
- (b) "Biological agent" has the meaning ascribed to it in NRS 202.442.
- (c) "Chemical agent" has the meaning ascribed to it in NRS 202.4425.
- (d) "Radioactive agent" has the meaning ascribed to it in NRS 202.4437.
- (e) "Weapon of mass destruction" has the meaning ascribed to it in NRS 202.4445.

Sec. 1.7. NRS 633.471 is hereby amended to read as follows:

633.471 1. Except as otherwise provided in subsection ~~14~~ 5 and NRS 633.491, every holder of a license to practice osteopathic medicine issued under this chapter, except a temporary or a special license, may renew the license on or before January 1 of each calendar year after its issuance by:

- (a) Applying for renewal on forms provided by the Board;
- (b) Paying the annual license renewal fee specified in this chapter;

(c) Submitting a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against the holder during the previous year;

(d) Submitting an affidavit to the Board that in the year preceding the application for renewal the holder has attended courses or programs of continuing education approved by the Board totaling a number of hours established by the Board which must not be less than 35 hours nor more than that set in the requirements for continuing medical education of the American Osteopathic Association; and

(e) Submitting all information required to complete the renewal.

2. The Secretary of the Board shall notify each licensee of the practice of osteopathic medicine of the requirements for renewal not less than 30 days before the date of renewal.

3. The Board shall request submission of verified evidence of completion of the required number of hours of continuing medical education annually from no fewer than one-third of the applicants for renewal of a license to practice osteopathic medicine. Upon a request from the Board, an applicant for renewal of a license to practice osteopathic medicine shall submit verified evidence satisfactory to the Board that in the year preceding the application for renewal the applicant attended courses or programs of continuing medical education approved by the Board totaling the number of hours established by the Board.

4. *The Board shall encourage each holder of a license to practice osteopathic medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.*

5. Members of the Armed Forces of the United States and the United States Public Health Service are exempt from payment of the annual license renewal fee during their active duty status.

Sec. 2. NRS 639.2352 is hereby amended to read as follows:

639.2352 1. Before issuing a prescription, a practitioner ~~may~~ *shall* ask the patient whether he or she wishes to have included on the label ~~{of the prescription}~~ *attached to the container of the drug* the symptom or purpose for which the drug is prescribed. If the patient requests that the information be included on the label, the ~~{The}~~ practitioner shall include on the prescription the symptom or purpose for which the drug is prescribed, ~~and a notation that the symptom or purpose must:~~

~~1. Be included on the label attached to the container of the drug, if the patient requests that the information be included on the label; or~~

~~2. Not be included on the label attached to the container of the drug, if the patient requests that the information not be included on the label.]~~

2. Each practitioner shall post in a conspicuous location in each room used for the examination of a patient a sign which is not less than

8.5 inches wide and not less than 11 inches high and which contains, in at least 12-point boldface type, the following:

NOTICE TO PATIENTS

You have the right to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of your prescribed drug.

You have the right to ask the person writing your prescription to instruct the pharmacy to print this information on the label attached to the container of your prescribed drug.

Having the purpose or symptom printed on the label attached to the container of your drug may help you to properly use and track your prescribed drugs.

AVISO A LOS PACIENTES

Tiene derecho de que se imprima cierta información en la etiqueta de sus medicamentos. Específicamente, usted puede elegir que la etiqueta incluya los síntomas o el propósito para que el medicamento se prescribe.

Tiene derecho de pedirle a la person que prescriba su medicamento que dirija a la farmacia que imprima la información en la etiqueta.

Si se imprimen los síntomas o el propósito en la etiqueta de sus medicamentos, le puede ayudar a mantenerlos y usarlos apropiadamente.

Sec. 3. ~~[NRS 639.2353 is hereby amended to read as follows:~~

~~— 639.2353 — Except as otherwise provided in a regulation adopted pursuant to NRS 453.385 or 639.2357:~~

~~— 1. A prescription must be given:~~

~~— (a) Directly from the practitioner to a pharmacist;~~

~~— (b) Indirectly by means of an order signed by the practitioner;~~

~~— (c) By an oral order transmitted by an agent of the practitioner; or~~

~~— (d) Except as otherwise provided in subsection 5, by electronic transmission or transmission by a facsimile machine, including, without limitation, transmissions made from a facsimile machine to another facsimile machine, a computer equipped with a facsimile modem to a facsimile machine or a computer to another computer, pursuant to the regulations of the Board.~~

~~— 2. A written prescription must contain:~~

~~— (a) Except as otherwise provided in this section, the name and signature of the practitioner, and the address of the practitioner if not immediately available to the pharmacist;~~

~~— (b) The classification of his or her license;~~

~~— (c) The name of the patient, and the address of the patient if not immediately available to the pharmacist;~~

~~— (d) The name, strength and quantity of the drug prescribed;~~

~~— (e) The symptom or purpose for which the drug is prescribed[, if included by the practitioner];~~

~~—(f) A notation whether the symptom or purpose for which the drug is prescribed must be included on the label attached to the container of the drug pursuant to NRS 639.2352;~~

~~—[(f)]—(g) Directions for use; and~~

~~—[(g)]—(h) The date of issue.~~

~~—3. The directions for use must be specific in that they indicate the portion of the body to which the medication is to be applied or, if to be taken into the body by means other than orally, the orifice or canal of the body into which the medication is to be inserted or injected.~~

~~—4. Each written prescription must be written in such a manner that any registered pharmacist would be able to dispense it. A prescription must be written in Latin or English and may include any character, figure, cipher or abbreviation which is generally used by pharmacists and practitioners in the writing of prescriptions.~~

~~—5. A prescription for a controlled substance must not be given by electronic transmission or transmission by a facsimile machine unless authorized by federal law.~~

~~—6. A prescription that is given by electronic transmission is not required to contain the signature of the practitioner if:~~

~~—(a) It contains a facsimile signature, security code or other mark that uniquely identifies the practitioner; or~~

~~—(b) A voice recognition system, biometric identification technique or other security system approved by the Board is used to identify the practitioner.]~~

(Deleted by amendment.)

Sec. 4. ~~[NRS 639.238 is hereby amended to read as follows:~~

~~—639.238 1. Prescriptions filled and on file in a pharmacy are not a public record. Except as otherwise provided in NRS 439.538 and 639.2357, a pharmacist shall not divulge the contents of any prescription or provide a copy of any prescription, except to:~~

~~—(a) The patient for whom the original prescription was issued;~~

~~—(b) Any person authorized by the patient for whom the original prescription was issued or, if applicable, the parent or legal guardian of the patient;~~

~~—(c) The practitioner who originally issued the prescription;~~

~~—[(c)]—(d) A practitioner who is then treating the patient;~~

~~—[(d)]—(e) A member, inspector or investigator of the Board or an inspector of the Food and Drug Administration or an agent of the Investigation Division of the Department of Public Safety;~~

~~—[(e)]—(f) An agency of state government charged with the responsibility of providing medical care for the patient;~~

~~—[(f)]—(g) An insurance carrier, on receipt of written authorization signed by the patient or his or her legal guardian, authorizing the release of such information;~~

~~—[(g)]—(h) Any person authorized by an order of a district court;~~

~~—[(h)] (i) Any member, inspector or investigator of a professional licensing board which licenses a practitioner who orders prescriptions filled at the pharmacy;~~

~~—[(i)] (j) Other registered pharmacists for the limited purpose of and to the extent necessary for the exchange of information relating to persons who are suspected of:~~

~~— (1) Misusing prescriptions to obtain excessive amounts of drugs; or~~

~~— (2) Failing to use a drug in conformity with the directions for its use or taking a drug in combination with other drugs in a manner that could result in injury to that person;~~

~~—[(j)] (k) A peace officer employed by a local government for the limited purpose of and to the extent necessary:~~

~~— (1) For the investigation of an alleged crime reported by an employee of the pharmacy where the crime was committed; or~~

~~— (2) To carry out a search warrant or subpoena issued pursuant to a court order; or~~

~~—[(k)] (l) A county coroner, medical examiner or investigator employed by an office of a county coroner for the purpose of:~~

~~— (1) Identifying a deceased person;~~

~~— (2) Determining a cause of death; or~~

~~— (3) Performing other duties authorized by law.~~

~~— 2. Any copy of a prescription for a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is issued to a county coroner, medical examiner or investigator employed by an office of a county coroner must be limited to a copy of the prescription filled or on file for:~~

~~— (a) The person whose name is on the container of the controlled substance or dangerous drug that is found on or near the body of a deceased person; or~~

~~— (b) The deceased person whose cause of death is being determined.~~

~~— 3. Except as otherwise provided in NRS 639.2357, any copy of a prescription for a controlled substance or a dangerous drug as defined in chapter 454 of NRS, issued to a person authorized by this section to receive such a copy, must contain all of the information appearing on the original prescription and be clearly marked on its face "Copy, Not Refillable For Reference Purposes Only." The copy must bear the name or initials of the registered pharmacist who prepared the copy.~~

~~— 4. If a copy of a prescription for any controlled substance or a dangerous drug as defined in chapter 454 of NRS is furnished to the customer, the original prescription must be voided and notations made thereon showing the date and the name of the person to whom the copy was furnished.~~

~~— 5. As used in this section, "peace officer" does not include:~~

~~— (a) A member of the Police Department of the Nevada System of Higher Education;~~

~~— (b) A school police officer who is appointed or employed pursuant to NRS 391.100.] **(Deleted by amendment.)**~~

Sec. 5. [NRS 639.239 is hereby amended to read as follows:

~~—639.239— Members, inspectors and investigators of the Board, inspectors of the Food and Drug Administration, agents of the Investigation Division of the Department of Public Safety and peace officers described in paragraph [(j)] (k) of subsection 1 of NRS 639.238 may remove any record required to be retained by state or federal law or regulation, including any prescription contained in the files of a practitioner, if the record in question will be used as evidence in a criminal action, civil action or an administrative proceeding, or contemplated action or proceeding. The person who removes a record pursuant to this section shall:~~

- ~~—1. Affix the name and address of the practitioner to the back of the record;~~
- ~~—2. Affix his or her initials, cause an agent of the practitioner to affix his or her initials and note the date of the removal of the record on the back of the record;~~
- ~~—3. Affix the name of the agency for which the person is removing the record to the back of the record;~~
- ~~—4. Provide the practitioner with a receipt for the record; and~~
- ~~—5. Return a photostatic copy of both sides of the record to the practitioner within 15 working days after the record is removed.} (Deleted by amendment.)~~

Sec. 6. ~~{NRS 639.2801 is hereby amended to read as follows:~~

~~—639.2801— Unless specified to the contrary in writing on the prescription by the prescribing practitioner, all prescriptions filled by any practitioner must be dispensed in a container to which is affixed a label or other device which clearly shows:~~

- ~~—1. The date.~~
- ~~—2. The name, address and prescription serial number of the practitioner who filled the prescription.~~
- ~~—3. The names of the prescribing practitioner and of the person for whom prescribed.~~
- ~~—4. The number of dosage units.~~
- ~~—5. The symptom or purpose for which the drug is prescribed, if [included] *the prescription contains a notation by the practitioner that the symptom or purpose must be included on the label or other device pursuant to NRS 639.2352.*~~
- ~~—6. Specific directions for use given by the prescribing practitioner.~~
- ~~—7. The expiration date of the effectiveness of the drug or medicine dispensed, if that information is included on the original label of the manufacturer of that drug or medicine. If the expiration date specified by the manufacturer is not less than 1 year after the date of dispensing, the practitioner may use a date that is 1 year after the date of dispensing as the expiration date.~~
- ~~—8. The proprietary or generic name of the drug or medicine as written by the prescribing practitioner.~~
- ~~—9. The strength of the drug or medicine.~~

~~→ The label must contain the warning:~~

~~Caution: Do not use with alcohol or nonprescribed drugs without consulting the prescribing practitioner. (Deleted by amendment.)~~

Sec. 6.5. NRS 453.155 is hereby amended to read as follows:

453.155 1. The Board or Division, in cooperation with the Health Division of the Department, may carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs the Board or Division may:

(a) Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;

(b) Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

(c) Consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(d) Evaluate procedures, projects, techniques and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;

(e) Disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to alleviate them; ~~and~~

(f) Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances ~~and~~ **; and**

(g) Carry out education and training for physicians, pharmacists and patients regarding the ability of the patient to request to have the symptom or purpose for which a controlled substance is prescribed included on the label attached to the container of the controlled substance.

2. The Board shall encourage research on misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of the provisions of NRS 453.011 to 453.552, inclusive, it may:

(a) Establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse;

(b) Make studies and undertake programs of research to:

(1) Develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of such sections;

(2) Determine patterns of misuse and abuse of controlled substances and the social effects thereof; and

(3) Improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled substances; and

(c) Enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations or special projects which bear directly on misuse and abuse of controlled substances.

3. The Board may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subject of the research. A person who obtains this authorization is not compelled in any civil, criminal, administrative, legislative or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

4. The Board may authorize the possession and distribution of controlled substances by persons engaged in research. A person who obtains this authorization is exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization. The Board shall promptly notify the Division of any such authorization.

Sec. 7. ~~[NRS 454.223 is hereby amended to read as follows:~~
~~— 454.223 1. Each prescription for a dangerous drug must be written on a prescription blank or as an order on the chart of a patient. A chart of a patient may be used to order multiple prescriptions for that patient.~~
~~— 2. A written prescription must contain:~~
~~— (a) The name of the practitioner, the signature of the practitioner if the prescription was not transmitted orally and the address of the practitioner if not immediately available to the pharmacist;~~
~~— (b) The classification of his or her license;~~
~~— (c) The name of the patient, and the address of the patient if not immediately available to the pharmacist;~~
~~— (d) The name, strength and quantity of the drug or drugs prescribed;~~
~~— (e) The symptom or purpose for which the drug is prescribed [if included by the practitioner];~~
~~— (f) A notation whether the symptom or purpose for which the drug is prescribed must be included on the label attached to the container of the drug pursuant to NRS 639.2352;~~
~~— [(f)]—(g) Directions for use; and~~
~~— [(g)]—(h) The date of issue.~~
~~— 3. Directions for use must be specific in that they must indicate the portion of the body to which the medication is to be applied, or, if to be taken into the body by means other than orally, the orifice or canal of the body into which the medication is to be inserted or injected.] (Deleted by amendment.)~~

Senator Roberson moved the adoption of the amendment.

Remarks by Senator Roberson.

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

Amendment No. 403 to Senate Bill No. 329 deletes multiple sections of the bill.

It requires the Board of Medical Examiners and the State Board of Osteopathic Medicine to encourage each licensee to receive training concerning methods for educating patients to effectively manage their medications. Such education should include information on how a patient can request that the purpose for which their medication was prescribed be included on the label attached to their medication container. Medical practitioners may ask a patient whether the patient wants to have this information attached to the container and if so, the practitioner shall

include the information. Each practitioner shall post a sign in each patient examination room explaining a patient's right to have such information included on their container.

The State Board of Pharmacy or the Division of the Investigation Division of the Department of Public Safety may carry out education and training for physicians, pharmacists and patients regarding the ability of a patient to have the information attached to the medical container.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 335.

Bill read second time.

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

Amendment No. 213.

"SUMMARY—Revises provisions governing ~~{drug—paraphernalia-}~~ **hypodermic devices.** (BDR 40-795)"

"AN ACT relating to hypodermics; removing hypodermic devices from the list of paraphernalia that is prohibited for delivery, sale, possession, manufacture or use in this State; providing that hypodermic devices may be sold **or furnished** without a prescription if not prohibited by federal law ~~and~~ **in certain circumstances;** repealing a provision which makes it a crime to misuse a hypodermic device; **requiring the State Board of Health to establish a program for the safe distribution and disposal of hypodermic devices; providing a penalty;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires the State Board of Health to establish by regulation a program for the safe distribution and disposal of hypodermic devices. Section 1 further requires a pharmacy, health care facility, provider of health care, nonprofit community-based organization or governmental entity that wishes to sell or furnish hypodermic devices without a prescription to register with the appropriate health authority. Section 1 requires the State Board to identify by regulation the persons who may obtain a hypodermic device without a prescription. In addition, section 1 requires the State Board to develop or approve language for a safety insert to be included with each hypodermic device that is sold or furnished to a person without a prescription. Selling or furnishing a device in violation of the requirements of section 1 or the regulations adopted pursuant thereto is a misdemeanor and the registration of the pharmacy, health care facility, provider of health care, nonprofit community-based organization or governmental entity may be suspended for such a violation.

Existing law prohibits the delivery, sale, possession or manufacture of certain drug paraphernalia when the person engaging in the act reasonably should know that it will be used for an illegal purpose. (NRS 453.560) Existing law further makes it a felony for a person to deliver drug

paraphernalia to a minor who is at least 3 years younger than the person. (NRS 453.562) **Section ~~HH~~ 2** of this bill removes hypodermic devices from the list of items that may be found to constitute drug paraphernalia.

Existing law authorizes the sale of hypodermic devices which are not restricted by federal law to being sold by prescription to be sold without a prescription for certain limited purposes. (NRS 454.480) **Section ~~44~~ 5** of this bill removes the restrictions so that hypodermic devices may be sold **or furnished** without a prescription for any purpose so long as the sale of such devices is not restricted by federal law ~~Section 5~~ **and is authorized pursuant to the program for the safe distribution and disposal of hypodermic devices established by the State Board of Health pursuant to section 1 of this bill. Section 5 further prohibits a pharmacy that sells or provides hypodermic devices without a prescription from advertising the availability of such devices without a prescription and requires that such devices be stored so that they are accessible only to authorized personnel.**

Section 6 of this bill repeals a provision which makes it a misdemeanor to use or allow the use of a hypodermic device for a purpose other than that for which it was purchased, because the specific uses were removed in **section ~~44~~ 5**.

WHEREAS, The Human Immunodeficiency Virus, Hepatitis and other infectious diseases that may be transmitted through the use of unsterile hypodermic devices such as syringes and needles pose a major health threat in the United States, causing thousands of deaths and millions of dollars in preventable health care costs each year; and

WHEREAS, The lack of availability of sterile hypodermic devices is a major cause of this serious health threat; and

WHEREAS, Hundreds of studies have demonstrated that making sterile hypodermic devices available to persons who inject drugs reduces the spread of infectious disease and does not encourage drug use; and

WHEREAS, The trend among states has been to deregulate the possession, sale and use of hypodermic devices and to make such devices more accessible; and

WHEREAS, Increasing access to sterile hypodermic devices is necessary to control the spread of life-threatening infectious diseases; now, therefore,

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Board Health shall establish by regulation a program for the safe distribution and disposal of hypodermic devices.

2. A person or governmental entity shall not sell or furnish a hypodermic device without a prescription unless the person or governmental entity is registered and authorized to do so pursuant to this section. A pharmacy, health care facility, provider of health care, nonprofit

community-based organization or governmental entity that wishes to sell or furnish hypodermic devices without a prescription must register with the health authority to participate in the program established pursuant to subsection 1.

3. The regulations adopted by the State Board of Health must provide the requirements for a pharmacy, health care facility, provider of health care, nonprofit community-based organization or governmental entity to register with the health authority to participate in the program established pursuant to subsection 1.

4. The regulations adopted by the State Board of Health must identify the persons who may obtain hypodermic devices without a prescription. Such regulations:

(a) Must not allow the distribution of hypodermic devices to a person who is under the age of 18 years.

(b) Must limit the number of hypodermic devices that may be sold or furnished to a person without a prescription to not more than 10 such devices at one time.

5. The State Board of Health shall develop or approve the language for a safety insert that must be provided with each hypodermic device which is sold or furnished to a person without a prescription. The safety insert must include, without limitation:

(a) Information on the proper use of hypodermic devices;

(b) The risk of bloodborne diseases that may result from the use of hypodermic devices;

(c) Methods for preventing the transmission or contraction of bloodborne diseases;

(d) Information concerning the dangers of injecting drugs and the manner in which to access treatment;

(e) Information regarding the manner in which to obtain information concerning the human immunodeficiency virus; and

(f) Information concerning the safe disposal of hypodermic devices.

6. The State Board of Health may suspend the registration of a pharmacy, health care facility, provider of health care, nonprofit community-based organization or governmental entity upon finding that the pharmacy, health care facility, provider of health care, nonprofit community-based organization or governmental entity has violated the provisions of this section or the regulations adopted pursuant thereto, or that a pharmacy has violated the provisions of NRS 454.480.

7. Selling or furnishing a hypodermic device without a prescription in a manner that is not authorized pursuant to this section is a misdemeanor.

8. As used in this section:

(a) "Health care facility" means any facility in or through which health care services are provided, including, without limitation, a nonprofit or governmental entity that provides health care services.

(b) "Provider of health care" means a physician licensed pursuant to chapter 630 or 633 of NRS or any other person who is authorized to prescribe hypodermic devices.

~~{Section 1-}~~ **Sec. 2.** NRS 453.554 is hereby amended to read as follows:

453.554 ~~{As}~~ **1. Except as otherwise provided in subsection 2, as** used in NRS 453.554 to 453.566, inclusive, unless the context otherwise requires, "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ~~{injecting,}~~ ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this chapter. The term includes, but is not limited to:

~~{1-}~~ **(a)** Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

~~{2-}~~ **(b)** Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing or preparing controlled substances;

~~{3-}~~ **(c)** Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

~~{4-}~~ **(d)** Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

~~{5-}~~ **(e)** Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

~~{6-}~~ **(f)** Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

~~{7-}~~ **(g)** Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

~~{8-}~~ **(h)** Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

~~{9-}~~ **(i)** Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

~~{10-}~~ **(j)** Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances; and

~~{11-}~~ **(k)** Objects used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

~~[(a)]~~ (1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

~~[(b)]~~ (2) Water pipes;

~~[(c)]~~ (3) Smoking masks;

~~[(d)]~~ (4) Roach clips, which are objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

~~[(e)]~~ (5) Cocaine spoons and cocaine vials;

~~[(f)]~~ (6) Carburetor pipes and carburetion tubes and devices;

~~[(g)]~~ (7) Chamber pipes;

~~[(h)]~~ (8) Electric pipes;

~~[(i)]~~ (9) Air-driven pipes;

~~[(j)]~~ (10) Chillums;

~~[(k)]~~ (11) Bonges; and

~~[(l)]~~ (12) Ice pipes or chillers.

2. The term does not include any type of hypodermic syringe, needle, instrument, device or implement intended or capable of being adapted for the purpose of administering drugs by subcutaneous, intramuscular or intravenous injection.

~~[Sec. 2.]~~ **Sec. 3.** NRS 453.560 is hereby amended to read as follows:

453.560 Unless a greater penalty is provided in NRS 212.160, a person who delivers or sells, possesses with the intent to deliver or sell, or manufactures with the intent to deliver or sell any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, prepare, test, analyze, pack, repack, store, contain, conceal, ~~[inject,]~~ ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this chapter is guilty of a category E felony and shall be punished as provided in NRS 193.130.

~~[Sec. 3.]~~ **Sec. 4.** NRS 453.566 is hereby amended to read as follows:

453.566 Any person who uses, or possesses with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, prepare, test, analyze, pack, repack, store, contain, conceal, ~~[inject,]~~ ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this chapter is guilty of a misdemeanor.

~~[Sec. 4.]~~ **Sec. 5.** NRS 454.480 is hereby amended to read as follows:

454.480 1. Hypodermic devices which are not restricted by federal law to sale by or on the order of a physician may be sold by a pharmacist, or by a person in a pharmacy under the direction of a pharmacist, on the prescription of a physician, dentist or veterinarian, or of an advanced practitioner of nursing who is a practitioner. Those prescriptions must be filed as required by NRS 639.236, and may be refilled as authorized by the prescriber.

Records of refilling must be maintained as required by NRS 639.2393 to 639.2397, inclusive.

2. Hypodermic devices which are not restricted by federal law to sale by or on the order of a physician may be sold or furnished without prescription ~~for the following purposes:~~

- (a) For use in the treatment of persons having asthma or diabetes.
- (b) For use in injecting intramuscular or subcutaneous medications prescribed by a practitioner for the treatment of human beings.
- (c) For use in an ambulance or by a fire-fighting agency for which a permit is held pursuant to NRS 450B.200 or 450B.210.
- (d) For the injection of drugs in animals or poultry.
- (e) For commercial or industrial use or use by jewelers or other merchants having need for those devices in the conduct of their business, or by hobbyists if the seller is satisfied that the device will be used for legitimate purposes.
- (f) For use by funeral directors and embalmers, licensed medical technicians or technologists, or research laboratories. if authorized pursuant to section 1 of this act.

3. A pharmacy that is registered pursuant to section 1 of this act to sell or furnish hypodermic devices without a prescription:

(a) Shall not advertise the availability of such devices without a prescription.

(b) Shall store such devices in the pharmacy in a manner that makes them available only to authorized personnel.

4. A violation of the provisions of this section is a misdemeanor.

~~[Sec. 5.]~~ Sec. 6. NRS 454.520 is hereby repealed.

Sec. 7. The State Board of Health shall adopt regulations necessary to implement the provisions of this act on or before January 1, 2012.

TEXT OF REPEALED SECTION

454.520 Misuse of hypodermic device; penalty. Any person who has lawfully obtained a hypodermic device, as provided by NRS 454.480 to 454.530, inclusive, and uses, permits or causes, directly or indirectly, such a device to be used for any purpose other than that for which it was purchased is guilty of a misdemeanor.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 213 revises the provisions to Senate Bill No. 335 by requiring the State Board of Health to establish by regulation a program for the safe distribution and disposal of hypodermic devices. In addition, the Board is required to identify by regulation who may obtain a hypodermic device without a prescription; and develop and approve a safety insert to be included with each hypodermic device.

It requires that a pharmacy, health care facility, provider of health care, nonprofit community based organization, or a governmental entity that wishes to sell or furnish hypodermic devices without a prescription register with the appropriate health authority. Finally, the amendment provides that the selling or furnishing of such a device in violation of the requirements of this

measure and subsequent regulations is a misdemeanor, and the entities' registration may be suspended for such a violation.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Parks has approved the addition of Senator Hardy as a sponsor of Senate Bill No. 335.

SECOND READING AND AMENDMENT

Senate Bill No. 338.

Bill read second time.

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

Amendment No. 329.

"SUMMARY—Revises provisions relating to reports of certain medical and related facilities. (BDR 40-261)"

"AN ACT relating to public health; requiring certain facilities for skilled nursing to submit information to the secure, Internet-based surveillance system established by the Division of Healthcare Quality Promotion of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services; requiring reports and publication of certain information relating to the readmission of patients who received care in hospitals; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires each facility for skilled nursing which provided medical services and care to an average of 25 or more patients during each business day in the immediately preceding calendar year to participate in the secure, Internet-based surveillance system established by the Division of Healthcare Quality Promotion of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services. **Section 1** also provides that other facilities for skilled nursing may participate in the system. **Section 1** additionally ~~authorizes~~ **requires** the Health Division of the Department of Health and Human Services to report the information submitted to the system by all medical **facilities on or after October 15, 2010**, and skilled nursing facilities ~~on or after January 1, 2012 and include the reports on the Internet website maintained by the Department.~~

~~{Sections 2 and 3}~~ **Section 2** of this bill ~~require~~ **requires** hospitals to submit, as part of the program to increase public awareness of health care information, data relating to ~~the readmission of a patient if the readmission was preventable and related to the initial treatment received by the patient.~~ **potentially preventable readmissions. Section 1.5 of this bill defines a potentially preventable readmission as an unplanned readmission which occurs not more than 30 days after a patient was discharged and which is clinically related to the initial admission and was preventable.**

Section 4 of this bill requires the Department of Health and Human Services to post that information on an Internet website. Existing law authorizes the Department to seek injunctive relief or civil penalties against facilities that violate the reporting requirements. (NRS 439A.300, 439A.310)

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

Section 1. NRS 439.847 is hereby amended to read as follows:

439.847 1. Each medical facility *and facility for skilled nursing* which provided medical services and care to an average of 25 or more patients during each business day in the immediately preceding calendar year shall, within 120 days after becoming eligible, participate in the secure, Internet-based surveillance system established by the Division of Healthcare Quality Promotion of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services that integrates patient and health care personnel safety surveillance systems. As part of that participation, the medical facility *or facility for skilled nursing* shall provide, at a minimum, the information required by the Health Division pursuant to this subsection. The Health Division shall by regulation prescribe the information which must be provided by a medical facility ~~{}~~ *or facility for skilled nursing*, including, without limitation, information relating to infections and procedures.

2. Each medical facility *or facility for skilled nursing* which provided medical services and care to an average of less than 25 patients during each business day in the immediately preceding calendar year may participate in the secure, Internet-based surveillance system established by the Division of Healthcare Quality Promotion of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services that integrates patient and health care personnel safety surveillance systems.

3. A medical facility *or facility for skilled nursing* that participates in the secure, Internet-based surveillance system established by the Division of Healthcare Quality Promotion shall ~~{authorize}~~ :

(a) *Authorize* the Health Division to access all information submitted to the system ~~{, and the Health Division shall enter into an agreement with the Division of Healthcare Quality Promotion to carry out the provisions of this section.}~~ *by:*

(1) A medical facility, on or after October 15, 2010; and

(2) A facility for skilled nursing, on or after January 1, 2012 ; and

(b) *Provide consent for the Health Division to prepare and post reports pursuant to paragraph (b) of subsection 4, including, without limitation, permission to identify the medical facility or facility for skilled nursing that is the subject of each report ~~{,}~~ :*

(1) For a medical facility, on or after October 15, 2010; and

(2) For a facility for skilled nursing, on or after January 1, 2012.

4. The Health Division ~~{shall}~~ :

(a) *Shall* analyze the information submitted to the system by medical facilities *and facilities for skilled nursing* pursuant to this section and recommend regulations and legislation relating to the reporting required pursuant to NRS 439.800 to 439.890, inclusive.

(b) ~~(b) *May*~~ *Shall prepare a report of the information submitted to the system by each medical facility and each facility for skilled nursing pursuant to this section and provide the reports for inclusion on the Internet website maintained [pursuant to NRS 439A.270. If such reports are prepared, they]* *by the Department. The information must be reported in a manner that allows a person to compare the information for the medical facilities and for the facilities for skilled nursing.*

(c) *Shall enter into an agreement with the Division of Healthcare Quality Promotion to carry out the provisions of this section.*

5. As used in this section, "facility for skilled nursing" has the meaning ascribed to it in NRS 449.0039.

Sec. 1.5. Chapter 439A of NRS is hereby amended by adding thereto a new section to read as follows:

"Potentially preventable readmission" means an unplanned readmission of a patient which:

- 1. Occurs not more than 30 days after the patient is discharged;**
- 2. Is clinically related to the initial admission; and**
- 3. Was preventable.**

Sec. 1.7. NRS 439A.200 is hereby amended to read as follows:

439A.200 As used in NRS 439A.200 to 439A.290, inclusive, *and section 1.5 of this act*, unless the context otherwise requires, the words and terms defined in NRS 439A.205 and 439A.210 *and section 1.5 of this act* have the meanings ascribed to them in those sections.

Sec. 2. NRS 439A.220 is hereby amended to read as follows:

439A.220 1. The Department shall establish and maintain a program to increase public awareness of health care information concerning the hospitals in this State. The program must be designed to assist consumers with comparing the quality of care provided by the hospitals in this State and the charges for that care.

2. The program must include, without limitation, the collection, maintenance and provision of information concerning:

(a) Inpatients and outpatients of each hospital in this State as reported in the forms submitted pursuant to NRS 449.485;

(b) The quality of care provided by each hospital in this State as determined by applying uniform measures of quality prescribed by the Department pursuant to NRS 439A.230;

(c) How consistently each hospital follows recognized practices to prevent the infection of patients, to speed the recovery of patients and to avoid medical complications of patients;

(d) For each hospital, the total number of patients discharged, the average length of stay and the average billed charges, reported for the ~~150 most~~

frequent] diagnosis-related groups for inpatients and 50 medical treatments for outpatients that the Department determines are most useful for consumers; ~~and]~~

(e) *The total number of patients discharged from the hospital ~~who were subsequently readmitted to a medical facility for treatment or care which was preventable and was related to a medical treatment originally provided at the hospital]~~ and the total number of potentially preventable readmissions, which must be expressed as a rate of occurrence of potentially preventable readmissions and the average length of stay for those potentially preventable readmissions; and*

(f) Any other information relating to the charges imposed and the quality of the services provided by the hospitals in this State which the Department determines is:

- (1) Useful to consumers;
- (2) Nationally recognized; and
- (3) Reported in a standard and reliable manner.

3. As used in this section, "diagnosis-related group" means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

Sec. 3. ~~[NRS 439A.230 is hereby amended to read as follows:~~

~~— 439A.230 1. The Department shall, by regulation:~~

~~— (a) Prescribe the information that each hospital in this State must submit to the Department for the program established pursuant to NRS 439A.220;~~

~~— (b) Prescribe the measures of quality for hospitals that are required pursuant to paragraph (b) of subsection 2 of NRS 439A.220. In adopting the regulations, the Department shall:~~

~~— (1) Use the measures of quality endorsed by the Agency for Healthcare Research and Quality, the National Quality Forum, Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services, a quality improvement organization of the Centers for Medicare and Medicaid Services and the Joint Commission ; [on Accreditation of Healthcare Organizations;]~~

~~— (2) Prescribe a reasonable number of measures of quality which must not be unduly burdensome on the hospitals; and~~

~~— (3) Take into consideration the financial burden placed on the hospitals to comply with the regulations.~~

~~➤ The measures prescribed pursuant to this paragraph must report health outcomes of hospitals, which do not necessarily correlate with the inpatient diagnosis-related groups or the outpatient treatments that are posted on the Internet website pursuant to NRS 439A.270.~~

~~— (c) Prescribe the manner in which a hospital must determine whether the readmission of a patient must be reported pursuant to NRS 439A.220 and the form for submission of such information.~~

~~— (d) Require each hospital to:~~

- ~~— (1) Provide the information prescribed in paragraphs (a) , [and] (b) and (c) in the format required by the Department; and~~
- ~~— (2) Report the information separately for inpatients and outpatients.~~
- ~~— 2. The information required pursuant to this section and NRS 439A.220 must be submitted to the Department not later than 45 days after the last day of each calendar month.~~
- ~~— 3. If a hospital fails to submit the information required pursuant to this section or NRS 439A.220 or submits information that is incomplete or inaccurate, the Department shall send a notice of such failure to the hospital and to the Health Division of the Department.] (Deleted by amendment.)~~

Sec. 4. NRS 439A.270 is hereby amended to read as follows:

439A.270 1. The Department shall establish and maintain an Internet website that includes the information concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State as required by the programs established pursuant to NRS 439A.220 and 439A.240. The information must:

(a) Include, for each hospital in this State, the ~~{total}~~ :

(1) Total number of patients discharged, the average length of stay and the average billed charges, reported for the ~~{50 most frequent}~~ diagnosis-related groups for inpatients and 50 medical treatments for outpatients that the Department determines are most useful for consumers; and

(2) Total number of potentially preventable readmissions reported pursuant to NRS 439A.220 , the rate of occurrence of potentially preventable readmissions and the average length of stay of those potentially preventable readmissions, reported by the diagnosis-related group for inpatients ~~[and the medical treatments for outpatients]~~ for which the patient originally received treatment at the hospital;

(b) Include, for each surgical center for ambulatory patients in this State, the total number of patients discharged and the average billed charges, reported for 50 medical treatments for outpatients that the Department determines are most useful for consumers;

(c) Be presented in a manner that allows a person to view and compare the information for the hospitals by:

- (1) Geographic location of each hospital;
- (2) Type of medical diagnosis; and
- (3) Type of medical treatment;

(d) Be presented in a manner that allows a person to view and compare the information for the surgical centers for ambulatory patients by:

- (1) Geographic location of each surgical center for ambulatory patients;
- (2) Type of medical diagnosis; and
- (3) Type of medical treatment;

(e) Be presented in a manner that allows a person to view and compare the information separately for:

- (1) The inpatients and outpatients of each hospital; and

(2) The outpatients of each surgical center for ambulatory patients;
 (f) Be readily accessible and understandable by a member of the general public;

(g) Include the annual summary of reports of sentinel events prepared pursuant to paragraph (d) of subsection 1 of NRS 439.840; and

(h) ~~Include any reports of information prepared for a medical facility or facility for skilled nursing pursuant to paragraph (b) of subsection 4 of NRS 439.847; and~~

~~(i)~~ Provide any other information relating to the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State which the Department determines is:

- (1) Useful to consumers;
- (2) Nationally recognized; and
- (3) Reported in a standard and reliable manner.

2. The Department shall:

(a) Publicize the availability of the Internet website;
 (b) Update the information contained on the Internet website at least quarterly;

(c) Ensure that the information contained on the Internet website is accurate and reliable;

(d) Ensure that the information reported by a hospital or surgical center for ambulatory patients for inpatients and outpatients which is contained on the Internet website is ~~aggregated~~ expressed as a total number and as a rate, and must be reported in a manner so as not to reveal the identity of a specific inpatient or outpatient of a hospital ~~or~~ or surgical center for ambulatory patients;

(e) Post a disclaimer on the Internet website indicating that the information contained on the website is provided to assist with the comparison of hospitals and is not a guarantee by the Department or its employees as to the charges imposed by the hospitals in this State or the quality of the services provided by the hospitals in this State, including, without limitation, an explanation that the actual amount charged to a person by a particular hospital may not be the same charge as posted on the website for that hospital;

(f) Provide on the Internet website established pursuant to this section a link to the Internet website of the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services; and

(g) Upon request, make the information that is contained on the Internet website available in printed form.

3. As used in this section, "diagnosis-related group" means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

Sec. 5. The Department of Health and Human Services shall adopt the regulations necessary to carry out the provisions of this act on or before ~~October 1, 2011.~~ January 1, 2012.

Sec. 6. This act becomes effective upon passage and approval for purposes of adopting regulations and on ~~October 1, 2011,~~ **January 1, 2012,** for all other purposes.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 329 revises the provisions of Senate Bill No. 338 by requiring the Health Division of the Department of Health and Human Services to report the information submitted to the system established by the Division of Healthcare Quality Promotion of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services by all medical facilities on or after October 15, 2010, and skilled nursing facilities on or after January 1, 2012, and include the reports on the Internet website maintained by the Department.

It defines a potentially preventable readmission as an unplanned readmission which occurs not more than 30 days after a patient was discharged and which is clinically related to the initial admission and was preventable. It also requires that hospitals report potentially preventable readmissions and that this information be posted.

It authorizes certain information posted on the Internet website to be provided as both a total number and as a rate.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 339.

Bill read second time.

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

Amendment No. 526.

"SUMMARY—Establishes provisions relating to the safety of patients in certain medical facilities. (BDR 40-662)"

"AN ACT relating to public health; requiring certain medical facilities to provide to patients and to post certain information relating to facility-acquired infections; revising requirements for patient safety plans adopted by certain medical facilities; requiring certain medical facilities to designate an infection control officer ~~to~~ **and establish an infection control program; including facilities for intermediate care and facilities for skilled nursing within the scope of these requirements and other provisions concerning health and safety of patients;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill requires ~~each~~ certain medical ~~facility~~ facilities to provide to ~~its~~ their patients certain information relating to facility-acquired infections and to post in public areas of the ~~facility~~ facilities information on reporting facility-acquired infections. **Section 2 further provides for immunity from liability for providing certain information to a patient relating to the source of an infection.**

Section 3 of this bill requires certain medical facilities to designate an infection control officer to carry out certain duties relating to the prevention

and control of infections. Section 3 also establishes requirements for the qualification and training of infection control officers and requires that at least one employee per 100 occupied beds have certain training in infection control.

Section 4.5 of this bill extends the provisions of this bill and other provisions concerning health and safety of patients at certain medical facilities to facilities for intermediate care and facilities for skilled nursing.

Existing law requires ~~each~~ certain medical ~~facility~~ facilities to prepare a patient safety plan and to submit a copy of the plan to the Health Division of the Department of Health and Human Services on or before March 1 of each year. (NRS 439.843, 439.865) **Section 6** of this bill requires the patient safety plan which is prepared by each medical facility to be revised annually and to include a program for the prevention and control of infections. **Section 5** of this bill requires the Department to post each patient safety plan on an Internet website maintained by the Department.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. A medical facility shall:

(a) Provide to each patient of the medical facility, upon admission of the patient, the general and facility-specific information relating to facility-acquired infections required by subsection 2. ~~f. and~~

(b) Post in publicly accessible areas of the medical facility information on reporting facility-acquired infections, including, without limitation, the contact information for making reports to the Health Division. Such information may be added to other required notices concerning the making of reports to the Health Division.

(c) Ensure that protocols are established for:

(1) Informing a patient or the legal guardian or other person authorized by the patient to receive such information that the patient has an infection; and

(2) If known or determined while a patient remains at the medical facility, informing the patient or the legal guardian or other person authorized by the patient to receive such information whether the infection was acquired at the medical facility and the apparent source of the infection.

2. The information provided to each patient pursuant to paragraph (a) of subsection 1 must include, without limitation:

(a) The measures used by the medical facility for preventing infections, including facility-acquired infections;

(b) Information on determining whether a patient had an infection upon admission to the medical facility, risk factors for acquiring infections and determining whether an infection has been acquired;

(c) *Information on preventing facility-acquired infections;*

(d) ~~Information concerning the responsibility of the medical facility to inform a patient that he or she has an infection and whether the infection was acquired at the medical facility;~~

~~—(e)—~~ *Instructions for reporting facility-acquired infections, including, without limitation, the contact information for making reports to the Health Division; and*

~~—(f)—~~ *(e) Any other information that the medical facility deems necessary.*

3. A person or governmental entity who, with reasonable care, informs a patient or the legal guardian or other person authorized by the patient to receive such information that an infection was not acquired at the medical facility and of the apparent source of the infection pursuant to subsection 2 is immune from any criminal or civil liability for providing that information.

Sec. 3. 1. A medical facility shall designate an officer or employee of the facility to serve as the infection control officer of the medical facility.

2. The person who is designated as the infection control officer of a medical facility:

(a) *Shall serve on the patient safety committee.*

(b) ~~Must be certified as an infection preventionist by the Certification Board of Infection Control and Epidemiology, Inc., or a successor organization.~~

~~—(c)—~~ *Shall monitor the occurrences of infections at the medical facility to determine the number and severity of infections.*

~~—(d)—~~ *(c) Shall report to the patient safety committee concerning the number and severity of infections at the medical facility.*

~~—(e)—~~ *(d) Shall take such action as he or she determines is necessary to prevent and control infections alleged to have occurred at the medical facility.*

~~—(f)—~~ *(e) Shall carry out the provisions of the infection control program adopted pursuant to NRS 439.865 and ensure compliance with the program.*

3. If a medical facility has ~~at~~

~~—(a) One hundred—~~ 175 ~~or more beds, the person who is designated as the infection control officer of the medical facility shall devote the equivalent of full-time employment to his or her duties as the infection control officer. Such a facility shall designate at least one full-time employee who is—~~ must be certified as an infection preventionist by the Certification Board of Infection Control and Epidemiology, Inc., or a successor organization— ~~for each 100 additional beds to assist the infection control officer in carrying out the duties prescribed pursuant to this section.~~

~~—(b) Less than 100 beds, the person who is designated as the infection control officer of the medical facility shall devote not less than the equivalent of half-time employment to his or her duties as the infection control officer. A~~

~~person who is designated as the infection control officer of a medical facility with less than 100 beds may be designated as the patient safety officer of the medical facility pursuant to NRS 439.870.] A person may serve as the certified infection preventionist for more than one medical facility if the facilities have common ownership.~~

4. A medical facility that designates an infection control officer who is not a certified infection preventionist must ensure that the person has successfully completed a nationally recognized basic training program in infection control, which may include, without limitation, the program offered by the Association for Professionals in Infection Control and Epidemiology, Inc., or a successor organization. A medical facility shall ensure that an infection control officer completes at least 4 hours of continuing education each year on topics relating to current practices in infection control and prevention.

5. A medical facility shall ensure that it maintains a ratio of at least one employee who has the training described in subsection 4 for every 100 occupied beds. The number of beds must be determined based upon the most recent annual calendar-year average reported by the medical facility to the Director pursuant to NRS 449.490 and the regulations adopted pursuant thereto.

6. A medical facility shall maintain records concerning the certification and training required by this section.

7. The Health Division shall provide education and technical assistance relating to infection control and prevention in medical facilities.

Sec. 4. NRS 439.800 is hereby amended to read as follows:

439.800 As used in NRS 439.800 to 439.890, inclusive, **and sections 2 and 3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 439.802 to 439.830, inclusive, have the meanings ascribed to them in those sections.

Sec. 4.5. NRS 439.805 is hereby amended to read as follows:

439.805 "Medical facility" means:

1. A hospital, as that term is defined in NRS 449.012 ; ~~and 449.0151;~~
 2. An obstetric center, as that term is defined in NRS ~~449.0151 and~~ 449.0155;

3. A surgical center for ambulatory patients, as that term is defined in NRS ~~449.0151 and~~ 449.019; ~~and~~

4. An independent center for emergency medical care, as that term is defined in NRS 449.013 ~~and 449.0151;~~ ;

5. A facility for intermediate care, as that term is defined in NRS 449.0038; and

6. A facility for skilled nursing, as that term is defined in NRS 449.0039.

Sec. 5. NRS 439.843 is hereby amended to read as follows:

439.843 1. On or before March 1 of each year, each medical facility shall provide to the Health Division, in the form prescribed by the

State Board of Health, a summary of the reports submitted by the medical facility pursuant to NRS 439.835 during the immediately preceding calendar year. The summary must include, without limitation:

(a) The total number and types of sentinel events reported by the medical facility, if any;

(b) A copy of the **most current** patient safety plan established pursuant to NRS 439.865;

(c) A summary of the membership and activities of the patient safety committee established pursuant to NRS 439.875; and

(d) Any other information required by the State Board of Health concerning the reports submitted by the medical facility pursuant to NRS 439.835.

2. On or before June 1 of each year, the Health Division shall submit to the State Board of Health an annual summary of the reports and information received by the Health Division pursuant to this section. The annual summary must include, without limitation, a compilation of the information submitted pursuant to subsection 1 and any other pertinent information deemed necessary by the State Board of Health concerning the reports submitted by the medical facility pursuant to NRS 439.835. The Health Division shall maintain the confidentiality of the reports submitted pursuant to NRS 439.835 and any other information requested by the State Board of Health concerning those reports when preparing the annual summary pursuant to this section.

3. *The Department shall post on the Internet website maintained pursuant to NRS 439A.270 or any other website maintained by the Department a copy of the most current patient safety plan submitted by each medical facility pursuant to subsection 1.*

Sec. 6. NRS 439.865 is hereby amended to read as follows:

439.865 1. Each medical facility that is located within this state shall develop, in consultation with the providers of health care who provide treatment to patients at the medical facility, an internal patient safety plan to improve the health and safety of patients who are treated at that medical facility.

2. The patient safety plan must include an infection control program to prevent and control infections within the medical facility.

~~12-~~ To carry out the program, the medical facility shall adopt an infection control policy. The policy may consist of:

(a) The current guidelines appropriate for the facility's scope of service developed by a nationally recognized infection control organization as approved by the State Board of Health which may include, without limitation, the Association for Professionals in Infection Control and Epidemiology, Inc., the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the World Health Organization and the Society for Healthcare Epidemiology of America;

(b) Facility-specific infection control developed under the supervision of a certified infection preventionist; or

(c) Any combination thereof.

3. The program to prevent and control infections within the medical facility must provide for the designation of a person who is responsible for infection control when the infection control officer is absent to ensure that someone is responsible for infection control at all times.

4. A medical facility shall submit its patient safety plan to the governing board of the medical facility for approval in accordance with the requirements of this section.

~~{3}~~ **5.** After a medical facility's patient safety plan is approved, the medical facility shall notify all providers of health care who provide treatment to patients at the medical facility of the existence of the plan and of the requirements of the plan. A medical facility shall require compliance with its patient safety plan.

~~{4}~~ **6.** *The patient safety plan must be reviewed and updated annually in accordance with the requirements for approval set forth in this section.*

Sec. 7. NRS 439.875 is hereby amended to read as follows:

439.875 1. A medical facility shall establish a patient safety committee.

2. Except as otherwise provided in subsection 3:

(a) A patient safety committee established pursuant to subsection 1 must be composed of:

(1) *The infection control officer of the medical facility.*

(2) The patient safety officer of the medical facility ~~{}~~, *if he or she is not designated as the infection control officer of the medical facility.*

~~{2}~~ (3) At least three providers of health care who treat patients at the medical facility, including, without limitation, at least one member of the medical, nursing and pharmaceutical staff of the medical facility.

~~{3}~~ (4) One member of the executive or governing body of the medical facility.

(b) A patient safety committee shall meet at least once each month.

3. The Administrator shall adopt regulations prescribing the composition and frequency of meetings of patient safety committees at medical facilities having fewer than 25 employees and contractors.

4. A patient safety committee shall:

(a) Receive reports from the patient safety officer pursuant to NRS 439.870.

(b) Evaluate actions of the patient safety officer in connection with all reports of sentinel events alleged to have occurred at the medical facility.

(c) Review and evaluate the quality of measures carried out by the medical facility to improve the safety of patients who receive treatment at the medical facility.

(d) *Review and evaluate the quality of measures carried out by the medical facility to prevent and control infections at the medical facility.*

(e) Make recommendations to the executive or governing body of the medical facility to reduce the number and severity of sentinel events ***and infections*** that occur at the medical facility.

~~{(e)}~~ (f) At least once each calendar quarter, report to the executive or governing body of the medical facility regarding:

(1) The number of sentinel events that occurred at the medical facility during the preceding calendar quarter; ~~{and}~~

(2) ***The number and severity of infections that occurred at the medical facility during the preceding calendar quarter; and***

(3) Any recommendations to reduce the number and severity of sentinel events ***and infections*** that occur at the medical facility.

5. The proceedings and records of a patient safety committee are subject to the same privilege and protection from discovery as the proceedings and records described in NRS 49.265.

Sec. 8. This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out this act;

2. Except as provided in subsection 3, on January 1, 2012, for all other purposes; and

3. On January 1, 2013, for the purpose of the continuing education required by section 3 of this act for infection control officers.

Senator Copenig moved the adoption of the amendment.

Remarks by Senator Copenig.

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

Amendment No. 526 revises the provisions to Senate Bill No. 339 by providing for immunity from liability for providing certain information to a patient relating to the source of an infection.

It establishes requirements for the qualification and training of infection control officers.

It requires that the facility establish protocols to notify the legal guardian or other person authorized by the patient to receive health care related information.

It extends the provisions of this bill and other provisions concerning the health and safety of patients at certain medical facilities to facilities for intermediate care and facilities for skilled nursing.

I received word from the Legislative Counsel Bureau's Risa Lang that there were proposed additional amendments that were replaced by Amendment No. 526, which would have referred to an employee with training in infection control per 100 beds in subsection 5 of Section 3, and referred to immunity for a person or governmental entity in Section 2.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 354.

Bill read second time.

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

Amendment No. 468.

"SUMMARY—Makes various changes to regulatory bodies of professions, occupations and businesses. (BDR 54-254)"

"AN ACT relating to professions; making changes to the number and duties of public members appointed to various boards and commissions; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Governor to appoint members to various boards and commissions which license and regulate various professions, occupations and businesses. The majority of the members are licensed, registered or certified by the board or commission and working in the respective profession or occupation. The number of board or commission members who represent the general public varies. This bill directs the Governor to appoint two members who represent the general public to the majority of the boards and commissions, and one such member to certain smaller boards. This bill also ~~requires~~ **authorizes** the Governor to appoint a ~~public~~ member to serve as Chair or President, as appropriate, of the designated board or commission. **If the Governor does not appoint a member to serve as Chair or President, as appropriate, within 60 days after a vacancy in that office, the longest-serving member of the board or commission who is a representative of the general public shall be deemed to be the Chair or President. If that member refuses to serve as Chair or President, the members of the board or commission, as appropriate, are required to appoint a Chair or President from among the members of the board or commission.** If a board is authorized to hire an Executive Director or other employees and consultants under existing law, this bill requires the Chair or President of the board to hire such employees after consultation with the other members of the board.

Section 105 of this bill clarifies that current members of the boards and commissions remain in office until the end of their term and that the membership changes created by this bill go into effect as the specified vacancies occur. Also, any contracts for employment or lease entered into before July 1, 2011, remain in effect.

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

Section 1. NRS 623.050 is hereby amended to read as follows:

623.050 1. The State Board of Architecture, Interior Design and Residential Design, consisting of nine members appointed by the Governor, is hereby created.

2. The Governor shall appoint:

(a) ~~Five~~ **Four** members who are registered architects and have been in the active practice of architecture in the State of Nevada for not less than 3 years preceding their appointment.

(b) One member who is a registered residential designer.

(c) Two members who are registered interior designers and who are not registered architects or residential designers.

(d) ~~{One member who is a representative}~~ ***Two members who are representatives*** of the general public. ~~{This member}~~ ***These members*** must not be:

(1) A registered architect, a registered interior designer or a registered residential designer; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a registered architect, a registered interior designer or a registered residential designer.

3. Members of the Board must have been residents of this State for not less than 2 years preceding their appointment.

4. The Governor may, upon a bona fide complaint, and for good cause shown, after 10 days' notice to any member against whom charges may be filed, and after opportunity for hearing, remove the member for inefficiency, neglect of duty or malfeasance in office.

Sec. 2. NRS 623.070 is hereby amended to read as follows:

623.070 1. Each member of the Board is entitled to receive from the money of the Board:

(a) A salary of not more than \$150 per day, as fixed by the ***Chair, after consultation with the other members of the*** Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the ***Chair, after consultation with the other members of the*** Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the ***Chair, after consultation with the other members of the*** Board. The rate must not exceed the rate provided for state officers and employees generally.

3. The Secretary and Treasurer of the Board is entitled to be paid a salary out of the money of the Board in an amount to be determined by the ***Chair, after consultation with the other members of the*** Board.

Sec. 3. NRS 623.100 is hereby amended to read as follows:

623.100 1. The ~~*Governor shall*~~ ***may appoint one of the members of the Board*** ~~*[who is a representative of the general public]*~~ ***to serve as Chair of the Board . If, within 60 days after a vacancy in the office of the Chair, the Governor does not appoint one of the members of the Board as Chair, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the Chair, except if that member refuses to serve as Chair, the Board shall appoint one of its members as the Chair. The Chair serves at the pleasure of the Governor without additional compensation.***

2. ***The*** Board shall appoint one of its members as ~~*{Chair, who shall serve without additional pay, and one of its members as}*~~ Secretary and Treasurer. The ~~*{Chair and}*~~ Secretary shall ~~*{each}*~~ serve 1 year.

~~{2-}~~ 3. Five members of the Board constitute a quorum, but action shall not be deemed to have been taken upon any question unless there are at least 4 votes in accord.

Sec. 4. NRS 623.135 is hereby amended to read as follows:

623.135 The *Chair, after consultation with the other members of the* Board , may employ an Executive Director, legal counsel, investigators, professional consultants and other employees necessary to the discharge of ~~{its}~~ *the duties { } of the Board*, and may fix the compensation therefor.

Sec. 5. NRS 623A.080 is hereby amended to read as follows:

623A.080 1. The State Board of Landscape Architecture, consisting of five members appointed by the Governor, is hereby created.

2. The Governor shall appoint:

(a) ~~{Four}~~ *Three* members who, at the time of their appointment, are not the subject of any disciplinary action by the Board and who, for not less than 3 years immediately preceding their appointment, have been:

(1) Engaged in the practice of landscape architecture; and

(2) Holders of certificates of registration; and

(b) ~~{One member who is a representative}~~ *Two members who are representatives* of the general public. ~~{This member}~~ *These members* must not be:

(1) A landscape architect or a landscape architect intern; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a landscape architect or a landscape architect intern.

3. Each member must have been a resident of this State for not less than 3 years immediately preceding appointment to the Board.

4. A member of the Board shall not serve for more than three terms.

5. Each member of the Board shall, within 30 days after being appointed, take and subscribe to the oath of office as prescribed by the laws of this State and file the oath with the Secretary of State.

6. The ~~{member who is a representative}~~ *members who are representatives* of the general public shall not participate in preparing or grading any examination required by the Board.

7. Upon receipt of a complaint concerning a member of the Board and for good cause shown, the Governor may, after providing 10 days' notice to the member and providing an opportunity for a hearing, remove the member for inefficiency, neglect of duty or malfeasance in office.

8. An appointment to fill a vacancy in the membership of the Board for a cause other than expiration of the term must be for the unexpired portion of the term.

9. A member, agent or employee of the Board or any hearing officer or member of a hearing panel appointed by the Board is immune from personal liability relating to any action taken in good faith and within the scope of his or her authority.

Sec. 6. NRS 623A.100 is hereby amended to read as follows:

623A.100 1. *The Governor ~~[shall]~~ may appoint one of the members of the Board ~~[who is a representative of the general public]~~ to serve as President of the Board . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President serves at the pleasure of the Governor.*

2. *The President, after consultation with the other members of the Board, shall appoint an Executive Director.*

3. At each annual meeting of the Board, the members shall ~~[-]~~:

—(a) Elect a President and a Secretary; and

—(b) Appoint an Executive Director.

—~~2.]~~ *elect a Secretary.*

4. The President and the Secretary of the Board serve without additional compensation.

~~[3.]~~ 5. The Executive Director must not be a member of the Board and is entitled to a salary fixed by the Board.

~~[4.]~~ 6. The Executive Director shall:

(a) Keep an accurate record of all proceedings of the Board;

(b) Maintain custody of the official seal;

(c) Maintain a file containing the names and addresses of all holders of certificates of registration and certificates to practice as a landscape architect intern;

(d) Submit to the Board each application for a certificate of registration or certificate to practice as a landscape architect intern that is filed with the Board;

(e) If a holder of a certificate of registration or certificate to practice as a landscape architect intern has violated any provision of this chapter, file a complaint with the Attorney General; and

(f) Perform any other duties assigned by the Board.

Sec. 7. NRS 623A.120 is hereby amended to read as follows:

623A.120 1. The ~~[Board may:]~~

—1. ~~Employ~~ *President, after consultation with the other members of the Board, may employ* and fix the compensation for legal counsel, inspectors, special agents, investigators and clerical personnel necessary to the discharge of ~~[its duties; and]~~

—2. ~~Reimburse~~ *the duties of the Board.*

2. *The Board may reimburse* an employee specified in subsection 1 for any actual expenses incurred by the employee while acting on behalf of the Board.

Sec. 8. NRS 624.050 is hereby amended to read as follows:

624.050 1. ~~[Six]~~ *Five* members of the Board must each:

(a) At the time of appointment, hold an unexpired license to operate as a contractor.

(b) Be a contractor actively engaged in the contracting business and must have been so engaged for not less than 5 years preceding the date of his or her appointment.

(c) Have been a citizen and resident of the State of Nevada for at least 5 years next preceding his or her appointment.

2. ~~{One member}~~ **Two members** of the Board must be ~~{a representative}~~ **representatives** of the general public. ~~{This member}~~ **These members** must not be:

(a) A licensed contractor; or

(b) The spouse or the parent or child, by blood, marriage or adoption, of a licensed contractor.

3. ***The Governor ~~{shall}~~ may appoint one of the members of the Board ~~{who is a representative of the general public}~~ to serve as Chair of the Board. If, within 60 days after a vacancy in the office of the Chair, the Governor does not appoint one of the members of the Board as Chair, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the Chair, except if that member refuses to serve as Chair, the Board shall appoint one of its members as the Chair. The Chair serves at the pleasure of the Governor without additional compensation.***

Sec. 9. NRS 624.115 is hereby amended to read as follows:

624.115 1. The ***Chair, after consultation with the other members of the Board***, may employ attorneys, investigators and other professional consultants and clerical personnel necessary to the discharge of ~~{its duties.}~~ ***the duties of the Board.***

2. The Board may require criminal investigators who are employed by the Board pursuant to NRS 624.112 to:

(a) Conduct a background investigation of:

(1) A licensee or an applicant for a contractor's license; or

(2) An applicant for employment with the Board;

(b) Locate and identify persons who:

(1) Engage in the business or act in the capacity of a contractor within this State in violation of the provisions of this chapter;

(2) Submit bids on jobs situated within this State in violation of the provisions of this chapter; or

(3) Otherwise violate the provisions of this chapter or the regulations adopted pursuant to this chapter;

(c) Investigate any alleged occurrence of constructional fraud; and

(d) Issue a misdemeanor citation prepared manually or electronically pursuant to NRS 171.1773 to a person who violates a provision of this chapter that is punishable as a misdemeanor. A criminal investigator may request any constable, sheriff or other peace officer to assist in the issuance of such a citation.

3. The Board may require compliance investigators who are employed by the Board pursuant to NRS 624.112 to locate and identify persons who:

(a) Engage in the business or act in the capacity of a contractor within this State in violation of the provisions of this chapter;

(b) Submit bids on jobs situated within this State in violation of the provisions of this chapter; or

(c) Otherwise violate the provisions of this chapter or the regulations adopted pursuant thereto.

Sec. 10. NRS 624.140 is hereby amended to read as follows:

624.140 1. Except as otherwise provided in subsection 3, if money becomes available from the operations of this chapter and payments made for licenses, the Board may pay from that money:

(a) The expenses of the operations of this chapter, including the maintenance of offices.

(b) The salary of the Executive Officer who must be named by the *Chair and whose compensation must be fixed by the Chair after consultation with the other members of the Board*.

(c) A salary to each member of the Board of not more than \$150 per day, as fixed by the Board, while engaged in the business of the Board.

(d) A per diem allowance and travel expenses for each member and employee of the Board, at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. The Board may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to this chapter, impose and collect fines therefor and deposit the money therefrom in banks, credit unions or savings and loan associations in this State.

3. Except as otherwise provided in NRS 624.520, if a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 2, the Board shall deposit any money collected from the imposition of fines with the State Treasurer for credit to the Construction Education Account created pursuant to NRS 624.580.

Sec. 11. NRS 625.100 is hereby amended to read as follows:

625.100 1. The Governor shall appoint nine persons, ~~six~~ **five** of whom must be engaged in the practice or teaching of professional engineering in any of its disciplines except military engineering, ~~and~~ two of whom must be engaged in the practice or teaching of land surveying and ~~one~~ **two** of whom must be ~~a member~~ **representatives** of the general public. The members must be citizens of the United States and residents of this State, and constitute the State Board of Professional Engineers and Land Surveyors.

2. All appointments made for members who are engaged in the practice or teaching of professional engineering or land surveying must be made from the current roster of professional engineers and professional land surveyors as issued by the Board and on file in the Office of the Secretary of State. Insofar as practicable, membership on the Board of those members must be

distributed proportionately among the recognized disciplines of the profession. The members who are professional land surveyors must not be professional engineers.

3. ~~The Governor shall~~ ***may appoint one of the members of the Board*** ~~*who is a representative of the general public*~~ ***to serve as Chair of the Board. If, within 60 days after a vacancy in the office of the Chair, the Governor does not appoint one of the members of the Board as Chair, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the Chair, except if that member refuses to serve as Chair, the Board shall appoint one of its members as the Chair. The Chair serves at the pleasure of the Governor without additional compensation.***

4. Within 30 days after appointment, each member shall take and subscribe to the oath of office as prescribed by the laws of Nevada and shall file the oath with the Secretary of State.

Sec. 12. NRS 625.110 is hereby amended to read as follows:

625.110 1. ~~{The}~~ ***Except as otherwise provided in subsection 3 of NRS 625.100, the*** Board shall elect officers from its members and, by regulation, establish the:

- (a) Offices to which members may be elected;
- (b) Title and term for each office; and
- (c) Procedure for electing members to each office.

2. At any meeting, five members constitute a quorum.

3. Each member is entitled to receive:

(a) A salary of not more than \$150 per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses, at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

4. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

5. The salaries of members of the Board and employees of the Board must be paid from the fees received by the Board pursuant to the provisions of this chapter, and no part of those salaries may be paid out of the State General Fund.

6. The ***Chair, after consultation with the other members of the Board***, shall appoint an Executive Director who serves at the pleasure of the Board and is entitled to receive such compensation as may be fixed by ***the Chair after consultation with the other members of the Board.***

Sec. 13. NRS 625.135 is hereby amended to read as follows:

625.135 1. The ***Chair, after consultation with the other members of the Board***, may employ and fix the compensation to be paid to attorneys,

investigators and other professional consultants and clerical personnel necessary to the discharge of ~~[its duties and]~~ ***the duties of the Board.***

2. ***The Board*** may reimburse such employees for actual expenses they incur while acting on behalf of the Board.

Sec. 14. NRS 625A.030 is hereby amended to read as follows:

625A.030 1. There is hereby created the Board of Registered Environmental Health Specialists, consisting of the State Health Officer or his or her designated representative and four members appointed by the Governor.

2. After the initial terms, each member appointed by the Governor must be appointed for a term of 3 years.

3. Of the members of the Board appointed by the Governor after the initial appointments:

(a) Two must represent the general public. These members must not be:

(1) An environmental health specialist or environmental health specialist trainee; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of an environmental health specialist or environmental health specialist trainee.

(b) Two must be environmental health specialists, one employed by the health district containing Washoe County and one employed by the health district containing Clark County.

4. The Governor may, after notice and hearing, remove any member of the Board for misconduct in office, incompetency, neglect of duty or other sufficient cause.

5. The ~~Governor shall~~ ***may appoint one of the members of the Board who is a representative of the general public to serve as Chair of the Board. If, within 60 days after a vacancy in the office of the Chair, the Governor does not appoint one of the members of the Board as Chair, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the Chair, except if that member refuses to serve as Chair, the Board shall appoint one of its members as the Chair. The Chair serves at the pleasure of the Governor without additional compensation.***

6. ~~The Board shall elect from its members who are not employees of the State a Chair and a Secretary. The Chair must be elected biennially on or before July 1 of each even-numbered year. The~~ Secretary ***who*** continues in office at the pleasure of the Board.

Sec. 15. NRS 625A.050 is hereby amended to read as follows:

625A.050 1. The Secretary of the Board is entitled to receive:

(a) A salary in an amount fixed by the ***Chair, after consultation with the other members of the Board;*** and

(b) A per diem allowance and travel expenses at a rate fixed by the ***Chair, after consultation with the other members of the Board,*** while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. All other members of the Board are entitled to receive:

(a) A salary of not more than \$150 per day, as fixed by the ***Chair, after consultation with the other members of the Board***, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the ***Chair, after consultation with the other members of the Board***, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the ***Chair, after consultation with the other members of the Board***. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 16. NRS 625A.055 is hereby amended to read as follows:

625A.055 1. ***The Chair, after consultation with the other members of the Board, may employ attorneys, investigators and other professional consultants and clerical personnel necessary to the discharge of the duties of the Board.***

2. The ***Chair, after consultation with the other members of the Board***, may ~~employ and~~ fix the compensation to be paid to ***such*** attorneys, investigators and other professional consultants and clerical personnel ~~[necessary to the discharge of its duties]~~ and may reimburse those employees for any actual expenses they incur while acting on behalf of the Board. Any reimbursement paid pursuant to this section is in addition to any per diem allowance or travel expenses paid to those employees pursuant to NRS 625A.050.

Sec. 17. NRS 628.045 is hereby amended to read as follows:

628.045 1. Except as otherwise provided in subsection 2, the Governor shall appoint to the Board ~~{six}~~ :

(a) ~~Four~~ members who are certified public accountants in the State of Nevada. ~~{and one member who is a registered public accountant in the State of Nevada.}~~ Of the ~~{six}~~ ***four*** members who are certified public accountants:

~~{(a)}~~ (1) One member must be employed by the government or by private industry; and

~~{(b)}~~ ~~Five~~

(2) ***Three*** members must be engaged in the practice of public accounting.

(b) ***One member who is a registered public accountant in the State of Nevada.***

(c) ***Two members who are representatives of the general public. These members must not be:***

(1) ***A certified public accountant, a public accountant or a registered public accountant; or***

(2) The spouse or the parent or child, by blood, marriage or adoption, of a certified public accountant, a public accountant or a registered public accountant.

2. Whenever the total number of registered public accountants who practice is 10 or fewer, the Board must consist of ~~{six}~~ **four** members who are certified public accountants, ~~{and}~~ the member who is a registered public accountant until that member's term of office expires ~~{}~~ **and two members who are representatives of the general public as provided in paragraph (c) of subsection 1.** Thereafter, the Board must consist of:

(a) ~~{Six}~~ **Five** members who are certified public accountants, one of whom must be employed by the government or by private industry.

(b) ~~{One member who represents the public. This member must not be: — (1) A certified public accountant, a public accountant or a registered public accountant; or — (2) The spouse or the parent or child, by blood, marriage or adoption, of a certified public accountant, a public accountant or a registered public accountant.}~~ **Two members who are representatives of the general public as provided in paragraph (c) of subsection 1.**

3. No person may be appointed to the Board unless he or she is:

(a) Engaged in active practice as a certified public accountant or registered public accountant and holds a live permit to practice public accounting in this State, or is appointed as ~~{the}~~ **a** member who ~~{represents}~~ **is a representative of the general public.**

(b) A resident of the State of Nevada.

Sec. 18. NRS 628.075 is hereby amended to read as follows:

628.075 1. The Nevada Society of Certified Public Accountants shall, at least 30 days before the beginning of any term, or within 30 days after a position on the Board becomes vacant, submit to the Governor the names of at least three persons qualified for membership on the Board for each position to be filled by a certified public accountant. The Governor shall appoint new members or fill the vacancy from the list, or request a new list. If the Nevada Society of Certified Public Accountants fails to submit timely nominations for a position on the Board, the Board may submit nominations to the Governor, who shall appoint members from among the nominees or request a new list.

2. The Governor may appoint any qualified person who is a resident of this State to the ~~{position which is}~~ **positions which are** to be occupied by ~~{a person who represents the}~~ **persons who are representatives of the general public.**

Sec. 19. NRS 628.090 is hereby amended to read as follows:

628.090 1. **The Governor ~~{shall}~~ may appoint one of the members of the Board ~~{who is a representative of the general public}~~ to serve as President of the Board . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the longest-serving member of the Board who is a**

representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President serves at the pleasure of the Governor without additional compensation.

2. Annually the Board shall elect a ~~{President and a}~~ Secretary-Treasurer from among its members.

~~{2.}~~ 3. The ***President, after consultation with the other members of the*** Board , may employ such personnel, including attorneys, investigators and other professional consultants, and arrange for such assistance as the Board may require for the performance of ~~{its}~~ ***the duties {-} of the Board.***

Sec. 20. NRS 630.060 is hereby amended to read as follows:

630.060 1. Six members of the Board must be persons who are licensed to practice medicine in this State, are actually engaged in the practice of medicine in this State and have resided and practiced medicine in this State for at least 5 years preceding their respective appointments.

2. One member of the Board must be a person who has resided in this State for at least 5 years and who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care. This member must not be licensed under the provisions of this chapter.

3. The remaining two members of the Board must ***be representatives of the general public and*** be persons who have resided in this State for at least 5 years and who:

- (a) Are not licensed in any state to practice any healing art;
- (b) Are not the spouse or the parent or child, by blood, marriage or adoption, of a person licensed in any state to practice any healing art;
- (c) Are not actively engaged in the administration of any facility for the dependent as defined in chapter 449 of NRS, medical facility or medical school; and
- (d) Do not have a pecuniary interest in any matter pertaining to the healing arts, except as a patient or potential patient.

4. The members of the Board must be selected without regard to their individual political beliefs.

Sec. 21. NRS 630.090 is hereby amended to read as follows:

630.090 1. The ***Governor ~~{shall}~~ may appoint one of the members of the Board ~~{who is a representative of the general public}~~ to serve as President of the Board . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President serves at the pleasure of the Governor without additional compensation.***

2. ***The*** Board shall elect from its members a ~~{President, a}~~ Vice President and a Secretary-Treasurer. The ~~{officers of the Board}~~ ***Vice President and***

Secretary-Treasurer shall hold their respective offices ~~{during its}~~ **at the** pleasure ~~of~~

~~2.} of the Board.~~

3. The Secretary-Treasurer shall receive a salary, the amount of which shall be determined by the *President, after consultation with the other members of the Board.*

Sec. 22. NRS 630.103 is hereby amended to read as follows:

630.103 1. The ~~{Board}~~ *President, after consultation with the other members of the Board,* shall employ a person as the Executive Director of the Board.

2. The Executive Director serves as the chief administrative officer of the Board at a level of compensation set by the Board.

3. The Executive Director is an at-will employee who serves at the pleasure of the ~~{Board.}~~ *President.*

Sec. 23. NRS 630.106 is hereby amended to read as follows:

630.106 1. The *President, after consultation with the other members of the Board* , may employ hearing officers, experts, administrators, attorneys, investigators, consultants and clerical personnel necessary to the discharge of ~~{its duties.}~~ *the duties of the Board.*

2. Each employee of the Board is an at-will employee who serves at the pleasure of the ~~{Board. The Board}~~ *President. The President* may discharge an employee of the Board for any reason that does not violate public policy, including, without limitation, making a false representation to the Board.

3. A hearing officer employed by the ~~{Board}~~ *President* shall not act in any other capacity for the Board or occupy any other position of employment with the Board, and the Board shall not assign the hearing officer any duties which are unrelated to the duties of a hearing officer.

4. If a person resigns his or her position as a hearing officer or the ~~{Board}~~ *President* terminates the person from his or her position as a hearing officer, the ~~{Board}~~ *President* may not rehire the person in any position of employment with the Board for a period of 2 years following the date of the resignation or termination. The provisions of this subsection do not give a person any right to be rehired by the ~~{Board}~~ *President* and do not permit the ~~{Board}~~ *President* to rehire a person who is prohibited from being employed by the Board pursuant to any other provision of law.

Sec. 24. NRS 630A.110 is hereby amended to read as follows:

630A.110 1. Three members of the Board must be persons who are licensed to practice allopathic or osteopathic medicine in any state or country, the District of Columbia or a territory or possession of the United States, have been engaged in the practice of homeopathic medicine in this State for a period of more than 2 years preceding their respective appointments, are actually engaged in the practice of homeopathic medicine in this State and are residents of the State.

2. One member of the Board must be a person who has resided in this State for at least 5 years and who represents the interests of persons or

agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care. This member may be licensed under the provisions of this chapter.

3. The remaining three members of the Board must ***be representatives of the general public and*** be persons who:

- (a) Are not licensed in any state to practice any healing art;
- (b) Are not the spouse or the parent or child, by blood, marriage or adoption, of a person licensed in any state to practice any healing art;
- (c) Are not actively engaged in the administration of any medical facility or facility for the dependent as defined in chapter 449 of NRS;
- (d) Do not have a pecuniary interest in any matter pertaining to such a facility, except as a patient or potential patient; and
- (e) Have resided in this State for at least 5 years.

4. The members of the Board must be selected without regard to their individual political beliefs.

5. As used in this section, "healing art" means any system, treatment, operation, diagnosis, prescription or practice for the ascertainment, cure, relief, palliation, adjustment or correction of any human disease, ailment, deformity, injury, or unhealthy or abnormal physical or mental condition for the practice of which long periods of specialized education and training and a degree of specialized knowledge of an intellectual as well as physical nature are required.

Sec. 25. NRS 630A.140 is hereby amended to read as follows:

630A.140 1. The ***Governor ~~shall~~ may appoint one of the members of the Board ~~who is a representative of the general public~~ to serve as President of the Board . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President serves at the pleasure of the Governor without additional compensation.***

2. ***The Board shall elect from its members a {President, a} Vice President and a Secretary-Treasurer. The {officers of the Board} Vice President and Secretary-Treasurer hold their respective offices {during its pleasure. —2-} at the pleasure of the Board.***

3. The Board shall receive through its Secretary-Treasurer applications for the certificates issued under this chapter.

~~{3-}~~ 4. The Secretary-Treasurer is entitled to receive a salary, in addition to the salary paid pursuant to NRS 630A.160, the amount of which must be determined by the ***President, after consultation with the other members of the Board.***

Sec. 26. NRS 630A.190 is hereby amended to read as follows:

630A.190 1. The Board may ~~f-~~

—1. ~~Maintain~~ ***maintain*** offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

2. ~~{Employ}~~ ***The President, after consultation with the other members of the Board, may employ*** attorneys, investigators, hearing officers, experts, administrators, consultants and clerical personnel necessary to the discharge of ~~{its duties.}~~ ***the duties of the Board.***

Sec. 27. NRS 631.130 is hereby amended to read as follows:

631.130 1. The Governor shall appoint:

(a) ~~{Six}~~ ***Five*** members who are graduates of accredited dental schools or colleges, are residents of Nevada and have ethically engaged in the practice of dentistry in Nevada for a period of at least 5 years.

(b) One member who has resided in Nevada for at least 5 years and who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care. This member may be licensed under the provisions of this chapter.

(c) Three members who:

(1) Are graduates of accredited schools or colleges of dental hygiene;

(2) Are residents of Nevada; and

(3) Have been actively engaged in the practice of dental hygiene in Nevada for a period of at least 5 years before their appointment to the Board.

(d) ~~{One member who is a representative}~~ ***Two members who are representatives*** of the general public. ~~{This member}~~ ***These members*** must not be:

(1) A dentist or a dental hygienist; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a dentist or a dental hygienist.

2. The members who are dental hygienists may vote on all matters but may not participate in grading any clinical examinations required by NRS 631.240 for the licensing of dentists.

3. If a member is not licensed under the provisions of this chapter, the member shall not participate in grading any examination required by the Board.

Sec. 28. NRS 631.140 is hereby amended to read as follows:

631.140 1. The ~~{six}~~ ***five*** members of the Board who are dentists, the member of the Board who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care, and the ~~{member}~~ ***two members*** of the Board who ~~{is a representative}~~ ***are representatives*** of the general public must be appointed from areas of the State as follows:

(a) Three of those members must be from Carson City, Douglas County or Washoe County.

(b) Four of those members must be from Clark County.

(c) One of those members may be from any county of the State.

2. The three members of the Board who are dental hygienists must be appointed from areas of the State as follows:

(a) One of those members must be from Carson City, Douglas County or Washoe County.

(b) One of those members must be from Clark County.

(c) One of those members may be from any county of the State.

Sec. 29. NRS 631.160 is hereby amended to read as follows:

631.160 1. ~~The Governor shall~~ **may appoint one of the members of the Board [who is a representative of the general public] to serve as President of the Board . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President serves at the pleasure of the Governor without additional compensation.**

2. At the first regular meeting of each year, the Board shall elect from its membership one of its members as ~~{President and one of its members as Secretary-Treasurer, each of whom}~~ **Secretary-Treasurer who** shall hold office for 1 year and until a successor is elected and qualified.

~~{2-}~~ 3. The Board shall define the duties of the President, the Secretary-Treasurer and the Executive Director.

~~{3-}~~ 4. The Executive Director shall receive such compensation as determined by the **President, after consultation with the other members of the Board**, and the ~~{Board}~~ **President** shall fix the amount of the bond to be furnished by the Secretary-Treasurer and the Executive Director.

Sec. 30. NRS 631.190 is hereby amended to read as follows:

631.190 1. **The President, after consultation with the other members of the Board, shall employ such examiners, officers, employees, agents, attorneys, investigators and other professional consultants as the Board may deem proper or necessary to carry out the provisions of this chapter.**

2. In addition to the powers and duties provided in this chapter, the Board shall:

~~{1-}~~ (a) Adopt rules and regulations necessary to carry out the provisions of this chapter.

~~{2-}~~ ~~Appoint~~

(b) **Recommend to the President appointment of** such committees, examiners, officers, employees, agents, attorneys, investigators and other professional consultants and define their duties and incur such expense as it may deem proper or necessary to carry out the provisions of this chapter, the expense to be paid as provided in this chapter. Notwithstanding the provisions of this ~~{subsection,}~~ **paragraph**, the Attorney General in his or her sole discretion may, but is not required to, serve as legal counsel for the Board at any time and in any and all matters.

~~{3-}~~ (c) Fix the time and place for and conduct examinations for the granting of licenses to practice dentistry and dental hygiene.

~~{4.}~~ (d) Examine applicants for licenses to practice dentistry and dental hygiene.

~~{5.}~~ (e) Collect and apply fees as provided in this chapter.

~~{6.}~~ (f) Keep a register of all dentists and dental hygienists licensed in this State, together with their addresses, license numbers and renewal certificate numbers.

~~{7.}~~ (g) Have and use a common seal.

~~{8.}~~ (h) Keep such records as may be necessary to report the acts and proceedings of the Board. Except as otherwise provided in NRS 631.368, the records must be open to public inspection.

~~{9.}~~ (i) Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

~~{10.}~~ (j) Have discretion to examine work authorizations in dental offices or dental laboratories.

Sec. 31. NRS 632.030 is hereby amended to read as follows:

632.030 1. The Governor shall appoint:

(a) ~~{Three}~~ **Two** registered nurses who are graduates of an accredited school of nursing, are licensed as professional nurses in the State of Nevada and have been actively engaged in nursing for at least 5 years preceding the appointment.

(b) One practical nurse who is a graduate of an accredited school of practical nursing, is licensed as a practical nurse in this State and has been actively engaged in nursing for at least 5 years preceding the appointment.

(c) One nursing assistant who is certified pursuant to the provisions of this chapter.

(d) One member who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care. This member may be licensed under the provisions of this chapter.

(e) ~~{One member who is a representative}~~ **Two members who are representatives** of the general public. ~~{This member}~~ **These members** must not be:

(1) A licensed practical nurse, a registered nurse, a nursing assistant or an advanced practitioner of nursing; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a licensed practical nurse, a registered nurse, a nursing assistant or an advanced practitioner of nursing.

2. Each member of the Board must be:

(a) A citizen of the United States; and

(b) A resident of the State of Nevada who has resided in this State for not less than 2 years.

3. A representative of the general public may not:

(a) Have a fiduciary obligation to a hospital or other health agency;

(b) Have a material financial interest in the rendering of health services; or

(c) Be employed in the administration of health activities or the performance of health services.

4. The members appointed to the Board pursuant to paragraphs (a) and (b) of subsection 1 must be selected to provide the broadest representation of the various activities, responsibilities and types of service within the practice of nursing and related areas, which may include, without limitation, experience:

(a) In administration.

(b) In education.

(c) As an advanced practitioner of nursing.

(d) In an agency or clinic whose primary purpose is to provide medical assistance to persons of low and moderate incomes.

(e) In a licensed medical facility.

5. Each member of the Board shall serve a term of 4 years. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this chapter to replace that member for the remainder of the unexpired term.

6. No member of the Board may serve more than two consecutive terms. For the purposes of this subsection, service of 2 or more years in filling an unexpired term constitutes a term.

Sec. 32. NRS 632.060 is hereby amended to read as follows:

632.060 1. ~~The Governor shall~~ **may appoint one of the members of the Board [who is a representative of the general public] to serve as President of the Board . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President serves at the pleasure of the Governor without additional compensation.**

2. Each year at a meeting of the Board, to be held in accordance with NRS 632.070, the Board shall elect from its members a ~~{President, a}~~ Vice President and a Secretary.

~~{2-}~~ 3. The ***President, after consultation with the other members of the Board***, may appoint an Executive Director who need not be a member of the Board. The Executive Director ~~{appointed by the Board}~~ must be a professional nurse licensed to practice nursing in the State of Nevada. The Executive Director shall perform such duties as the Board may direct and is entitled to receive compensation as set by the ***President, after consultation with the other members of the Board***. The Executive Director is entitled to receive a per diem allowance and travel expenses at a rate fixed by the ***President, after consultation with the other members of the Board***, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 33. NRS 632.065 is hereby amended to read as follows:

632.065 1. The Board may ~~[-~~

~~1. Maintain]~~ ***maintain*** offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

2. ~~{Employ}~~ ***The President, after consultation with the other members of the Board, may employ*** attorneys, investigators and other professional consultants and clerical personnel necessary to the discharge of ~~{its}~~ ***the*** duties ~~{-}~~ ***of the Board.***

Sec. 34. NRS 633.191 is hereby amended to read as follows:

633.191 1. ~~{Five}~~ ***Four*** members of the Board must:

(a) Be licensed under this chapter;

(b) Be actually engaged in the practice of osteopathic medicine in this State; and

(c) Have been so engaged in this State for a period of more than 5 years preceding their appointment.

2. One member of the Board must be a resident of the State of Nevada and must represent the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care. This member must not be licensed under the provisions of this chapter.

3. ~~{The remaining member}~~ ***Two members*** of the Board must ***be representatives of the general public. A representative of the general public must*** be a resident of the State of Nevada who is:

(a) Not licensed in any state to practice any healing art;

(b) Not the spouse or the parent or child, by blood, marriage or adoption, of a person licensed in any state to practice any healing art; and

(c) Not actively engaged in the administration of any medical facility or facility for the dependent as defined in chapter 449 of NRS.

Sec. 35. NRS 633.221 is hereby amended to read as follows:

633.221 1. The ~~Governor~~ ~~{shall}~~ ***may appoint one of the members of the Board*** ~~{who is a representative of the general public}~~ ***to serve as President of the Board . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President serves at the pleasure of the Governor without additional compensation.***

2. ***The*** Board shall elect from its members a ~~{President, a}~~ Vice President and a Secretary-Treasurer . ~~{, who}~~ ***The Vice President and Secretary-Treasurer*** shall hold their respective offices at ~~{its pleasure. —2-}~~ ***the pleasure of the Board.***

3. The Board may fix and pay a salary to the Secretary-Treasurer.

Sec. 36. NRS 633.271 is hereby amended to read as follows:

633.271 ~~{The}~~

1. After consultation with the other members of the Board , the President may:

~~{1-}~~ (a) Appoint an Executive Director . ~~{who is entitled to such compensation as is determined by the Board.~~

~~—2—~~ Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

~~—3-}~~ (b) Employ attorneys, hearing officers, investigators and other professional consultants and clerical personnel necessary to the discharge of ~~{its}~~ the duties ~~{-}~~ of the Board.

(c) *Fix the compensation of the Executive Director and any other employees.*

2. *The Board may maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.*

Sec. 37. NRS 634.030 is hereby amended to read as follows:

634.030 1. The Governor ~~{shall}~~ may appoint one of the members of the Board ~~{who is a representative of the general public}~~ to serve as President of the Board . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President serves at the pleasure of the Governor without additional compensation.

2. *The Board shall elect a ~~{President,}~~ Vice President and a Secretary. The Secretary shall serve also as Treasurer of the Board.*

~~{2-}~~ 3. The Board shall adopt reasonable regulations for the transaction of business and to enable it to carry out ~~{its}~~ the duties *of the Board* under this chapter.

Sec. 38. NRS 634.043 is hereby amended to read as follows:

634.043 1. The *President, after consultation with the other members of the Board* ~~{shall}~~ :

(a) *Shall* appoint an Executive Director who serves at the pleasure of the ~~{Board and is entitled to receive such compensation as may be fixed by the Board.~~

~~—2-}~~ *President;*

(b) *May employ attorneys, investigators and other professional consultants and clerical personnel necessary to the discharge of the duties of the Board.*

(c) *Shall fix the compensation of the Executive Director and any other employees.*

2. The Board may:

(a) Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

(b) ~~{Employ attorneys, investigators and other professional consultants and clerical personnel necessary to the discharge of its duties.~~

~~—(e)}~~ Enter and inspect any chiropractic office in this State in order to enforce the provisions of this chapter.

Sec. 39. NRS 634A.040 is hereby amended to read as follows:

634A.040 1. The Governor shall appoint ~~{three}~~ **two** members to the Board who:

- (a) Have a license issued pursuant to this chapter;
- (b) Currently engage in the practice of Oriental medicine in this State, and have engaged in the practice of Oriental medicine in this State for at least 3 years preceding appointment to the Board;
- (c) Are citizens of the United States; and
- (d) Are residents of the State of Nevada and have been for at least 1 year preceding appointment to the Board.

2. The Governor shall appoint one member to the Board who:

- (a) Is licensed pursuant to chapter 630 of NRS by the Board of Medical Examiners as a physician;
- (b) Does not engage in the administration of a facility for Oriental medicine or a school for Oriental medicine;
- (c) Does not have a pecuniary interest in any matter pertaining to Oriental medicine, except as a patient or potential patient;
- (d) Is a citizen of the United States; and
- (e) Is a resident of the State of Nevada and has been for at least 1 year preceding appointment to the Board.

3. The Governor shall appoint ~~{one member}~~ **two members** to the Board ***who are representatives of the general public and*** who:

- (a) ~~{Does}~~ **Do** not engage in the administration of a facility for Oriental medicine or a school for Oriental medicine;
- (b) ~~{Does}~~ **Do** not have a pecuniary interest in any matter pertaining to Oriental medicine, except as a patient or potential patient;
- (c) ~~{Is a citizen}~~ **Are citizens** of the United States; and
- (d) ~~{Is a resident}~~ **Are residents** of the State of Nevada and ~~{has}~~ **have** been for at least 1 year preceding appointment to the Board.

Sec. 40. NRS 634A.060 is hereby amended to read as follows:

634A.060 1. ***The Governor ~~{shall}~~ may appoint one of the members of the Board ~~{who is a representative of the general public}~~ to serve as President of the Board . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President serves at the pleasure of the Governor without additional compensation.***

2. The Board shall annually elect from its members a ~~{President,}~~ Vice President and Secretary-Treasurer . ~~{, and}~~ ***The President, after consultation with the other members of the Board,*** may fix and pay a salary to the Secretary-Treasurer.

Sec. 41. NRS 634A.070 is hereby amended to read as follows:

634A.070 1. The *President, after consultation with the other members of the* Board may ~~1-~~

~~1. Employ~~ **employ** attorneys, investigators and other professional consultants and clerical personnel necessary to discharge ~~its~~ **the** duties ~~1-~~ **To** ~~conduct its examinations, the~~ **of the Board.**

2. *The* Board may ~~call~~ :

(a) **Call** to its aid persons of established reputation and known ability in Oriental medicine ~~1-~~

~~2-1~~ **to conduct its examinations.**

(b) Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

~~3-1~~ (c) Adopt regulations not inconsistent with the provisions of this chapter. The regulations may include a code of ethics regulating the professional conduct of licensees.

~~4-1~~ (d) Compel the attendance of witnesses and the production of evidence by subpoena.

Sec. 42. NRS 635.020 is hereby amended to read as follows:

635.020 1. The State Board of Podiatry, consisting of five members appointed by the Governor, is hereby created.

2. The Governor shall appoint:

(a) ~~Three~~ **Two** members who are licensed podiatric physicians in the State of Nevada.

(b) One member who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care. This member may be licensed under the provisions of this chapter.

(c) ~~One member who is a representative~~ **Two members who are representatives** of the general public. ~~This member~~ **These members** must not be:

(1) A licensed podiatric physician in the State of Nevada; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a licensed podiatric physician in the State of Nevada.

3. The members of the Board are entitled to receive:

(a) A salary of not more than \$150 per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

4. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 43. NRS 635.030 is hereby amended to read as follows:

635.030 1. The ~~Governor shall~~ **may appoint one of the members of the Board ~~who is a representative of the general public~~ to serve as President of the Board . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President serves at the pleasure of the Governor without additional compensation.**

2. ~~The~~ Board shall elect from among its members a ~~{President, a}~~ Vice President, a Secretary and a Treasurer. The members may assign the duties of the Treasurer and the Secretary to one person who must be designated the Secretary-Treasurer.

~~{2-}~~ 3. The Board shall adopt regulations to carry out the provisions of this chapter.

~~{3-}~~ 4. The Board shall not incur any expenses which exceed the money received from time to time as fees provided by law.

~~{4-}~~ 5. The Board shall keep and preserve a complete record of all its transactions.

~~{5-}~~ 6. The Board may adopt a seal of which any court of this State may take judicial notice.

Sec. 44. NRS 635.035 is hereby amended to read as follows:

635.035 1. The Board may ~~{~~:

~~1- Maintain}~~ **maintain** offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

2. ~~{Employ}~~ **The President, after consultation with the other members of the Board, may employ** attorneys, investigators and other professional consultants and clerical personnel necessary to the discharge of ~~{its}~~ **the** duties ~~{}~~ **of the Board.**

Sec. 45. NRS 636.035 is hereby amended to read as follows:

636.035 1. The Governor shall appoint:

(a) ~~{Three}~~ **Two** members who are licensed to practice optometry in the State of Nevada and are actually engaged in the practice of optometry.

(b) ~~{One member who is a representative}~~ **Two members who are representatives** of the general public. ~~{This member}~~ **These members** must not be:

(1) Licensed to practice optometry; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a person licensed to practice optometry.

2. A person shall not be appointed if he or she:

(a) Is the owner or co-owner of, a stockholder in, or a member of the faculty or board of directors or trustees of, any school of optometry;

(b) Is financially interested, directly or indirectly, in the manufacture or wholesaling of optical supplies; or

(c) Has been convicted of a felony or a gross misdemeanor involving moral turpitude.

3. The ~~{member who is a representative}~~ ***members who are representatives*** of the general public shall not participate in preparing, conducting or grading any examination required by the Board.

Sec. 46. NRS 636.080 is hereby amended to read as follows:

636.080 1. ~~{Within a reasonable time after the appointment of a new member, the Board shall meet and organize by electing from its membership a President who shall hold office for 1 year and until the election and qualification of his or her successor.}~~ ***The Governor ~~{shall}~~ may appoint one of the members of the Board ~~{who is a representative of the general public}~~ to serve as President of the Board . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President serves at the pleasure of the Governor without additional compensation.***

2. The ~~{Board}~~ ***President, after consultation with the other members of the Board,*** shall appoint an Executive Director who serves at the pleasure of the Board and is entitled to receive compensation as set by the ***President, after consultation with the other members of the*** Board. The Executive Director must not be a member of the Board. If a vacancy occurs in the position of Executive Director, the ~~{Board}~~ ***President*** may appoint one of its members to perform the duties of the Executive Director until the position is filled. A member of the Board who is appointed to perform the duties of the Executive Director is not entitled to receive any additional compensation for performing those duties.

Sec. 47. NRS 636.090 is hereby amended to read as follows:

636.090 1. The ~~{Board}~~ ***President, after consultation with the other members of the Board,*** may employ:

(a) Agents and inspectors to secure evidence of, and report on, violations of this chapter.

(b) Attorneys, investigators and other professional consultants and clerical personnel necessary to administer this chapter.

2. The Attorney General may act as counsel for the Board.

Sec. 48. NRS 637.030 is hereby amended to read as follows:

637.030 1. The Board of Dispensing Opticians, consisting of five members appointed by the Governor, is hereby created.

2. The Governor shall appoint:

(a) ~~{Four}~~ ***Three*** members who have actively engaged in the practice of ophthalmic dispensing for not less than 3 years in the State of Nevada immediately preceding the appointment.

(b) ~~{One member who is a representative}~~ ***Two members who are representatives*** of the general public. ~~{This member}~~ ***These members*** must not be:

(1) A dispensing optician; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a dispensing optician.

3. The Governor, after hearing, may remove any member for cause.

4. The ~~{member who is the representative}~~ ***members who are representatives*** of the general public shall not participate in preparing, conducting or grading any examination required by the Board.

Sec. 49. NRS 637.040 is hereby amended to read as follows:

637.040 1. The ~~Governor {shall}~~ ***may appoint one of the members of the Board {who is a representative of the general public} to serve as President of the Board . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President serves at the pleasure of the Governor without additional compensation.***

2. ~~The~~ Board shall elect a ~~{President,}~~ Vice President, Secretary and Treasurer from its membership.

~~{2-}~~ 3. Any member of the Board may:

(a) Issue subpoenas to compel the attendance of witnesses to testify before the Board or the production of books, papers and documents. Subpoenas must issue under the seal of the Board and must be served in the same manner as subpoenas issued out of the district court.

(b) Administer oaths in taking testimony in any matter pertaining to the duties of the Board.

Sec. 50. NRS 637.070 is hereby amended to read as follows:

637.070 1. The Board may adopt such rules and regulations as it may deem necessary to carry out the provisions of this chapter.

2. The Board shall have a common seal of which all courts of this State shall take judicial notice.

3. The Board may empower any member to conduct any proceeding, hearing or investigation necessary to its purposes.

4. The ~~{Board}~~ ***President, after consultation with the other members of the Board,*** may employ and fix the compensation of attorneys, investigators and other professional consultants and such other employees and assistants as ~~{it}~~ ***the Board*** may deem necessary to carry out the provisions of this chapter.

Sec. 51. NRS 637A.040 is hereby amended to read as follows:

637A.040 1. The ~~Governor {shall}~~ ***may appoint one of the members {who is a representative of the general public} of the Board to serve as Chair of the Board . If, within 60 days after a vacancy in the office of the Chair, the Governor does not appoint one of the members of the Board as***

Chair, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the Chair, except if that member refuses to serve as Chair, the Board shall appoint one of its members as the Chair. The Chair serves at the pleasure of the Governor ~~and~~ without additional compensation.

2. The Board shall:

(a) Elect a ~~{Chair and}~~ Secretary from its members, who shall hold office for 1 year and until the election and qualification of ~~{their successors.}~~ **his or her successor.**

(b) Meet at such times and places as are specified by the Chair or a majority of the Board.

~~{2-}~~ **3.** A majority of the Board constitutes a quorum for the transaction of business.

Sec. 52. NRS 637A.110 is hereby amended to read as follows:

637A.110 **1.** In a manner consistent with the provisions of chapter 622A of NRS, the Board may:

~~{1.}—Appoint a technical, clerical and operational staff as may be required. The number of the staff appointed must be limited by the money available for that purpose in the hearing aid licensing fund.~~

~~2-}~~ **(a)** Grant or refuse licenses for any of the causes specified in this chapter.

~~{3-}~~ **(b)** Take disciplinary action against a licensee.

~~{4-}~~ **(c)** Take depositions and issue subpoenas for the purpose of any hearing authorized by this chapter.

~~{5-}~~ **(d)** Establish reasonable educational requirements for applicants and apprentices and reasonable requirements for the continuing education of hearing aid specialists and apprentices.

2. The Chair, after consultation with the other members of the Board, may appoint technical, clerical and operational staff as may be required. The number of staff appointed must be limited by the money available for that purpose.

Sec. 53. NRS 637B.100 is hereby amended to read as follows:

637B.100 **1.** The Board of Examiners for Audiology and Speech Pathology, consisting of five members appointed by the Governor, is hereby created.

2. The Governor shall appoint:

(a) ~~{Two members who have}~~ **One member who has** been engaged in the practice of speech pathology for 2 years or more;

(b) One member who has been engaged in the practice of audiology for 2 years or more;

(c) One member who is a physician and who is certified by the Board of Medical Examiners as a specialist in otolaryngology, pediatrics or neurology; and

(d) ~~{One member who is a representative}~~ ***Two members who are representatives*** of the general public. ~~{This member}~~ ***These members*** must not be:

(1) A speech pathologist or an audiologist; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a speech pathologist or an audiologist.

3. Members of the Board who are speech pathologists and audiologists must be representative of the university, public school, hospital or private aspects of the practice of audiology and of speech pathology.

4. Each member of the Board who is a speech pathologist or audiologist must hold a current license issued pursuant to this chapter or a current certificate of clinical competence from the American Speech-Language-Hearing Association.

5. The ~~{member who is a representative}~~ ***members who are representatives*** of the general public may not participate in preparing, conducting or grading any examination required by the Board.

Sec. 54. NRS 637B.110 is hereby amended to read as follows:

637B.110 1. The ~~Governor {shall}~~ ***may appoint one of the members of the Board {who is a representative of the general public} to serve as President of the Board . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President serves at the pleasure of the Governor without additional compensation.***

2. ~~The~~ Board shall elect from its members a ~~{President, a}~~ Vice President and a Secretary-Treasurer. The ~~{officers}~~ ***Vice President and Secretary-Treasurer*** of the Board hold their respective offices at ~~{its}~~ ***the*** pleasure ~~{-~~ ***of the Board.***

3. The Board shall receive through its Secretary-Treasurer applications for the licenses to be issued pursuant to this chapter.

~~{3-}~~ 4. The Secretary-Treasurer is entitled to receive a salary. The ***President, after consultation with the other members of the Board ,*** shall determine the amount of the salary.

Sec. 55. NRS 638.020 is hereby amended to read as follows:

638.020 1. The Nevada State Board of Veterinary Medical Examiners is hereby created.

2. The Board consists of seven members appointed by the Governor.

3. ~~{Six}~~ ***Five*** of the members must:

(a) Be residents of the State of Nevada.

(b) Be graduates of a veterinary college accredited by the American Veterinary Medical Association.

(c) Have been lawfully engaged in the practice of veterinary medicine in the State of Nevada for at least 5 years next preceding the date of their appointment.

4. ~~{One member}~~ **Two members** appointed by the Governor must be ~~{a representative}~~ **representatives** of the general public. ~~{This member}~~ **These members** must not be:

- (a) A veterinarian, a veterinary technician or a euthanasia technician; or
- (b) The spouse or the parent or child, by blood, marriage or adoption, of a veterinarian, a veterinary technician or a euthanasia technician.

5. Any member may be removed from the Board by the Governor for good cause.

Sec. 56. NRS 638.050 is hereby amended to read as follows:

638.050 1. The ~~Governor shall~~ **may appoint one of the members of the Board** ~~{who is a representative of the general public}~~ **to serve as President of the Board . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President serves at the pleasure of the Governor without additional compensation.**

2. ~~The Board shall elect from its appointed members a {President and Vice President, who serve}~~ **Vice President who serves** at the pleasure of the Board.

~~{2-}~~ 3. The Board may elect from its appointed members at least one member to act as a representative of the Board at any meeting held within the State or outside the State when the Board considers such representation beneficial.

~~{3-}~~ 4. The **President, after consultation with the other members of the Board, shall employ and fix the compensation for an Executive Director. The Executive Director shall maintain a copy of all correspondence for the Board.**

5. **The Board shall:**

(a) ~~{Employ an Executive Director, who shall maintain a copy of all correspondence;~~

~~{b)}~~ Adopt regulations concerning the duties and qualifications of the Executive Director; and

~~{c)}~~ **(b)** At least annually, review the performance of the Executive Director.

Sec. 57. NRS 638.070 is hereby amended to read as follows:

638.070 1. The Board shall adopt regulations providing an administrative fine in an amount not to exceed \$500 if an applicant for a license or the renewal of a license:

- (a) Intentionally or knowingly makes a false or misleading statement on an application;

(b) Knowingly fails to submit a notarized application; or
 (c) Fails to inform the Board of any change of information which was contained in an application.

2. The Board may adopt regulations:

(a) Necessary to carry out the provisions of this chapter;
 (b) Concerning the rights and responsibilities of veterinary interns and externs and graduates of schools of veterinary medicine located outside the United States or Canada;

(c) Concerning the rights and responsibilities of a veterinarian's employees who are not licensed nor working towards obtaining a license pursuant to this chapter and whose duties require them to spend a substantial portion of their time in direct contact with animals;

(d) Concerning requirements for continuing education;

(e) Establishing procedures to approve schools which confer the degree of veterinary technician or its equivalent;

(f) Concerning the disposition of animals which are abandoned or left unclaimed at the office of a veterinarian;

(g) Establishing sanitary requirements for facilities in which veterinary medicine is practiced, including, but not limited to, precautions to be taken to prevent the creation or spread of any infectious or contagious disease; and

(h) Concerning alternative veterinary medicine, including, but not limited to, acupuncture, chiropractic procedures, dentistry, cosmetic surgery, holistic medicine, and the provision of such services by a licensed provider of health care under the direction of a licensed veterinarian.

3. The *President, after consultation with the other members of the Board*, may ~~+~~:

~~—(a) Employ~~ **employ** attorneys, investigators, hearing officers for disciplinary hearings, and other professional consultants and clerical personnel necessary to the discharge of ~~its~~ **the** duties ~~+~~;

~~—(b) of the Board.~~

4. *The Board may*

(a) Conduct investigations and take and record evidence as to any matter cognizable by it;

~~+(e)~~ (b) Maintain offices in as many localities in the State as it considers necessary to carry out the provisions of this chapter; and

~~+(d)~~ (c) Purchase or rent any office space, equipment and supplies that it considers necessary to carry out the provisions of this chapter.

Sec. 58. NRS 639.030 is hereby amended to read as follows:

639.030 1. The Governor shall appoint:

(a) ~~{Six}~~ **Five** members who are registered pharmacists in the State of Nevada, are actively engaged in the practice of pharmacy in the State of Nevada and have had at least 5 years' experience as registered pharmacists preceding the appointment.

(b) ~~{One member who is a representative}~~ **Two members who are representatives** of the general public and ~~{is}~~ **are** not related to a pharmacist

registered in the State of Nevada by consanguinity or affinity within the third degree.

2. Appointments of registered pharmacists must be representative of the practice of pharmacy.

3. Within 30 days after appointment, each member of the Board shall take and subscribe an oath to discharge faithfully and impartially the duties prescribed by this chapter.

4. After the initial terms, the members of the Board must be appointed to terms of 3 years. A person may not serve as a member of the Board for more than three consecutive terms. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this chapter to replace that member for the remainder of the unexpired term.

5. The Governor shall remove from the Board any member, after a hearing, for neglect of duty or other just cause.

Sec. 59. NRS 639.040 is hereby amended to read as follows:

639.040 1. The ~~Governor shall~~ **may appoint one of the members of the Board ~~who is a representative of the general public~~ to serve as President of the Board . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President serves at the pleasure of the Governor without additional compensation.**

2. The Board shall elect a ~~President and a~~ Treasurer from among its members.

~~{2-}~~ 3. The ~~{Board}~~ ***President, after consultation with the other members of the Board,*** shall employ an Executive Secretary, who is not a member of the Board. The Executive Secretary must have experience as a licensed pharmacist in this State or in another state with comparable licensing requirements. The Executive Secretary shall keep a complete record of all proceedings of the Board and of all certificates issued, and shall perform such other duties as the Board may require, for which services the Executive Secretary is entitled to receive a salary to be determined by the ***President, after consultation with the other members of the Board.***

Sec. 60. NRS 639.070 is hereby amended to read as follows:

639.070 1. The ***President, after consultation with the other members of the Board, may employ an attorney, inspectors, investigators and other professional consultants and clerical personnel necessary to the discharge of the duties of the Board.***

2. The Board may:

(a) Adopt such regulations, not inconsistent with the laws of this State, as are necessary for the protection of the public, appertaining to the practice of pharmacy and the lawful performance of its duties.

(b) Adopt regulations requiring that prices charged by retail pharmacies for drugs and medicines which are obtained by prescription be posted in the pharmacies and be given on the telephone to persons requesting such information.

(c) Adopt regulations, not inconsistent with the laws of this State, authorizing the Executive Secretary of the Board to issue certificates, licenses and permits required by this chapter and chapters 453 and 454 of NRS.

(d) Adopt regulations governing the dispensing of poisons, drugs, chemicals and medicines.

(e) Regulate the practice of pharmacy.

(f) Regulate the sale and dispensing of poisons, drugs, chemicals and medicines.

(g) Regulate the means of recordkeeping and storage, handling, sanitation and security of drugs, poisons, medicines, chemicals and devices, including, but not limited to, requirements relating to:

(1) Pharmacies, institutional pharmacies and pharmacies in correctional institutions;

(2) Drugs stored in hospitals; and

(3) Drugs stored for the purpose of wholesale distribution.

(h) Examine and register, upon application, pharmacists and other persons who dispense or distribute medications whom it deems qualified.

(i) Charge and collect necessary and reasonable fees for the expedited processing of a request or for any other incidental service the Board provides, other than those specifically set forth in this chapter.

(j) Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

~~(k) Employ an attorney, inspectors, investigators and other professional consultants and clerical personnel necessary to the discharge of its duties.~~

~~—(4)—~~ Enforce the provisions of NRS 453.011 to 453.552, inclusive, and enforce the provisions of this chapter and chapter 454 of NRS.

~~{(m)}~~ *(l)* Adopt regulations concerning the information required to be submitted in connection with an application for any license, certificate or permit required by this chapter or chapter 453 or 454 of NRS.

~~{(n)}~~ *(m)* Adopt regulations concerning the education, experience and background of a person who is employed by the holder of a license or permit issued pursuant to this chapter and who has access to drugs and devices.

~~{(o)}~~ *(n)* Adopt regulations concerning the use of computerized mechanical equipment for the filling of prescriptions.

~~{(p)}~~ *(o)* Participate in and expend money for programs that enhance the practice of pharmacy.

~~{2-}~~ **3.** This section does not authorize the Board to prohibit open-market competition in the advertising and sale of prescription drugs and pharmaceutical services.

Sec. 61. NRS 640.030 is hereby amended to read as follows:

640.030 1. The State Board of Physical Therapy Examiners, consisting of five members appointed by the Governor, is hereby created.

2. The Governor shall appoint:

(a) ~~{Four}~~ **Three** members who are licensed physical therapists in the State of Nevada.

(b) ~~{One member who is a representative}~~ **Two members who are representatives** of the general public. ~~{This member}~~ **These members** must not be:

(1) A physical therapist, a physical therapist's assistant or a physical therapist's technician; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a physical therapist, a physical therapist's assistant or a physical therapist's technician.

3. The ~~{member who is a representative}~~ **members who are representatives** of the general public shall not participate in preparing, conducting or grading any examination required by the Board.

4. No member of the Board may serve more than two consecutive terms.

5. The Governor may remove any member of the Board for incompetency, neglect of duty, gross immorality or malfeasance in office.

6. A majority of the members of the Board constitutes a quorum.

7. No member of the Board may be held liable in a civil action for any act which he or she has performed in good faith in the execution of his or her duties under this chapter.

Sec. 62. NRS 640.035 is hereby amended to read as follows:

640.035 1. ~~The Governor shall~~ **may appoint one of the members of the Board** ~~{who is a representative of the general public}~~ **to serve as Chair of the Board . If, within 60 days after a vacancy in the office of the Chair, the Governor does not appoint one of the members of the Board as Chair, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the Chair, except if that member refuses to serve as Chair, the Board shall appoint one of its members as the Chair. The Chair serves at the pleasure of the Governor without additional compensation.**

2. The Board shall elect ~~{a Chair and}~~ other officers from among its members.

Sec. 63. NRS 640.050 is hereby amended to read as follows:

640.050 1. The Board shall examine and license qualified physical therapists and qualified physical therapist's assistants.

2. The Board may adopt reasonable regulations to carry this chapter into effect, including, but not limited to, regulations concerning the:

(a) Issuance and display of licenses.

(b) Supervision of physical therapist's assistants and physical therapist's technicians.

(c) Treatments and other regulated procedures which may be performed by physical therapist's technicians.

3. The Board shall keep a record of its proceedings and a register of all persons licensed under the provisions of this chapter. The register must show:

- (a) The name of every living licensee.
- (b) The last known place of business and residence of each licensee.
- (c) The date and number of each license issued as a physical therapist or physical therapist's assistant.

4. During September of every year in which renewal of a license is required, the Board shall compile a list of licensed physical therapists authorized to practice physical therapy and physical therapist's assistants licensed to assist in the practice of physical therapy in this State. Any interested person in the State may obtain a copy of the list upon application to the Board and the payment of such amount as may be fixed by the Board, which amount must not exceed the cost of the list so furnished.

5. The *Chair, after consultation with the other members of the Board, may employ attorneys, investigators and other professional consultants and clerical personnel necessary to the discharge of the duties of the Board.*

6. *The Board may:*

(a) Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

(b) ~~{Employ attorneys, investigators and other professional consultants and clerical personnel necessary to the discharge of its duties.~~

~~{e}~~ Adopt a seal of which a court may take judicial notice.

~~{6-}~~ 7. Any member or agent of the Board may enter an office, clinic or hospital where physical therapy is practiced and inspect it to determine if the physical therapists are licensed.

~~{7-}~~ 8. Any member of the Board may administer an oath to a person testifying in a matter that relates to the duties of the Board.

Sec. 64. NRS 640A.080 is hereby amended to read as follows:

640A.080 1. The Board of Occupational Therapy, consisting of five members appointed by the Governor, is hereby created.

2. The Governor shall appoint to the Board:

(a) ~~{One member who is a representative}~~ ***Two members who are representatives*** of the general public. ~~{This member}~~ ***These members*** must not be:

- (1) An occupational therapist or an occupational therapy assistant; or
- (2) The spouse or the parent or child, by blood, marriage or adoption, of an occupational therapist or an occupational therapy assistant.

(b) One member who is an occupational therapist or occupational therapy assistant.

(c) ~~{Three}~~ ***Two*** members who are occupational therapists.

3. Each member of the Board must be a resident of Nevada. An occupational therapist or occupational therapy assistant appointed to the Board must:

(a) Have practiced, taught or conducted research in occupational therapy for the 5 years immediately preceding the appointment; and

(b) Except for the initial members, hold a license issued pursuant to this chapter.

4. No member of the Board may serve more than two consecutive terms.

5. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this chapter to replace that member for the remainder of the unexpired term.

Sec. 65. NRS 640A.090 is hereby amended to read as follows:

640A.090 1. The **Governor ~~shall~~ may appoint one of the members of the Board ~~who is a representative of the general public~~ to serve as Chair of the Board . If, within 60 days after a vacancy in the office of the Chair, the Governor does not appoint one of the members of the Board as Chair, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the Chair, except if that member refuses to serve as Chair, the Board shall appoint one of its members as the Chair. The Chair serves at the pleasure of the Governor without additional compensation.**

2. **The Board shall:**

(a) Hold at least two meetings a year, the first of which must be held in January. Other meetings may be held at the call of the Chair or upon the written request of two or more members.

(b) ~~{E}lect a Chair at the regular meeting in January of each year.~~

—~~{e}~~ Comply with the provisions of chapter 241 of NRS.

~~{2-}~~ 3. A majority of the members of the Board constitutes a quorum.

Sec. 66. NRS 640A.100 is hereby amended to read as follows:

640A.100 1. The members of the Board serve without compensation, except that while engaged in the business of the Board, each member is entitled to the per diem allowance and travel expenses provided for state officers and employees generally.

2. The **Chair, after consultation with the other members of the Board ,** may employ an Executive Secretary and any other employees ~~{t}~~ **the Board** deems necessary, establish their duties and fix their salaries.

3. The expenses of the Board and members of the Board, and the salaries of its employees, must be paid from the fees received by the Board pursuant to this chapter, and no part of those expenses and salaries may be paid out of the State General Fund.

Sec. 67. NRS 640B.170 is hereby amended to read as follows:

640B.170 1. The Board of Athletic Trainers is hereby created.

2. The Governor shall appoint to the Board:

(a) ~~{Three}~~ **Two** members who:

(1) Are licensed as athletic trainers pursuant to the provisions of this chapter; and

(2) Have engaged in the practice of athletic training or taught or conducted research concerning the practice of athletic training for the 5 years immediately preceding their appointment;

(b) One member who is licensed as a physical therapist pursuant to chapter 640 of NRS and who is also licensed as an athletic trainer pursuant to this chapter; and

(c) ~~{One member who is a representative of the}~~ ***Two members who are representatives of the general public.***

3. Each member of the Board:

(a) Must be a resident of this State; and

(b) May not serve more than two consecutive terms.

4. After the initial terms, the members of the Board must be appointed to terms of 3 years.

5. A vacancy on the Board must be filled in the same manner as the original appointment.

6. The Governor may remove a member of the Board for incompetence, neglect of duty, moral turpitude or malfeasance in office.

7. No member of the Board may be held liable in a civil action for any act he or she performs in good faith in the execution of his or her duties pursuant to the provisions of this chapter.

8. The ~~{member}~~ ***members*** of the Board who ~~{is a representative}~~ ***are representatives*** of the ***general*** public shall not participate in preparing or grading any examination required by the Board.

Sec. 68. NRS 640B.190 is hereby amended to read as follows:

640B.190 1. The Governor ~~{shall}~~ ***may appoint one of the members of the Board [who is a representative of the general public] to serve as Chair of the Board . If, within 60 days after a vacancy in the office of the Chair, the Governor does not appoint one of the members of the Board as Chair, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the Chair, except if that member refuses to serve as Chair, the Board shall appoint one of its members as the Chair. The Chair serves at the pleasure of the Governor without additional compensation.***

2. ~~The~~ Board shall {:

(a) Elect from its members a Chair at the first meeting of each year; and

(b) ~~Meet~~ ***meet*** at least three times each year at the call of the Chair of the Board, or upon the written request of at least three members of the Board.

~~{2-}~~ 3. A majority of the members of the Board constitutes a quorum for the transaction of the business of the Board.

Sec. 69. NRS 640B.200 is hereby amended to read as follows:

640B.200 1. The ~~{Board}~~ ***Chair, after consultation with the other members of the Board,*** may employ an Executive Secretary and any other persons necessary to carry out ~~{its duties.}~~ ***the duties of the Board.***

2. The members of the Board are not entitled to receive a salary.

3. While engaged in the business of the Board, each member and employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the ***Chair, after consultation with the other***

members of the Board. The rate must not exceed the rate provided for officers and employees of this State generally.

Sec. 70. NRS 640C.150 is hereby amended to read as follows:

640C.150 1. The Board of Massage Therapists is hereby created. The Board consists of seven members appointed pursuant to this chapter and one nonvoting advisory member appointed pursuant to NRS 640C.160.

2. The Governor shall appoint to the Board seven members as follows:

(a) ~~{Six}~~ **Five** members who:

(1) Are licensed to practice massage therapy in this State; and

(2) Have engaged in the practice of massage therapy for the 2 years immediately preceding their appointment.

↪ Of the ~~{six}~~ **five** members appointed pursuant to this paragraph, ~~{three}~~ **two** members must be residents of Clark County, two members must be residents of Washoe County and one member must be a resident of a county other than Clark County or Washoe County.

(b) ~~{One member who is a member of}~~ **Two members who are representatives of** the general public. ~~{This member}~~ **These members** must not be:

(1) A massage therapist; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a massage therapist.

3. The members who are appointed to the Board pursuant to paragraph (a) of subsection 2 must continue to practice massage therapy in this State while they are members of the Board.

4. After the initial terms, the term of each member of the Board is 4 years. A member may continue in office until the appointment of a successor.

5. A member of the Board may not serve more than two consecutive terms. A former member of the Board is eligible for reappointment to the Board if that person has not served on the Board during the 4 years immediately preceding the reappointment.

6. A vacancy must be filled by appointment for the unexpired term in the same manner as the original appointment.

7. The Governor may remove any member of the Board for incompetence, neglect of duty, moral turpitude or misfeasance, malfeasance or nonfeasance in office.

Sec. 71. NRS 640C.180 is hereby amended to read as follows:

640C.180 1. **The Governor ~~{shall}~~ may appoint one of the members of the Board ~~{who is a representative of the general public}~~ to serve as Chair of the Board. If, within 60 days after a vacancy in the office of the Chair, the Governor does not appoint one of the members of the Board as Chair, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the Chair, except if that member refuses to serve as Chair, the Board shall appoint one of its members as the**

Chair. The Chair serves at the pleasure of the Governor without additional compensation.

2. At the first meeting of each fiscal year, the members of the Board shall elect a ~~{Chair,}~~ Vice Chair and Secretary-Treasurer from among the members.

~~{2-}~~ 3. The Board shall meet at least quarterly and may meet at other times at the call of the Chair or upon the written request of a majority of the members of the Board.

~~{3-}~~ 4. The Board shall alternate the location of its meetings between the southern district of Nevada and the northern district of Nevada. For the purposes of this subsection:

(a) The southern district of Nevada consists of all that portion of the State lying within the boundaries of the counties of Clark, Esmeralda, Lincoln and Nye.

(b) The northern district of Nevada consists of all that portion of the State lying within the boundaries of Carson City and the counties of Churchill, Douglas, Elko, Eureka, Humboldt, Lander, Lyon, Mineral, Pershing, Storey, Washoe and White Pine.

~~{4-}~~ 5. A meeting of the Board may be conducted telephonically or by videoconferencing. A meeting conducted telephonically or by videoconferencing must meet the requirements of chapter 241 of NRS and any other applicable provisions of law.

~~{5-}~~ 6. Four members of the Board constitute a quorum for the purposes of transacting the business of the Board, including, without limitation, issuing, renewing, suspending, revoking or reinstating a license issued pursuant to this chapter.

Sec. 72. NRS 640C.200 is hereby amended to read as follows:

640C.200 1. The ***Chair, after consultation with the other members of the Board***, shall employ a person as the Executive Director of the Board.

2. The Executive Director serves as the chief administrative officer of the Board at a level of compensation set by the ***Chair, after consultation with the other members of the Board***.

3. The Executive Director is an at-will employee who serves at the pleasure of the ~~{Board,}~~ ***Chair***.

Sec. 73. NRS 640C.210 is hereby amended to read as follows:

640C.210 1. The ~~{Board}~~ ***Chair, after consultation with the other members of the Board***, may employ or contract with inspectors, investigators, advisers, examiners and clerks and any other persons required to carry out ~~{its}~~ ***the duties of the Board*** and secure the services of attorneys and other professional consultants as ~~{it}~~ ***the Board*** may deem necessary to carry out the provisions of this chapter.

2. Each employee of the Board is an at-will employee who serves at the pleasure of the ~~{Board. The Board}~~ ***Chair. The Chair*** may discharge an employee of the Board for any reason that does not violate public policy, including, without limitation, making a false representation to the Board.

Sec. 74. NRS 641.040 is hereby amended to read as follows:

641.040 1. The Governor shall appoint to the Board:

(a) ~~Four~~ **Three** members who are licensed psychologists in the State of Nevada with at least 5 years of experience in the practice of psychology after being licensed.

(b) One member who is a licensed behavior analyst in the State of Nevada.

(c) One member who has resided in this State for at least 5 years and who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care.

(d) ~~{One member who is a representative}~~ **Two members who are representatives** of the general public.

2. A person is not eligible for appointment unless he or she is:

(a) A citizen of the United States; and

(b) A resident of the State of Nevada.

3. The ~~{member who is a representative}~~ **members who are representatives** of the general public:

(a) Shall not participate in preparing, conducting or grading any examination required by the Board.

(b) Must not be a psychologist, an applicant or a former applicant for licensure as a psychologist, a member of a health profession, the spouse or the parent or child, by blood, marriage or adoption, of a psychologist, or a member of a household that includes a psychologist.

4. Board members must not have any conflicts of interest or the appearance of such conflicts in the performance of their duties as members of the Board.

Sec. 75. NRS 641.080 is hereby amended to read as follows:

641.080 1. ~~The Governor shall~~ **may appoint one of the members of the Board** ~~{who is a representative of the general public}~~ **to serve as President of the Board . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President serves at the pleasure of the Governor without additional compensation.**

2. At the regular annual meeting, the Board shall elect from its membership a ~~{President and a}~~ Secretary-Treasurer, who shall hold office for 1 year and until the election and qualification of ~~{their successors.}~~ **his or her successor.**

Sec. 76. NRS 641.115 is hereby amended to read as follows:

641.115 1. The Board may ~~{~~

(a) ~~Maintain~~ **maintain** offices in as many localities in the State as it considers necessary to carry out the provisions of this chapter.

~~{(b) Employ}~~

2. The President, after consultation with the other members of the Board, may employ attorneys, investigators, consultants, hearings officers and employees necessary to the discharge of ~~its duties.~~

~~2.] the duties of the Board.~~

3. Any expense incurred by the Board may not be paid out of the State General Fund.

Sec. 77. NRS 641A.140 is hereby amended to read as follows:

641A.140 **1. The Governor ~~shall~~ may appoint one of the members of the Board ~~who is a representative of the general public~~ to serve as President of the Board . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President serves at the pleasure of the Governor without additional compensation.**

2. At the regular meeting **of the Board** the Board shall elect from its membership a ~~President, a~~ Vice President and a Secretary-Treasurer, who shall hold office for 1 year and until the election and qualification of their successors.

Sec. 78. NRS 641B.100 is hereby amended to read as follows:

641B.100 **1.** The Board of Examiners for Social Workers consists of five members appointed by the Governor.

2. ~~Four~~ **Three** members appointed to the Board must be licensed or eligible for licensure pursuant to this chapter, except the initial members who must be eligible for licensure.

3. ~~One member~~ **Two members** appointed to the Board must be ~~a representative~~ **representatives** of the general public. ~~This member~~ **These members** must not be:

(a) Licensed or eligible for licensure pursuant to this chapter; or

(b) The spouse or the parent or child, by blood, marriage or adoption, of a person who is licensed or eligible for licensure pursuant to this chapter.

Sec. 79. NRS 641B.120 is hereby amended to read as follows:

641B.120 **1. The Governor ~~shall~~ may appoint one of the members of the Board ~~who is a representative of the general public~~ to serve as President of the Board . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President serves at the pleasure of the Governor without additional compensation.**

2. **The** Board shall elect from its members a ~~President, a~~ Vice President and a Secretary-Treasurer, who hold their respective offices at ~~its pleasure.~~

~~2.] the pleasure of the Board.~~

3. An election of officers must be held annually.

~~{3-}~~ 4. The Board shall meet at least once in each quarter of the year and may meet at other times at the call of the President or a majority of its members.

~~{4-}~~ 5. A majority of the Board constitutes a quorum to transact all business.

Sec. 80. NRS 641C.150 is hereby amended to read as follows:

641C.150 1. The Board of Examiners for Alcohol, Drug and Gambling Counselors, consisting of seven members appointed by the Governor, is hereby created.

2. The Board must consist of:

(a) ~~{Three}~~ **Two** members who are licensed as clinical alcohol and drug abuse counselors or alcohol and drug abuse counselors pursuant to the provisions of this chapter.

(b) One member who is certified as an alcohol and drug abuse counselor pursuant to the provisions of this chapter.

(c) Two members who are licensed pursuant to chapter 630, 632, 641, 641A or 641B of NRS and certified as problem gambling counselors pursuant to the provisions of this chapter.

(d) ~~{One member who is a representative}~~ **Two members who are representatives** of the general public. ~~{This member}~~ **These members** must not be:

(1) A licensed clinical alcohol and drug abuse counselor or a licensed or certified alcohol and drug abuse counselor or a certified problem gambling counselor; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a licensed clinical alcohol and drug abuse counselor or a licensed or certified alcohol and drug abuse counselor or a certified problem gambling counselor.

3. A person may not be appointed to the Board unless he or she is:

(a) A citizen of the United States or is lawfully entitled to remain and work in the United States; and

(b) A resident of this State.

4. No member of the Board may be held liable in a civil action for any act that he or she performs in good faith in the execution of his or her duties pursuant to the provisions of this chapter.

Sec. 81. NRS 641C.160 is hereby amended to read as follows:

641C.160 1. After the initial terms, the members of the Board must be appointed to terms of 4 years and may not serve more than two consecutive terms.

2. Upon the expiration of a term, the member continues to serve on the Board until a qualified person has been appointed as a successor.

3. The Governor may, after notice and hearing, remove any member of the Board for misconduct, incompetence, neglect of duty or any other sufficient cause.

4. The ~~Governor shall~~ **may appoint one of the members of the Board** ~~who is a representative of the general public~~ **to serve as President of the Board. If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President serves at the pleasure of the Governor without additional compensation.**

5. *The Board shall:*

(a) Elect annually from its members a ~~{President,}~~ Vice President and Secretary-Treasurer. If the ~~{President,}~~ Vice President or Secretary-Treasurer is replaced by another person appointed by the Governor, the Board shall elect from its members a replacement for the ~~{President,}~~ Vice President or Secretary-Treasurer.

(b) Meet not less than twice a year and may meet at other times at the call of the President or a majority of its members.

(c) Not incur any expenses that exceed the money received from time to time as fees provided by the provisions of this chapter.

(d) Prepare and maintain a record of its transactions and proceedings.

(e) Adopt a seal of which each court of this State shall take judicial notice.

~~{5-}~~ 6. A majority of the members of the Board constitutes a quorum to transact the business of the Board.

Sec. 82. NRS 641C.180 is hereby amended to read as follows:

641C.180 1. The Board may ~~{~~:

~~1.—Maintain}~~ **maintain** offices in as many locations in this State as it considers necessary to carry out the provisions of this chapter.

~~{2.—Employ}~~

2. The President, after consultation with the other members of the Board, may employ attorneys, investigators and other persons necessary to carry out ~~{its}~~ **the duties** ~~{}~~ **of the Board.**

Sec. 83. NRS 642.020 is hereby amended to read as follows:

642.020 1. The Nevada State Funeral Board, consisting of five members appointed by the Governor, is hereby created.

2. The Governor shall appoint:

(a) One member who is actively engaged as a funeral director and embalmer.

(b) One member who is actively engaged as an operator of a cemetery.

(c) One member who is actively engaged in the operation of a crematory.

(d) Two members who are representatives of the general public.

3. No member who is a representative of the general public may:

(a) Be the holder of a license or certificate issued by the Board or be an applicant or former applicant for such a license or certificate.

(b) Be related within the third degree of consanguinity or affinity to the holder of a license or certificate issued by the Board.

(c) Be employed by the holder of a license or certificate issued by the Board.

4. After the initial terms, members of the Board serve terms of 4 years, except when appointed to fill unexpired terms.

5. The ~~{Chair of the Board must be chosen from}~~ **Governor ~~{shall}~~ may appoint one of** the members of the Board ~~{who} {are representatives} {is a representative of the general public} {}~~ **to serve as Chair of the Board . If, within 60 days after a vacancy in the office of the Chair, the Governor does not appoint one of the members of the Board as Chair, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the Chair, except if that member refuses to serve as Chair, the Board shall appoint one of its members as the Chair. The Chair serves at the pleasure of the Governor without additional compensation.**

Sec. 84. NRS 642.055 is hereby amended to read as follows:

642.055 1. The Board may ~~{~~

~~1. Maintain}~~ **maintain** offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter and chapters 451 and 452 of NRS.

2. ~~{Employ}~~ **The Chair, after consultation with the other members of the Board, may employ** attorneys, investigators and other professional consultants and clerical personnel necessary to the discharge of ~~{its duties.}~~ **the duties of the Board.**

Sec. 85. NRS 643.020 is hereby amended to read as follows:

643.020 1. The State Barbers' Health and Sanitation Board, consisting of ~~{four}~~ **five** members, is hereby created.

2. The Board consists of the State Health Officer, or a member of his or her staff designated by the State Health Officer, **one member who is a representative of the general public appointed by the Governor** and three members who are licensed barbers appointed by the Governor. Of the barbers, one barber must be from Clark County, one barber must be from Washoe County and one barber must be from any county in the State. Each of the barbers must have been a resident of this State and a practicing licensed barber for at least 5 years immediately before his or her appointment.

3. The Governor may remove a member of the Board for cause.

Sec. 86. NRS 643.030 is hereby amended to read as follows:

643.030 1. The ~~{Board shall elect a President.}~~ **Governor ~~{shall}~~ may appoint one of the ~~{member}~~ members of the Board ~~{who is a representative of the general public}~~ to serve as President of the Board . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the member of the Board who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President**

serves at the pleasure of the Governor without additional compensation.

No person may serve as President for more than 4 consecutive years.

2. The Board shall elect a Vice President.

3. The Board shall elect a Secretary-Treasurer, who may or may not be a member of the Board. The Board shall fix the salary of the Secretary-Treasurer, which must not exceed the sum of \$3,600 per year.

4. Each officer and member of the Board is entitled to receive:

(a) A salary of not more than \$150 per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

5. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

6. The Secretary-Treasurer shall:

(a) Keep a record of all proceedings of the Board.

(b) Give to this State a bond in the sum of \$3,000, with sufficient sureties, for the faithful performance of his or her duties. The bond must be approved by the Board.

Sec. 87. NRS 643.050 is hereby amended to read as follows:

643.050 1. The ***President, after consultation with the other members of the Board, may employ attorneys, investigators and other professional consultants and clerical personnel necessary to the discharge of the duties of the Board.***

2. ***The*** Board may:

(a) Maintain offices in as many locations in this State as it finds necessary to carry out the provisions of this chapter.

(b) ~~{Employ attorneys, investigators and other professional consultants and clerical personnel necessary to the discharge of its duties.~~

~~—(e)}~~ Adopt regulations necessary to carry out the provisions of this chapter.

~~{2-}~~ 3. The Board shall prescribe, by regulation, sanitary requirements for barbershops and barber schools.

~~{3-}~~ 4. Any member of the Board or its agents or assistants may enter and inspect any barbershop or barber school at any time during business hours or at any time when the practice of barbering or instruction in that practice is being carried on.

~~{4-}~~ 5. The Board shall keep a record of its proceedings relating to the issuance, refusal, renewal, suspension and revocation of licenses. The record must contain the name, place of business and residence of each licensed barber, licensed apprentice and instructor, and the date and number of the license. The record must be open to public inspection at all reasonable times.

~~{5-}~~ 6. The Board may approve and, by official order, establish the days and hours when barbershops may remain open for business whenever agreements fixing such opening and closing hours have been signed and submitted to the Board by any organized and representative group of licensed barbers of at least 70 percent of the licensed barbers of any county. The Board may investigate the reasonableness and propriety of the hours fixed by such an agreement, as is conferred by the provisions of this chapter, and the Board may fix hours for any portion of a county.

~~{6-}~~ 7. The Board may adopt regulations governing the conduct of barber schools and the course of study of barber schools.

Sec. 88. NRS 644.030 is hereby amended to read as follows:

644.030 1. The State Board of Cosmetology consisting of seven members appointed by the Governor is hereby created.

2. The Board must consist of ~~{four}~~ **three** cosmetologists, one nail technologist, one aesthetician and ~~{one member representing customers of cosmetology}~~ **two members who are representatives of the general public.**

Sec. 89. NRS 644.040 is hereby amended to read as follows:

644.040 1. ~~{No}~~ **Except as otherwise provided in subsection 2, no** person is eligible for appointment as a member of the Board:

(a) Who is not licensed as a nail technologist, electrologist, aesthetician or cosmetologist under the provisions of this chapter.

(b) Who is not, at the time of appointment, actually engaged in the practice of his or her respective branch of cosmetology.

(c) Who is not at least 25 years of age.

(d) Who has not been a resident of this State for at least 3 years immediately before appointment.

2. The requirements of paragraphs (a) and (b) of subsection 1 do not apply to a person appointed ~~{to represent customers of cosmetology}~~ **as a representative of the general public.**

3. Not more than one member of the Board may be connected, directly or indirectly, with any school of cosmetology, or have been so connected while previously serving as a member of the Board.

Sec. 90. NRS 644.060 is hereby amended to read as follows:

644.060 1. ~~The Governor {shall}~~ **may appoint one of the members of the Board {who is a representative of the general public} to serve as President of the Board . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Board as President, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Board shall appoint one of its members as the President. The President serves at the pleasure of the Governor without additional compensation.**

2. The members of the Board shall annually elect a ~~{President, a}~~ Vice President, a Treasurer and a Secretary from among their number. The

members may assign the duties of the Treasurer and the Secretary to one person who shall be Treasurer and Secretary.

Sec. 91. NRS 644.080 is hereby amended to read as follows:

644.080 **1.** The ~~Board~~:

~~1. Shall~~ ***President, after consultation with the other members of the Board, shall*** prescribe the duties of its officers, examiners and employees, and fix the compensation of those employees.

2. The Board:

(a) May establish offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter. All records and files of the Board must be kept at the main office of the Board and, except as otherwise provided in NRS 644.446, be open to public inspection at all reasonable hours.

~~{3-}~~ (b) May adopt a seal.

~~{4-}~~ (c) May issue subpoenas to compel the attendance of witnesses and the production of books and papers.

Sec. 92. NRS 644.150 is hereby amended to read as follows:

644.150 The ~~Board~~ ***President, after consultation with the other members of the Board,*** may employ inspectors, investigators, advisers, examiners and clerks and secure the services of attorneys and other professional consultants, but no part of the compensation of those persons or reasonable expenses incurred by the Board may be paid by the State.

Sec. 93. NRS 645.090 is hereby amended to read as follows:

645.090 **1.** Each member of the Commission must:

~~{1-}~~ (a) Be a citizen of the United States.

~~{2-}~~ (b) Have been a resident of the State of Nevada for not less than 5 years.

2. Two members of the Commission must be representatives of the general public.

3. ~~Have~~ Three members of the Commission must have been actively engaged in business as:

(a) A real estate broker within the State of Nevada for at least 3 years immediately preceding the date of appointment; or

(b) A real estate broker-salesperson within the State of Nevada for at least 5 years immediately preceding the date of appointment.

Sec. 94. NRS 645.110 is hereby amended to read as follows:

645.110 **1. The Governor ~~shall~~ may appoint one of the members of the Commission ~~who is a representative of the general public~~ to serve as President of the Commission . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Commission as President, the longest-serving member of the Commission who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Commission shall appoint one of its members as the President. The**

President serves at the pleasure of the Governor without additional compensation.

2. The Commission, at the first meeting of each fiscal year, shall elect a ~~{President, a}~~ Vice President and a Secretary to serve for the ensuing year.

Sec. 95. NRS 645C.180 is hereby amended to read as follows:

645C.180 1. The Commission of Appraisers of Real Estate is hereby created, consisting of five members appointed by the Governor.

2. At least two members of the Commission must be residents of the southern district of Nevada, which consists of the counties of Clark, Esmeralda, Lincoln and Nye.

3. At least two members of the Commission must be residents of the northern district of Nevada, which consists of Carson City, and the counties of Churchill, Douglas, Elko, Eureka, Humboldt, Lander, Lyon, Mineral, Pershing, Storey, Washoe and White Pine.

4. Not more than two members may be appointed from any one county.

5. ~~{After the terms of the initial members, the}~~ **The** Commission must contain ~~{at least two members who hold certificates as general appraisers and at least two members who hold certificates or licenses as residential appraisers.}~~

~~—6.} :~~

(a) At least one member who holds a certificate as a general appraiser and at least one member who holds a certificate or license as a residential appraiser.

(b) Two members who must be representatives of the general public.

6. A member of the Commission is eligible for reappointment, but shall not serve for a period greater than 6 years consecutively, after which the member is not eligible for appointment or reappointment until 3 years have elapsed from his or her previous period of service.

Sec. 96. NRS 645C.190 is hereby amended to read as follows:

645C.190 1. Each member of the Commission must:

(a) Be a citizen of the United States or be lawfully entitled to remain and work in the United States; **and**

(b) Have been a resident of the State of Nevada for not less than 5 years .
~~};~~

~~(c) Have}~~

2. ***A member of the Commission who holds a certificate as a general appraiser or a certificate or license as a residential appraiser must have been actively engaged in business as an appraiser within the State for a period of not less than 3 years immediately preceding the date of appointment . }***~~}; and~~

~~(d) After the terms of the initial members, be a certified or licensed appraiser.~~

~~2.} 3.~~ Before entering upon the duties of his or her office, each member of the Commission shall take:

(a) The constitutional oath of office; and

(b) An oath that the member is legally qualified to serve as a member of the Commission.

Sec. 97. NRS 645C.200 is hereby amended to read as follows:

645C.200 1. The Governor ~~shall~~ **may appoint one of the members of the Commission [who is a representative of the general public] to serve as President of the Commission . If, within 60 days after a vacancy in the office of the President, the Governor does not appoint one of the members of the Commission as President, the longest-serving member of the Commission who is a representative of the general public shall be deemed to be the President, except if that member refuses to serve as President, the Commission shall appoint one of its members as the President. The President serves at the pleasure of the Governor without additional compensation.**

2. *The Commission shall:*

(a) Operate on the basis of a fiscal year beginning on July 1 and ending on June 30.

(b) At the first meeting of each fiscal year, elect a ~~{President,}~~ Vice President and Secretary to serve for the ensuing year.

(c) Hold at least two meetings each year, one in the southern part of the State and one in the northern part of the State, at times and places designated by the Commission. When there is sufficient business, additional meetings of the Commission may be held at the call of the President of the Commission. Written notice of the time, place and purpose of each meeting must be given to each member at least 3 working days before the meeting.

~~{2-}~~ 3. While engaged in the business of the Commission, each member of the Commission is entitled to receive:

(a) A salary of not more than \$150 per day, as fixed by the Commission; and

(b) A per diem allowance and travel expenses at a rate fixed by the Commission. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 98. NRS 648.020 is hereby amended to read as follows:

648.020 1. The Private Investigator's Licensing Board, consisting of five members appointed by the Governor, is hereby created.

2. The Governor shall appoint:

(a) One member who is a private investigator.

(b) One member who is a private patrol officer.

(c) One member who is a polygraphic examiner.

(d) Two members who are representatives of the general public. These members must not be:

(1) A licensee; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a licensee.

3. ~~The {members of the Board shall elect a Chair of the Board from among its members by majority vote. After the initial election, the Chair shall~~

hold office for a term of 2 years beginning on July 1 of each year.} **Governor** ~~{shall}~~ **may appoint one of the members of the Board** ~~{who is a representative of the general public}~~ **to serve as Chair of the Board . If, within 60 days after a vacancy in the office of the Chair, the Governor does not appoint one of the members of the Board as Chair, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the Chair, except if that member refuses to serve as Chair, the Board shall appoint one of its members as the Chair. The Chair serves at the pleasure of the Governor without additional compensation. If a vacancy occurs in the office of Chair, the members of the Board shall elect a Chair from among its members} ~~{for the remainder of the unexpired term.}~~ ~~{until the Governor appoints another representative of the general public to serve as Chair.}~~**

4. Each member of the Board is entitled to receive:

(a) A salary of not more than \$150, as fixed by the **Chair, after consultation with the other members of the Board**, for each day or portion of a day during which the member attends a meeting of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the **Chair, after consultation with the other members of the Board**, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

5. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the **Chair, after consultation with the other members of the Board**. The rate must not exceed the rate provided for state officers and employees generally.

6. A member who is a representative of the general public shall not participate in preparing, conducting or grading any examination required by the Board.

Sec. 99. NRS 648.025 is hereby amended to read as follows:

648.025 1. The ~~{Board}~~ **Chair, after consultation with the other members of the Board**, may:

(a) Employ an Executive Director who:

(1) Is the chief administrative officer of the Board;

(2) Serves at the pleasure of the ~~{Board}~~ **Chair**; and

(3) Shall perform such duties as the Board may prescribe; and

(b) Employ investigators and clerical personnel necessary to carry out the provisions of this chapter.

2. The **Chair, after consultation with the other members of the Board**, shall establish the compensation of the Executive Director.

Sec. 100. NRS 654.060 is hereby amended to read as follows:

654.060 1. The Governor shall appoint:

(a) ~~{Two members who are}~~ **One member who is a nursing facility administrator.**

(b) One member who is an administrator of a residential facility for groups with less than seven clients.

(c) One member who is an administrator of a residential facility for groups with seven or more clients.

(d) One member who is a member of the medical or paramedical professions.

(e) ~~{One member who is a representative}~~ **Two members who are representatives** of the general public. ~~{This member}~~ **These members** must not be:

(1) A nursing facility administrator or an administrator of a residential facility for groups; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a nursing facility administrator or an administrator of a residential facility for groups.

2. The ~~{member who is a representative}~~ **members who are representatives** of the general public shall not participate in preparing, conducting or grading any examination required by the Board.

Sec. 101. NRS 654.090 is hereby amended to read as follows:

654.090 1. ~~{Immediately after the first Board is appointed, the}~~ **The Governor ~~{shall}~~ may appoint one of the members of the Board ~~{who is a representative of the general public}~~ to serve as Chair of the Board . If, within 60 days after a vacancy in the office of the Chair, the Governor does not appoint one of the members of the Board as Chair, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the Chair, except if that member refuses to serve as Chair, the Board shall appoint one of its members as the Chair. The Chair serves at the pleasure of the Governor without additional compensation.**

2. **The** members of the Board shall **annually** meet and elect from their membership a ~~{Chair,}~~ Vice Chair and a Secretary.

~~{2. Thereafter, a Chair and Vice Chair shall be elected annually.}~~

3. The Secretary of the Board shall serve as Secretary at the pleasure of the Board.

Sec. 102. NRS 656.050 is hereby amended to read as follows:

656.050 The members of the Board must be appointed by the Governor as follows:

1. One member of the Board must be an active member of the State Bar of Nevada.

2. ~~{Three}~~ **Two** members of the Board must be holders of certificates and must have been actively engaged as court reporters within this State for at least 5 years immediately preceding their appointment.

3. ~~{One member}~~ **Two members** of the Board must be ~~{a representative}~~ **representatives** of the general public. ~~{This member}~~ **These members** must not be:

(a) A court reporter; or

(b) The spouse or the parent or child, by blood, marriage or adoption, of a court reporter.

Sec. 103. NRS 656.080 is hereby amended to read as follows:

656.080 1. ~~The Governor shall~~ **may appoint one of the members of the Board ~~who is a representative of the general public~~ to serve as Chair of the Board . If, within 60 days after a vacancy in the office of the Chair, the Governor does not appoint one of the members of the Board as Chair, the longest-serving member of the Board who is a representative of the general public shall be deemed to be the Chair, except if that member refuses to serve as Chair, the Board shall appoint one of its members as the Chair. The Chair serves** ~~at the pleasure of the Governor without additional compensation.~~

2. Annually the Board shall designate a ~~{Chair and a}~~ Vice Chair from its membership.

~~{2-}~~ 3. The Board shall hold such meetings as may be necessary for the purpose of transacting its business.

~~{3-}~~ 4. Three members of the Board constitute a quorum to transact all business, and a majority of those present must concur on any decision.

Sec. 104. NRS 656.110 is hereby amended to read as follows:

656.110 1. The Board shall administer the provisions of this chapter.

2. The Board may appoint such committees as it considers necessary or proper. ~~{-and}~~

3. ***The Chair, after consultation with the other members of the Board,*** may employ, prescribe the duties of and fix the salary of an Executive Secretary who may be employed on a part-time or full-time basis, and may also employ such other persons as may be necessary.

~~{3-}~~ 4. All expenditures described in this section must be paid from the fees collected under this chapter.

Sec. 105. 1. The amendatory provisions of this act do not abrogate or affect the current term of office of any member of a board or commission designated by this act who is serving in that term on July 1, 2011.

2. When a position of the category designated by this act becomes vacant on or after July 1, 2011, the vacancy must be filled in the manner provided by this act.

3. Notwithstanding the amendatory provisions of this act, any contract for employment, consultation, lease or rental entered into by a board or commission designated by this act before July 1, 2011, remains in effect. On or after July 1, 2011, such contracts may be entered into, extended, renewed or terminated ~~{after the Governor appoints a member who represents the general public to serve as Chair, President or other position}~~ pursuant to the provisions of this act.

Sec. 106. The Legislative Counsel shall, in preparing supplements to the Nevada Administrative Code, appropriately change any reference to an officer, board, commission or other entity whose position or duties is

changed or whose duties are transferred pursuant to the provisions of this act to refer to the appropriate officer, board, commission or other entity.

Sec. 107. This act becomes effective on July 1, 2011.

Senator Roberson moved the adoption of the amendment.

Remarks by Senator Roberson.

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

Amendment No. 468 to Senate Bill No. 354 provides that the Governor may appoint one member of a Title 54 occupational and professional licensing board or commission to serve as the Chair or President, as appropriate, within 60 days of a vacancy in that office.

If the Governor does not make such an appointment, the longest-serving public member of the board or commission shall be deemed to be the Chair or President.

If the public member declines to serve in that capacity, the members of the board or commission shall appoint a Chair or President from among the members.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 379.

Bill read second time.

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

Amendment No. 216.

"SUMMARY—Revises provisions governing the inspection by the Health Division of the Department of Health and Human Services of certain facilities and offices regulated by the Health Division. (BDR 40-1012)"

"AN ACT relating to public health; requiring the Health Division of the Department of Health and Human Services, under certain circumstances, to extend the period between periodic inspections and to reduce certain fees for certain facilities and offices regulated by the Health Division; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Health Division of the Department of Health and Human Services to charge and collect a fee for a license to operate a medical facility, facility for the dependent or a home for individual residential care in this State and to charge and collect a fee for a permit which authorizes certain facilities and offices to offer to patients the service of general anesthesia, conscious sedation or deep sedation. Existing law also authorizes the Health Division to inspect and investigate such facilities and homes to ensure that the facilities and homes are in compliance with certain federal and state laws, regulations and standards. Furthermore, existing law requires facilities and offices that offer to patients the service of general anesthesia, conscious sedation or deep sedation and surgical centers for ambulatory patients to be inspected annually by the Health Division. (NRS 449.050, 449.060, 449.080, 449.150, 449.230, 449.235, 449.435-449.448) If a medical facility, facility for the dependent or a home for individual residential care passes a periodic inspection by the Health

Division that is required by existing law, **section 2** of this bill: (1) requires the Health Division to conduct the next consecutive periodic inspection of the facility or home after the expiration of a period that is equal to one and one-half times the usual period between inspections that is required by state law, or that is equal to the period which is required by federal law or regulation, whichever is shorter; and (2) requires the Health Division to reduce by 25 percent certain fees for the licensing of the facility or home. **Section 3** of this bill sets forth similar provisions for a surgical center for ambulatory patients or an office of a physician or a facility which is required to obtain a permit to offer patients a service of general anesthesia, conscious sedation or deep sedation.

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

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

Sec. 2. 1. *Notwithstanding any other provision of this chapter and except as otherwise provided in ~~subsections 2 and 3~~, this section, if a medical facility, facility for the dependent or home for individual residential care passes a periodic inspection by the Health Division required by this chapter:*

(a) The Health Division shall conduct the next consecutive periodic inspection of the facility or home after the expiration of a period that is equal to one and one-half times the period between inspections which is otherwise required by state law or regulation, or that is equal to the period between inspections which is required by federal law or regulation, whichever is shorter; and

(b) Notwithstanding the length of the period of the inspection required pursuant to paragraph (a), the Health Division shall reduce by 25 percent the amount of the fee charged by the Health Division for the next consecutive renewal of the license of the facility or home pursuant to NRS 449.060.

2. The provisions of this section do not apply to an inspection of ~~for~~ investigation into a medical facility, facility for the dependent or home for individual residential care if: ~~the inspection or investigation is conducted;~~

(a) ~~Upon~~ The inspection is conducted upon the receipt of ~~a~~ an application for a license or upon the receipt of a complaint pursuant to ~~subsection 2 of~~ NRS 449.150;

(b) ~~Pursuant~~ The inspection is conducted to allow the facility or home to correct any deficiencies discovered during a previous inspection;

(c) The inspection is conducted after a change is made to the license of the facility or home, including, without limitation, a change in the person who is licensed to operate or maintain the facility or home or in the ownership of the facility or home;

(d) The facility or home has had a substantiated complaint filed against it within the immediately preceding 12 months;

(e) The inspection is conducted pursuant to NRS 449.230; or

~~f (e) Pursuant~~

(f) The inspection is conducted pursuant to NRS 449.235.

3. The Health Division shall establish by regulation the manner in which to determine whether a medical facility, facility for the dependent or home for individual residential care passes a periodic inspection for the purposes of subsection 1.

4. The provisions of this section do not exempt any medical facility, facility for the dependent or home for individual residential care from compliance with any applicable federal law or regulation governing the inspection or investigation of such facilities or homes.

~~f 4. For the purposes of subsection 1:~~

~~—(a) A medical facility or facility for the dependent passes a periodic inspection if the Health Division does not find any violations for which the Health Division may impose an administrative sanction against the facility.~~

~~—(b) A home for individual residential care passes a periodic inspection if the Health Division does not find any violations for which the Health Division could impose an administrative sanction if the home for individual residential care was a medical facility or facility for the dependent.~~

Sec. 3. 1. Notwithstanding any other provision of this chapter and except as otherwise provided in ~~subsections 2 and 3~~ this subsection, if an office of a physician or a facility which is required to obtain a permit pursuant to NRS 449.442 or a surgical center for ambulatory patients passes a periodic inspection by the Health Division required by this chapter:

(a) The Health Division shall conduct the next consecutive periodic inspection of the office, facility or surgical center for ambulatory patients after the expiration of a period that is equal to one and one-half times the period between inspections which is otherwise required by state law or regulation, or that is equal to the period between inspections which is required by federal law or regulation, whichever is shorter; and

(b) Notwithstanding the length of the period of the inspection required pursuant to paragraph (a), the Health Division shall reduce by 25 percent the amount of the fee charged by the Health Division for the next consecutive renewal of ~~fees~~ ;

(1) A permit issued to an office of a physician or facility pursuant to NRS 449.444.

(2) A license issued to a surgical center for ambulatory patients pursuant to NRS 449.050.

2. The provisions of this section do not apply to an inspection of ~~for investigation into~~ an office of a physician or a facility which is required to obtain a permit pursuant to NRS 449.442 or a surgical center for ambulatory patients if ~~the inspection or investigation is conducted upon the receipt of a complaint.~~ ;

(a) The inspection is conducted upon the receipt of an application for a license or a permit or upon the receipt of a complaint;

(b) The inspection is conducted to allow the office of a physician, facility or surgical center for ambulatory patients to correct any deficiencies discovered during a previous inspection;

(c) The inspection is conducted after a change is made to the license or permit of the office, facility or surgical center for ambulatory patients, including, without limitation, a change in the person who has a license or permit to operate or maintain the office, facility or surgical center for ambulatory patients or in the ownership of the office, facility or surgical center for ambulatory patients;

(d) The office, facility or surgical center for ambulatory patients has had a substantiated complaint filed against it within the immediately preceding 12 months; or

(e) The inspection is an unannounced on-site inspection conducted pursuant to NRS 449.446.

3. The Health Division shall establish by regulation the manner in which to determine whether an office of a physician or a facility which is required to obtain a permit pursuant to NRS 449.442 or a surgical center for ambulatory patients passes a periodic inspection for the purposes of subsection 1.

4. The provisions of this section do not exempt any office of a physician or a facility which is required to obtain a permit pursuant to NRS 449.442 or a surgical center for ambulatory patients from compliance with any applicable federal law or regulation governing the inspection or investigation of such an office or facility or ~~for~~ surgical center for ambulatory patients.

~~For the purposes of subsection 1, an office, facility or surgical center for ambulatory patients passes a periodic inspection if the Health Division does not find any violations for which the Health Division may impose an administrative sanction against the office, facility or surgical center for ambulatory patients.~~

Sec. 4. NRS 449.050 is hereby amended to read as follows:

449.050 1. Except as otherwise provided in subsection 2 ~~for~~ **and section 2 of this act**, each application for a license must be accompanied by such fee as may be determined by regulation of the Board. The Board may, by regulation, allow or require payment of a fee for a license in installments and may fix the amount of each payment and the date that the payment is due.

2. A facility for the care of adults during the day is exempt from the fees imposed by the Board pursuant to this section.

3. ~~The~~ **Except as otherwise provided in section 2 of this act**, the fee imposed by the Board for a facility for transitional living for released offenders must be based on the type of facility that is being licensed and must be calculated to produce the revenue estimated to cover the costs related to

the license, but in no case may a fee for a license exceed the actual cost to the Health Division of issuing or renewing the license.

4. If an application for a license for a facility for transitional living for released offenders is denied, any amount of the fee paid pursuant to this section that exceeds the expenses and costs incurred by the Health Division must be refunded to the applicant.

Sec. 5. NRS 449.070 is hereby amended to read as follows:

449.070 The provisions of NRS 449.001 to 449.240, inclusive, *and section 2 of this act* do not apply to:

1. Any facility conducted by and for the adherents of any church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing in the practice of the religion of the church or denomination, except that such a facility shall comply with all regulations relative to sanitation and safety applicable to other facilities of a similar category.

2. Foster homes as defined in NRS 424.014.

3. Any medical facility or facility for the dependent operated and maintained by the United States Government or an agency thereof.

Sec. 6. NRS 449.160 is hereby amended to read as follows:

449.160 1. The Health Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.001 to 449.240, inclusive, *and section 2 of this act* upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.001 to 449.245, inclusive, *and section 2 of this act* or of any other law of this State or of the standards, rules and regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.

(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to this chapter, if such approval is required.

(f) Failure to comply with the provisions of NRS 449.2486.

2. In addition to the provisions of subsection 1, the Health Division may revoke a license to operate a facility for the dependent if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Health Division shall maintain a log of any complaints that it receives relating to activities for which the Health Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The Health Division shall provide to a facility for the care of adults during the day:

(a) A summary of a complaint against the facility if the investigation of the complaint by the Health Division either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

➤ The facility shall make the information available to the public pursuant to NRS 449.2486.

4. On or before February 1 of each odd-numbered year, the Health Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Health Division pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Health Division pursuant to subsection 2.

Sec. 7. NRS 449.441 is hereby amended to read as follows:

449.441 The provisions of NRS 449.435 to 449.448, inclusive, ***and section 3 of this act*** do not apply to an office of a physician or a facility that provides health care, other than a medical facility, if the office of a physician or the facility only administers a medication to a patient to relieve the patient's anxiety or pain and if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

Sec. 8. NRS 449.446 is hereby amended to read as follows:

449.446 1. ~~{The}~~ ***Except as otherwise provided in section 3 of this act,*** ~~the~~ Health Division shall conduct annual and unannounced on-site inspections of each office of a physician or a facility that provides health care, other than a medical facility, which holds a permit issued pursuant to NRS 449.443 and each surgical center for ambulatory patients which holds a license issued pursuant to this chapter.

2. An inspection conducted pursuant to this section must focus on the infection control practices and policies of the surgical center for ambulatory patients, the office or the facility that is the subject of the inspection. The Health Division may, as it deems necessary, conduct a more comprehensive inspection of a surgical center, office or facility.

3. Upon completion of an inspection, the Health Division shall:

(a) Compile a report of the inspection, including each deficiency discovered during the inspection, if any; and

(b) Forward a copy of the report to the surgical center for ambulatory patients, the office of the physician or the facility where the inspection was conducted.

4. If a deficiency is indicated in the report, the surgical center for ambulatory patients, the office of the physician or the facility shall correct each deficiency indicated in the report in the manner prescribed by the Board pursuant to NRS 449.448.

5. The Health Division shall annually prepare and submit to the Legislative Committee on Health Care and the Legislative Commission a report which includes:

(a) The number and frequency of inspections conducted pursuant to this section;

(b) A summary of deficiencies or other significant problems discovered while conducting inspections pursuant to this section and the results of any follow-up inspections; and

(c) Any other information relating to the inspections as deemed necessary by the Legislative Committee on Health Care or the Legislative Commission.

Sec. 9. NRS 449.447 is hereby amended to read as follows:

449.447 1. If an office of a physician or a facility that provides health care, other than a medical facility, violates the provisions of NRS 449.435 to 449.448, inclusive, **and section 3 of this act** or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to NRS 449.446, the Health Division, in accordance with the regulations adopted pursuant to NRS 449.448, may take any of the following actions:

(a) Decline to issue or renew a permit;

(b) Suspend or revoke a permit; or

(c) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum.

2. The Health Division may review a report submitted pursuant to NRS 630.30665 or 633.524 to determine whether an office of a physician or a facility is in violation of the provisions of NRS 449.435 to 449.448, inclusive, **and section 3 of this act** or the regulations adopted pursuant thereto. If the Health Division determines that such a violation has occurred, the Health Division shall immediately notify the appropriate professional licensing board of the physician.

3. If a surgical center for ambulatory patients violates the provisions of NRS 449.435 to 449.448, inclusive, **and section 3 of this act** or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to NRS 449.446, the Health Division may impose administrative sanctions pursuant to NRS 449.163.

Sec. 10. This act becomes effective on July 1, 2011.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 216 revises the provisions to Senate Bill No. 379 by specifying that a medical facility, facility for the dependent, or a home for individual residential care is not eligible for the decrease in inspections and the reduction in fees if:

a. The inspection is conducted upon the receipt of an application for a license or upon the receipt of a complaint;

b. The inspection is conducted to allow the facility or home to correct any deficiencies discovered during a previous inspection;

c. The inspection is conducted after a change is made to the license of the facility or home, including, without limitation, a change in the person who is licensed to operate or maintain the facility or home, or in the ownership of the facility or home; and

d. The facility or home has had a substantiated complaint filed against it within the immediately preceding 12 months.

And second, requiring the Health Division to establish by regulation the manner in which to determine whether a medical facility, facility for the dependent, or home for individual residential care passes a periodic inspection for the purposes of being eligible for the decrease in inspections and the reduction in certain fees.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 381.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 227.

"SUMMARY—Revises provisions ~~regarding who may issue a~~ **concerning the issuance of** marriage ~~license.~~ **licenses.** (BDR 11-227)"

"AN ACT relating to marriage; revising provisions ~~regarding who may issue a~~ **concerning the issuance of** marriage ~~license;~~ **authorizing a certified marriage licensing agent to issue a marriage license in certain circumstances;** **licenses; providing a penalty;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that before two people may be joined in marriage, they must obtain a marriage license from the county clerk of any county in the State. (NRS 122.040) ~~This~~ **Section 8.5 of this bill** requires ~~county clerks to certify qualified applicants as marriage licensing agents who may issue marriage licenses at commercial wedding chapels in certain circumstances.~~

~~Sections 4 and 5 of this bill provide the requirements that an applicant for certification as a marriage licensing agent must satisfy. Section 6 of this bill provides that the county clerk shall certify a qualified applicant as a marriage licensing agent in any county whose population is less than 400,000 (currently all counties other than Clark County). Additionally, in a county whose population is 400,000 or more (currently Clark County), the county clerk shall certify a qualified applicant as a marriage licensing agent.~~

~~However, a marriage licensing agent in such a county may issue marriage licenses only during certain times.~~

~~Sections 7 and 8 of this bill set forth the duties of a county clerk that relate to marriage license agents and the options available to a county clerk if a marriage licensing agent does not comply with certain requirements.]~~ the board of county commissioners in each county whose population is less than 700,000 (currently all counties other than Clark County) and in which a commercial wedding chapel has been in business for 5 years or more to: (1) ensure that an office where marriage licenses may be issued is open to the public for the purpose of issuing such licenses from 8 a.m. to 12 a.m. every day, including holidays; or (2) provide for the establishment of a program whereby a commercial wedding chapel that has been in business in the county for 5 years or more is authorized to issue marriage licenses during the hours when an office where marriage licenses may be issued is not open to the public. Any such program that is established must authorize a commercial wedding chapel that has been in business in the county for 5 years or more to begin issuing marriage licenses upon filing a completed registration form with the county clerk, along with a performance bond in the amount of \$50,000.

Section 8.5 also requires a commercial wedding chapel to refer any application for a marriage license that includes the signature of a guardian for a minor applicant to the county clerk for review and issuance of the marriage license, and provides that the persons to whom a commercial wedding chapel issues a marriage license may only be joined in marriage in the county in which the marriage license is issued. Section 8.5 further provides that a commercial wedding chapel that violates any provision relating to the issuance of marriage licenses is guilty of a misdemeanor.

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

Section 1. Chapter 122 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~8,~~ 8.5, inclusive, of this act.

Sec. 2. *"Commercial wedding chapel" means a permanently affixed structure which operates a business principally for the performance of weddings and which is licensed for that purpose.*

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 8.5. 1. In each county whose population is less than 700,000, in which a commercial wedding chapel has been in business for 5 years or more, the board of county commissioners shall:

(a) Ensure that an office where marriage licenses may be issued is open to the public for the purpose of issuing such licenses from 8 a.m. to 12 a.m. every day, including holidays; or

(b) Provide for the establishment of a program whereby a commercial wedding chapel that has been in business in the county for 5 years or more is authorized to issue marriage licenses to qualified applicants during the hours when an office where marriage licenses may be issued pursuant to paragraph (a) is not open to the public.

2. Except as otherwise provided in subsection 3, a program established pursuant to paragraph (b) of subsection 1 must authorize each commercial wedding chapel that has been in business in the county for 5 years or more to begin issuing marriage licenses upon filing with the county clerk a completed registration form prescribed by the board of county commissioners, along with a performance bond in the amount of \$50,000. The performance bond must be conditioned upon the faithful performance of all statutory duties related to the issuance of marriage licenses and compliance with the provisions of chapter 603A of NRS that ensure the security of personal information submitted by applicants for a marriage license.

3. A commercial wedding chapel shall refer any application for a marriage license that includes the signature of a guardian for a minor applicant to the county clerk for review and issuance of the marriage license.

4. The county clerk of the county in which a commercial wedding chapel that issues marriage licenses pursuant to this section is located shall provide to the commercial wedding chapel, without charge, any materials necessary for the commercial wedding chapel to issue marriage licenses. The number of marriage licenses that the commercial wedding chapel may issue must not be limited.

5. A commercial wedding chapel that issues marriage licenses pursuant to this section shall comply with all statutory provisions governing the issuance of marriage licenses in the same manner as the county clerk is required to comply, and shall:

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

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

(c) Remit all fees collected to the county clerk, in the manner required by the standard of practice adopted by the county clerk.

6. The records of a commercial wedding chapel that issues marriage licenses pursuant to this section which pertain to the issuance of a marriage license are public records and must be made available for public inspection at reasonable times. Such a commercial wedding chapel shall comply with the provisions of chapter 603A of NRS in the same manner as

all other data collectors to ensure the security of all personal information submitted by applicants for a marriage license.

7. The persons to whom a commercial wedding chapel issues a marriage license may not be joined in marriage in any county other than the county in which the marriage license is issued.

8. A commercial wedding chapel that violates any provision of this section is guilty of a misdemeanor.

Sec. 9. NRS 122.001 is hereby amended to read as follows:

122.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 122.002 and 122.006 ~~and [sections]~~ **section 2 [and 3] of this act** have the meanings ascribed to them in those sections.

Sec. 9.5. NRS 122.040 is hereby amended to read as follows:

122.040 1. ~~[Before]~~ **Except as otherwise provided in section 8.5 of this act, before** persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State. Except as otherwise provided in this subsection, the license must be issued at the county seat of that county. The board of county commissioners:

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

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

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

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

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

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

(b) A passport.

(c) A birth certificate and:

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

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

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

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

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

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

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

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

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

(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact.

The county clerk shall not require any evidence to verify a social security number.

➡ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. The county clerk shall not deny a license to an applicant who states that the applicant does not have a social security number or who states that any requested information concerning the parents of either the person who is responding to the question or the person who is unable to appear is unknown.

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

(a) Personally given before the clerk;

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

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

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

7. If the authorization of a district court is required, the county clerk shall issue the license if that authorization is given to the county clerk in writing.

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

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

Sec. 10. (Deleted by amendment.)

Sec. 11. The board of county commissioners of each county whose population is less than 700,000, in which a commercial wedding chapel has been in business for 5 years or more, shall take such actions as are necessary to ensure compliance with the provisions of section 8.5 of this act on or before July 1, 2011.

Sec. 12. This act becomes effective upon passage and approval and expires by limitation on June 30, 2013.

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 227 to Senate Bill No. 381 replaces the original bill with a revised method of providing for marriage licensing agents. The amendment applies only to counties other than Clark County, and only where a commercial wedding chapel has been in business for at least five years. In those counties, the county commission must either ensure that a marriage license bureau is open from 8 a.m. to midnight (including holidays), or provide for a program in which a chapel in existence for five years is authorized to issue a marriage license.

The amendment sets forth the specifics of such a program and provides a sunset of June 30, 2013, to determine if the program is working.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 396.

Bill read second time.

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

Amendment No. 202.

"SUMMARY—Changes the governmental entity entrusted to administer and distribute the additional funds generated by the special license plates for the support of the natural environment of the Mount Charleston area. (BDR 43-919)"

"AN ACT relating to motor vehicles; requiring that the additional funds generated by the special license plates for the support of the natural environment of the Mount Charleston area be administered and distributed by the **Board of County Commissioners of Clark County, with the advice of the** Mount Charleston Town Advisory Board, ~~or~~ ^{or its successor}, rather than by the Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the issuance of special license plates for the support of the natural environment of the Mount Charleston area, creates an account for those license plates, requires the Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources to administer the account and allows the Administrator to provide grants from the account. (NRS 321.5959, 482.37935) This bill: (1) eliminates the Account for License Plates for the Support of the Natural Environment of the Mount Charleston Area; (2) ~~eliminates the involvement of the Administrator of the Division of State Lands; (3)~~ requires that the additional funds generated by those special license plates be distributed directly, on a quarterly basis, to the ~~Mount Charleston Town Advisory Board or its successor;~~ **Board of County Commissioners of Clark County;** and ~~(4)~~ **(3) requires the Board of County Commissioners, with the advice of the Mount Charleston Town Advisory Board or its successor,** to use and grant the money so distributed to it only for the support of programs for the natural environment of the Mount Charleston area. Thus, this bill does not

change the permissible uses of the additional funds generated by the special license plates for the support of the natural environment of the Mount Charleston area. Rather, it simply changes the identity of the governmental entity entrusted to administer and distribute those funds. **This bill also provides, however, that programs and projects in effect on, and grants made before, the effective date of this bill (July 1, 2011) must be continued or expended, as applicable, under the supervision of the Administrator of the Division of State Lands.**

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

Section 1. NRS 482.37935 is hereby amended to read as follows:

482.37935 1. Except as otherwise provided in this subsection, the Department, in cooperation with the Division of State Lands of the State Department of Conservation and Natural Resources, shall design, prepare and issue license plates for the support of the natural environment of the Mount Charleston area using any colors that the Department deems appropriate. The design of the license plates must include a depiction of Mount Charleston and its surrounding area. The Department shall not design, prepare or issue the license plates unless it receives at least 250 applications for the issuance of those plates.

2. If the Department receives at least 250 applications for the issuance of license plates for the support of the natural environment of the Mount Charleston area, the Department shall issue those plates for a passenger car or light commercial vehicle upon application by a person who is entitled to license plates pursuant to NRS 482.265 and who otherwise complies with the requirements for registration and licensing pursuant to this chapter. A person may request that personalized prestige license plates issued pursuant to NRS 482.3667 be combined with license plates for the support of the natural environment of the Mount Charleston area if that person pays the fees for the personalized prestige license plates in addition to the fees for the license plates for the support of the natural environment of the Mount Charleston area pursuant to subsections 3 and 4.

3. The fee for license plates for the support of the natural environment of the Mount Charleston area is \$35, in addition to all other applicable registration and license fees and governmental services taxes. The license plates are renewable upon the payment of \$10.

4. In addition to all *other applicable registration and license* fees ~~{for the license, registration}~~ and governmental services taxes ~~{}~~ *and the fee prescribed in subsection 3*, a person who requests a set of license plates for the support of the natural environment of the Mount Charleston area must pay for the initial issuance of the plates an additional fee of \$25 and for each renewal of the plates an additional fee of \$20 , to ~~{finance projects for the natural environment of the Mount Charleston area.}~~ *be distributed pursuant to subsection 5.*

5. The Department shall deposit the fees collected pursuant to subsection 4 with the State Treasurer for credit to the ~~{Account for License Plates for the Support of the Natural Environment of the Mount Charleston Area created pursuant to NRS 321.5959.}~~ ***State General Fund. The State Treasurer shall, on a quarterly basis, distribute the fees deposited pursuant to this subsection to the ~~{Mount Charleston Town Advisory Board or its successor.}~~ Board of County Commissioners of Clark County. The fees distributed pursuant to this subsection:***

(a) ***May be used by the Board of County Commissioners, with the advice of the Mount Charleston Town Advisory Board or its successor, only:***

(1) ***For the support of programs for the natural environment of the Mount Charleston area, including, without limitation, programs to improve the wildlife habitat, the ecosystem, the forest, public access to the area and its recreational use.***

(2) ***To make grants to governmental entities and nonprofit organizations to carry out the programs described in subparagraph (1).***

(b) ***Must not be used to replace or supplant money available from other sources.***

6. If, during a registration year, the holder of license plates issued pursuant to the provisions of this section disposes of the vehicle to which the plates are affixed, the holder ~~{may retain}~~ ***shall:***

(a) ***Retain*** the plates and ~~{:~~

(a) ~~{Affix}~~ ***affix*** them to another vehicle that meets the requirements of this section if the ***holder pays the fee for the transfer of the registration and any registration fees are paid as set out in this chapter; fee or governmental services tax due pursuant to NRS 482.399; or***

(b) Within 30 days after removing the plates from the vehicle, return them to the Department.

Sec. 2. {NRS 269.576 is hereby amended to read as follows:

~~—269.576—1. Except as appointment may be deferred pursuant to NRS 269.563, the board of county commissioners of any county whose population is 400,000 or more shall, in each ordinance which establishes an unincorporated town pursuant to NRS 269.500 to 269.625, inclusive, provide for:~~

~~—(a) Appointment by the board of county commissioners or the election by the registered voters of the unincorporated town of three or five qualified electors who are residents of the unincorporated town to serve as the town advisory board. If the ordinance provides for appointment by the board of county commissioners, in making such appointments, the board of county commissioners shall consider:~~

~~—(1) The results of any poll conducted by the town advisory board; and~~

~~—(2) Any application submitted to the board of county commissioners by persons who desire to be appointed to the town advisory board in response to an announcement made by the town advisory board.~~

~~—(b) A term of 2 years for members of the town advisory board.~~

~~—(c) Election of a chair from among the members of the town advisory board for a term of 2 years, and, if a vacancy occurs in the office of chair, for the election of a chair from among the members for the remainder of the unexpired term. The ordinance must also provide that a chair is not eligible to succeed himself or herself for a term of office as chair.~~

~~—2. The members of a town advisory board serve at the pleasure of the board of county commissioners. If a member is removed, the board of county commissioners shall appoint a new member to serve out the remainder of the unexpired term of the member who was removed.~~

~~—3. The board of county commissioners shall provide notice of the expiration of the term of a member of and any vacancy on a town advisory board to the residents of the unincorporated town by mail, newsletter or newspaper at least 30 days before the expiration of the term or filling the vacancy.~~

~~—4. The duties of the town advisory board are to:~~

~~—(a) Assist the board of county commissioners in governing the unincorporated town by acting as liaison between the residents of the town and the board of county commissioners; [and]~~

~~—(b) Advise the board of county commissioners on matters of importance to the unincorporated town and its residents [.] ; and~~

~~—(c) Perform such other tasks as may be required or allowed by any statute or other law.~~

~~—5. The board of county commissioners may provide by ordinance for compensation for the members of the town advisory board.] **(Deleted by amendment.)**~~

Sec. 3. NRS 321.5959 is hereby repealed.

Sec. 4. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 5. 1. On July 1, 2011, or as soon as practicable thereafter, the Administrator shall cause to be transferred to the Board any money that was in the Account at the end of the day on June 30, 2011. Any money so transferred may be used only for the purposes set forth in subsection 5 of NRS 482.37935, as amended by section 1 of this act.

2. As used in this section:

(a) "Account" means the Account for License Plates for the Support of the Natural Environment of the Mount Charleston Area, created by NRS 321.5959.

(b) "Administrator" means the Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources.

(c) "Board" means the ~~[Mount Charleston Town Advisory Board or its successor.]~~ **Board of County Commissioners of Clark County.**

Sec. 6. Notwithstanding the amendatory provisions of this act:

1. Each program or project for the support of the natural environment of the Mount Charleston area that was commenced before July 1, 2011; and

2. Each grant for the support of the natural environment of the Mount Charleston area that was made before July 1, 2011, must be continued or expended, as applicable, under the supervision of the Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources. The Board of County Commissioners of Clark County shall, from the money distributed to it pursuant to subsection 5 of NRS 482.37935, as amended by section 1 of this act, transfer money to the Administrator as necessary to carry out the provisions of this section.

~~{Sec. 6.}~~ *Sec. 7.* This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTION

321.5959 Account for License Plates for Support of Natural Environment of Mount Charleston Area.

1. The Account for License Plates for the Support of the Natural Environment of the Mount Charleston Area is hereby created in the State General Fund. The Administrator of the Division shall administer the Account.

2. The money in the Account does not lapse to the State General Fund at the end of a fiscal year. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.

3. The money in the Account must be used only for the support of programs for the natural environment of the Mount Charleston area, including, without limitation, programs to improve the wildlife habitat, the ecosystem, the forest, public access to the area and its recreational use, and must not be used to replace or supplant money available from other sources. The Administrator may provide grants from the Account to other public agencies and political subdivisions, including, without limitation, unincorporated towns, to carry out the provisions of this section.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 202 to Senate Bill No. 396 shifts the administrative authority over the funds generated from the sale of the Mount Charleston special license plates to the Board of County Commissioners of Clark County rather than the Mount Charleston Town Advisory Board.

It clarifies that any grants for projects associated with the Mount Charleston license plate program made before July 1, 2011, shall continue to be processed and administered by Nevada's Division of State Lands.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 400.

Bill read second time.

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

Amendment No. 337.

"SUMMARY—Establishes a process by which a state agency may obtain certain information in county records at no charge for the purpose of assisting the economic development and population research of this State. (BDR 20-1143)"

"AN ACT relating to records; establishing a process by which a state agency may obtain certain county records at no charge for the purpose of economic development and population estimate research; prohibiting certain uses of confidential information contained in such county records; providing civil and criminal penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill establishes a process by which a state agency engaged in activities related to economic development and population research may obtain at no charge the digital parcel base of a county and electronic county assessor files. **Section 1** of this bill requires a county assessor to provide each year to the demographer employed by the Department of Taxation, at no charge, the ~~electronic~~ **fiscal year-end** datasets of the county **electronic** assessor files. **Section 5** of this bill requires a county which maintains or possesses a digital parcel base of the county to provide the **fiscal year-end** digital parcel base to the demographer each year at no charge. **Under sections 1 and 5 of this bill, the demographer may not require a county to provide electronic assessor files or a digital parcel base in any particular format or to use any specific software to provide such information.** Not more than once each year, the demographer must provide the digital parcel base and the ~~assessor's~~ electronic **assessor** files at no charge to a state agency engaged in economic development and population research that submits a written request for the information. The state agency receiving the digital parcel base and the ~~assessor's~~ electronic **assessor** files must provide a summary of the research produced from the information to the county providing the information and the Commission on Economic Development at no charge. **Under sections 1 and 5, a state agency receiving electronic assessor files or a digital parcel base for a county must keep such information confidential and must not knowingly redistribute the information to any other person or governmental agency.**

Under existing law, the personal information of certain persons which is contained in the records of a county assessor is deemed confidential, except that a county assessor is authorized to release this confidential information for certain limited purposes. (NRS 250.100-250.230) Existing law provides criminal and civil penalties for improper acts related to obtaining or disclosing these confidential records. (NRS 250.210-250.230) **Section 1** of this bill makes these civil and criminal penalties applicable to an employee or agent of a state agency obtaining confidential information from the demographer.

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

Section 1. Chapter 250 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Notwithstanding any other provision of law, ~~for or before January~~ not later than September 1 of each year, a county assessor shall provide to the State Demographer at no charge the ~~electronic~~ fiscal year-end datasets of the county electronic assessor files. The State Demographer may not require a county assessor to provide information pursuant to this subsection in a particular format or to use any specific software to provide the information. The State Demographer shall keep confidential the information provided to him or her pursuant to this subsection, except that the State Demographer shall provide such information at no charge to a state agency which satisfies the requirements of this section.*

2. *A state agency engaged in activities related to economic development or population estimate research may request the electronic datasets of the ~~county~~ electronic assessor files by submitting a written request to the State Demographer. The written request must include, without limitation:*

(a) The name and address of the state agency;

(b) A statement of the purpose for which the state agency is seeking the ~~assessor's~~ electronic assessor files; and

(c) A summary of the research or statistical reports which will be produced from the ~~assessor's~~ electronic assessor files.

3. *Except as otherwise provided in subsection 4, if the State Demographer finds that a written request complies with subsection 2, the State Demographer shall provide to the state agency at no charge the ~~assessor's~~ electronic assessor files provided to the State Demographer pursuant to subsection 1.*

4. *The State Demographer may refuse a request submitted by a state agency pursuant to subsection 2 if the State Demographer has provided the requested information to the state agency during the calendar year in which the request is made.*

5. *A state agency receiving ~~an assessor's~~ electronic assessor files pursuant to this section shall provide to the county that provided the files and the Commission on Economic Development, at no charge, a summary of the research produced from that information.*

6. *The State Demographer or any employee or other agent of a state agency receiving ~~an assessor's~~ electronic assessor files pursuant to this section shall not knowingly:*

(a) Publish or otherwise disclose any information made confidential pursuant to NRS 250.100 to 250.230, inclusive; or

(b) Use any information made confidential pursuant to NRS 250.100 to 250.230, inclusive, to contact any person.

7. *A person who violates subsection 6 is guilty of a misdemeanor and, in addition, the court may order a person who violates subsection 6 to pay a civil penalty in an amount not to exceed \$2,500 for each act.*

8. *A state agency receiving electronic assessor files pursuant to this section shall keep the electronic assessor files confidential, and except as otherwise provided in subsection 5, the State Demographer, or any employee or other agent of a state agency receiving electronic assessor files pursuant to this section, shall not provide the electronic assessor files to any person or governmental agency.*

9. *As used in this section:*

(a) *"State agency" means:*

(1) *The State of Nevada, or any agency, instrumentality or corporation thereof; and*

(2) ~~*The*~~ *Faculty belonging to the Nevada System of Higher Education or any branch or facility thereof.*

(b) *"State Demographer" means the demographer employed pursuant to NRS 360.283.*

Sec. 2. NRS 250.150 is hereby amended to read as follows:

250.150 If a person listed in NRS 250.140 requests confidentiality, the confidential information of that person may only be disclosed as provided in NRS 239.0115, 250.160 or 250.180 ~~+~~ **or section 1 of this act.**

Sec. 3. NRS 250.160 is hereby amended to read as follows:

250.160 1. A county assessor may provide confidential information for use:

(a) By any governmental entity, including, without limitation, 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.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, without limitation, 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) By a private investigator, private patrol officer or security consultant who is licensed pursuant to chapter 648 of NRS, for any use authorized pursuant to this section.

(d) In connection with an investigation conducted pursuant to NRS 253.0415 or 253.220.

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

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

information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations.

(g) 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.

(h) In accordance with section 1 of this act.

2. Except for a reporter or editorial employee described in paragraph (g) of subsection 1, a person who obtains information pursuant to this section and sells or discloses that information shall keep and maintain for at least 5 years a record of:

- (a) Each person to whom the information is sold or disclosed; and
- (b) The purpose for which that person will use the information.

Sec. 4. NRS 250.210 is hereby amended to read as follows:

250.210 1. A person shall not:

- (a) Make a false representation to obtain any information pursuant to NRS 250.100 to 250.180, inclusive; or
- (b) Knowingly obtain or disclose information pursuant to NRS 250.100 to 250.180, inclusive, for any use not authorized pursuant to NRS 250.100 to 250.180, inclusive ~~[-]~~, ***or section 1 of this act.***

2. A person who violates the provisions of this section is guilty of a misdemeanor.

Sec. 5. Chapter 237 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other provision of law, ~~for or before January 1~~ not later than September 1 of each year, each county which possesses or maintains a digital parcel base for the county shall provide the fiscal year-end digital parcel base for the county to the State Demographer at no charge. The State Demographer may not require a county to provide a digital parcel base in a particular format or to use any specific software to provide the digital parcel base. The State Demographer shall keep confidential the information provided to him or her pursuant to this subsection, except that the State Demographer shall provide such information at no charge to a state agency which satisfies the requirements of this section.

2. A state agency engaged in activities related to economic development or population estimate research may request the digital parcel bases for each county that possesses or maintains a digital parcel base by submitting a written request to the State Demographer. The written request must include, without limitation:

- (a) The name and address of the state agency;***
- (b) A statement of the purpose for which the state agency is seeking the digital parcel bases; and***
- (c) A summary of the research or statistical reports which will be produced from the digital parcel bases.***

3. *Except as otherwise provided in subsection 4, if the State Demographer finds that a written request complies with subsection 2, the State Demographer shall provide to the state agency at no charge the digital parcel bases provided to the State Demographer pursuant to subsection 1.*

4. *The State Demographer may refuse a request submitted by a state agency pursuant to subsection 2 if the State Demographer has provided the requested information to the state agency during the calendar year in which the request is made.*

5. *A state agency receiving digital parcel bases pursuant to this section shall provide to the county that provided the digital parcel bases and the Commission on Economic Development, at no charge, a summary of the research produced from that information.*

6. *A state agency receiving a digital parcel base pursuant to this section shall keep the digital parcel base confidential, and except as otherwise provided in subsection 5, the State Demographer, or any employee or other agent of a state agency receiving a digital parcel base for a county pursuant to this section, shall not provide the digital parcel base to any person or governmental agency.*

7. *As used in this section:*

(a) *"State agency" means:*

(1) *The State of Nevada, or any agency, instrumentality or corporation thereof; and*

(2) ~~*The*~~ *Faculty belonging to the Nevada System of Higher Education or any branch or facility thereof.*

(b) *"State Demographer" means the demographer employed pursuant to NRS 360.283.*

Sec. 6. This act becomes effective on July 1, 2011.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

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

Amendment No. 337 to Senate Bill No. 400 changes the date the assessor or the county must provide the assessor data and parcel datasets to the State Demographer and provides that the State Demographer shall not require such data to be supplied in a specific format, that is, the assessor and county can provide it in whatever manner is best for them.

It provides that a State agency receiving this assessor and parcel data must keep that data confidential and that the State Demographer shall not knowingly redistribute this information to any person or agency that is not authorized to receive it under the bill.

It clarifies that a State agency includes "faculty belonging to the Nevada System of Higher Education."

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bills Nos. 338, 379, be re-referred to the Committee on Finance upon from reprint.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 412.

Bill read second time.

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

Amendment No. 407.

"SUMMARY—Provides for the regulation of the practice of complementary integrative medicine. (BDR 54-1105)"

"AN ACT relating to complementary integrative medicine; providing for the regulation of the practice of complementary integrative medicine; creating the Board of Complementary Integrative ~~Medicine;~~ **Medical Examiners**; providing for the organization, powers and duties of the Board; authorizing the Board to license or certify qualified persons to engage in the practice of complementary integrative medicine; authorizing the Board to discipline a person who is licensed or certified by the Board for certain actions; authorizing certain persons licensed by the Board to prescribe and possess dangerous drugs and controlled substances under certain circumstances; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Board of Homeopathic Medical Examiners to regulate the practice of homeopathic medicine in this State, including persons licensed or certified by the Board to engage in the practice of homeopathic medicine. (Chapter 630A of NRS) This bill revises existing law to provide for the regulation of the practice of complementary integrative medicine, which includes homeopathy. **Sections ~~4-38~~ 11, 17, 30 and 31** of this bill provide definitions for various ~~[therapies, treatments, modalities or other]~~ terms relating to the practice of complementary integrative medicine. **Sections 43-99** of this bill revise existing law to provide for the licensing or certification, regulation and discipline of complementary integrative physicians, complementary integrative practitioners ~~[, complementary integrative technicians]~~ and complementary integrative assistants.

Sections 45 and 55 of this bill replace the Board of Homeopathic Medical Examiners with the Board of Complementary Integrative ~~[Medicine;]~~ **Medical Examiners**. **Section 70** of this bill provides for the regulation and certification of complementary integrative assistants ~~[and complementary integrative technicians]~~ by the Board of Complementary Integrative ~~[Medicine]~~. ~~Section 41 of this bill authorizes a provider of health care, a complementary integrative physician or a complementary integrative practitioner to screen a patient to determine whether certain complementary~~

~~integrative medical services would be beneficial for the patient.~~ **Medical Examiners.**

Sections 42, 100, 106 and 107 of this bill authorize a complementary integrative physician ~~for complementary integrative practitioner~~ to prescribe or possess dangerous drugs and controlled substances under certain circumstances.

Section 58 of this bill makes it unlawful to practice or hold oneself out as qualified to practice complementary integrative medicine without a license or certificate issued by the Board of Complementary Integrative ~~Medicine~~. **Medical Examiners.**

Sections 76-80 of this bill revise provisions pertaining to grounds for disciplinary action by the Board of Complementary Integrative ~~Medicine~~. **Medical Examiners** to include complementary integrative physicians, complementary integrative practitioners ~~for complementary integrative technicians~~ and complementary integrative assistants. Sections 81-86 of this bill expand the authority of the Board of Complementary Integrative ~~Medicine~~. **Medical Examiners** to investigate and examine persons licensed or certified by the Board for certain conduct.

Sections 98 and 99 of this bill provide that, except for certain personal assistants, a person who practices complementary integrative medicine without a license or certificate issued by the Board of Complementary Integrative ~~Medicine~~. **Medical Examiners** is guilty of a category D felony.

~~Section 108 of this bill requires an insurer who offers or issues any plan, policy or contract of health insurance in this State to use an ABC coding system under certain circumstances. Sections 109-113 of this bill require certain persons who provide coverage for health care to contract with at least one complementary integrative physician or complementary integrative practitioner under certain circumstances.~~

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

Section 1. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

The Legislature hereby finds and declares that:

1. A person has the right to obtain freely any health care services not prohibited by law.

2. The State of Nevada encourages and supports the use of health care savings accounts as a means of alleviating the demand for diminishing state resources and the impoverishment of residents who require long-term care.

3. Health care savings accounts may be offered as health plan options to all employers and residents as an incentive to reduce inefficiencies in the provision of health care and to encourage persons to participate in and promote the efficient provision of health care in this State.

Sec. 2. Chapter 630A of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 42, inclusive, of this act.

Sec. 3. *The Legislature hereby finds and declares that:*

1. *A person has the freedom of choice with respect to obtaining health care in this State.*

2. *The State is responsible for ensuring that competent persons practice alternative and complementary integrative medicine, including, without limitation, homeopathic medicine within this State.*

3. *The Board is charged with the authority and duty to determine the initial and continuing competence of persons who are licensed or certified pursuant to the provisions of this chapter.*

4. *The powers conferred upon the Board by this chapter must be liberally construed to carry out these purposes for the protection and benefit of the public.*

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. *"Complementary integrative medicine" means alternative and complementary systems of healing arts and holistic therapies, including, without limitation, homeopathy, modalities, diagnostics, treatments, procedures and protocols used to treat patients.*

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. *"Healing art" means any holistic system, treatment, operation, diagnosis, prescription or practice for the ascertainment, cure, relief, palliation, adjustment or correction of any human disease, ailment, deformity, injury or unhealthy or abnormal physical or mental condition.*

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. *"Protocol" means a written agreement between the Board and a person licensed or certified by the Board which sets forth:*

- 1. The patients which the person may serve or treat;*
- 2. The specific substances which the person may prescribe or administer; and*
- 3. The conditions under which the person must directly refer a patient to another provider of health care.*

Sec. 31. *"Provider of health care" has the meaning ascribed to it in NRS 629.031.*

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. (Deleted by amendment.)

Sec. 38. (Deleted by amendment.)

Sec. 39. (Deleted by amendment.)

Sec. 40. (Deleted by amendment.)

Sec. 41. (Deleted by amendment.)

Sec. 42. *A complementary integrative physician ~~for complementary integrative practitioner~~ may prescribe or write a prescription pursuant to NRS 639.235 if the Board finds that the complementary integrative physician ~~for complementary integrative practitioner~~ has completed a program which prepares the physician ~~for practitioner~~ to:*

- 1. Perform designated acts of medical diagnosis;*
- 2. Prescribe therapeutic or corrective measures; and*
- 3. Prescribe medicines and substances which are used in complementary integrative medicine and which are approved by the Board.*

Sec. 43. NRS 630A.010 is hereby amended to read as follows:

630A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 630A.015 to 630A.075, inclusive, ***and sections ~~4 to 38, inclusive,~~ 11, 17, 30 and 31 of this act*** have the meanings ascribed to them in those sections.

Sec. 44. NRS 630A.015 is hereby amended to read as follows:

630A.015 ["Advanced"] ***"Complementary integrative practitioner "*** ~~{of homeopathy}~~ means a person who has:

- 1. Complied with all of the requirements set forth in this chapter and the regulations adopted by the Board for ~~advanced practitioners of homeopathy~~ complementary integrative practitioners; and*
- 2. Received from the Board a ~~certificate~~ license to practice as ~~an advanced~~ a complementary integrative practitioner . ~~{of homeopathy}~~*

Sec. 45. NRS 630A.020 is hereby amended to read as follows:

630A.020 "Board" means the Board of ~~{Homeopathic—Medical Examiners}~~ ***Complementary Integrative ~~Medicine~~ Medical Examiners.***

Sec. 46. NRS 630A.030 is hereby amended to read as follows:

630A.030 "Gross malpractice" means malpractice where the failure to exercise the requisite degree of care, diligence or skill consists of:

1. Ministering to a patient while the ~~{homeopathic}~~ **complementary integrative** physician ~~for complementary integrative practitioners~~ is under the influence of alcohol or any controlled substance.

2. Gross negligence.

3. Willful disregard of ~~{homeopathic}~~ **complementary integrative** medical procedures.

4. Willful and consistent use of ~~{homeopathic}~~ **complementary integrative** medical procedures, services or treatment considered by ~~{homeopathic}~~ **complementary integrative** physicians ~~for complementary integrative practitioners~~ in the community to be inappropriate or unnecessary in the cases where used.

Sec. 47. NRS 630A.035 is hereby amended to read as follows:

630A.035 ~~{"Homeopathic"}~~ **"Complementary integrative** assistant" means a person who is a graduate of an academic program approved by the Board or who, by general education, practical training and experience determined to be satisfactory by the Board, is qualified to perform ~~{homeopathic}~~ **complementary integrative medical** services under the supervision of a ~~{supervising homeopathic}~~ **complementary integrative** physician **or a complementary integrative practitioner** and who has been issued a certificate as a ~~{homeopathic}~~ **complementary integrative** assistant by the Board.

Sec. 48. NRS 630A.040 is hereby amended to read as follows:

630A.040 **1.** "Homeopathic medicine" or "homeopathy" means a system of medicine employing substances of animal, vegetable, chemical or mineral origin, including:

~~{1-}~~ **(a)** Nosodes and sarcodes, which are:

~~{(a)}~~ **(1)** Given in micro-dosage, except that sarcodes may be given in macro-dosage;

~~{(b)}~~ **(2)** Prepared according to homeopathic pharmacology by which the formulation of homeopathic preparations is accomplished by the methods of Hahnemannian dilution and succussion or magnetically energized geometric patterns applicable in potencies above 30X, as defined in the official Homeopathic Pharmacopoeia of the United States; and

~~{(c)}~~ **(3)** Prescribed by ~~{homeopathic physicians or advanced practitioners of homeopathy}~~ **complementary integrative physicians and complementary integrative practitioners** according to the medicines and dosages in the Homeopathic Pharmacopoeia of the United States,

➤ in accordance with the principle that a substance which produces symptoms in a healthy person can eliminate those symptoms in an ill person.

~~{2-}~~ **(b)** Noninvasive electrodiagnosis, cell therapy, neural therapy, herbal therapy, neuromuscular integration, orthomolecular therapy and nutrition.

2. *The terms include techniques to imprint or transfer the vital force or energetic essence from one substance to another substance through electromagnetism.*

Sec. 49. NRS 630A.050 is hereby amended to read as follows:

630A.050 ~~["Homeopathic"]~~ **"Complementary integrative physician"** means a person who has:

1. Complied with all of the requirements set forth in this chapter and the regulations adopted by the Board for the practice of ~~homeopathic~~ **complementary integrative** medicine; and

2. Received from the Board a license to practice ~~homeopathic~~ **complementary integrative** medicine.

Sec. 50. NRS 630A.060 is hereby amended to read as follows:

630A.060 "Malpractice" means failure on the part of a ~~homeopathic~~ **complementary integrative** physician ~~for complementary integrative practitioner~~ to exercise the degree of care, diligence and skill ordinarily exercised by ~~homeopathic~~ **complementary integrative** physicians ~~for complementary integrative practitioners~~ in good standing in the community in which he or she practices. As used in this section, "community" embraces the entire area customarily served by ~~homeopathic~~ **complementary integrative** physicians ~~and complementary integrative practitioners~~ among whom a patient may reasonably choose, not merely the particular area inhabited by the patients of that individual physician ~~for practitioner~~ or the particular city or place where the ~~homeopathic~~ **complementary integrative** physician ~~for complementary integrative practitioner~~ has an office.

Sec. 51. NRS 630A.070 is hereby amended to read as follows:

630A.070 "Professional incompetence" means lack of ability safely and skillfully to practice ~~homeopathic~~ **complementary integrative** medicine, or to practice one or more specified branches *or therapies* of ~~homeopathic~~ **complementary integrative** medicine, arising from:

1. Lack of knowledge or training.

2. Impaired physical or mental capability of the ~~homeopathic~~ **complementary integrative** physician ~~for complementary integrative practitioner~~.

3. Indulgence in the use of alcohol or any controlled substance.

4. Any other sole or contributing cause.

Sec. 52. NRS 630A.075 is hereby amended to read as follows:

630A.075 "Supervising ~~homeopathic~~ **complementary integrative** physician" *or "supervising complementary integrative practitioner"* means an active ~~homeopathic~~ **complementary integrative** physician *or complementary integrative practitioner* licensed in the State of Nevada who employs and supervises a ~~homeopathic~~ **complementary integrative** assistant ~~for an advanced practitioner of homeopathy~~ ~~complementary integrative technician~~.

Sec. 53. NRS 630A.080 is hereby amended to read as follows:

630A.080 The purpose of licensing ~~{homeopathic}~~ **complementary integrative** physicians **and complementary integrative practitioners, and for certifying complementary integrative assistants**, ~~{and complementary integrative technicians}~~, is to protect the public health and safety and the general welfare of the people of this State. Any license **or certificate** issued pursuant to this chapter is a revocable privilege and no holder of such a license **or certificate** acquires thereby any vested right.

Sec. 54. NRS 630A.090 is hereby amended to read as follows:

630A.090 1. This chapter does not apply to:

(a) The practice of dentistry, chiropractic, Oriental medicine, podiatry, optometry, perfusion, respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed Forces or a medical officer of any division or department of the United States in the discharge of his or her official duties, including, without limitation, providing medical care in a hospital in accordance with an agreement entered into pursuant to NRS 449.2455.

(c) Licensed or certified nurses in the discharge of their duties as nurses.

(d) ~~{Homeopathic}~~ **Complementary integrative** physicians ~~{and complementary integrative practitioners}~~ who are called into this State, other than on a regular basis, for consultation or assistance to any physician licensed in this State, and who are legally qualified to practice in the state or country where they reside.

~~{ (e) Aquastretch services provided by a massage therapist, athletic trainer, fitness trainer or wellness instructor who is an employee or contractor of a resort or hotel spa, or an institution of higher education. }~~

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in case of emergency.

(b) The domestic administration of family remedies.

4. This chapter does not authorize a ~~{homeopathic}~~ **complimentary integrative** physician **or complimentary integrative practitioner** to practice medicine, including allopathic medicine, except as otherwise provided in NRS 630A.040.

Sec. 55. NRS 630A.100 is hereby amended to read as follows:

630A.100 The Board of ~~{Homeopathic—Medical—Examiners}~~ **Complimentary Integrative** ~~{Medicine}~~ **Medical Examiners** consists of seven members appointed by the Governor. After the initial terms, the term of office of each member is 4 years.

Sec. 56. NRS 630A.110 is hereby amended to read as follows:

630A.110 1. Three members of the Board must be persons who are licensed to practice allopathic or osteopathic medicine in any state or country, the District of Columbia or a territory or possession of the United States, have been engaged in the practice of ~~{homeopathic}~~ **complementary**

integrative medicine in this State for a period of more than 2 years preceding their respective appointments, are actually engaged in the practice of ~~{homeopathic}~~ **complementary integrative** medicine in this State and are residents of the State.

2. ~~{One member of the Board may be a person licensed to practice as a complementary integrative practitioner or a complementary integrative physician who has been actively engaged in the practice of complementary integrative medicine in this State for a period of at least 2 years and is a resident of this State.}~~

~~—3.7~~ One member of the Board must be a person who has resided in this State for at least ~~{5}~~ **3** years and who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care. This member may ~~{must not}~~ be licensed under the provisions of this chapter.

3. ~~{4.7}~~ The remaining three ~~{two}~~ members of the Board must be persons who:

- (a) Are not licensed in any state to practice any healing art;
- (b) Are not the spouse or the parent or child, by blood, marriage or adoption, of a person licensed in any state to practice any healing art;
- (c) Are not actively engaged in the administration of any medical facility or facility for the dependent as defined in chapter 449 of NRS;
- (d) Do not have a pecuniary interest in any matter pertaining to such a facility, except as a patient or potential patient; and
- (e) Have resided in this State for at least ~~{5}~~ **3** years.

4. ~~{5.7}~~ The members of the Board must be selected without regard to their individual political beliefs.

5. ~~{6.7}~~ As used in this section, "healing art" means any system, treatment, operation, diagnosis, prescription or practice for the ascertainment, cure, relief, palliation, adjustment or correction of any human disease, ailment, deformity, injury, or unhealthy or abnormal physical or mental condition for the practice of which long periods of specialized education and training and a degree of specialized knowledge of an intellectual as well as physical nature are required.

Sec. 57. NRS 630A.155 is hereby amended to read as follows:

630A.155 The Board shall:

1. Regulate the practice of ~~{homeopathic}~~ **complementary integrative** medicine in this State and any activities that are within the scope of such practice, to protect the public health and safety and the general welfare of the people of this State.

2. Determine the qualifications of, and examine, applicants for licensure or certification pursuant to this chapter, and specify by regulation the methods to be used to check the background of such applicants.

3. License or certify those applicants it finds to be qualified.

4. Investigate and, if required, hear and decide in a manner consistent with the provisions of chapter 622A of NRS all complaints made against any

~~{homeopathic}~~ **complementary integrative** physician, ~~{advanced}~~ **complementary integrative** practitioner ~~{of homeopathy, homeopathic}~~ , **complementary integrative** assistant ~~{, complementary integrative technician}~~ or any agent or employee of any of them, or any facility where the primary practice is ~~{homeopathic}~~ **complementary integrative** medicine. If **the Board determines that** a complaint concerns a practice which is within the jurisdiction of another licensing board or any other possible violation of state law, the Board shall refer the complaint to the other licensing board.

5. Submit an annual report to the Legislature and make recommendations to the Legislature concerning the enactment of legislation relating to alternative and complementary integrative medicine, including, without limitation, homeopathic medicine.

Sec. 58. NRS 630A.220 is hereby amended to read as follows:

630A.220 1. It is unlawful for any person:

(a) To practice ~~{homeopathic medicine;}~~ **complementary integrative medicine;**

(b) To hold himself or herself out as qualified to practice ~~{homeopathic}~~ **complementary integrative** medicine; or

(c) To use in connection with his or her name the words or letters ~~"H.M.D."}~~ **—(1) "M.D. (C.I.M.)" (Doctor of Medicine (Complementary Integrative Medicine)), "M.D. (H.M.D.)" (Doctor of Medicine {Holistic or} (Homeopathic Medical Doctor)), "D.O. (C.I.M.)" (Doctor of Osteopathic Medicine (Complementary Integrative Medicine)), "D.O. (H.M.D.)" (Doctor of Osteopathic Medicine {Holistic or} (Homeopathic Medical Doctor)),** or any other title, word, letter or other designation intended to imply or designate the person as a ~~{practitioner of homeopathic medicine,}~~ **complementary integrative physician,}**

~~—(2) "N.P." or "N.P. (C.I.M.)" (Naturopathic Practitioner (Complementary Integrative Medicine)), "A.N.P." or "A.N.P. (C.I.M.)" (Advanced Naturopathic Practitioner (Complementary Integrative Medicine)), "A.P." or "A.P. (C.I.M.)" (Advanced Practitioner (Complementary Integrative Medicine)), "A.P.H." or "A.P.H. (C.I.M.)" (Advanced Practitioner of Homeopathy (Complementary Integrative Medicine)), or any other title, word, letter or other designation intended to imply or designate the person as an complementary integrative practitioner;~~

~~—(3) "P.A. (C.I.M.)" (Physician Assistant (Complementary Integrative Medicine)) or (Practitioner's Assistant (Complementary Integrative Medicine)), or any other title, word, letter or other designation intended to imply or designate the person as a complementary integrative assistant; or~~

~~—(4) "Tech. (C.I.M.)" (Technician (Complementary Integrative Medicine)), or any other title, word, letter or other designation intended to imply or designate the person as a complementary integrative technician,}~~

↪ in this State without first obtaining ~~{a}~~ **the appropriate** license ~~{so to do}~~ **for certificate}** from the Board as provided in this chapter.

2. A physician licensed pursuant to this chapter who holds a degree such as doctor of medicine or doctor of osteopathy may identify himself or herself by that degree or its appropriate abbreviation, but unless the physician is also licensed pursuant to chapter 630 or 633 of NRS must further identify himself or herself by the words ~~["practitioner of homeopathic medicine"]~~ **"complementary integrative** ~~[physician," "complementary integrative practitioner"]~~ **physician"** or their equivalent.

Sec. 59. NRS 630A.225 is hereby amended to read as follows:

630A.225 1. The Board shall not issue a license to practice ~~[homeopathic]~~ **complementary integrative** medicine to an applicant who has been licensed to practice any type of medicine in another jurisdiction and whose license was revoked for gross medical negligence by that jurisdiction.

2. The Board may revoke the license of any person licensed to practice any type of medicine in another jurisdiction which was revoked for gross medical negligence by that jurisdiction.

3. The revocation of a license to practice any type of medicine in another jurisdiction on grounds other than grounds which would constitute revocation for gross medical negligence constitutes grounds for initiating disciplinary action or denying the issuance of a license.

4. *If a license issued to an applicant in another state has been revoked or surrendered, the applicant must provide proof satisfactory to the Board that the applicant is rehabilitated with respect to the conduct that was the basis for the revocation or surrender of his or her license before resubmitting an application for licensure to the Board.*

5. *The Board shall vacate any order to deny a license if the denial was based on a conviction of a felony or an offense involving moral turpitude if the conviction was reversed on appeal. A person may resubmit an application for licensure after a court enters an order reversing the conviction.*

6. *If the Board finds that an applicant has committed an act or engaged in conduct that would constitute grounds for disciplinary action, the Board shall investigate whether the conduct has been corrected, monitored and resolved. If the matter has not been resolved to the satisfaction of the Board, the Board, before it may issue a license, shall determine to the satisfaction of the Board that mitigating circumstances exist which prevent the resolution of the matter.*

7. For the purposes of this section, the Board shall adopt by regulation a definition of gross medical negligence.

Sec. 60. NRS 630A.230 is hereby amended to read as follows:

630A.230 1. Every person desiring to practice ~~[homeopathic]~~ **complementary integrative** medicine must, before beginning to practice, procure from the Board a license authorizing such practice.

2. Except as otherwise provided in NRS 630A.225, a license may be issued to any person who:

(a) *Is of good moral character;*

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

~~{(b)}~~ (c) Has received the degree of doctor of *allopathic* medicine or doctor of osteopathic medicine ~~{from the school he or she attended during the 2 years immediately preceding the granting of the degree;~~

~~(c) Is licensed}~~ , *or has received an equivalent education satisfactory to the Board;*

(d) *Holds a license in good standing* to practice allopathic or osteopathic medicine in any state or country, the District of Columbia or a territory or possession of the United States;

~~{(d)}~~ (e) Has completed 1 year of *a* postgraduate ~~{training in allopathic or osteopathic medicine}~~ *program* approved by the Board;

~~{(e)}~~ (f) *Completes the application required by the Board;*

(g) *Has the physical and mental capacity safely to engage in the practice of complementary integrative medicine;*

(h) *Provides the Board with affidavits from three physicians in active practice who are licensed to practice medicine in the District of Columbia or any state or district of the United States attesting to the good moral character of the applicant and his or her fitness to practice complementary integrative medicine;*

(i) *Pays the application fee and any other fee or cost required by the Board;*

(j) Has passed all oral or written examinations required by the Board or this chapter; and

~~{(f)}~~ (k) Meets *any* additional requirements established by the Board.

Sec. 61. NRS 630A.240 is hereby amended to read as follows:

630A.240 1. An applicant for a license to practice ~~{homeopathic}~~ *complementary integrative* medicine who is a graduate of a medical school located in the United States , *the United Kingdom* or Canada shall submit to the Board, through its Secretary-Treasurer, proof that the applicant has received:

(a) The degree of doctor of medicine from a medical school which at the time of his or her graduation was accredited by the Liaison Committee on Medical Education or the Committee for the Accreditation of Canadian Medical Schools, or the degree of doctor of osteopathic medicine from an osteopathic school which at the time of his or her graduation was accredited by the Bureau of Professional Education of the American Osteopathic Association; *and*

(b) One year of postgraduate training ~~{in allopathic or osteopathic medicine}~~ *in a complementary integrative medical program* approved by the Board . ~~{; and~~

~~(c) Six months of postgraduate training in homeopathy.}~~

2. In addition to the proofs required by subsection 1, the Board may take such further evidence and require such other documents or proof of qualification as in its discretion may be deemed proper.

3. If it appears that the applicant is not of good moral character or reputation or that any credential submitted is false, the applicant may be rejected.

Sec. 62. NRS 630A.246 is hereby amended to read as follows:

630A.246 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license to practice ~~{homeopathic medicine,}~~ **as a complementary integrative physician**, a ~~{certificate}~~ **license to practice** as ~~{an advanced}~~ **a complementary integrative** practitioner ~~+/+ {of homeopathy}~~ or a certificate as a ~~{homeopathic}~~ **complementary integrative** assistant ~~for a certificate as a complementary integrative technician}~~ shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license to practice ~~{homeopathic medicine,}~~ **as a complementary integrative physician**, a ~~{certificate}~~ **license to practice** as ~~{an advanced}~~ **a complementary integrative** practitioner ~~+/+ {of homeopathy}~~ or a certificate as a ~~{homeopathic}~~ **complementary integrative** assistant ~~for a certificate as a complementary integrative technician}~~ shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Board.

3. A license to practice ~~{homeopathic medicine,}~~ **as a complementary integrative physician**, a ~~{certificate}~~ **license to practice** as ~~{an advanced}~~ **a complementary integrative** practitioner ~~+/+ {of homeopathy}~~ or a certificate as a ~~{homeopathic}~~ **complementary integrative** assistant ~~for a certificate as a complementary integrative technician}~~ may not be issued or renewed by the Board if the applicant:

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

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

order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 63. NRS 630A.250 is hereby amended to read as follows:

630A.250 1. If required by the Board, an applicant for a license *or certificate* to practice ~~homeopathic~~ ***complementary integrative*** medicine shall appear personally and pass an oral examination.

2. The Board may employ specialists and other consultants or examining services in conducting any examination required by the Board.

Sec. 64. NRS 630A.260 is hereby amended to read as follows:

630A.260 1. If an applicant *for a license or certificate* fails in a first examination, the applicant may be reexamined after not less than ~~6~~ 3 months.

2. If the applicant fails in a second examination, he or she may not be reexamined within less than ~~1-year~~ ***6 months*** after the date of the second examination. Before taking a third examination, the applicant shall furnish proof satisfactory to the Board of 1 year of additional training in ~~homeopathy~~ ***complementary integrative medicine*** after the second examination.

3. If an applicant fails three consecutive examinations, he or she must show the Board by clear and convincing evidence that extraordinary circumstances justify permitting the applicant to be reexamined again.

Sec. 65. NRS 630A.270 is hereby amended to read as follows:

630A.270 1. An applicant for a license to practice ~~homeopathic medicine~~ ***as a complementary integrative physician*** who is a graduate of a foreign medical school shall submit to the Board through its Secretary-Treasurer proof that the applicant:

(a) Is a citizen of the United States, or that he or she is lawfully entitled to remain and work in the United States;

(b) Has received the degree of doctor of medicine or its equivalent, as determined by the Board, from a foreign medical school recognized by the Educational Commission for Foreign Medical Graduates; *and*

(c) Has completed ~~3-years~~ ***a 3-year program*** of postgraduate training *or an equivalent program deemed* satisfactory to the Board. ‡

~~—(d) Has completed an additional 6 months of postgraduate training in homeopathic medicine;~~

~~—(e) Has received the standard certificate of the Educational Commission for Foreign Medical Graduates; and~~

~~—(f) Has passed all parts of the Federation Licensing Examination, or has received a written statement from the Educational Commission for Foreign Medical Graduates that the applicant has passed the examination given by the Commission.‡~~

2. In addition to the proofs required by subsection 1, the Board may ***require proof satisfactory that the applicant has passed the examination issued by the Federation of State Medical Boards or the Educational Commission for Foreign Medical Graduates and may*** take such further

evidence and require such further proof of the professional and moral qualifications of the applicant as in its discretion may be deemed proper.

3. If the applicant is a diplomate of an approved specialty board recognized by this Board, the requirements of ~~{paragraph}~~ **paragraph** (c) ~~{and (d)}~~ of subsection 1 may be waived by the Board.

4. Before issuance of a license to practice ~~{homeopathic medicine,}~~ **as a complementary integrative physician**, the applicant who presents the proof required by subsection 1 shall appear personally before the Board and satisfactorily pass a written or oral examination, or both, as to his or her qualifications to practice ~~{homeopathic medicine,}~~ **as a complementary integrative physician**.

Sec. 66. NRS 630A.280 is hereby amended to read as follows:

630A.280 The Board may, in its discretion, license an applicant who holds a valid license or certificate issued to the applicant by ~~{the homeopathic}~~ **a** medical examining board of the District of Columbia or of any state or territory of the United States, if:

1. The legal requirements of the ~~{homeopathic}~~ medical examining board were, at the time of issuing the license or certificate, in no degree or particular less than those of this State at the time when the license or certificate was issued.

2. The applicant is of good moral character and reputation.

3. The applicant passes an oral examination, where required by the Board.

4. The applicant furnishes to the Board such other proof of qualifications, professional or moral, as the Board may require.

Sec. 67. NRS 630A.290 is hereby amended to read as follows:

630A.290 1. The Board may deny an application for a license to practice ~~{homeopathic}~~ **complementary integrative medicine or for certification as a complementary integrative assistant** ~~for complementary integrative technician~~ for any violation of the provisions of this chapter or the regulations adopted by the Board.

2. The Board shall notify an applicant of any deficiency which prevents any further action on the application or results in the denial of the application. The applicant may respond in writing to the Board concerning any deficiency and, if the applicant does so, the Board shall respond in writing to the contentions of the applicant.

3. An unsuccessful applicant may appeal to the district court to review the action of the Board within 30 days after the date of the rejection of the application by the Board. Upon appeal the applicant has the burden to show that the action of the Board is erroneous or unlawful.

4. The Board shall maintain records pertaining to applicants to whom licenses **and certificates** have been issued or denied. The records must be open to the public and must contain:

(a) The name of each applicant.

(b) The name of the school granting the diploma.

- (c) The date of the diploma.
- (d) The date of issuance or denial of the license ~~{-}~~ *or certificate*.
- (e) The business address of the applicant.

Sec. 68. NRS 630A.293 is hereby amended to read as follows:

630A.293 1. The Board may grant a ~~{certificate}~~ *license to practice* as ~~{an advanced}~~ *a complementary integrative* practitioner ~~{of homeopathy}~~ to a person who has completed an educational program designed to prepare the person to:

- (a) Perform designated acts of medical diagnosis;
- (b) Prescribe therapeutic or corrective measures; and
- (c) Prescribe *medicines and* substances *which are used in* ~~{homeopathic}~~ *complementary integrative* medicine ~~{-}~~ *and which are approved by the Board.*

2. ~~{An advanced}~~ *A complementary integrative* practitioner ~~{of homeopathy}~~ may:

- (a) Engage in selected medical diagnosis and treatment; and
 - (b) Prescribe substances which are ~~{contained in the Homeopathic Pharmacopeia of the United States,~~
- ~~{-}~~ *identified as complementary integrative substances* pursuant to a protocol approved by ~~{a supervising homeopathic physician.}~~ *the Board.* A protocol must not include, and ~~{an advanced}~~ *a complementary integrative* practitioner ~~{of homeopathy}~~ shall not engage in, any diagnosis, treatment or other conduct which he or she is not qualified to perform ~~{-}~~ *or which is prohibited by this chapter or any regulation adopted pursuant thereto.*

3. ~~{As used in this section, "protocol" means a written agreement between a homeopathic physician and an advanced practitioner of homeopathy which sets forth matters including the:~~

- ~~—(a) Patients which the advanced practitioner of homeopathy may serve;~~
- ~~—(b) Specific substances used in homeopathic medicine which the advanced practitioner of homeopathy may prescribe; and~~
- ~~—(c) Conditions under which the advanced practitioner of homeopathy must directly refer the patient to the homeopathic physician.}~~ *The Board may authorize a complementary integrative physician for complementary integrative practitioner}* *to supervise a* ~~{complementary integrative physician or}~~ *complementary integrative practitioner.*

Sec. 69. NRS 630A.295 is hereby amended to read as follows:

630A.295 The Board shall adopt regulations:

- 1. Specifying the training, education and experience necessary for ~~{certification as an advanced}~~ *licensure as a complementary integrative* practitioner. ~~{of homeopathy.}~~
- 2. Delineating the authorized scope of practice of ~~{an advanced}~~ *a complementary integrative* practitioner. ~~{of homeopathy.}~~
- 3. Establishing the procedure for application for ~~{certification as an advanced}~~ *licensure as a complementary integrative* practitioner. ~~{of homeopathy.}~~

4. Establishing the duration, renewal and termination of ~~{certificates for advanced}~~ *licenses for complementary integrative* practitioners . ~~{of homeopathy.}~~

5. Establishing requirements for the continuing education of ~~{advanced}~~ *complementary integrative* practitioners . ~~{of homeopathy.}~~

6. Delineating the grounds respecting disciplinary actions against ~~{advanced}~~ *complementary integrative* practitioners . ~~{of homeopathy.}~~

Sec. 70. NRS 630A.297 is hereby amended to read as follows:

630A.297 1. The Board may issue a certificate as a ~~{homeopathic}~~ *complementary integrative* assistant ~~for complementary integrative technician}~~ to an applicant who is qualified under the regulations of the Board to perform ~~{homeopathic}~~ *complementary integrative medical* services under the supervision of a ~~{supervising homeopathic}~~ *complementary integrative* physician ~~{}~~ *or a complementary integrative practitioner*. The application for the certificate must be cosigned by the ~~{supervising homeopathic}~~ *complementary integrative* physician ~~{}~~ *or complementary integrative practitioner*, and the certificate is valid only so long as that ~~{supervising homeopathic}~~ *complementary integrative* physician *or complementary integrative practitioner* employs ~~{and supervises the homeopathic assistant.}~~ *the complementary integrative assistant.* ~~{for complementary integrative technician.}~~

2. A ~~{homeopathic}~~ *complementary integrative* assistant ~~for complementary integrative technician}~~ may perform such ~~{homeopathic}~~ *complementary integrative medical* services as he or she is authorized to perform under the terms of the certificate issued to the ~~{homeopathic}~~ *complementary integrative* assistant ~~for complementary integrative technician}~~ by the Board, if the services are performed under the supervision and control of the supervising ~~{homeopathic}~~ *complementary integrative* physician ~~{}~~ *or complementary integrative practitioner*.

3. A ~~{supervising homeopathic}~~ *complementary integrative* physician *or complementary integrative practitioner* shall not cosign for ~~{}~~ *or* employ ~~{or supervise}~~ more than five ~~{homeopathic}~~ *complementary integrative* assistants ~~for complementary integrative technicians}~~ at the same time ~~{}~~ *without obtaining written approval from the Board*.

Sec. 71. NRS 630A.299 is hereby amended to read as follows:

630A.299 The Board shall adopt regulations regarding the certification of a ~~{homeopathic}~~ *complementary integrative* assistant , ~~for complementary integrative technician,~~ including, but not limited to:

1. The educational and other qualifications of applicants.
2. The required academic program for applicants.
3. The procedures for applications for and the issuance of certificates.
4. The tests or examinations of applicants by the Board.
5. The medical services which a ~~{homeopathic}~~ *complementary integrative* assistant ~~for complementary integrative technician}~~ may perform, except that a ~~{homeopathic}~~ *complementary integrative* assistant ~~{or~~

~~complementary integrative technician~~ may not perform those specific functions and duties delegated or restricted by law to persons licensed as dentists, chiropractors, podiatric physicians, optometrists or hearing aid specialists under chapter 631, 634, 635, 636 or 637A, respectively, of NRS.

6. The duration, renewal and termination of certificates.

7. The grounds respecting disciplinary actions against ~~{homeopathic}~~ **complementary integrative** assistants ~~for complementary integrative technicians.~~

8. The supervision of a ~~{homeopathic}~~ **complementary integrative** assistant ~~for complementary integrative technician~~ by a supervising ~~{homeopathic}~~ **complementary integrative** physician ~~or complementary integrative practitioner.~~

9. The establishment of requirements for the continuing education of ~~{homeopathic assistants.}~~ **a complementary integrative assistant.** ~~for complementary integrative technician.~~

Sec. 72. NRS 630A.310 is hereby amended to read as follows:

630A.310 1. Except as otherwise provided in NRS 630A.225, the Board may:

(a) Issue a temporary license, to be effective not more than 6 months after issuance, to any ~~{homeopathic}~~ **complementary integrative** physician **or complementary integrative practitioner** who is eligible for a permanent license in this State and who also is of good moral character and reputation. The purpose of the temporary license is to enable an eligible ~~{homeopathic}~~ **complementary integrative** physician **or complementary integrative practitioner** to serve as a substitute for some other ~~{homeopathic}~~ **complementary integrative** physician **or complementary integrative practitioner** who is licensed to practice ~~{homeopathic}~~ **complementary integrative** medicine in this State and who is absent from his or her practice for reasons deemed sufficient by the Board. A temporary license issued under the provisions of this paragraph is not renewable.

(b) Issue a special license to a licensed ~~{homeopathic}~~ **complementary integrative** physician **or complementary integrative practitioner** of another state to come into Nevada to care for or assist in the treatment of his or her own patients in association with a physician licensed in this State. A special license issued under the provisions of this paragraph is limited to the care of a specific patient.

(c) Issue a restricted license for a specified period if the Board determines the applicant needs supervision or restriction.

2. A person who is licensed pursuant to paragraph (a), (b) or (c) of subsection 1 shall be deemed to have given consent to the revocation of the license at any time by the Board for any of the grounds provided in NRS 630A.225 or 630A.340 to 630A.380, inclusive.

Sec. 73. NRS 630A.320 is hereby amended to read as follows:

630A.320 1. Except as otherwise provided in NRS 630A.225, the Board may issue to a qualified applicant a limited license to practice

~~{homeopathic}~~ **complementary integrative** medicine as a resident ~~{homeopathic}~~ **complementary integrative** physician *or as a resident complementary integrative practitioner* in a postgraduate program of clinical training if:

(a) The applicant is a graduate of an accredited medical school in the United States or Canada or is a graduate of a foreign medical school ~~{recognized}~~ **that is listed in the International Medical Education Directory published** by the Educational Commission for Foreign Medical Graduates and:

(1) Is a citizen of the United States or is lawfully entitled to remain and work in the United States; and

(2) Has completed 1 year of supervised clinical training approved by the Board.

(b) The Board approves the program of clinical training, and the medical school or other institution sponsoring the program provides the Board with written confirmation that the applicant has been appointed to a position in the program.

2. In addition to the requirements of subsection 1, **the Board may require** an applicant who is a graduate of a foreign medical school ~~{must have received}~~ **to obtain** the standard certificate of the Educational Commission for Foreign Medical Graduates.

3. The Board may issue this limited license for not more than 1 year, but may renew the license ~~{}~~ **annually**.

4. The holder of this limited license may practice ~~{homeopathic}~~ **complementary integrative** medicine only in connection with his or her duties as a resident physician and shall not engage in the private practice of ~~{homeopathic}~~ **complementary integrative** medicine.

5. A limited license granted under this section may be revoked by the Board at any time for any of the grounds set forth in NRS 630A.225 or 630A.340 to 630A.380, inclusive.

Sec. 74. NRS 630A.325 is hereby amended to read as follows:

630A.325 1. To renew a license **or certificate** other than a temporary, special or limited license **or certificate** issued pursuant to this chapter, each person must, on or before January 1 of each year:

(a) Apply to the Board for renewal;

(b) Pay the annual fee for renewal set by the Board;

(c) Submit evidence to the Board of completion of the requirements for continuing education; and

(d) Submit all information required to complete the renewal.

2. The Board shall, as a prerequisite for the renewal or restoration of a license **or certificate** other than a temporary, special or limited license ~~{}~~ **or certificate**, require each holder of a license **or certificate** to comply with the requirements for continuing education adopted by the Board.

3. Any holder who fails to pay the annual fee for renewal and submit all information required to complete the renewal after they become due ~~{must be}~~

given a period of 60 days in which to pay the fee and submit all required information and, failing to do so, automatically forfeits the right to practice ~~{homeopathic}~~ **complementary integrative** medicine, and his or her license **or certificate** to practice ~~{homeopathic}~~ **complementary integrative** medicine in this State is automatically suspended. The holder may, within 2 years after the date his or her license **or certificate** is suspended, apply for the restoration of the license ~~{}~~ **or certificate**.

4. The Board shall notify any holder whose license **or certificate** is automatically suspended pursuant to subsection 3 and send a copy of the notice to the Drug Enforcement Administration of the United States Department of Justice or its successor agency.

Sec. 75. NRS 630A.330 is hereby amended to read as follows:

630A.330 1. Except as otherwise provided in subsection 6, ~~{7}~~ each applicant for a license to practice ~~{homeopathic medicine}~~ **as a complementary integrative physician** must:

(a) Pay a fee of \$500; and

(b) Pay the cost of obtaining such further evidence and proof of qualifications as the Board may require pursuant to subsection 2 of NRS 630A.240.

2. Each applicant for a ~~{certificate}~~ **license** as ~~{an advanced}~~ **a complementary integrative** practitioner ~~{of homeopathy}~~ must:

(a) Pay a fee of \$300; and

(b) Pay the cost of obtaining such further evidence and proof of qualifications as the Board may require pursuant to NRS 630A.295.

3. Each applicant for a certificate as a ~~{homeopathic}~~ **complementary integrative** assistant must pay a fee of \$150.

~~{ 4. Each applicant for a certificate as a complementary integrative technician must pay a fee of \$150. }~~

4, ~~{5}~~ Each applicant for a license or certificate who fails an examination and who is permitted to be reexamined must pay a fee not to exceed \$400 for each reexamination.

5, ~~{6}~~ If an applicant for a license or certificate does not appear for examination, for any reason deemed sufficient by the Board, the Board may, upon request, refund a portion of the application fee not to exceed 50 percent of the fee. There must be no refund of the application fee if an applicant appears for examination.

6, ~~{7}~~ Each applicant for a license issued under the provisions of NRS 630A.310 or 630A.320 must pay a fee not to exceed \$150, as determined by the Board, and must pay a fee of \$100 for each renewal of the license.

7, ~~{8}~~ The fee for the renewal of a license or certificate, as determined by the Board, must not exceed \$600 per year and must be collected for the year in which a **complementary integrative** physician, ~~{advanced}~~ **complementary integrative** practitioner ~~{of homeopathy or homeopathic}~~ ~~{}~~ **or**

complementary integrative assistant ~~for complementary integrative technician~~ is licensed or certified.

8. ~~9.~~ The fee for the restoration of a suspended license or certificate is twice the amount of the fee for the renewal of a license or certificate at the time of the restoration of the license or certificate.

Sec. 76. NRS 630A.340 is hereby amended to read as follows:

630A.340 The following acts, among others, constitute grounds for initiating disciplinary action or denying the issuance of a license ~~or~~ **or certificate:**

1. Unprofessional conduct.

2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240, 616D.300, 616D.310, or 616D.350 to 616D.440, inclusive;

(c) Any offense involving moral turpitude; or

(d) Any offense relating to the practice of ~~homeopathic~~ **complementary integrative** medicine or the ability to practice ~~homeopathic~~ **complementary integrative** medicine.

➤ A plea of nolo contendere to any offense listed in this subsection shall be deemed a conviction.

3. The suspension, modification or limitation of a license **or certificate** to practice any type of medicine by any other jurisdiction.

4. The surrender of a license **or certificate** to practice any type of medicine or the discontinuance of the practice of medicine while under investigation by any licensing authority, medical facility, facility for the dependent, branch of the Armed Forces of the United States, insurance company, agency of the Federal Government or employer.

5. Gross or repeated malpractice, which may be evidenced by claims of malpractice settled against a practitioner.

6. Professional incompetence.

Sec. 77. NRS 630A.350 is hereby amended to read as follows:

630A.350 The following acts, among others, constitute grounds for initiating disciplinary action or denying the issuance of a license ~~or~~ **or certificate:**

1. Willfully making a false or fraudulent statement or submitting a forged or false document in applying for a license to practice ~~homeopathic~~ **complementary integrative** medicine ~~or for certification as a complementary integrative assistant.~~ ~~for complementary integrative technician.~~

2. Willfully representing with the purpose of obtaining compensation or other advantages for himself or herself or for any other person that a manifestly incurable disease or injury or other manifestly incurable condition can be permanently cured.

3. Obtaining, maintaining or renewing, or attempting to obtain, maintain or renew, a license *or certificate* ~~{to practice homeopathic medicine}~~ by bribery, fraud or misrepresentation or by any false, misleading, inaccurate or incomplete statement.

4. Advertising the practice of ~~{homeopathic}~~ *complementary integrative* medicine in a false, deceptive or misleading manner.

5. Practicing or attempting to practice ~~{homeopathic}~~ *complementary integrative* medicine under a name other than the name under which ~~he or she~~ *the person* is licensed ~~{}~~ *or certified*.

6. ~~{Signing a blank prescription form.~~

7. ~~{}~~ Influencing a patient in order to engage in sexual activity with the patient or another person.

~~{8.}~~ 7. Attempting directly or indirectly, by way of intimidation, coercion or deception, to obtain or retain a patient or to discourage a patient from obtaining a second opinion.

~~{9.}~~ 8. Terminating the medical care of a patient without giving adequate notice or making other arrangements for the continued care of the patient.

Sec. 78. NRS 630A.360 is hereby amended to read as follows:

630A.360 The following acts, among others, constitute grounds for initiating disciplinary action or denying the issuance of a license:

1. Directly or indirectly receiving from any person any fee, commission, rebate or other form of compensation which tends or is intended to influence the physician's objective evaluation or treatment of a patient.

2. Dividing a fee between ~~{homeopathic}~~ *complementary integrative* physicians ~~{}~~ *or complementary integrative practitioners*, unless the patient is informed of the division of fees and the division is made in proportion to the services personally performed and the responsibility assumed by each ~~{homeopathic}~~ *complementary integrative* physician ~~{}~~ *or complementary integrative practitioner*.

3. Charging for visits to the ~~{homeopathic physician's}~~ office *of the complementary integrative physician or complementary integrative practitioner* which did not occur or for services which were not rendered or documented in the records of the patient.

4. Employing, directly or indirectly, any suspended, ~~{or}~~ unlicensed *or uncertified* person in the practice of ~~{homeopathic}~~ *complementary integrative* medicine, or the aiding, abetting or assisting of any unlicensed *or uncertified* person to practice ~~{homeopathic}~~ *complementary integrative* medicine contrary to the provisions of this chapter or the regulations adopted by the Board.

5. Advertising the services of an unlicensed *or uncertified* person in the practice of ~~{homeopathic}~~ *complementary integrative* medicine.

6. Delegating responsibility for the care of a patient to a person whom the ~~{homeopathic}~~ *complementary integrative* physician *or complementary integrative practitioner* knows, or has reason to know, is not qualified to undertake that responsibility.

7. Failing to disclose to a patient any financial or other conflict of interest affecting the care of the patient.

Sec. 79. NRS 630A.370 is hereby amended to read as follows:

630A.370 The following acts, among others, constitute grounds for initiating disciplinary action or denying the issuance of a license ~~or~~ **or certificate:**

1. Inability to practice ~~homeopathic~~ **complementary integrative** medicine with reasonable skill and safety because of an illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other addictive substance.

2. Engaging in any:

(a) Professional conduct which is intended to deceive or which the Board by regulation has determined is unethical.

(b) Medical practice harmful to the public or any conduct detrimental to the public health, safety or morals which does not constitute gross or repeated malpractice or professional incompetence.

3. Administering, dispensing or prescribing any controlled substance, except as authorized by law.

4. Performing, assisting or advising an unlawful abortion or in the injection of any liquid substance into the human body to cause an abortion.

5. Practicing or offering to practice beyond the scope permitted by law, or performing services which the ~~homeopathic~~ **complementary integrative** physician, **complementary integrative practitioner** ~~or~~ **or complementary integrative assistant** ~~for complementary integrative technician~~ knows or has reason to know he or she is not competent to perform.

6. Performing any procedure without first obtaining the informed consent of the patient or the patient's family or prescribing any therapy which by the current standards of the practice of ~~homeopathic~~ **complementary integrative** medicine is experimental.

7. Continued failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians, **practitioners** ~~or~~ **or assistants** ~~for technicians~~ in good standing who practice ~~homeopathy and electrodiagnosis~~ **complementary integrative medicine.**

8. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➤ This subsection applies to an owner or other principal responsible for the operation of the facility.

Sec. 80. NRS 630A.380 is hereby amended to read as follows:

630A.380 The following acts, among others, constitute grounds for initiating disciplinary action or denying the issuance of a license ~~or~~ **or certificate:**

1. Willful disclosure of a communication privileged under a statute or court order.

2. Willful failure to comply with any provision of this chapter, regulation, subpoena or order of the Board or with any court order relating to this chapter.

3. Willful failure to perform any statutory or other legal obligation imposed upon a licensed ~~{homeopathic}~~ **complementary integrative** physician ~~{}~~ , **licensed complementary integrative practitioner f, f or certified complementary integrative assistant** . ~~{for certified complementary integrative technician}~~

Sec. 81. NRS 630A.390 is hereby amended to read as follows:

630A.390 1. Any person who becomes aware that a person practicing medicine in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action may file a written complaint with the Board.

2. Any medical society or medical facility or facility for the dependent licensed in this State shall report to the Board the initiation and outcome of any disciplinary action against any ~~{homeopathic}~~ **complementary integrative** physician **or complementary integrative practitioner** concerning the care of a patient or the competency of the **complementary integrative** physician ~~{}~~ **or complementary integrative practitioner**.

3. The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a ~~{homeopathic}~~ **complementary integrative** physician ~~{}~~ , **complementary integrative practitioner f, f or complementary integrative assistant** ; ~~{for complementary integrative technician}~~

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law relating to controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence.

4. The Board shall retain all complaints filed with the Board pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon.

Sec. 82. NRS 630A.400 is hereby amended to read as follows:

630A.400 1. The Board or a committee of its members designated by the Board shall review every complaint filed with the Board and conduct an investigation to determine whether there is a reasonable basis for compelling a ~~{homeopathic}~~ **complementary integrative** physician , **complementary integrative practitioner f, f or complementary integrative assistant** ~~{or complementary integrative technician}~~ to take a mental or physical examination or an examination of his or her competence to practice ~~{homeopathic}~~ **complementary integrative** medicine.

2. If a committee is designated, it must be composed of at least ~~three~~ **two** members of the Board, at least one of whom is a licensed ~~homeopathic~~ **complementary integrative** physician.

3. If, from the complaint or from other official records, it appears that the complaint is not frivolous and the complaint charges gross or repeated malpractice, the Board shall transmit the original complaint, along with further facts or information derived from its own review, to the Attorney General.

4. Following the investigation, the committee shall present its evaluation and recommendations to the Board. The Board shall review the committee's findings to determine whether to take any further action, but a member of the Board who participated in the investigation may not participate in this review or in any subsequent hearing or action taken by the Board.

Sec. 83. NRS 630A.420 is hereby amended to read as follows:

630A.420 1. If the Board or its investigative committee has reason to believe that the conduct of any ~~homeopathic~~ **complementary integrative** physician , **complementary integrative practitioner or complementary integrative assistant** ~~for complementary integrative technician~~ has raised a reasonable question as to his or her competence to practice **complementary integrative** medicine with reasonable skill and safety to patients, it may order the ~~homeopathic~~ **complementary integrative** physician , **complementary integrative practitioner or complementary integrative assistant** ~~for complementary integrative technician~~ to undergo:

(a) A mental or physical examination; or

(b) An examination of his or her competence to practice ~~homeopathic~~ **complementary integrative** medicine,

↳ by physicians or others designated by the Board to assist the Board in determining the fitness of the ~~homeopathic~~ **complementary integrative** physician , **complementary integrative practitioner or complementary integrative assistant** ~~for complementary integrative technician~~ to practice ~~homeopathic~~ **complementary integrative** medicine.

2. For the purposes of this section:

(a) Every ~~homeopathic~~ **complementary integrative** physician , **complementary integrative practitioner or complementary integrative assistant** ~~for complementary integrative technician~~ who applies for a license **or certificate** or is licensed **or certified** under this chapter shall be deemed to have given consent to submit to a mental or physical examination or an examination of his or her competence to practice ~~homeopathic~~ **complementary integrative** medicine when directed to do so in writing by the Board or an investigative committee of the Board.

(b) The testimony or reports of the examining physicians are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a ~~homeopathic~~ **complementary integrative** physician , **complementary integrative practitioner or complementary integrative**

~~assistant for complementary integrative technician~~ licensed **or certified** under this chapter to submit to an examination when directed as provided in this section constitutes an admission of the charges against the ~~homeopathic~~ **complementary integrative** physician ~~††~~, **complementary integrative practitioner ~~††~~ or complementary integrative assistant**, ~~for complementary integrative technician~~.

Sec. 84. NRS 630A.430 is hereby amended to read as follows:

630A.430 If the Board has reason to believe that the conduct of any ~~homeopathic~~ **complementary integrative** physician, **complementary integrative practitioner ~~††~~ or complementary integrative assistant** ~~for complementary integrative technician~~ has raised a reasonable question as to his or her competence to practice ~~homeopathic~~ **complementary integrative** medicine with reasonable skill and safety to patients, the Board may order an examination of the ~~homeopathic~~ **complementary integrative** physician, **complementary integrative practitioner ~~††~~ or complementary integrative assistant** ~~for complementary integrative technician~~ to determine his or her fitness to practice ~~homeopathic~~ **complementary integrative** medicine. When such action is taken, the reasons for the action must be documented and must be available to the ~~homeopathic~~ **complementary integrative** physician, **complementary integrative practitioner ~~††~~ or complementary integrative assistant** ~~for complementary integrative technician~~ being examined.

Sec. 85. NRS 630A.440 is hereby amended to read as follows:

630A.440 Notwithstanding the provisions of chapter 622A of NRS, if the Board issues an order summarily suspending the license **or certificate** of a ~~homeopathic~~ **complementary integrative** physician, **complementary integrative practitioner ~~††~~ or complementary integrative assistant** ~~for complementary integrative technician~~ pending proceedings for disciplinary action and requires the ~~homeopathic~~ **complementary integrative** physician, **complementary integrative practitioner ~~††~~ or complementary integrative assistant** ~~for complementary integrative technician~~ to submit to a mental or physical examination or an examination of his or her competence to practice ~~homeopathic~~ **complementary integrative** medicine, the examination must be conducted and the results obtained not later than 60 days after the Board issues its order.

Sec. 86. NRS 630A.450 is hereby amended to read as follows:

630A.450 Notwithstanding the provisions of chapter 622A of NRS, if the Board issues an order summarily suspending the license **or certificate** of a ~~homeopathic~~ **complementary integrative** physician, **complementary integrative practitioner ~~††~~ or complementary integrative assistant** ~~for complementary integrative technician~~ pending proceedings for disciplinary action, including, without limitation, a summary suspension pursuant to NRS 233B.127, the court shall not stay that order.

Sec. 87. NRS 630A.460 is hereby amended to read as follows:

630A.460 1. In addition to any other remedy provided by law, the Board, through its President or Secretary-Treasurer or the Attorney General, may apply to any court of competent jurisdiction to:

(a) Enjoin any prohibited act or other conduct of a ~~{homeopathic}~~ **complementary integrative** physician , **complementary integrative practitioner ~~f, f~~ or complementary integrative assistant for complementary integrative technician** which is harmful to the public;

(b) Enjoin any person who is not licensed **or certified** under this chapter from practicing ~~{homeopathic}~~ **complementary integrative** medicine; or

(c) Limit **the practice of** a ~~{homeopathic physician's practice}~~ **complementary integrative physician, complementary integrative practitioner ~~f, f~~ or complementary integrative assistant for complementary integrative technician** or suspend his or her license **or certificate** to practice ~~{homeopathic}~~ **complementary integrative** medicine.

2. The court in a proper case may issue a temporary restraining order or a preliminary injunction for the purposes of subsection 1:

(a) Without proof of actual damage sustained by any person;

(b) Without relieving any person from criminal prosecution for engaging in the practice of ~~{homeopathic}~~ **complementary integrative** medicine without a license ~~f, f~~ **or certificate**; and

(c) Pending proceedings for disciplinary action by the Board.

Sec. 88. NRS 630A.490 is hereby amended to read as follows:

630A.490 Except as otherwise provided in chapter 622A of NRS:

1. Service of process made under this chapter must be either personal or by registered or certified mail with return receipt requested, addressed to the ~~{homeopathic}~~ **complementary integrative** physician , **complementary integrative practitioner ~~f, f~~ or complementary integrative assistant for complementary integrative technician** at his or her last known address. If personal service cannot be made and if notice by mail is returned undelivered, the Secretary-Treasurer of the Board shall cause notice to be published once a week for 4 consecutive weeks in a newspaper published in the county of the ~~{homeopathic physician's}~~ last known address **of the complementary integrative physician, complementary integrative practitioner ~~f, f~~ or complementary integrative assistant for complementary integrative technician** or, if no newspaper is published in that county, then in a newspaper widely distributed in that county.

2. Proof of service of process or publication of notice made under this chapter must be filed with the Board and recorded in the minutes of the Board.

Sec. 89. NRS 630A.500 is hereby amended to read as follows:

630A.500 Notwithstanding the provisions of chapter 622A of NRS, in any disciplinary hearing:

1. Proof of actual injury need not be established.

2. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation,

limitation, modification, denial or surrender of a license *or certificate* to practice ~~homeopathic~~ **complementary integrative** medicine is conclusive evidence of its occurrence.

Sec. 90. NRS 630A.510 is hereby amended to read as follows:

630A.510 1. Any member of the Board who was not a member of the investigative committee, if one was appointed, may participate in the final order of the Board. If the Board, after notice and a hearing as required by law, determines that a violation of the provisions of this chapter or the regulations adopted by the Board has occurred, it shall issue and serve on the person charged an order, in writing, containing its findings and any sanctions imposed by the Board. If the Board determines that no violation has occurred, it shall dismiss the charges, in writing, and notify the person that the charges have been dismissed.

2. If the Board finds that a violation has occurred, it may by order:

(a) Place the person on probation for a specified period on any of the conditions specified in the order.

(b) Administer to the person a public reprimand.

(c) Limit the practice of the person or exclude a method of treatment from the scope of his or her practice.

(d) Suspend the license *or certificate* of the person for a specified period or until further order of the Board.

(e) Revoke the license *or certificate* of the person to practice ~~homeopathic~~ **complementary integrative** medicine.

(f) Require the person to participate in a program to correct a dependence upon alcohol or a controlled substance, or any other impairment.

(g) Require supervision of the person's practice.

(h) Impose an administrative fine not to exceed \$10,000.

(i) Require the person to perform community service without compensation.

(j) Require the person to take a physical or mental examination or an examination of his or her competence to practice ~~homeopathic~~ **complementary integrative** medicine.

(k) Require the person to fulfill certain training or educational requirements.

3. The Board shall not administer a private reprimand.

4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 91. NRS 630A.520 is hereby amended to read as follows:

630A.520 1. Any person aggrieved by a final order of the Board is entitled to judicial review of the Board's order as provided by law.

2. Every order of the Board which limits the practice of ~~homeopathic~~ **complementary integrative** medicine or suspends or revokes a license *or certificate* is effective from the date the Secretary-Treasurer of the Board certifies the order until the date the order is modified or reversed by a final

judgment of the court. The court shall not stay the order of the Board pending a final determination by the court.

3. The district court shall give a petition for judicial review of the Board's order priority over other civil matters which are not expressly given priority by law.

Sec. 92. NRS 630A.530 is hereby amended to read as follows:

630A.530 1. Any person:

(a) Whose practice of ~~homeopathic~~ **complementary integrative** medicine has been limited; or

(b) Whose license **or certificate** to practice ~~homeopathic~~ **complementary integrative** medicine has been:

(1) Suspended until further order; or

(2) Revoked,

↪ may apply to the Board for removal of the limitation or suspension or may apply to the Board pursuant to the provisions of chapter 622A of NRS for reinstatement of the revoked license ~~or~~ **or certificate**.

2. In hearing the application, the Board or a committee of members of the Board:

(a) May require the applicant to submit to a mental or physical examination or an examination of his or her competence to practice ~~homeopathic~~ **complementary integrative** medicine by physicians or other persons whom it designates and submit such other evidence of changed conditions and of fitness as it deems proper.

(b) Shall determine whether under all the circumstances the time of the application is reasonable.

(c) May deny the application or modify or rescind its order as it deems the evidence and the public safety warrants.

3. The applicant has the burden of proving by clear and convincing evidence that the requirements for reinstatement of the license **or certificate** or removal of the limitation or suspension have been met.

4. The Board shall not reinstate a license **or certificate** unless it is satisfied that the applicant has complied with all of the terms and conditions set forth in the final order of the Board and that the applicant is capable of practicing ~~homeopathic~~ **complementary integrative** medicine with reasonable skill and safety to patients.

5. In addition to any other requirements set forth in chapter 622A of NRS, to reinstate a license **or certificate** that has been revoked by the Board, a person must apply for a license **or certificate** and take an examination as though the person had never been licensed **or certified** under this chapter.

Sec. 93. NRS 630A.540 is hereby amended to read as follows:

630A.540 1. In addition to any other immunity provided by the provisions of chapter 622A of NRS:

(a) Any person who furnishes information to the Board, in good faith in accordance with the provisions of this chapter, concerning a person who is

licensed or certified or applies for a license or certificate under this chapter is immune from civil liability for furnishing that information.

(b) The Board and its members, staff, counsel, investigators, experts, committees, panels, hearing officers and consultants are immune from civil liability for any decision or action taken in good faith in response to information received by the Board.

(c) The Board and any of its members are immune from civil liability for disseminating information concerning a person who is licensed or certified or applies for a license or certificate under this chapter to the Attorney General or any board or agency of the State, hospital, medical society, insurer, employer, patient or patient's family or law enforcement agency.

2. The Board shall not commence an investigation, impose any disciplinary action or take any other adverse action against a ~~{homeopathic}~~ **complementary integrative** physician , **complementary integrative practitioner f,} or complementary integrative assistant** ~~for complementary integrative technician}~~ for:

(a) Disclosing to a governmental entity a violation of any law, rule or regulation by an applicant for **or a person holding** a license **or certificate** to practice ~~{homeopathic medicine; or by a homeopathic physician;}~~ **complementary integrative medicine; or**

(b) Cooperating with a governmental entity that is conducting an investigation, hearing or inquiry into such a violation, including, without limitation, providing testimony concerning the violation.

3. As used in this section, "governmental entity" includes, without limitation:

(a) A federal, state or local officer, employee, agency, department, division, bureau, board, commission, council, authority or other subdivision or entity of a public employer;

(b) A federal, state or local employee, committee, member or commission of the Legislative Branch of Government;

(c) A federal, state or local representative, member or employee of a legislative body or a county, town, village or any other political subdivision or civil division of the State;

(d) A federal, state or local law enforcement agency or prosecutorial office, or any member or employee thereof, or police or peace officer; and

(e) A federal, state or local judiciary, or any member or employee thereof, or grand or petit jury.

Sec. 94. NRS 630A.543 is hereby amended to read as follows:

630A.543 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license **or certificate** to practice ~~{homeopathic}~~ **complementary integrative** medicine , ~~{or a certificate to practice as an advanced practitioner of homeopathy or as a homeopathic assistant;}~~ the Board shall deem the license or certificate issued to that person to be

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

2. The Board shall reinstate a license *or certificate* to practice ~~{homeopathic}~~ **complementary integrative** medicine ~~{for a certificate to practice as an advanced practitioner of homeopathy or a homeopathic assistant}~~ that has been suspended by a district court pursuant to NRS 425.540 if:

(a) The Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license or certificate was suspended stating that the person whose license or certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560; and

(b) The person whose license or certificate was suspended pays the fee prescribed in NRS 630A.330 for the reinstatement of a suspended license or certificate.

Sec. 95. NRS 630A.550 is hereby amended to read as follows:

630A.550 The filing and review of a complaint, its dismissal without further action or its transmittal to the Attorney General, and any subsequent disposition by the Board, the Attorney General or any reviewing court do not preclude:

1. Any measure by a hospital or other institution or medical society to limit or terminate the privileges of a ~~{homeopathic}~~ **complementary integrative** physician, ~~{advanced}~~ **complementary integrative** practitioner ~~{of homeopathy or homeopathic}~~ ~~or~~ **complementary integrative** assistant ~~for complementary integrative technician}~~ according to its rules or the custom of the profession. No civil liability attaches to any such action taken without malice even if the ultimate disposition of the complaint is in favor of the ~~{homeopathic}~~ **complementary integrative** physician, ~~{advanced}~~ **complementary integrative** practitioner ~~{of homeopathy or homeopathic}~~ ~~or~~ **complementary integrative** assistant ~~for complementary integrative technician}~~.

2. Any appropriate criminal prosecution by the Attorney General or a district attorney based upon the same or other facts.

Sec. 96. NRS 630A.570 is hereby amended to read as follows:

630A.570 1. The Board through its President or Secretary-Treasurer or the Attorney General may maintain in any court of competent jurisdiction a suit for an injunction against any person or persons practicing ~~{homeopathic}~~ **complementary integrative** medicine without a license or certificate.

2. Such an injunction:

(a) May be issued without proof of actual damage sustained by any person, this provision being a preventive as well as a punitive measure.

(b) Does not relieve such person from criminal prosecution for practicing without a license or certificate.

Sec. 97. NRS 630A.580 is hereby amended to read as follows:

630A.580 In seeking injunctive relief against any person for an alleged violation of this chapter by practicing ~~homeopathic~~ **complementary integrative** medicine without a license or certificate, it is sufficient to allege that the person did, upon a certain day, and in a certain county of this State, engage in the practice of ~~homeopathic~~ **complementary integrative** medicine without having a license or certificate to do so, without alleging any further or more particular facts concerning the matter.

Sec. 98. NRS 630A.590 is hereby amended to read as follows:

630A.590 A person who:

1. Presents to the Board as his or her own the diploma, license, certificate or credentials of another;
 2. Gives either false or forged evidence of any kind to the Board;
 3. Practices ~~homeopathic~~ **complementary integrative** medicine under a false or assumed name; or
 4. Except as otherwise provided in NRS 629.091, practices ~~homeopathic~~ **complementary integrative** medicine without being licensed or certified under this chapter,
- is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 99. NRS 630A.600 is hereby amended to read as follows:

630A.600 Except as otherwise provided in NRS 629.091, a person who practices ~~homeopathic~~ **complementary integrative** medicine without a license or certificate issued pursuant to this chapter is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 100. NRS 639.0125 is hereby amended to read as follows:

639.0125 "Practitioner" means:

1. A physician, **complementary integrative physician**, ~~complementary integrative practitioner,~~ dentist, veterinarian or podiatric physician who holds a license to practice his or her profession in this State;
2. A hospital, pharmacy or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer drugs in the course of professional practice or research in this State;
3. An advanced practitioner of nursing who has been authorized to prescribe controlled substances, poisons, dangerous drugs and devices;
4. A physician assistant who:
 - (a) Holds a license issued by the Board of Medical Examiners; and
 - (b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances, poisons, dangerous drugs or devices under the supervision of a physician as required by chapter 630 of NRS;
5. A physician assistant who:

(a) Holds a license issued by the State Board of Osteopathic Medicine; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances, poisons, dangerous drugs or devices under the supervision of an osteopathic physician as required by chapter 633 of NRS; or

6. An optometrist who is certified by the Nevada State Board of Optometry to prescribe and administer therapeutic pharmaceutical agents pursuant to NRS 636.288, when the optometrist prescribes or administers therapeutic pharmaceutical agents within the scope of his or her certification.

Sec. 101. NRS 640.190 is hereby amended to read as follows:

640.190 This chapter does not authorize a physical therapist, whether licensed or not, to practice medicine, osteopathic medicine, ~~homeopathic~~ **complementary integrative** medicine, chiropractic or any other form or method of healing.

Sec. 102. NRS 640B.085 is hereby amended to read as follows:

640B.085 "Physician" means:

1. A physician licensed pursuant to chapter 630 of NRS;
2. An osteopathic physician licensed pursuant to chapter 633 of NRS;
3. A ~~homeopathic~~ **complementary integrative** physician licensed pursuant to chapter 630A of NRS;
4. A chiropractic physician licensed pursuant to chapter 634 of NRS; or
5. A podiatric physician licensed pursuant to chapter 635 of NRS.

Sec. 103. NRS 0.040 is hereby amended to read as follows:

0.040 1. Except as otherwise provided in subsection 2, "physician" means a person who engages in the practice of medicine, including osteopathy and ~~homeopathy~~ **complementary integrative medicine**.

2. The terms "physician," "osteopathic physician," ~~"homeopathic physician,"~~ **"complementary integrative physician,"** "chiropractic physician" and "podiatric physician" are used in chapters 630, 630A, 633, 634 and 635 of NRS in the limited senses prescribed by those chapters respectively.

Sec. 104. NRS 89.050 is hereby amended to read as follows:

89.050 1. Except as otherwise provided in subsection 2, a professional entity may be organized only for the purpose of rendering one specific type of professional service and may not engage in any business other than rendering the professional service for which it was organized and services reasonably related thereto, except that a professional entity may own real and personal property appropriate to its business and may invest its money in any form of real property, securities or any other type of investment.

2. A professional entity may be organized to render a professional service relating to:

(a) Architecture, interior design, residential design, engineering and landscape architecture, or any combination thereof, and may be composed of persons:

(1) Engaged in the practice of architecture as provided in chapter 623 of NRS;

(2) Practicing as a registered interior designer as provided in chapter 623 of NRS;

(3) Engaged in the practice of residential design as provided in chapter 623 of NRS;

(4) Engaged in the practice of landscape architecture as provided in chapter 623A of NRS; and

(5) Engaged in the practice of professional engineering as provided in chapter 625 of NRS.

(b) Medicine, ~~homeopathy~~ **complementary integrative medicine** and osteopathy, and may be composed of persons engaged in the practice of medicine as provided in chapter 630 of NRS, persons engaged in the practice of ~~homeopathy~~ **complementary integrative medicine** as provided in chapter 630A of NRS and persons engaged in the practice of osteopathic medicine as provided in chapter 633 of NRS. Such a professional entity may market and manage additional professional entities which are organized to render a professional service relating to medicine, ~~homeopathy~~ **complementary integrative medicine** and osteopathy.

(c) Mental health services, and may be composed of the following persons, in any number and in any combination:

(1) Any psychologist who is licensed to practice in this State;

(2) Any social worker who holds a master's degree in social work and who is licensed by this State as a clinical social worker;

(3) Any registered nurse who is licensed to practice professional nursing in this State and who holds a master's degree in the field of psychiatric nursing;

(4) Any marriage and family therapist who is licensed by this State pursuant to chapter 641A of NRS; and

(5) Any clinical professional counselor who is licensed by this State pursuant to chapter 641A of NRS.

➤ Such a professional entity may market and manage additional professional entities which are organized to render a professional service relating to mental health services pursuant to this paragraph.

3. A professional entity may render a professional service only through its officers, managers and employees who are licensed or otherwise authorized by law to render the professional service.

Sec. 105. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means:

(1) Unlawfully attempting to use physical force against another person;

or

(2) Intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require the employee to make home visits.

(c) "Provider of health care" means a physician, a perfusionist or a physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a ~~homeopathic~~ **complementary integrative** physician, ~~an advanced~~ **a complementary integrative** practitioner ~~of homeopathy, a homeopathic assistant,~~ **a certified complementary integrative assistant, ~~a certified complementary integrative technician,~~** an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern and an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school

employee, a taxicab driver or a transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

Sec. 106. NRS 453.126 is hereby amended to read as follows:

453.126 "Practitioner" means:

1. A physician, *complementary integrative physician*, ~~complementary integrative practitioner~~, dentist, veterinarian or podiatric physician who holds a license to practice his or her profession in this State and is registered pursuant to this chapter.

2. An advanced practitioner of nursing who holds a certificate from the State Board of Nursing and a certificate from the State Board of Pharmacy authorizing him or her to dispense or to prescribe and dispense controlled substances.

3. A scientific investigator or a pharmacy, hospital or other institution licensed, registered or otherwise authorized in this State to distribute, dispense, conduct research with respect to, to administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

4. A euthanasia technician who is licensed by the Nevada State Board of Veterinary Medical Examiners and registered pursuant to this chapter, while he or she possesses or administers sodium pentobarbital pursuant to his or her license and registration.

5. A physician assistant who:

(a) Holds a license from the Board of Medical Examiners; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances under the supervision of a physician as required by chapter 630 of NRS.

6. A physician assistant who:

(a) Holds a license from the State Board of Osteopathic Medicine; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances under the supervision of an osteopathic physician as required by chapter 633 of NRS.

7. An optometrist who is certified by the Nevada State Board of Optometry to prescribe and administer therapeutic pharmaceutical agents pursuant to NRS 636.288, when the optometrist prescribes or administers therapeutic pharmaceutical agents within the scope of his or her certification.

Sec. 107. NRS 454.00958 is hereby amended to read as follows:

454.00958 "Practitioner" means:

1. A physician, **complementary integrative physician**, ~~complementary integrative practitioner,~~ dentist, veterinarian or podiatric physician who holds a valid license to practice his or her profession in this State.

2. A pharmacy, hospital or other institution licensed or registered to distribute, dispense, conduct research with respect to or to administer a dangerous drug in the course of professional practice in this State.

3. When relating to the prescription of poisons, dangerous drugs and devices:

(a) An advanced practitioner of nursing who holds a certificate from the State Board of Nursing and a certificate from the State Board of Pharmacy permitting him or her so to prescribe; or

(b) A physician assistant who holds a license from the Board of Medical Examiners and a certificate from the State Board of Pharmacy permitting him or her so to prescribe.

4. An optometrist who is certified to prescribe and administer dangerous drugs pursuant to NRS 636.288 when the optometrist prescribes or administers dangerous drugs which are within the scope of his or her certification.

Sec. 108. (Deleted by amendment.)

Sec. 109. (Deleted by amendment.)

Sec. 110. (Deleted by amendment.)

Sec. 111. (Deleted by amendment.)

Sec. 112. (Deleted by amendment.)

Sec. 113. (Deleted by amendment.)

Sec. 114. Notwithstanding the amendatory provisions of this act:

1. A license issued by the Board of Homeopathic Medical Examiners which is active on October 1, 2011, shall be deemed to be a license issued by the Board of Complementary Integrative ~~Medicine~~ **Medical Examiners** unless such license is suspended or revoked by the Board of Complementary Integrative ~~Medicine~~ **Medical Examiners**.

2. Any member of the Board of Homeopathic Medical Examiners who is a member on October 1, 2011, shall be deemed to be a member of the Board of Complementary Integrative ~~Medicine~~ **Medical Examiners** and is entitled to serve out the remainder of the term to which he or she was appointed.

Sec. 115. This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and performing any other preparatory actions that are necessary to carry out the provisions of this act; and

2. On October 1, 2011, for all other purposes.

Senator Schneider moved the adoption of the amendment.

Remarks by Senators Schneider and Denis.

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

SENATOR SCHNEIDER:

Amendment No. 407 to Senate Bill No. 412 changes the name of the Board of Complementary Integrative Medicine to the Board of Complementary Integrative Medical Examiners.

The amendment also deletes the references relating to complementary integrative technicians.

The amendment deletes the requirement that a health insurer use an ABC coding system and the requirement that certain persons who provide health care coverage must contract with at least one complementary integrative physician under certain circumstances.

SENATOR DENIS:

Does this impact individuals who sell vitamins?

SENATOR SCHNEIDER:

No, that was taken out of the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 419.

Bill read second time.

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

Amendment No. 235.

"SUMMARY—Establishes provisions relating to safe injection practices. (BDR 40-518)"

"AN ACT relating to public health; requiring certain persons ~~who administer controlled substances or dangerous drugs to complete annual training concerning safe injection practices; requiring~~ **and entities that are licensed, registered or certified by** the Health Division of the Department of Health and Human Services ~~to approve or establish a training program concerning safe injection practices; requiring~~ **, certain district boards of health or** certain boards which license **, register or certify** health care professionals to ~~approve continuing education courses~~ **attest that they have knowledge of and are in compliance with certain guidelines**

concerning safe infection practices ~~[- providing a penalty-]~~ **as a condition of the issuance or renewal of their licenses, registration or certificates;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Sections 4 and 7 of this bill require certain persons who are authorized to administer controlled substances or dangerous drugs to complete annually 2 hours of training relating to safe injection practices. Sections 4 and 7 exempt from the training requirements persons who administer controlled substances or dangerous drugs which are topical drugs or are not for use by a human being. Sections 4 and 7 also require the Health Division of the Department of Health and Human Services to approve or establish a training program which meets the requirements of those sections.~~

~~— Sections 1-3 and 7-21 of this bill require]~~ **This bill requires the Health Division of the Department of Health and Human Services, certain district boards of health and certain** boards that license ~~[and certain health care facilities that employ persons who are authorized to administer controlled substances or dangerous drugs to ensure completion of the annual training relating to safe injection practices. Additionally, sections 2, 3 and 10-20 require boards that license persons who are authorized to administer controlled substances or dangerous drugs to approve programs of training relating to safe injection practices and to credit those hours of training toward the hours of continuing education required for renewal of professional licenses held by such persons.~~

~~— Section 22 of this bill requires all persons who are required to complete the training relating to safe injection practices pursuant to sections 4 and 7 to complete the initial annual training on or before December 31, 2012.]~~ **register or certify health care professionals to require, as a condition of issuing or renewing a license, registration or certificate, that the applicant for issuance or renewal of the license, registration or certificate must attest to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.**

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[A medical facility, facility for the dependent, facility for refractive surgery or]~~ **The Health Division shall not issue or renew a license for a home for individual residential care** ~~[shall ensure that each employee of the facility or home who is authorized to administer a controlled substance pursuant to NRS 453.375 or a dangerous drug pursuant to NRS 454.213 completes the training relating to practices for safe injections required by section 4 or 7 of this act, as applicable.]~~ **unless the applicant for issuance or renewal of the license attests to knowledge of and compliance with the guidelines of the**

Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. Chapter 450B of NRS is hereby amended by adding thereto a new section to read as follows:

The health authority shall not issue or renew:

1. A license to an attendant or firefighter; or

2. A certificate as an emergency medical technician,

↪ unless the applicant for issuance or renewal of the license or certificate attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 25. Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board shall not issue or renew a license to practice as a physician, physician assistant or perfusionist unless the applicant for issuance or renewal of the license attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

2. In addition to the attestation provided pursuant to subsection 1, a physician shall attest that any person:

- (a) Who is under the control and supervision of the physician;
- (b) Who is not licensed pursuant to this chapter; and
- (c) Whose duties involve injection practices,
↪ has knowledge of and is in compliance with the guidelines of the
Centers for Disease Control and Prevention concerning the prevention of
transmission of infectious agents through safe and appropriate injection
practices.

Sec. 26. Chapter 632 of NRS is hereby amended by adding thereto a new section to read as follows:

The Board shall not issue or renew a license to practice as a professional nurse or a practical nurse unless the applicant for issuance or renewal of the license attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 27. Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

The Board shall not issue or renew a license to practice osteopathic medicine or as a physician assistant unless the applicant for issuance or renewal of the license attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 28. Chapter 634A of NRS is hereby amended by adding thereto a new section to read as follows:

The Board shall not issue or renew a license to practice Oriental medicine unless the applicant for issuance or renewal of the license attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 29. Chapter 635 of NRS is hereby amended by adding thereto a new section to read as follows:

The Board shall not issue or renew a license to practice podiatry unless the applicant for issuance or renewal of the license attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 30. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

The Board shall not approve an application for registration or renewal of registration as a pharmacist or intern pharmacist unless the applicant for issuance or renewal of registration attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 31. Chapter 652 of NRS is hereby amended by adding thereto a new section to read as follows:

The Health Division shall not issue or renew a license to a medical laboratory unless the applicant for issuance or renewal of the license attests that the laboratory director and laboratory personnel have knowledge of and are in compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 235 revises the provisions to Senate Bill No. 419 by removing provisions that required certain persons that administer controlled substances or dangerous drugs to complete annual training concerning safe injection practices.

It requires the Health Division of the Department of Health and Human Services, certain district boards of health, and certain boards that license, register, or certify health care professionals to require, as a condition of issuing or renewing a license, registration or certificate, that the applicant for issuance or renewal of the license, registration, or certificate must attest to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 483.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 249.

"SUMMARY—Authorizes the Department of Motor Vehicles to enter into certain agreements relating to advertising. (BDR 43-1185)"

"AN ACT relating to the Department of Motor Vehicles; authorizing the Department to enter into certain agreements relating to advertising; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, it is unlawful for any person to erect any bulletin board or other advertising device on the grounds of the State Capitol or on any other state building or property. (NRS 331.200) This bill authorizes the Director of the Department of Motor Vehicles to enter into agreements for the placement of advertising in areas of buildings owned or occupied by the Department ~~, and in mailings or publications of the Department.~~ Any money collected by the Department from such advertising must be deposited in the Motor Vehicle Fund and used to ~~promote alternative methods by which the public may conduct business with the Department without personal assistance from an employee of the Department.~~ **offset the costs of communicating with the public.**

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

Section 1. Chapter 481 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director may enter into an agreement with a person for the placement of advertisements in ~~the~~

~~—(a) Areas~~ **areas of buildings owned or occupied by the Department that are frequented by the public.**

~~—(b) Mailings prepared by the Department and sent to the public; and~~

~~—(c) Publications of the Department, including, without limitation, on the Internet website maintained by the Department.~~

2. A person who enters into an agreement with the Director pursuant to ~~paragraph (a) of~~ subsection 1 shall ensure that each advertisement placed pursuant to the agreement does not inhibit or disrupt the functioning of the Department.

3. Any money collected by the Department from an agreement entered into pursuant to subsection 1 must be:

(a) Deposited with the State Treasurer for credit to the Motor Vehicle Fund; and

(b) Used to ~~promote alternative methods by which the public may conduct business with the Department without personal assistance from an employee of the Department, including, without limitation, self-service kiosks, services provided through the use of the Internet or a network site, and interactive voice recognition systems.~~ offset the costs of communicating with the public.

4. The Director may adopt regulations to carry out the provisions of this section.

Sec. 2. NRS 331.200 is hereby amended to read as follows:

331.200 1. It shall be unlawful for any person to commit any of the following acts upon the grounds of the State Capitol or of any other state building or property:

(a) Willfully deface, break down or destroy any fence upon or surrounding such grounds;

(b) ~~{Erect}~~ **Except as otherwise provided in section 1 of this act, erect** any bulletin board or other advertising device in or upon such grounds;

(c) Deposit any garbage, debris or other obstruction in or upon such grounds;

(d) Injure, break down or destroy any tree, shrub or other thing upon such grounds; or

(e) Injure the grass upon such grounds by walking upon it.

2. Any person violating any of the provisions of this section shall be guilty of a public offense, as prescribed in NRS 193.155, proportionate to the value of the property damaged or destroyed, and in no event less than a misdemeanor.

Sec. 3. The amendatory provisions of this act that concern property occupied by the Department of Motor Vehicles apply only with respect to such property for which:

1. The Department entered into a lease on or after the effective date of this act; or
2. The Department entered into a lease before the effective date of this act that did not prohibit the Department from receiving payment for advertising upon such property.

Sec. 4. This act becomes effective upon passage and approval.

Senator Rhoads moved the adoption of the amendment.

Remarks by Senator Rhoads.

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

Amendment No. 249 to Senate Bill No. 483 restricts advertisements to areas in buildings owned or occupied by the Department and frequented by the public; other advertising is deleted from the bill. The amendment also specifies that revenue generated by the advertising program will be used to offset the Department's cost of communicating key messages to the public.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 493.

Bill read second time.

The following amendment was proposed by the Committee on Revenue:

Amendment No. 464.

"SUMMARY—Creates the Mining Oversight and Accountability Commission. (BDR 32-1152)"

"AN ACT relating to mining; creating the Mining Oversight and Accountability Commission and establishing its membership, powers and duties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law does not provide for a single administrative body to oversee the activities of the various state agencies that have responsibility for the taxation, operation, safety and environmental regulation of mines and mining in this State. **Section 5** of this bill creates the Mining Oversight and Accountability Commission. ~~Three~~ **Two** members of the Commission are appointed by the Governor. The Majority Leader of the Senate and the Speaker of the Assembly each appoint two additional members. **In the first biennium, the seventh member is appointed by the Minority Leader of the Senate. In the next biennium, the seventh member is appointed by the Minority Leader of the Assembly. The appointment continues to alternate each biennium thereafter.** **Section 7** of this bill requires the Commission to exercise plenary oversight of the activities of each state agency or political subdivision in connection with the taxation, operation, safety and environmental regulation of mines and mining in this State. **Section 7** also identifies particular state entities that are subject to its oversight in connection with their activities related to mines and mining:

(1) the Nevada Tax Commission and the Department of Taxation in the taxation of the net proceeds of minerals; (2) the Division of Industrial Relations of the Department of Business and Industry concerning the safe and healthful working conditions at mines; (3) the Commission on Mineral Resources and the Division of Minerals of the Commission; (4) the Bureau of Mines and Geology of the State of Nevada; and (5) the Division of Environmental Protection of the State Department of Conservation and Natural Resources in its activities concerning the reclamation of land used in mining. **Sections 8 and 13-16** of this bill establish certain reports and other information that those entities are required to provide to the Commission. **Section 11** of this bill authorizes the Commission to request the Legislative Commission to direct the Legislative Auditor to provide for a special audit or investigation of the activities of any state agency, board, bureau, commission or political subdivision in connection with the taxation, operation, safety and environmental regulation of mines and mining in this State. **Section 12** of this bill provides that certain regulations of the Nevada Tax Commission, Administrator of the Division of Industrial Relations of the Department of Business and Industry, Commission on Mineral Resources and the State Environmental Commission concerning mines and mining are not effective unless they are approved by the Commission.

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

Section 1. Chapter 362 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12 inclusive, of this act.

Sec. 2. *As used in sections 2 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Chair" means the Chair of the Commission.*

Sec. 4. *"Commission" means the Mining Oversight and Accountability Commission created by section 5 of this act.*

Sec. 5. 1. *There is hereby created the Mining Oversight and Accountability Commission consisting of seven members appointed as follows:*

- (a) ~~Three~~ Two members appointed by the Governor;*
- (b) Two members appointed by the Majority Leader of the Senate; ~~and~~*
- (c) Two members appointed by the Speaker of the Assembly ~~and~~ ; and*
- (d) One member appointed by the Minority Leader of the Senate or the Minority Leader of the Assembly. The appointment must alternate each biennium between the Houses of the Legislature.*

2. *The Governor, Majority Leader of the Senate, ~~and~~ Speaker of the Assembly, Minority Leader of the Senate and Minority Leader of the Assembly shall confer before making an appointment to ensure that:*

- (a) Not more than two of the members are appointed from any one county in this State; and*

(b) Not more than two of the members have a direct or indirect financial interest in the mining industry or are related by blood or marriage to a person who has such an interest.

3. Each member of the Commission serves for a term of 2 years.

4. A vacancy on the Commission must be filled by the appointing authority in the same manner as the original appointment.

Sec. 6. 1. The Commission shall elect one of its members as Chair and another as Vice Chair, who shall serve for a term of 1 year or until their successors are elected and qualified.

2. The Commission shall meet at least once each calendar quarter and may meet at other times on the call of the Chair or a majority of its members.

3. A majority of the members of the Commission constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Commission.

4. While engaged in the business of the Commission, each member of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

5. The Executive Director of the Department shall assign employees of the Department to provide such technical, clerical and operational assistance to the Commission as the functions and operations of the Commission may require.

Sec. 7. Notwithstanding any other provision of law, the Commission shall exercise plenary oversight of the activities of each state agency, board, bureau, commission, department, division or political subdivision in connection with the taxation, operation, safety and environmental regulation of mines and mining in this State, including, without limitation, the activities of:

1. The Nevada Tax Commission and the Department of Taxation in the taxation of the net proceeds of minerals pursuant to this chapter and Section 5 of Article 10 of the Nevada Constitution.

2. The Division of Industrial Relations of the Department of Business and Industry in administering the provisions of chapter 512 of NRS concerning the safe and healthful working conditions at mines.

3. The Commission on Mineral Resources and the Division of Minerals of the Commission in the administration of the provisions of chapters 513 and 522 of NRS concerning the conduct of mining operations and operations for the production of oil, gas and geothermal energy in the State.

4. The Bureau of Mines and Geology of the State of Nevada in the Public Service Division of the Nevada System of Higher Education in its administration of the provisions of chapter 514 of NRS.

5. The Division of Environmental Protection of the State Department of Conservation and Natural Resources in its administration of the

provisions of chapter 519A of NRS concerning the reclamation of mined land, areas of exploration and former areas of mining or exploration.

Sec. 8. In addition to any other information requested by the Commission pursuant to section 9 of this act:

1. The Administrator of the Division of Industrial Relations of the Department of Business and Industry shall submit to the Commission at its first regular meeting in each calendar year the report that is required pursuant to NRS 512.140 concerning the functions of the Administrator under chapter 512 of NRS concerning the creation and maintenance of safe and healthful working conditions at mines in this State during the immediately preceding calendar year.

2. The Department of Taxation shall submit to the Commission at the second regular meeting of the Commission in each calendar year:

(a) An audit program identifying each mining operator or other person who is required to file a statement concerning the extraction of minerals in this State pursuant to NRS 362.100 to 362.240, inclusive, that the Department intends to audit during the immediately following calendar year;

(b) A report of the results of each audit of a mining operator or other person completed by the Department during the immediately preceding calendar year; and

(c) A report of the status of each audit of a mining operator or other person that is in process at the time of the report.

3. The Division of Environmental Protection of the State Department of Conservation and Natural Resources shall submit to the Commission at its third regular meeting in each calendar year a report concerning the Division's activities concerning the reclamation of mined lands, areas of exploration and former areas of mining or exploration during the immediately preceding calendar year, including, without limitation, an accounting of the amounts of fees collected for permits issued by the Division and any fines imposed by the Division.

Sec. 9. 1. In conducting the investigations and hearings of the Commission:

(a) The Chair or any member designated by the Chair may administer oaths.

(b) The Chair may cause the deposition of witnesses, residing either within or outside of the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chair may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

2. If any witness refuses to attend or testify or produce any books and papers as required by the subpoena, the Chair may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the Commission pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Commission which is named in the subpoena, or has refused to answer questions propounded to the witness,

↪ and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Commission.

3. Upon such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why the witness has not attended or testified or produced the books or papers before the Commission. A certified copy of the order must be served upon the witness.

4. If it appears to the court that the subpoena was regularly issued by the Commission, the court shall enter an order that the witness appear before the Commission at the time and place fixed in the order and testify or produce the required books or papers. Failure to obey the order constitutes contempt of court.

Sec. 10. 1. Each witness who appears before the Commission by its order, except a state officer or employee, is entitled to receive for such attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State.

2. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Chair of the Commission.

Sec. 11. 1. The Commission may submit a request to the Legislative Commission that the Legislative Auditor be directed to undertake, or to contract with a qualified accounting firm to undertake, a special audit or investigation of the activities of any state agency, board, bureau, commission or political subdivision in connection with the taxation, operation, safety and environmental regulation of mines and mining in this State.

2. The request submitted pursuant to subsection 1 must be accompanied by an explanation of the circumstances that give rise to the request.

Sec. 12. A regulation adopted by the:

1. Nevada Tax Commission, pursuant to NRS 360.090, concerning any taxation related to the extraction of any mineral in this State, including, without limitation, the taxation of the net proceeds pursuant to this chapter and Section 5 of Article 10 of the Nevada Constitution;

2. Administrator of the Division of Industrial Relations of the Department of Business and Industry for mine health and safety pursuant to NRS 512.131;

3. *Commission on Mineral Resources pursuant to 513.063, 513.094 or 519A.290; and*

4. *State Environmental Commission pursuant to NRS 519A.160, ➔ is not effective unless it is approved by the Mining Oversight and Accountability Commission.*

Sec. 13. NRS 512.140 is hereby amended to read as follows:

512.140 The Administrator shall submit annually to the Governor, *and to the Mining Oversight and Accountability Commission created by section 5 of this act*, as soon as practicable after the beginning of each calendar year, a full report of the administration of the Administrator's functions under this chapter during the preceding calendar year. The report must include, either in summary or detailed form, the information obtained by the Administrator under this chapter together with such findings and comments thereon and such recommendations as the Administrator may deem proper.

Sec. 14. NRS 513.063 is hereby amended to read as follows:

513.063 The Commission shall:

1. Keep itself informed of and interested in the entire field of legislation and administration charged to the Division.

2. Report to the Governor, *the Mining Oversight and Accountability Commission created by section 5 of this act*, and the Legislature on all matters which it may deem pertinent to the Division, and concerning any specific matters previously requested by the Governor ~~to~~ *or the Mining Oversight and Accountability Commission.*

3. Advise and make recommendations to the Governor, *the Mining Oversight and Accountability Commission* and the Legislature concerning the policy of this State relating to minerals.

4. Formulate the administrative policies of the Division.

5. Adopt regulations necessary for carrying out the duties of the Commission and the Division.

Sec. 15. NRS 513.093 is hereby amended to read as follows:

513.093 The Administrator:

1. Shall coordinate the activities of the Division.

2. Shall report to the Commission upon all matters pertaining to the administration of the Division.

3. *Shall attend each regular meeting of the Mining Oversight and Accountability Commission created by section 5 of this act and each special meeting if requested by the Chair of that Commission and:*

(a) Report to the Mining Oversight and Accountability Commission on the activities of the Division undertaken since the Division's previous report, including, without limitation, an accounting of any fees or fines imposed or collected;

(b) The current condition of mining and of exploration for and production of oil, gas and geothermal energy in the State; and

(c) Provide any technical information required by the Mining Oversight and Accountability Commission during the course of the meeting.

4. Shall submit a biennial report to the Governor and the Legislature through the Commission concerning the work of the Division, with recommendations that the Administrator may deem necessary. The report must set forth the facts relating to the condition of mining and of exploration for and production of oil and gas in the State.

Sec. 16. Chapter 514 of NRS is hereby amended by adding thereto a new section to read as follows:

The Director of the Bureau of Mines and Geology shall attend each regular meeting of the Mining Oversight and Accountability Commission created by section 5 of this act and each special meeting if requested by the Chair of the Commission and:

1. Report to the Commission on the activities of the Bureau of Mines and Geology undertaken by the Bureau since its previous report, including, without limitation, the current condition of mining and of exploration for and production of oil and gas in the State; and

2. Provide any technical information required by the Commission during the course of the meeting.

Sec. 17. The Department of Taxation shall submit to the Mining Oversight and Accountability Commission created by section 5 of this act at the first regular meeting of the Commission following the effective date of this act a comprehensive audit program that sets forth the Department's plan for completing an audit of every mining operator or other person who is required to file a statement concerning the extraction of minerals in this State pursuant to NRS 362.100 to 362.240, inclusive.

Sec. 18. Notwithstanding the provisions of section 5 of this act, ~~and~~ as soon as practicable after the effective date of this act:

1. The Governor, **Majority Leader of the Senate and Speaker of the Assembly** shall ~~each~~ appoint:

(a) One member whose term expires on June 30, 2012; and

~~† (b) Two members whose terms expire on June 30, 2013;~~

~~2. The Majority Leader of the Senate shall appoint:~~

~~— (a) One member whose term expires on June 30, 2012; and~~

~~— (b) One member whose term expires on June 30, 2013; and~~

~~3. The Speaker of the Assembly shall appoint:~~

~~— (a) One member whose term expires on June 30, 2012; and~~

~~— (b) One member whose term expires on June 30, 2013.~~

2. The Minority Leader of the Senate shall appoint one member whose term expires on June 30, 2013.

Sec. 19. This act becomes effective upon passage and approval.

Senator Leslie moved the adoption of the amendment.

Remarks by Senator Leslie.

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

Amendment No. 464 to Senate Bill No. 493 reduces the number of appointments to the Mining Oversight Commission that are made by the Governor from three members to two and allows one member to be appointed by either the Minority Leader of the Senate or the Minority Leader of the Assembly based on alternating appointments each biennium.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved Senate Bills Nos. 483, 493, be re-referred to the Committee on Finance that upon return from reprint.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 233.

Bill read second time.

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

Amendment No. 344.

"SUMMARY—Establishes the Office of Grant Procurement, Coordination and Management in the ~~{Office of the Governor,}~~ **Department of Administration.** (BDR 18-1058)"

"AN ACT relating to grants; establishing the Office of Grant Procurement, Coordination and Management in the ~~{Office of the Governor,}~~ **Department of Administration;** setting forth the duties of the ~~{Director,}~~ **Chief of the Office;** requiring all state and local agencies to notify the Office ~~{of Grant Procurement, Coordination and Management}~~ of any grants for which the agency applies and any which they receive; ~~{prohibiting state and local agencies from establishing certain programs;}~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the ~~{Office of the Governor,}~~ **Department of Administration, divides the Department into various divisions** and ~~{authorizes}~~ **requires** the ~~{Governor}~~ **Director of the Department** to ~~{employ such persons as he or she deems necessary to provide an appropriate staff for the Office. (NRS 223.085) Section 2}~~ **appoint Chiefs of those divisions. (NRS 232.213, 232.215) Sections 9 and 10** of this bill ~~{creates}~~ **establish** the Office of Grant Procurement, Coordination and Management in the ~~{Office of the Governor, authorizes}~~ **Department and require** the ~~{Governor}~~ **Director** to appoint the ~~{Director}~~ **Chief** of the Office. ~~{and}~~ **Section 2 of this bill** sets forth the qualifications for the ~~{Director,}~~ **Chief.** **Section 3** of this bill sets forth the duties of the ~~{Director,}~~ **Chief,** which include: (1) **researching and identifying federal grants which may be available to state and local agencies and local nonprofit organizations;** (2) **writing grants for federal funds for state agencies;** (3) **coordinating with members of Congress representing this State to identify and**

manage available federal grants and programs; (4) seeking out grants and writing grant proposals for state ~~and local~~ agencies in Nevada; ~~((2))~~(5) compiling information about grants and providing information to state and local agencies about grants for which they are eligible to apply; ~~((3))~~ (6) keeping track of all the grants for which state and local agencies have applied and of all grants they have received, and coordinating with those agencies that have received grants for similar projects to ensure they do not duplicate their efforts or services; and ~~((4))~~ (7) seeking grants for which businesses can apply to develop projects in Nevada and offering to help those companies in applying for such grants. In addition, section 3 authorizes the Chief to write grants for federal funds for local agencies and local nonprofit organizations if he or she is requested to do so by the local agency or local nonprofit organization.

Section 4 of this bill requires all state and local agencies to notify the Office ~~of Grant Procurement, Coordination and Management~~ of any grants for which they apply and any grants which they receive. ~~[Section 4 also prohibits state and local agencies from establishing any program which provides essential services with funds from a grant from the Federal Government if the grant is not continuous or reasonably certain to be renewed.]~~

Section ~~((8))~~ 12 of this bill requires the ~~(Director)~~ **Chief** of the Office ~~of Grant Procurement, Coordination and Management, on or before January 1, 2013,~~ to develop suggestions and proposals for an incentive program to encourage businesses to apply for grants to develop projects in Nevada and **, on or before January 1, 2013,** to submit a report setting forth those suggestions and proposals, together with any recommendations for legislation, to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

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

Section 1. Chapter ~~((223))~~ 232 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. 1. ~~[The Office of Grant Procurement, Coordination and Management is hereby established in the Office of the Governor.~~

~~2. The Governor shall appoint the Director of the Office of Grant Procurement, Coordination and Management.] The person appointed to serve as the ~~(Director)~~ Chief of the Office of Grant Procurement, Coordination and Management must have:~~

(a) *Extensive expertise and experience in applying for and receiving grants;*

(b) *Specialized knowledge of the process of grant writing and approval in the public and private sector; and*

(c) *Proven experience in designing and managing programs which rely solely or partially upon money received from grants.*

~~{3}~~ 2. ~~The {Director}~~ Chief shall devote his or her entire time and attention to the business of his or her office and shall not engage in any other gainful employment or occupation.

~~{4}~~ ~~The Director is not in the classified or unclassified service of the State and serves at the pleasure of the Governor.~~

Sec. 3. 1. ~~The {Director}~~ Chief of the Office of Grant Procurement, Coordination and Management shall:

(a) Research and identify federal grants which may be available to state or local agencies and local nonprofit organizations.

(b) Write grants for federal funds for state agencies.

(c) Coordinate with the members of Congress representing this State to combine efforts relating to identifying and managing available federal grants and related programs.

(d) If requested by a state ~~for local~~ agency, research the availability of grants and write grant proposals and applications for the state ~~for local~~ agency, giving priority to grants:

(1) Which may facilitate economic development in this State; and

(2) For research and development at a university, state college, community college or research facility within the Nevada System of Higher Education.

~~{b}~~ (e) Create and maintain an Internet website which sets forth information relating to grants, including, without limitation, contacts for information and applications for grants, resources for applying for and receiving grants, information concerning grants that have been applied for and awarded to state and local agencies, and notifications of opportunities for grants.

~~{c}~~ (f) To the greatest extent practicable, ensure that state and local agencies are aware of any grant opportunities for which they are or may be eligible.

~~{d}~~ (g) Advise the ~~{Governor}~~ Director and state and local agencies concerning the requirements for receiving and managing grants.

~~{e}~~ (h) Coordinate with all state and local agencies that have received grants for similar projects to ensure that the efforts and services of those state and local agencies are not duplicated.

~~{f}~~ (i) Seek grants for which businesses may apply that may assist those businesses in developing projects in this State and offer to assist those businesses in applying for such grants.

~~{g}~~ (j) On or before January 1 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report regarding all activity relating to the application for, receipt of and use of grants in this State.

2. If requested by a local agency or local nonprofit organization, the Chief may write grant proposals and applications for federal funds for the local agency or local nonprofit organization.

3. The ~~{Director}~~ Chief may adopt regulations to carry out the provisions of this section and sections 4 and 5 of this act.

Sec. 4. ~~{1}~~ In addition to any other requirement concerning applying for or receiving a grant, a state or local agency shall notify the Office of Grant Procurement, Coordination and Management, on a form prescribed by the Office, of any grant:

~~{(a)}~~ 1. For which the state or local agency applies; and

~~{(b)}~~ 2. Which the state or local agency receives.

~~{ 2. Notwithstanding any provision of law to the contrary, a state or local agency shall not establish a program to provide an essential service for which the source of money for the program is a grant received from the Federal Government that is not continuous or reasonably certain to be renewed by the Federal Government. }~~

Sec. 5. The Office of Grant Procurement, Coordination and Management may apply for and receive any gift, grant, contribution or other money from any source to carry out the provisions of sections 2 to 6, inclusive, of this act. ~~{and to defray any expenses incurred by the Office in the discharge of its duties. }~~

Sec. 6. 1. The Account for the Office of Grant Procurement, Coordination and Management is hereby created in the State General Fund. The Account must be administered by the ~~{Director}~~ Chief of the Office.

2. Any money accepted pursuant to section 5 of this act must be deposited in the Account.

3. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.

4. The money in the Account which is donated for a purpose specified by the donor, within the scope of the duties of the Chief of the Office of Grant Procurement, Coordination and Management, must only be used for that purpose. If no purpose is specified, the money in the Account must only be used to carry out the duties of the ~~{Director}~~ Chief.

5. Claims against the Account must be paid as other claims against the State are paid.

Sec. 7. ~~{NRS 223.085 is hereby amended to read as follows:~~

~~— 223.085 1. The Governor may, within the limits of available money, employ such persons as he or she deems necessary to provide an appropriate staff for the Office of the Governor, including, without limitation, the Office of Science, Innovation and Technology, the Office of Grant Procurement, Coordination and Management and the Governor's mansion. Any such employees are not in the classified or unclassified service of the State and serve at the pleasure of the Governor.~~

~~— 2. The Governor shall:~~

~~— (a) Determine the salaries and benefits of the persons employed pursuant to subsection 1, within limits of money available for that purpose; and~~

~~—(b) Adopt such rules and policies as he or she deems appropriate to establish the duties and employment rights of the persons employed pursuant to subsection 1— (Deleted by amendment.)~~

Sec. 8. NRS 232.212 is hereby amended to read as follows:

232.212 As used in NRS 232.212 to 232.2195, inclusive, **and sections 2 to 6, inclusive, of this act,** unless the context requires otherwise:

1. "Department" means the Department of Administration.
2. "Director" means the Director of the Department.

Sec. 9. NRS 232.213 is hereby amended to read as follows:

- 232.213 1. The Department of Administration is hereby created.
2. The Department consists of a Director and the following ~~: {divisions:}~~
- (a) Budget Division.
 - (b) Risk Management Division.
 - (c) Hearings Division, which consists of hearing officers, compensation officers and appeals officers.
 - (d) Buildings and Grounds Division.
 - (e) Purchasing Division.
 - (f) Administrative Services Division.
 - (g) Division of Internal Audits.

(h) Office of Grant Procurement, Coordination and Management.

3. The Director may establish a Motor Pool Division or may assign the functions of the State Motor Pool to one of the other divisions of the Department.

Sec. 10. NRS 232.215 is hereby amended to read as follows:

- 232.215 The Director:
1. Shall appoint a Chief of the:
 - (a) Risk Management Division;
 - (b) Buildings and Grounds Division;
 - (c) Purchasing Division;
 - (d) Administrative Services Division;
 - (e) Division of Internal Audits; ~~and~~
 - (f) **Office of Grant Procurement, Coordination and Management; and**
 - (g) Motor Pool Division, if separately established.
 2. Shall appoint a Chief of the Budget Division, or may serve in this position if the Director has the qualifications required by NRS 353.175.
 3. Shall serve as Chief of the Hearings Division and shall appoint the hearing officers and compensation officers. The Director may designate one of the appeals officers in the Division to supervise the administrative, technical and procedural activities of the Division.
 4. Is responsible for the administration, through the divisions of the Department, of the provisions of chapters 331, 333 and 336 of NRS, NRS 353.150 to 353.246, inclusive, and 353A.031 to 353A.100, inclusive, and all other provisions of law relating to the functions of the divisions of the Department.

5. Is responsible for the administration of the laws of this State relating to the negotiation and procurement of medical services and other benefits for state agencies.

6. Has such other powers and duties as are provided by law.

Sec. 11. NRS 232.2165 is hereby amended to read as follows:

232.2165 1. The Chief of:

- (a) The Buildings and Grounds Division;
- (b) The Purchasing Division;
- (c) The Administrative Services Division;
- (d) The Division of Internal Audits; and
- (e) If separately established, the Motor Pool Division,

↳ of the Department serves at the pleasure of the Director, but, except as otherwise provided in subsection 2, for all purposes except removal is in the classified service of the State.

2. The Chief of the Motor Pool Division, if separately established, and the Chief of the Division of Internal Audits are in the unclassified service of the State.

3. The Chief of the Office of Grant Procurement, Coordination and Management is in the unclassified service of the State and serves at the pleasure of the Director.

~~{Sec. 8.}~~ **Sec. 12.** The ~~{Director}~~ **Chief** of the Office of Grant Procurement, Coordination and Management established pursuant to **NRS 232.213, as amended by** section ~~{24}~~ **9** of this act, shall:

1. Develop suggestions and proposals for establishing an incentive system to encourage businesses to apply for grants to develop projects in this State pursuant to paragraph ~~{(f)}~~ **(i)** of subsection 1 of section 3 of this act; and

2. On or before January 1, 2013, and in addition to or together with the report required pursuant to paragraph ~~{(e)}~~ **(i)** of subsection 1 of section 3 of this act, submit a report setting forth those suggestions and proposals for establishing an incentive system, together with any suggestions for legislation, to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

~~{Sec. 9.}~~ **Sec. 13.** This act becomes effective on July 1, 2011.

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. 344 to Senate Bill No. 233 amends the bill to provide that the Office of Grant Procurement, Coordination, and Management be established within the Department of Administration rather than the Office of the Governor and that the Governor shall appoint the Chief of that office who is in the unclassified service of the State.

It adds duties for the Chief of the Office of Grant Procurement, Coordination, and Management to include: (1) the coordination of efforts with Nevada's Congressional delegation relating to the availability and management of federal grants and related programs; (2) the research and identification of available federal grants; and (3) the writing of grants for federal funds for State agencies and, if requested, for local agencies and nonprofit organizations. It

removes State and local government agencies from the limitations in Section 4 of the bill in an effort to retain State and local government's discretion to decide whether or not to accept grants.

Amendment adopted.

The following amendment was proposed by Senator Parks:

Amendment No. 503.

"SUMMARY—Establishes the Office of Grant Procurement, Coordination and Management in the Office of the Governor. (BDR 18-1058)"

"AN ACT relating to grants; establishing the Office of Grant Procurement, Coordination and Management in the Office of the Governor; setting forth the duties of the Director; requiring all state and local agencies to notify the Office of Grant Procurement, Coordination and Management of any grants for which the agency applies and any which they receive; prohibiting state and local agencies from establishing certain programs; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the Office of the Governor and authorizes the Governor to employ such persons as he or she deems necessary to provide an appropriate staff for the Office. (NRS 223.085) **Section 2** of this bill creates the Office of Grant Procurement, Coordination and Management in the Office of the Governor, authorizes the Governor to appoint the Director of the Office and sets forth the qualifications for the Director. **Section 3** of this bill sets forth the duties of the Director, which include: (1) seeking out grants and writing grant proposals for state and local agencies in Nevada; (2) compiling information about grants and providing information to state and local agencies about grants for which they are eligible to apply; (3) keeping track of all the grants for which state and local agencies have applied and of all grants they have received, and coordinating with those agencies that have received grants for similar projects to ensure they do not duplicate their efforts or services; and (4) seeking grants for which businesses can apply to develop projects in Nevada and offering to help those companies in applying for such grants.

Section 4 of this bill requires all state and local agencies to notify the Office of Grant Procurement, Coordination and Management of any grants for which they apply and any grants which they receive. **Section 4** also prohibits state and local agencies from establishing any program which provides essential services with funds from a grant from the Federal Government if the grant is not continuous or reasonably certain to be renewed.

Section 8 of this bill requires the Director of the Office of Grant Procurement, Coordination and Management, on or before January 1, 2013, to develop suggestions and proposals for an incentive program to encourage businesses to apply for grants to develop projects in Nevada and to submit a report setting forth those suggestions and proposals, together with any

recommendations for legislation, to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

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

Section 1. Chapter 223 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. 1. *The Office of Grant Procurement, Coordination and Management is hereby established in the Office of the Governor.*

2. *The Governor shall appoint the Director of the Office of Grant Procurement, Coordination and Management. The person appointed to serve as the Director must have:*

(a) *Extensive expertise and experience in applying for and receiving grants;*

(b) *Specialized knowledge of the process of grant writing and approval in the public and private sector; and*

(c) *Proven experience in designing and managing programs which rely solely or partially upon money received from grants.*

3. *The Director shall devote his or her entire time and attention to the business of his or her office and shall not engage in any other gainful employment or occupation.*

4. *The Director is not in the classified or unclassified service of the State and serves at the pleasure of the Governor.*

Sec. 3. 1. *The Director of the Office of Grant Procurement, Coordination and Management shall:*

(a) *If requested by a state or local agency, research the availability of grants and write grant proposals and applications for the state or local agency, giving priority to grants:*

(1) *Which may facilitate economic development in this State; and*

(2) *For research and development at a university, state college, community college or research facility within the Nevada System of Higher Education.*

(b) *Create and maintain an Internet website which sets forth information relating to grants, including, without limitation, contacts for information and applications for grants, resources for applying for and receiving grants, information concerning grants that have been applied for and awarded to state and local agencies, and notifications of opportunities for grants.*

(c) *To the greatest extent practicable, ensure that state and local agencies are aware of any grant opportunities for which they are or may be eligible.*

(d) *Advise the Governor and state and local agencies concerning the requirements for receiving and managing grants.*

(e) *Coordinate with all state and local agencies that have received grants for similar projects to ensure that the efforts and services of those state and local agencies are not duplicated.*

(f) Seek grants for which businesses may apply that may assist those businesses in developing projects in this State and offer to assist those businesses in applying for such grants.

(g) On or before January 1 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report regarding all activity relating to the application for, receipt of and use of grants in this State.

2. The Director may adopt regulations to carry out the provisions of this section and sections 4 and 5 of this act.

Sec. 4. 1. In addition to any other requirement concerning applying for or receiving a grant, a state or local agency shall notify the Office of Grant Procurement, Coordination and Management, on a form prescribed by the Office, of any grant:

(a) For which the state or local agency applies; and

(b) Which the state or local agency receives.

2. Notwithstanding any provision of law to the contrary, a state or local agency shall not establish a program to provide an essential service for which the source of money for the program is a grant received from the Federal Government that is not continuous or reasonably certain to be renewed by the Federal Government.

Sec. 5. The Office of Grant Procurement, Coordination and Management may apply for and receive any gift, grant, contribution or other money from any source to carry out the provisions of sections 2 to 6, inclusive, of this act and to defray any expenses incurred by the Office in the discharge of its duties.

Sec. 6. 1. The Account for the Office of Grant Procurement, Coordination and Management is hereby created in the State General Fund. The Account must be administered by the Director of the Office.

2. Any money accepted pursuant to section 5 of this act must be deposited in the Account.

3. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.

4. The money in the Account must only be used to carry out the duties of the Director.

5. Claims against the Account must be paid as other claims against the State are paid.

Sec. 7. NRS 223.085 is hereby amended to read as follows:

*223.085 1. The Governor may, within the limits of available money, employ such persons as he or she deems necessary to provide an appropriate staff for the Office of the Governor, including, without limitation, the Office of Science, Innovation and Technology , **the Office of Grant Procurement, Coordination and Management** and the Governor's mansion. Any such employees are not in the classified or unclassified service of the State and serve at the pleasure of the Governor.*

2. The Governor shall:

(a) Determine the salaries and benefits of the persons employed pursuant to subsection 1, within limits of money available for that purpose; and

(b) Adopt such rules and policies as he or she deems appropriate to establish the duties and employment rights of the persons employed pursuant to subsection 1.

Sec. 8. The Director of the Office of Grant Procurement, Coordination and Management established pursuant to section 2 of this act shall:

1. Develop suggestions and proposals for establishing an incentive system to encourage businesses to apply for grants to develop projects in this State pursuant to paragraph (f) of subsection 1 of section 3 of this act; and

2. On or before January 1, 2013, and in addition to or together with the report required pursuant to paragraph (g) of subsection 1 of section 3 of this act, submit a report setting forth those suggestions and proposals for establishing an incentive system, together with any suggestions for legislation, to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

Sec. 9. This act becomes effective on July 1, 2011.

Senator Parks moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 3 p.m.

SENATE IN SESSION

At 3:14 p.m.

President Krolicki presiding.

Quorum present.

SECOND READING AND AMENDMENT

Senate Joint Resolution No. 5.

Resolution read second time.

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

Amendment No. 73.

"SUMMARY—Expresses opposition to certain proposed actions concerning wild horse and burro herds on federal public lands in Nevada and urges Congress to take certain actions concerning those herds. (BDR R-215)"

SENATE JOINT RESOLUTION—Expressing opposition to certain proposed actions concerning wild horse and burro herds on federal public lands in Nevada and urging Congress to take certain actions concerning those herds.

WHEREAS, The Federal Government manages and controls approximately 87 percent of the land in Nevada, much of it being rangelands populated with herds of wild horses and burros; and

WHEREAS, Those rangelands are subject to multiple uses, including livestock grazing, hunting, wildlife viewing and other recreation, and as such, a healthy rangeland is vital to the economic well-being of Nevada; and

WHEREAS, The populations of wild horses and burros, if left unmanaged, double approximately every 5 years, threatening the rangelands with overgrazing and placing increased pressure on the ability of the rangelands to support livestock grazing and existing native species of both plants and animals; and

WHEREAS, Wild horses and burros are not indigenous species in the rangelands but were introduced by humans, and it is thus the responsibility of humans to manage the populations of wild horses and burros in the rangelands; and

WHEREAS, Pursuant to the provisions of the Wild Free-Roaming Horses and Burros Act, 16 U.S.C. §§ 1331 et seq., the Secretary of the Interior is required to manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands and to determine appropriate management levels of wild free-roaming horses and burros in a given area in such a manner as to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the members of the 76th Session of the Nevada Legislature hereby express opposition to any proposed expansion of wild horse and burro herd management areas within Nevada and to the creation of any wild horse and burro preserves on public lands in Nevada; and be it further

RESOLVED, That the members of the Nevada Legislature hereby express opposition to any amendments to the Wild Free-Roaming Horses and Burros Act, 16 U.S.C. §§ 1331 et seq., that would, if enacted, allow any growth of wild horse and burro herds in Nevada, allow the expansion of wild horse and burro herd management areas in Nevada, allow the creation of wild horse and burro preserves on public lands in Nevada or in any other way negatively impact Nevada; and be it further

RESOLVED, That the members of the Nevada Legislature hereby urge Congress to take steps necessary to ensure that the Secretary of the Interior complies with existing laws and regulations relating to wild horses and burros; and be it further

RESOLVED, That in complying with those laws and regulations, the Bureau of Land Management is hereby urged to manage the rangelands in Nevada in a manner which ensures the increased health and availability of those rangelands for multiple uses; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the United States Senate, the Speaker of the House of Representatives, each member of the Nevada Congressional Delegation, the Secretary of the Interior ~~and~~, the Secretary of Agriculture, the Director of the Bureau of Land Management ~~and~~ and the Chief of the United States Forest Service; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Senator Rhoads moved the adoption of the amendment.

Remarks by Senator Rhoads.

Amendment No 73 to Senate Joint Resolution No. 5 adds language to the resolution requiring the Secretary of the Senate to prepare and transmit a copy of the resolution to the Secretary of Agriculture and the Chief of the U.S. Forest Service.

Amendment adopted.

The following amendment was proposed by Senator Manendo:

Amendment No. 224.

"SUMMARY—Expresses opposition to certain ~~proposed~~ actions concerning wild horse and burro herds on federal public lands in Nevada ~~and urges Congress to take certain actions concerning those herds.~~ (BDR R-215)"

SENATE JOINT RESOLUTION—Expressing opposition to certain ~~proposed~~ actions concerning wild horse and burro herds on federal public lands in Nevada ~~and urging Congress to take certain actions concerning those herds.~~

WHEREAS, The Federal Government manages and controls approximately 87 percent of the land in Nevada, much of it being rangelands populated with herds of wild horses and burros; and

WHEREAS, Those rangelands are subject to multiple uses, including livestock grazing, hunting, wildlife viewing and other recreation, and as such, a healthy rangeland is vital to the economic well-being of Nevada; and

WHEREAS, The populations of wild horses and burros, if left unmanaged, double approximately every 5 years, threatening the rangelands with overgrazing and placing increased pressure on the ability of the rangelands to support livestock grazing and existing native species of both plants and animals; and

WHEREAS, Wild horses and burros are not indigenous species in the rangelands but were introduced by humans, and it is thus the responsibility of humans to manage the populations of wild horses and burros in the rangelands; and

WHEREAS, Pursuant to the provisions of the Wild Free-Roaming Horses and Burros Act, 16 U.S.C. §§ 1331 et seq., the Secretary of the Interior is required to manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands and to determine appropriate management levels of wild

free-roaming horses and burros in a given area in such a manner as to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the members of the 76th Session of the Nevada Legislature hereby express opposition to any ~~proposed expansion of wild horse and burro herd management areas within Nevada and to the creation of any wild horse and burro preserves on public lands in Nevada; and be it further~~

~~Resolved, That the members of the Nevada Legislature hereby express opposition to any~~ amendments to the Wild Free-Roaming Horses and Burros Act, 16 U.S.C. §§ 1331 et seq., or any other proposed action, that would, if enacted, allow any growth of wild horse and burro herds in Nevada, allow the expansion of wild horse and burro herd management areas in Nevada, ~~allow the creation of wild horse and burro preserves on public lands in Nevada~~, or in any other way negatively impact Nevada; and be it further

RESOLVED, That the members of the Nevada Legislature hereby urge Congress to take steps necessary to ensure that the Secretary of the Interior complies with existing laws and regulations relating to wild horses and burros; and be it further

RESOLVED, That in complying with those laws and regulations, the Bureau of Land Management is hereby urged to manage the rangelands in Nevada in a manner which ensures the increased health and availability of those rangelands for multiple uses; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the United States Senate, the Speaker of the House of Representatives, each member of the Nevada Congressional Delegation, the Secretary of the Interior and the Director of the Bureau of Land Management; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Senator Rhoads moved the adoption of the amendment.

Remarks by Senator Rhoads.

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

The amendment takes out language that was in the earlier resolution that address horse and burro preserves.

Amendment adopted.

Resolution ordered reprinted, engrossed and to third reading.

Assembly Bill No. 142.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bills Nos. 12, 18, 83, 147, 156, 217, 250, 348, 464, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 42.

Bill read third time.

The following amendment was proposed by Senators Hardy and Lee:

Amendment No. 497.

"SUMMARY—Authorizes the testing of drivers ~~involved in~~ of vehicles that cause fatal vehicle accidents or collisions for the presence of alcohol. (BDR 43-293)"

"AN ACT relating to traffic laws; authorizing the testing of drivers ~~involved in~~ of vehicles that cause fatal vehicle accidents or collisions for the presence of alcohol; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a person who drives a vehicle in this State is deemed to consent to a preliminary test of his or her breath to determine the concentration of alcohol in his or her breath when the test is administered at the direction of a police officer at the scene of the accident or collision or where the police officer stops a vehicle, if the police officer has reasonable grounds to believe that the person was driving while under the influence of alcohol or a controlled substance. If the person fails to submit to the test, the officer is required to seize the license of the person and arrest the person to take the person to a place at which an evidentiary test may be administered. The result of the preliminary test must not be used in any criminal action, except to show there were reasonable grounds to make an arrest. (NRS 484C.150)

This bill provides that a person who drives a vehicle in this State is deemed to consent to a preliminary breath test for the presence of alcohol in his or her breath if a police officer has reasonable grounds to believe that the person was driving a vehicle ~~involved in~~ that caused a fatal accident ~~or~~ or collision, regardless of whether or not the police officer also has reasonable grounds to believe that the person was driving under the influence of alcohol or a controlled substance.

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

Section 1. NRS 484C.150 is hereby amended to read as follows:

484C.150 1. Any person who drives or is in actual physical control of a vehicle on a highway or on premises to which the public has access shall be deemed to have given his or her consent to a preliminary test of his or her breath to determine the concentration of alcohol in his or her breath when the

test is administered at the direction of a police officer at the scene of a vehicle accident or collision or where the police officer stops a vehicle, if the officer has reasonable grounds to believe that the person to be tested was:

(a) Driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance; ~~for~~

(b) **Driving or in actual physical control of a vehicle ~~involved in~~ that caused an accident or collision resulting in the death of another person; or**

(c) Engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430.

2. If the person fails to submit to the test, the officer shall seize the license or permit of the person to drive as provided in NRS 484C.220 and arrest the person and take him or her to a convenient place for the administration of a reasonably available evidentiary test under NRS 484C.160.

3. The result of the preliminary test must not be used in any criminal action, except to show there were reasonable grounds to make an arrest.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

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

Amendment No. 497 to Senate Bill No. 42 changes the criteria under which a driver is deemed to consent to a DUI breath test. Specifically the amendment states that a police officer has "reasonable grounds" to conduct the test if the person is believed to have "caused" the fatal accident rather than been "involved" in the accident. It adds the term "collisions" to the type of fatal vehicle incident that would trigger the DUI breath test referenced in the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

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. 140.

Bill read third time.

Remarks by Senator Kieckhefer.

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

I indicated yesterday that I would support this bill. I thought about it and realized I still do not understand a lot about it and have informed the sponsor that I do not plan to vote for it.

Roll call on Senate Bill No. 140:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, Rhoads, Roberson, Settelmeyer—9.

Senate Bill No. 140 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 150.

Bill read third time.

Roll call on Senate Bill No. 150:

YEAS—13.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, Rhoads, Roberson, Settlemeyer—8.

Senate Bill No. 150 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 223.

Bill read third time.

Remarks by Senators Hardy and Roberson.

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

SENATOR HARDY:

Thank you, Mr. President. The concern I have is in Section 6 of the bill, which states in subsection 1, "a retailer, dealer or operator shall not separate dog or cat from its mother until it is eight weeks of age or accustomed to taking food or nourishment other than nursing, whichever is later." Subsection 2, then states, "a person who violates the provisions of this section is guilty of a misdemeanor." That switch in definition from subsection 1 to subsection 2 is problematic and I will not be supporting this bill.

SENATOR ROBERSON:

Thank you, Mr. President. My colleague from Boulder City and I did look at that language an hour ago. I understand where he is coming from, but it is obvious when you look at Section 6, subsection 2, it says, "a person who violates provisions of this section." In Section 1, the language shows that you cannot violate this unless you are retailer, dealer or operator. It is the intent to limit this provision, which is existing law, to a retailer, dealer or operator. The purpose of this amendment, since it is already illegal for a retailer, dealer or operator to separate a dog or cat from its mother until it is eight weeks old, is to clarify. If there is something prohibited under statute, it is automatically, if there is not a specific penalty assessed against that act, a misdemeanor. For whatever reason, the sponsor of this bill wanted to clarify that, "yes, it is a misdemeanor." It does not change existing law, whatsoever, from my perspective.

Roll call on Senate Bill No. 223:

YEAS—14.

NAYS—Cegavske, Gustavson, Halseth, Hardy, McGinness, Rhoads, Settlemeyer—7.

Senate Bill No. 223 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 226.

Bill read third time.

Roll call on Senate Bill No. 226:

YEAS—21.

NAYS—None.

Senate Bill No. 226 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 236.

Bill read third time.

Roll call on Senate Bill No. 236:

YEAS—21.

NAYS—None.

Senate Bill No. 236 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 262.

Bill read third time.

Remarks by Senator Hardy.

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

Senate Bill No. 262 requires the Committee on Local Government Finance to prepare a feasibility study on the incorporation of the City of Laughlin and submit that report to the Board of County Commissioners in Clark County and the Legislative Commission. The Board of County Commissioners and the Legislative Commission must review the report and determine whether the incorporation is fiscally feasible. If either the Board of County Commissioners or the Legislative Commission determines that the incorporation is fiscally feasible, the County Commission must place on the ballot the question of incorporation and a primary election for candidates of the City Council and Mayor. The bill sets forth a charter for the City of Laughlin should the question for incorporation be approved. The elected City Council is authorized to perform various functions, including preparing and adopting a budget, preparing and adopting ordinances, and negotiating and preparing personnel contracts, before the effective date of the incorporation. Finally, Senate Bill No. 262 allows the Board of County Commissioners in Clark County to accept gifts, grants, and donations to pay for expenses related to the incorporation and may use funds from the Fort Mohave Valley Development Fund to cover those costs not covered by the gifts, grants, and donations.

Roll call on Senate Bill No. 262:

YEAS—16.

NAYS—Breedon, Horsford, Manendo, Schneider, Wiener—5.

Senate Bill No. 262 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 307.

Bill read third time.

Remarks by Senator Copenig.

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

Senate Bill No. 307 establishes additional restrictions on a trustee's power of sale with respect to owner-occupied housing by requiring an analysis of the homeowner's eligibility for loan modification or other loss mitigation alternatives.

The bill requires the beneficiary of the deed of trust to send to the grantor an application for a loan modification program or other loss mitigation alternative, as well as instructions for completing the application, eligibility requirements, and other pertinent information. The application must be mailed not later than 30 days before the notice of default and election to sell is recorded with the county recorder. If the application is returned by the grantor within 30 days, the beneficiary must forward it to the person responsible for conducting loss mitigation analysis and that person must complete the analysis.

The loss mitigation analysis must be completed before mediation is conducted, if the grantor elected to enter into mediation. Further, the beneficiary must bring certain information related to the loss mitigation application to the mediation.

Finally, Senate Bill No. 307 provides procedures in the event that the application is not returned within 30 days, and authorizes a court of competent jurisdiction to void a sale made pursuant to the exercise of the trustee's power of sale if the beneficiary does not comply with the provisions of the bill.

Roll call on Senate Bill No. 307:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Senate Bill No. 307 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 325.

Bill read third time.

Remarks by Senators Lee and Brower.

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

SENATOR LEE:

The Division of Internal Audits has experienced and competent staff who have been in the business of auditing for years. We need to build on that expertise and not duplicate their current duties with another auditing agency. With the proposed consolidation of the Department of Personnel, State Purchasing and other agencies into the Department of Administration, which includes the Division of Internal Audits, there will be a breakdown of internal controls. The Division of Internal Audits cannot audit themselves. A separation of powers is extremely important in this case.

Mr. President, we often hear about Governmental Accounting Standards Board (GASB) requirements in generally accepted accounting practices. I respect the Governor's Office, but this is a function that should have always been with the State Controller's Office. I urge the body to support this.

SENATOR BROWER:

I rise in opposition to this bill. The bill had been amended which resulted in me removing my name from this bill and the Chair placing his name on the bill. I describe the amended version as a friendly hijacking of a bill by the distinguished Chair of Government Affairs. I urge your opposition.

Roll call on Senate Bill No. 325:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Senate Bill No. 325 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 387.

Bill read third time.

Roll call on Senate Bill No. 387:

YEAS—20.

NAYS—Halseth.

Senate Bill No. 387 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Denis moved that Senate Bill No. 365 be taken from the General File and placed on the General File on the next Agenda.

Motion carried.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 3:42 p.m.

SENATE IN SESSION

At 4:16 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which was referred Senate Bill No. 496, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 286, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID R. PARKS, *Chair*

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 26, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 83, 164, 174, 227, 250.

MARK KRMPOTIC

Fiscal Analysis Division

GENERAL FILE AND THIRD READING

Senate Bill No. 36.

Bill read third time.

Roll call on Senate Bill No. 36:

YEAS—21.

NAYS—None.

Senate Bill No. 36 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 42.

Bill read third time.

Roll call on Senate Bill No. 42:

YEAS—21.

NAYS—None.

Senate Bill No. 42 having received a constitutional 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. 79.

Bill read third time.

Roll call on Senate Bill No. 79:

YEAS—15.

NAYS—Brower, Cegavske, Gustavson, Halseth, Roberson, Settlemeyer—6.

Senate Bill No. 79 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 88.

Bill read third time.

Roll call on Senate Bill No. 88:

YEAS—21.

NAYS—None.

Senate Bill No. 88 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 100.

Bill read third time.

Roll call on Senate Bill No. 100:

YEAS—21.

NAYS—None.

Senate Bill No. 100 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 128.

Bill read third time.

Roll call on Senate Bill No. 128:

YEAS—21.

NAYS—None.

Senate Bill No. 128 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 135.

Bill read third time.

Remarks by Senator Schneider.

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

I stand in support of this bill and I want to thank my good friend, the Senator from Tuscarora, for bringing this forward allowing us to work on it. I think we have proceeded with a bill that is fair. Coverage will remain for police and fire, but this allows the cities and counties to avoid a huge fiscal mandate on them later. We still have our people covered, as we should. I urge your support.

Roll call on Senate Bill No. 135:

YEAS—21.

NAYS—None.

Senate Bill No. 135 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 138.

Bill read third time.

Roll call on Senate Bill No. 138:

YEAS—21.

NAYS—None.

Senate Bill No. 138 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 184.

Bill read third time.

Remarks by Senator Schneider.

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

This is a fee-in tariff bill. All states are looking at something like this bill. We need to be progressive on this issue. Hawaii just approved a fee-in tariff bill. Several states on the east coast

are doing this. This will fill a hole in our renewable energy portfolio. We will do this differently than they did in Europe, which did work well. I hope this body supports this bill. We turn it over to the Public Utilities Commission to put the fee-in tariff proposal together. They will report back to us.

Roll call on Senate Bill No. 184:

YEAS—13.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, Roberson, Settelmeyer—8.

Senate Bill No. 184 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 190.

Bill read third time.

Remarks by Senator Denis.

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

Thank you, Mr. President. This bill is one I have been working on for several years. There were questions on this bill and I wanted to be certain I answered them before we vote.

Senate Bill No. 190 is about the licensure of music therapists. The field of music therapy has been around for over 60 years, yet we have not licensed them in Nevada. There are only 12 music therapists in the State. They have stated that they would like to be licensed. They want to be licensed for several reasons. State regulations often require official State recognition as do federal. If they want to work at Nellis Air Force Base, they require a State licensure, which we do not provide. They are not able to provide those services there. It would allow easier access for Nevadans to have music therapy. There is a national certification. If Nevada recognized music therapists' board certified credential, that would help health care facilities and others that rely upon State regulations to avoid that confusion. It protects the consumers and the government because there are individuals who claim to be music therapists, who have no training. Music therapists need to have 1,200 plus hours and a bachelor's or master's degree. There are regulations in some states, but North Dakota is the only one that recently passed this. It is sitting on the Governor's desk for signature. Music therapy is the clinical and evidence-based use of music intervention to accomplish individualized goals.

Music affects each of us. In this Chamber, we heard the students who sang to us and I would like you to think back to what your feelings were when you heard that song. When I need to calm down, I listen to this song. There are individuals who need music therapy. Having this licensure would help them. I hope you support the bill.

Roll call on Senate Bill No. 190:

YEAS—15.

NAYS—Brower, Gustavson, Halseth, McGinness, Roberson, Settelmeyer—6.

Senate Bill No. 190 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 204.

Bill read third time.

Roll call on Senate Bill No. 204:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Roberson, Settelmeyer—9.

Senate Bill No. 204 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 210.

Bill read third time.

Remarks by Senators Kieckhefer, Settelmeyer and Wiener.

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

SENATOR KIECKHEFER:

This bill is in response to an unfortunate outbreak that resulted from a contamination in a food processing facility in Las Vegas. As a result, this bill is a stretch and reaches too far from the problem we are trying to solve. I will oppose this bill, but I understand it is trying to meet a noble goal.

SENATOR SETTELMAYER:

I was contacted by one of my constituents, Starbucks. They feel this bill overreaches. They wish the bill would have had the Code of Federal Regulations (CFRs) in it. They are worried about the term "reasonable grounds to suspect." They feel that is overreaching. For that reason, I will not support the bill.

SENATOR WIENER:

The incident referred to by my colleague from Washoe County resulted in 153 products being recalled because of a salmonella outbreak at the manufacturing site of the food additive. The contamination was not reported by the producer of the food additive. The report was made by Nestle, one of the manufacturing companies that purchased the additive. That was one of the 153 recalls that occurred in this country.

When asked what they can do now, the authorities in this State and the health districts stated that they can either do nothing or they can shut the facility down. This bill allows the authorities the opportunity to access a facility, based on a set of reasonable standards, which will mirror federal food safety standards laws. We have been assured that when the federal rules are finalized on this issue, they will be even more stringent. Until the federal rules are adopted, which could take one, two, or three years, we must have an ability to test food manufacturers, based on a reasonable concern that there may be a contamination. This measure would also allow manufacturers to test in a lab in the facility if that facility meets federal standards.

Roll call on Senate Bill No. 210:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Roberson, Settelmeyer—9.

Senate Bill No. 210 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 221.

Bill read third time.

Roll call on Senate Bill No. 221:

YEAS—21.

NAYS—None.

Senate Bill No. 221 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 232.

Bill read third time.

Roll call on Senate Bill No. 232:

YEAS—21.

NAYS—None.

Senate Bill No. 232 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 234.

Bill read third time.

Roll call on Senate Bill No. 234:

YEAS—21.

NAYS—None.

Senate Bill No. 234 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 246.

Bill read third time.

Roll call on Senate Bill No. 246:

YEAS—21.

NAYS—None.

Senate Bill No. 246 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 249.

Bill read third time.

Roll call on Senate Bill No. 249:

YEAS—21.

NAYS—None.

Senate Bill No. 249 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 254.

Bill read third time.

Roll call on Senate Bill No. 254:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Roberson,
Settelmeyer—9.

Senate Bill No. 254 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 264.

Bill read third time.

Remarks by Senator Leslie.

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

Thank you, Mr. President. I would like to thank the Chair and the Vice Chair of the Health and Human Services Committee as well as my colleague from Washoe District No. 3 and Clark District No. 10 who served on the subcommittee.

This bill is one of five bills when taken together moves our State forward in terms of transparency in health care and improving the quality of health care. This is something that all of our constituents want. I am proud of the work of this body. Four years ago, we passed our first major transparency bill. It was the last bill of the Session. We almost did not get it out. This Session we are going to make improvements in this area. This is something we can be proud of when we leave this Session. I urge your support.

Roll call on Senate Bill No. 264:

YEAS—21.

NAYS—None.

Senate Bill No. 264 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 293.

Bill read third time.

Remarks by Senators Horsford, Cegavske and Settlemeyer.

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

SENATOR HORSFORD:

I would like to disclose that I do job training for a nonprofit organization. This bill does not affect my employer any more or less.

Is this a registration fee that is required? If so, what is the amount and is it a new fee or an increase in the fee?

SENATOR CEGAVSKE:

It is an old fee.

SENATOR HORSFORD:

Do you mean an existing fee? Is it an increase in that fee for the registration with the Secretary of State?

SENATOR SETTELMAYER:

I will call this the "lasso theory." We have a law that exists now. We have increased the size of the lasso. Therefore, the two-thirds vote applies. We are making it more possible for this to get through to the Secretary of State.

SENATOR HORSFORD:

Yes, my understanding is that the fee did not apply to nonprofits before. For this classification, it will going forward for the registration with the Secretary of State so that they can track the type of businesses that do this work.

SENATOR CEGAVSKE:
That is correct.

Senator Denis disclosed that he serves on the board of Easter Seals, that this would not affect him one way or another, and that his is a volunteer position.

Senator Copenig disclosed that she serves on the board of Child Focus, a nonprofit that helps children in the foster care system. This should not affect that nonprofit any differently than any other nonprofit.

Senator Brower disclosed that he was not certain if this bill affects a few nonprofits where he serves on the board but would like to make that disclosure.

SENATOR HORSFORD:

Disclosure is not required for those of you who serve on voluntary boards. I made the disclosure because my employer is a nonprofit who does job training, though not this specific type of job training, but I wanted it to be noted for the record. I do not believe it requires disclosure for the other members who serve on voluntary boards.

Roll call on Senate Bill No. 293:

YEAS—20.

NAYS—Leslie.

Senate Bill No. 293 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 299.

Bill read third time.

Remarks by Senators Manendo, Settlemeyer, Cegavske, Hardy and Roberson.

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

SENATOR MANENDO:

Senate Bill No. 299 provides a definition of "breeder" and requires the Board of County Commissioners in each county and the governing body of each incorporated city, if their jurisdiction to enact and enforce ordinances relating to animals is not limited by an interlocal agreement, to adopt an ordinance requiring certain commercial breeders of dogs and cats to obtain a breeder permit. The permit must have a permit number, be displayed at certain locations and specify the premises at which the person may act as a breeder. The bill provides that an authorized agent may enter and inspect the specified premises of a breeder during any reasonable hour for the purpose of enforcing the ordinance.

Senate Bill No. 299 also provides that a breeder shall not sell a dog or cat unless the dog or cat has a microchip inserted and the dog or cat has all required vaccinations. The bill stipulates that a female dog may not be bred before she is 18 months old or more than once a year. Finally, Senate Bill No. 299 makes changes concerning specifications for primary enclosures and temperature variances as they relate to standards of care for dogs and cats.

This bill is effective on October 1, 2011.

SENATOR SETTELMAYER:

I spoke with my colleague about this earlier and he said he would try to work with the Assembly about the microchip issue. It bothers me that an animal has a microchip in it. There was a website that was sent to us about people who had lost their dogs due to infections. I appreciate him trying to work on this on the other side.

SENATOR CEGAVSKE:

Thank you, Mr. President. The Clark County Commissioners have recently passed an ordinance about breeding and I understood that they required chips. How does this coincide with the local laws? What is the difference between this and what has been done in Clark County.

SENATOR MANENDO:

This mirrors that action and puts it into State statute. I would like to address the earlier question. About 90 percent of cats and dogs sold now are microchipped. We will look at that part of the bill on the other side.

SENATOR CEGAVSKE:

That is why I am concerned. If we have the regulation in the county, why do we have to mirror it with a State law?

SENATOR MANENDO:

Because not all counties have that requirement.

SENATOR CEGAVSKE:

That is the issue. Each county should be able to regulate based on the needs of their county. Why are we doing this statewide? Does each county have the ability to do this if they desire to do so?

SENATOR MANENDO:

Each county could do this, but there are many problems with puppy mills in Nevada. We had a problem in Clark County. Unfortunately, some of the counties are not promulgating the regulations they should. Having a State law on the books and having guidelines is the best way to go for the protection of our cats and dogs. Puppy mills are a problem. There are some in Pahrump and the Armargosa Valley. Putting this into State law is the best way to regulate this. This would not apply to people who breed their dog or cat out of their home. This only applies to commercial breeders. If I wanted my animal to have a litter and to sell the puppies or kittens, I would be able to do that. There was a question about that from my colleague from Senate District No. 5, but we clarified that. That would not apply.

SENATOR HARDY:

Thank you, Mr. President. On page 5 and 6 of the amendment, it talks about what I consider more appropriate in regulation. It states, "remain cool during a period for which the National Weather Service has issued a heat advisory protecting the animal from wind that creates a wind chill below 50 degrees Fahrenheit or for which the National Weather Service has issued a high wind warning." I think there is a lot in here that should be put in regulation.

SENATOR ROBERSON:

I understand the concerns of some of my colleagues regarding this bill and some of the other bills that seek to protect animals that cannot protect themselves. I serve on the Natural Resources Committee. I have seen the videos and have heard the stories about how dogs and cats are mistreated. Call me a softie, but I am supporting this bill.

Roll call on Senate Bill No. 299:

YEAS—16.

NAYS—Brower, Gustavson, Hardy, McGinness, Rhoads—5.

Senate Bill No. 299 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 300.

Bill read third time.

Roll call on Senate Bill No. 300:

YEAS—21.

NAYS—None.

Senate Bill No. 300 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 329.

Bill read third time.

Remarks by Senator Hardy.

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

Thank you, Mr. President. Senate Bill No. 329 requires the placing in a conspicuous place in each room used for examination of a patient. It will be a sign that is no less than 8.5 inches by 11 inches. The sign must contain the information in 12pt bold face in English and in Spanish. This is intrusive when trying to create a relaxing atmosphere using feng shui or music therapy. This sign would detract from the ambience and the comfort level in medical offices wherever a patient may be examined. I will not be supporting the bill.

Roll call on Senate Bill No. 329:

YEAS—17.

NAYS—Gustavson, Hardy, McGinness, Rhoads—4.

Senate Bill No. 329 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 335.

Bill read third time.

Roll call on Senate Bill No. 335:

YEAS—21.

NAYS—None.

Senate Bill No. 335 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 339.

Bill read third time.

Roll call on Senate Bill No. 339:

YEAS—21.

NAYS—None.

Senate Bill No. 339 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 354.

Bill read third time.

Roll call on Senate Bill No. 354:

YEAS—21.

NAYS—None.

Senate Bill No. 354 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 365.

Bill read third time.

The following amendment was proposed by the Committee on Education:

Amendment No. 541.

"SUMMARY—Eliminates certain mandates pertaining to school districts and public schools in this State. (BDR 34-184)"

"AN ACT relating to education; ~~eliminating the requirement for the Superintendent of Public Instruction to prepare a memorandum on newly enacted laws and to disseminate the information to the school districts and charter schools;~~ eliminating certain requirements imposed by statute on school districts and public schools in this State; ~~eliminating the requirement for school districts, public schools and private schools to develop crisis response plans;~~ **authorizing the board of trustees of each school district to review certain plans, policies, programs and procedures;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~† Under existing law, the Superintendent of Public Instruction is required to prepare a memorandum that includes a description of each statute newly enacted by the Legislature and other bills pertaining to public education. (NRS 385.210) The board of trustees of each school district and the governing body of each charter school is required to disseminate the information received from the Superintendent to the parents and legal guardians of pupils and prepare a plan for implementation of the statutes and bills. (NRS 386.360, 386.552) This bill repeals these statutory requirements.†~~

Under existing law, the board of trustees of each school district is required to adopt a policy to engage certain administrators in the classroom. (NRS 391.235) Section 21.5 of this bill makes the adoption of such a policy permissive rather than mandatory.

Under existing federal law, a school which is served under Title I and which is identified as needing improvement pursuant to the federal law is required to develop and implement a school improvement plan. (20 U.S.C. § 6316(b)(3)) Also under existing federal law, a school district which is served under Title I and which is identified as needing improvement pursuant to the federal law is required to develop and implement a plan for improvement for the school district. (20 U.S.C. § 6316(c)(7)) Under existing state law, the board of trustees of each school district is required to prepare a

plan to improve the achievement of pupils enrolled in the school district. ~~and each principal of a public school is required to prepare a plan to improve the achievement of pupils enrolled in the school. (NRS 385.348, 385.357))~~ **(NRS 385.348)** This bill repeals ~~these~~ **that** state statutory ~~requirements~~ **requirement**.

Under existing law, school districts and ~~public schools~~ in this State are required to ~~develop and adopt plans, policies and procedures including:~~ (1) the development of academic plans for certain pupils enrolled in middle school or junior high school and high school (NRS 388.165, 388.205); ~~(2)~~ **adopt a policy providing for** the creation of small learning communities for certain pupils enrolled in middle school or junior high school and high school. (NRS 388.171, 388.215) ~~;~~ (3) the adoption of policies for peer mentoring (NRS 388.176, 388.221); (4) reporting on the use of physical and mechanical restraint (NRS 388.5317); (5) the creation of advisory boards to review school attendance as an alternative to reporting the truancy of pupils to law enforcement (NRS 392.126-392.149); and (6) the temporary alternative placement of certain pupils with disciplinary issues. (NRS 392.4642-392.4648)) This bill repeals these statutory requirements ~~and other statutory mandates imposed on school districts and public schools.~~

Under existing law, school districts, public schools and private schools are required to develop policies to respond to a crisis and to establish committees to develop those policies. (NRS 392.600-392.656, 394.168-394.1699) This bill repeals the statutory requirements for crisis response plans and committees pertaining to school districts, public schools and private schools.

Under existing law, the boards of trustees of school districts are required to enforce in the public schools the use of textbooks prescribed by the State Board of Education. (NRS 390.220) This bill repeals that statutory requirement.

Under existing law, effective on July 1, 2011, an academic plan must be developed for each pupil enrolled in middle school or junior high school in accordance with a policy adopted by the board of trustees of the school district. Section 36.5 of this bill extends the date for adoption of such a policy to January 1, 2013, for implementation beginning with the 2013-2014 school year.

Section 37.5 of this bill authorizes the board of trustees of each school district to review certain plans, policies, programs and procedures. If the board of trustees of a school district conducts such a review, the board of trustees is required to prepare a written report on the plans, policies, programs and procedures which the board of trustees determines place an unfunded mandate and an undue financial hardship on the school district and submit the written report, on or before August 1, 2012, to the Legislative Committee on Education and the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 385.359 is hereby amended to read as follows:

385.359 1. The Bureau shall contract with a person or entity to:

(a) Review and analyze, in accordance with the standards prescribed by the Committee pursuant to subsection 2 of NRS 218E.615, the:

(1) Annual report of accountability prepared by:

(I) The State Board pursuant to NRS 385.3469; and

(II) The board of trustees of each school district pursuant to NRS 385.347.

(2) Plan to improve the achievement of pupils prepared by :

~~—(I) The ~~the~~ State Board pursuant to NRS 385.34691 ; and~~

~~—(II) [The board of trustees of each school district pursuant to NRS 385.348; and~~

~~—(III) Each school pursuant to NRS 385.357 identified by the Bureau for review, if any, or if such a plan has not been prepared, the ~~f, any~~ turnaround plan for the schools identified by the Bureau, if any, implemented pursuant to NRS 385.37603 or the plan for restructuring the school implemented pursuant to NRS 385.37607, as applicable.~~

(b) Submit a written report to and consult with the State Board and the Department regarding any methods by which the State Board may improve the accuracy of the report of accountability required pursuant to NRS 385.3469 and the plan to improve the achievement of pupils required pursuant to NRS 385.34691, and the purposes for which the report and plan to improve are used.

(c) Submit a written report to and consult with each school district regarding any methods by which the district may improve the accuracy of the report required pursuant to subsection 2 of NRS 385.347 ~~{and the plan to improve the achievement of pupils required pursuant to NRS 385.348,}~~ and the purposes for which the report ~~{and plan to improve are}~~ is used.

(d) If requested by the Bureau, submit a written report to and consult with individual schools identified by the Bureau regarding any methods by which the school may improve the accuracy of the information required to be reported for the school pursuant to subsection 2 of NRS 385.347 and the:

(1) Plan to improve the achievement of pupils required pursuant to NRS 385.357;

(2) Turnaround plan for the school implemented pursuant to NRS 385.37603; or

(3) ~~f(2)~~ Plan for restructuring the school implemented pursuant to NRS 385.37607,

↳ whichever is applicable for the school.

(e) Submit written reports and any recommendations to the Committee and the Bureau concerning:

(1) The effectiveness of the provisions of NRS 385.3455 to 385.391, inclusive, in improving the accountability of the schools of this State;

(2) The status of each school district that is designated as demonstrating need for improvement pursuant to NRS 385.377 and each school that is designated as demonstrating need for improvement pursuant to NRS 385.3623; and

(3) Any other matter related to the accountability of the public schools of this State, as deemed necessary by the Bureau.

2. The consultant with whom the Bureau contracts to perform the duties required pursuant to subsection 1 must possess the experience and knowledge necessary to perform those duties, as determined by the Committee.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 385.3785 is hereby amended to read as follows:

385.3785 1. The Commission shall:

(a) Establish a program of educational excellence designed exclusively for pupils enrolled in kindergarten through grade 6 in public schools in this State based upon:

(1) The plan to improve the achievement of pupils prepared by the State Board pursuant to NRS 385.34691;

(2) ~~The plan to improve the achievement of pupils prepared by the board of trustees of each school district pursuant to NRS 385.348;~~

~~—(3) The plan to improve the achievement of pupils prepared by the principal of each school pursuant to NRS 385.357, which may include a program of innovation, the~~ turnaround plan for the school implemented pursuant to NRS 385.37603 or the plan for restructuring the school implemented pursuant to NRS 385.37607, whichever is ~~not~~ applicable for the school; and

~~{(4)}~~ (3) Any other information that the Commission considers relevant to the development of the program of educational excellence.

(b) Identify programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

(c) Develop a concise application and simple procedures for the submission of applications by public schools and consortiums of public schools, including, without limitation, charter schools, for participation in a program of educational excellence and for grants of money from the Account. Grants of money must be made for programs designed for the achievement of pupils that are linked to the plan to improve the achievement of pupils or for innovative programs, or both, or that are linked to the turnaround plan for the school or the plan for restructuring the school, if applicable, or for innovative programs, or both. The Commission shall not award a grant of money from the Account for a program to provide full-day

kindergarten. All public schools and consortiums of public schools, including, without limitation, charter schools, are eligible to submit such an application, regardless of whether the schools have made adequate yearly progress or failed to make adequate yearly progress. A public school or a consortium of public schools selected for participation may be approved by the Commission for participation for a period not to exceed 2 years, but may reapply.

(d) Prescribe a long-range timeline for the review, approval and evaluation of applications received from public schools and consortiums of public schools that desire to participate in the program.

(e) Establish guidelines for the review, evaluation and approval of applications for grants of money from the Account, including, without limitation, consideration of the list of priorities of public schools provided by the Department pursuant to subsection 6. To ensure consistency in the review, evaluation and approval of applications, if the guidelines authorize the review and evaluation of applications by less than the entire membership of the Commission, money must not be allocated from the Account for a grant until the entire membership of the Commission has reviewed and approved the application for the grant.

(f) Prescribe accountability measures to be carried out by a public school that participates in the program if that public school does not meet the annual measurable objectives established by the State Board pursuant to NRS 385.361, including, without limitation:

(1) The specific levels of achievement expected of schools that participate; and

(2) Conditions for schools that do not meet the grant criteria but desire to continue participation in the program and receive money from the Account, including, without limitation, a review of the leadership at the school and recommendations regarding changes to the appropriate body.

(g) Determine the amount of money that is available from the Account for those public schools and consortiums of public schools that are selected to participate in the program.

(h) Allocate money to public schools and consortiums of public schools from the Account. Allocations must be distributed not later than August 15 of each year.

(i) Establish criteria for public schools and consortiums of public schools that participate in the program and receive an allocation of money from the Account to evaluate the effectiveness of the allocation in improving the achievement of pupils, including, without limitation, a detailed analysis of:

(1) The achievement of pupils enrolled at each school that received money from the allocation based upon measurable criteria ~~including, without limitation, if applicable for the school, measurable criteria~~ identified in , as applicable, the:

(I) Plan to improve the achievement of pupils for the school prepared pursuant to NRS 385.357;

(II) Turnaround plan for the school implemented pursuant to NRS 385.37603; or

(III) ~~Plan~~ Plan for restructuring the school implemented pursuant to NRS 385.37607;

(2) If applicable, the effectiveness of the program of innovation on the achievement of pupils and the overall effectiveness for pupils and staff; ~~and~~

(3) The implementation of the applicable plans for improvement, including, without limitation, an analysis of whether the school is meeting the measurable objectives identified in the plan; and

(4) The attainment of measurable progress on the annual list of adequate yearly progress of school districts and schools.

2. To the extent money is available, the Commission shall make allocations of money to public schools and consortiums of public schools for effective programs for grades 7 through 12 that are designed to improve the achievement of pupils and effective programs of innovation for pupils. In making such allocations, the Commission shall comply with the requirements of this section.

3. An application submitted pursuant to this section must include a written statement which:

(a) Indicates whether the public school or consortium of public schools is submitting the application for the continuation of an existing program or for the establishment of a new program; and

(b) Identifies all other sources of money that the public school or consortium of public schools has requested or received for the continuation or establishment of:

(1) The program for which the application is submitted; or

(2) A substantially similar program.

4. The Commission shall ensure, to the extent practicable, that grants of money provided pursuant to this section reflect the economic and geographic diversity of this State.

5. If a public school or consortium of public schools that receives money pursuant to subsection 1 or 2:

(a) Does not meet the criteria for effectiveness as prescribed in paragraph (i) of subsection 1;

(b) Does not, as a result of the program for which the grant of money was awarded, show improvement in the achievement of pupils, as determined in an evaluation conducted pursuant to subsection 3 of NRS 385.379; or

(c) Does not implement the program for which the money was received, as determined in an audit conducted pursuant to subsection 4 of NRS 385.3789 or an evaluation conducted pursuant to subsection 3 of NRS 385.379,

➤ over a 2-year period, the Commission may consider not awarding future allocations of money to that public school or consortium of public schools.

6. On or before July 1 of each year, the Department shall provide a list of priorities of public schools that indicates:

(a) The adequate yearly progress status of schools in the immediately preceding year; and

(b) The public schools that are considered Title I eligible by the Department based upon the poverty level of the pupils enrolled in a school in comparison to the poverty level of the pupils in the school district as a whole, ➤ for consideration by the Commission in its development of procedures for the applications.

7. A public school, including, without limitation, a charter school, or a consortium of public schools may request assistance from the school district in which the school is located in preparing an application for a grant of money pursuant to this section. A school district shall assist each public school or consortium of public schools that requests assistance pursuant to this subsection to ensure that the application of the school:

(a) Is based directly upon, as applicable, ~~if applicable for the school,~~ the:

(1) Plan to improve the achievement of pupils prepared for the school pursuant to NRS 385.357;

(2) Turnaround plan for the school implemented pursuant to NRS 385.37603; or

(3) ~~Plan~~ Plan for restructuring the school implemented pursuant to NRS 385.37607;

(b) Is developed in accordance with the criteria established by the Commission; and

(c) Is complete and complies with all technical requirements for the submission of an application.

➤ A school district may make recommendations to the individual schools and consortiums of public schools. Such schools and consortiums of public schools are not required to follow the recommendations of a school district.

8. In carrying out the requirements of this section, the Commission shall review and consider the programs of remedial study adopted by the Department pursuant to NRS 385.389, the list of approved providers of supplemental educational services maintained by the Department pursuant to NRS 385.384 and the recommendations submitted by the Committee pursuant to NRS 218E.615 concerning programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

9. The Commission shall not award a grant of money from the Account for a program of remedial study that is available commercially unless that program has been adopted by the Department pursuant to NRS 385.389.

10. If a consortium of public schools is formed for the purpose of submitting an application pursuant to this section, the public schools within the consortium do not need to be located within the same school district.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 21.5. NRS 391.235 is hereby amended to read as follows:

391.235 1. The board of trustees of each school district ~~shall~~ **may** adopt a policy that sets forth procedures and conditions for a program to engage administrators employed by the school district at the district level in annual classroom instruction, observation and other activities in a manner that is appropriate for the responsibilities, position and duties of the administrators. ~~The~~ **If the board of trustees adopts such a policy, the** policy must require each administrator employed by the school district at the district level to:

(a) If the administrator holds a license to teach, provide instruction in a core academic subject in a classroom for at least 1 regularly scheduled full instructional day in each school year; or

(b) If the administrator does not hold a license to teach:

(1) Personally observe a classroom for at least one-half of a regularly scheduled full instructional day in each school year; or

(2) Otherwise participate in activities with pupils in the classroom in each school year, including, without limitation, serving as a guest speaker in the classroom, reading to pupils in elementary school and participating in career day.

2. ~~1A~~ **If the board of trustees of a school district adopts a policy pursuant to subsection 1, a** district-level administrator may choose a school within the school district at which the administrator will carry out the ~~requirements~~ **provisions** of this section.

3. ~~1A~~ **If the board of trustees of a school district adopts a policy pursuant to subsection 1, an** administrator who provides instruction pursuant to paragraph (a) of subsection 1 must be assigned as a substitute teacher for the full instructional day in which the administrator carries out the ~~requirements~~ **provisions** of this section.

4. The provisions of this section do not apply to administrators who are employed by a school district to provide administrative service at the school level, including, without limitation, a principal or vice principal.

5. As used in this section, "core academic subject" means the core academic subjects designated pursuant to NRS 389.018.

Sec. 22. NRS 391.298 is hereby amended to read as follows:

391.298 If the board of trustees of a school district or the superintendent of schools of a school district schedules a day or days for the professional development of teachers or administrators employed by the school district:

1. The primary focus of that scheduled professional development must be to improve the achievement of the pupils enrolled in the school district ~~and~~, as set forth in the:

~~(a) Plan to improve the achievement of pupils enrolled in the school district prepared pursuant to NRS 385.348;~~

~~(b) Plan to improve the achievement of pupils prepared pursuant to NRS 385.357;~~

~~(c) Turnaround plan for the school implemented pursuant to NRS 385.37603; or~~

~~(d) Plan for restructuring the school implemented pursuant to NRS 385.37607,~~

~~as applicable.~~

2. The scheduled professional development must be structured so that teachers attend professional development that is designed for the specific subject areas or grades taught by those teachers.

Sec. 23. 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 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 may submit recommendations to the appropriate governing body for the types of training that should be offered by the regional training program.

(c) In making the assessment required by paragraph (b) ~~to 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:~~

~~(1) Plans to improve the achievement of pupils prepared pursuant to NRS 385.357;~~

~~(2) Turnaround plans for schools implemented pursuant to NRS 385.37603; and~~

~~(3) Plans for restructuring schools implemented pursuant to NRS 385.37607,~~

~~for individual schools within the primary jurisdiction of the regional training program which are required to implement a turnaround plan or plan for restructuring.~~

(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 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 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 may request the governing body of the regional training program that serves the school district to provide training, participate in a program or 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. 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. The governing body of a regional training program may, but is not required to, grant a request pursuant to this subsection.

Sec. 24. (Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 36.5. Section 7 of chapter 311, Statutes of Nevada 2009, at page 1334, is hereby amended to read as follows:

Sec. 7. 1. *The board of trustees of each school district shall adopt the policy required by section 2 of this act not later than January 1, 2013, for implementation beginning with the 2013-2014 School Year. On or before June 1, 2012, the board of trustees of each school district shall provide a report to the Superintendent of Public Instruction on the status of the adoption of the policy required by section 2 of this act, including, without limitation, a plan for the implementation of that policy beginning with the 2013-2014 School*

Year. On or before July 1, 2012, the Superintendent of Public Instruction shall compile the reports and provide a report of the compilation to the Legislative Committee on Education.

2. The board of trustees of each school district shall adopt the policies required by sections ~~2, 3~~, 5 and 6 of this act not later than January 1, 2011, for implementation beginning with the 2011-2012 School Year.

~~2, 3~~ **3.** On or before June 1, 2010, the board of trustees of each school district shall provide a report to the Superintendent of Public Instruction on the status of the adoption of the policies required by sections ~~2, 3~~, 5 and 6 of this act, including, without limitation, a plan for implementation of those policies beginning with the 2011-2012 School Year. On or before July 1, 2010, the Superintendent of Public Instruction shall compile the reports and provide a report of the compilation to the Legislative Committee on Education.

Sec. 36.7. Section 8 of chapter 311, Statutes of Nevada 2009, at page 1334, is hereby amended to read as follows:

Sec. 8. 1. This section and section 7 of this act become effective on July 1, 2009.

2. Sections ~~2, 3~~ 3 to 6, inclusive, of this act become effective on July 1, 2009, for the purpose of adopting the policies required by sections ~~2, 3~~, 5 and 6 of this act and on July 1, 2011, for all other purposes.

3. Section 2 of this act becomes effective on July 1, 2009, for the purpose of adopting the policy required by that section and on July 1, 2013, for all other purposes.

Sec. 37. NRS ~~385.210, 385.348, 385.357, 386.365, 386.370, 386.552, 387.613, 388.134, 388.1345, 388.165, 388.171, 388.176, 388.181, 388.205, 388.215, 388.221, 388.5317, 389.011, 389.065, 390.220, 391.235, 392.018, 392.126, 392.127, 392.128, 392.129, 392.141, 392.146, 392.147, 392.461, 392.4635, 392.4637, 392.4642, 392.4643, 392.4644, 392.4645, 392.4646, 392.4647, 392.4648, 392.604, 392.608, 392.612, 392.616, 392.620, 392.624, 392.628, 392.632, 392.636, 393.097, 394.168, 394.1681, 394.1682, 394.1683, 394.1685, 394.1687, 394.1688, 394.169, 394.1691, 394.1692, 394.1694, 394.1698 and 394.1699~~ are hereby repealed.

Sec. 37.5. 1. The board of trustees of each school district may review the plans, policies, programs and procedures that the board of trustees is required to implement pursuant to title 34 of NRS or pursuant to federal law to determine which plans, policies, programs and procedures place an unfunded mandate and an undue financial hardship upon the school district. If the board of trustees of a school district conducts such a review, the review must include, without limitation, the:

(a) Plans to improve the academic achievement of pupils;

(b) Academic plans for certain pupils enrolled in middle school or junior high school and high school;

(c) Policies for peer mentoring;

(d) Policies for the provision of a safe and respectful learning environment;

(e) Policies for pupil-led conferences;

(f) Plans for the implementation of statutes;

(g) Procedures for reporting the use of physical restraint and mechanical restraint;

(h) Procedures for the creation of advisory boards to review school attendance; and

(i) Plans for responding to a crisis.

2. If the board of trustees of a school district reviews the plans, policies, programs and procedures pursuant to subsection 1, the board of trustees shall prepare a written report of its review. The report must include, without limitation:

(a) The name of each plan, policy, program or procedure which the board of trustees determines places an unfunded mandate and an undue financial hardship upon the school district;

(b) A description of the plan, policy, program or procedure;

(c) The costs incurred by the school district for implementing the plan, policy, program or procedure and an identification of how much money the school district receives from the State or Federal Government for such implementation; and

(d) The effectiveness of the plan, policy, program or procedure in improving the academic achievement of pupils enrolled in the school district, if applicable, including, without limitation, the assessment of the school district as to whether the plan, policy, program or procedure should continue.

3. If the board of trustees of a school district prepares a written report pursuant to subsection 2, the board of trustees shall, on or before August 1, 2012, submit the written report to the:

(a) Legislative Committee on Education; and

(b) Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.

Sec. 38. This act becomes effective on July 1, 2011.

~~{ HEADLINES }~~ TEXT OF REPEALED SECTIONS

~~{ NRS 385.210 Form of school register; dissemination of information regarding statutes and regulations relating to schools; memorandum to school districts and charter schools; preparation and publication of Department bulletin.~~

~~—385.210 1. The Superintendent of Public Instruction shall prescribe a convenient form of school register for the purpose of securing accurate returns from the teachers of public schools.~~

~~— 2. The Superintendent shall prepare pamphlet copies of the codified statutes relating to schools and shall transmit a copy to each school, school trustee and other school officer in this State. If the State Board adopts regulations to carry out these codified statutes or if additions or amendments are made to these codified statutes, the Superintendent shall have the regulations, additions or amendments printed and transmitted immediately thereafter. Each pamphlet must be marked "State property—to be turned over to your successor in office." Each school shall maintain a copy of the pamphlet with any regulations, additions or amendments in the school library.~~

~~— 3. In addition to the requirements set forth in subsection 2, the Superintendent shall, to the extent practicable and not later than July 1 of each year, provide to the board of trustees of each school district and to the governing body of each charter school a memorandum that includes:~~

~~— (a) A description of each statute newly enacted by the Legislature which affects the public schools in this State and the pupils who are enrolled in the public schools in this State. The memorandum may compile all the statutes into one document.~~

~~— (b) A description of each bill, or portion of a bill, newly enacted by the Legislature that appropriates or authorizes money for public schools or for employees of a school district or charter school, or both, or otherwise affects the money that is available for public schools or for employees of school districts or charter schools, or both, including, without limitation, each line item in a budget for such an appropriation or authorization. The memorandum may compile all bills, or portions of bills, as applicable, into one document.~~

~~— (c) If a statute or bill described in the memorandum requires the State Board or the Department to take action to carry out the statute or bill, a brief plan for carrying out that statute or bill.~~

~~— (d) The date on which each statute and bill described in the memorandum becomes effective and the date by which it must be carried into effect by a school district or public school, including, without limitation, a charter school.~~

~~— 4. If a statute or bill described in subsection 3 is enacted during a special session of the Legislature that concludes after July 1, the Superintendent shall prepare an addendum to the memorandum that includes the information required by this section for each such statute or bill. The addendum must be provided to the board of trustees of each school district and the governing body of each charter school not later than 30 days after the special session concludes.~~

~~— 5. The Superintendent shall, if directed by the State Board, prepare and publish a bulletin as the official publication of the Department.]~~

NRS 385.348 Plan by school district to improve achievement of pupils: Preparation; contents; submission; annual review.

385.348 1. The board of trustees of each school district shall, in consultation with the employees of the school district, prepare a plan to improve the achievement of pupils enrolled in the school district, excluding pupils who are enrolled in charter schools located in the school district. If the school district is a Title I school district designated as demonstrating need for improvement pursuant to NRS 385.377, the plan must also be prepared in consultation with parents and guardians of pupils enrolled in the school district and other persons who the board of trustees determines are appropriate.

2. Except as otherwise provided in this subsection, the plan must include the items set forth in 20 U.S.C. § 6316(c)(7) and the regulations adopted pursuant thereto. If a school district has not been designated as demonstrating need for improvement pursuant to NRS 385.377, the board of trustees of the school district is not required to include those items set forth in 20 U.S.C. § 6316(c)(7) and the regulations adopted pursuant thereto that directly relate to the status of a school district as needing improvement.

3. In addition to the requirements of subsection 2, a plan to improve the achievement of pupils enrolled in a school district must include:

(a) A review and analysis of the data upon which the report required pursuant to subsection 2 of NRS 385.347 is based and a review and analysis of any data that is more recent than the data upon which the report is based.

(b) The identification of any problems or factors at individual schools that are revealed by the review and analysis.

(c) Strategies based upon scientifically based research, as defined in 20 U.S.C. § 7801(37), that will strengthen the core academic subjects, as set forth in NRS 389.018.

(d) Strategies to improve the academic achievement of pupils enrolled in the school district, including, without limitation, strategies to:

(1) Instruct pupils who are not achieving to their fullest potential, including, without limitation:

(I) The curriculum appropriate to improve achievement;

(II) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS 389.015 and 389.550; and

(III) An identification of the instruction and curriculum that is specifically designed to improve the achievement and proficiency of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361;

(2) Increase the rate of attendance of pupils and reduce the number of pupils who drop out of school;

(3) Integrate technology into the instructional and administrative programs of the school district;

(4) Manage effectively the discipline of pupils; and

(5) Enhance the professional development offered for the teachers and administrators employed by the school district to include the activities set forth in 20 U.S.C. § 7801(34) and to address the specific needs of the pupils

enrolled in the school district, as deemed appropriate by the board of trustees of the school district.

(e) An identification, by category, of the employees of the school district who are responsible for ensuring that each provision of the plan is carried out effectively.

(f) In consultation with the Department, an identification, by category, of the employees of the Department, if any, who are responsible for overseeing and monitoring whether the plan is carried out effectively.

(g) For each provision of the plan, a timeline for carrying out that provision, including, without limitation, a timeline for monitoring whether the provision is carried out effectively.

(h) For each provision of the plan, measurable criteria for determining whether the provision has contributed toward improving the academic achievement of pupils, increasing the rate of attendance of pupils and reducing the number of pupils who drop out of school.

(i) Strategies to improve the allocation of resources from the school district, by program and by school, in a manner that will improve the academic achievement of pupils. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(j) Based upon the reallocation of resources set forth in paragraph (i), the resources available to the school district to carry out the plan, including, without limitation, a budget of the overall cost for carrying out the plan.

(k) A summary of the effectiveness of appropriations made by the Legislature that are available to the school district or the schools within the school district to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(l) An identification of the programs, practices and strategies that are used throughout the school district and by the schools within the school district that have proven successful in improving the achievement and proficiency of pupils, including, without limitation:

(1) An identification of each school that carries out such a program, practice or strategy;

(2) An indication of which programs, practices and strategies are carried out throughout the school district and which programs, practices and strategies are carried out by individual schools;

(3) The extent to which the programs, practices and strategies include methods to improve the achievement and proficiency of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361; and

(4) A description of how the school district disseminates information concerning the successful programs, practices and strategies to all schools within the school district.

4. The board of trustees of each school district shall:

(a) Review the plan prepared pursuant to this section annually to evaluate the effectiveness of the plan; and

(b) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that the plan is designed to improve the academic achievement of pupils enrolled in the school district.

5. On or before December 15 of each year, the board of trustees of each school district shall submit the plan or the revised plan, as applicable, to the:

(a) Superintendent of Public Instruction;

(b) Governor;

(c) State Board;

(d) Department;

(e) Committee; and

(f) Bureau.

~~† NRS 385.357 Plan to improve achievement of pupils for individual schools; duties of school support team in preparing plan; annual review; process for submission and approval of plan; timeline for carrying out plan. Effective July 1, 2010.~~

~~—NRS 386.365 Policies and regulations in county whose population is 100,000 or more: Procedure.~~

~~—NRS 386.370 Reports to Superintendent of Public Instruction.~~

~~—NRS 386.552 Preparation of plan for implementation of statutes; written notice to parents and teachers concerning statutes and plan for implementation.~~

~~—NRS 387.613 Review of school districts; recommendations by Legislative Auditor; selection of school districts by Legislature; qualifications and selection of consultant to conduct reviews; monitoring and oversight of consultant; self-assessment by school district required.~~

~~—NRS 388.134 Adoption of policy by school districts for provision of safe and respectful learning environment; adoption of policy by school districts for ethical, safe and secure use of computers; provision of training to school personnel; annual report of violations. Effective July 1, 2010.~~

~~—NRS 388.1345 Compilation of reports by Superintendent of Public Instruction; submission of written compilation to Attorney General.~~

~~—NRS 388.165 Development of academic plan required. Effective July 1, 2011.~~

NRS 388.171 Program of small learning communities required in certain schools.

388.171 1. The board of trustees of each school district which includes at least one middle school or junior high school with an enrollment of 500 pupils or more shall adopt a policy for each of those middle schools and junior high schools to provide a program of small learning communities for pupils enrolled in the grade level at which those middle schools or junior high schools initially enroll pupils. The policy must require:

(a) Where practicable, the designation of a separate area geographically within the middle school or junior high school where the pupils enrolled in their initial year at the middle school or junior high school attend classes;

(b) The collection and maintenance of information relating to pupils enrolled in their initial year at the middle school or junior high school, including, without limitation, credits earned, attendance, truancy and indicators that a pupil may be at risk of dropping out of middle school or junior high school;

(c) Based upon the information collected pursuant to paragraph (b), the timely identification of any special needs of a pupil enrolled in his or her initial year at the middle school or junior high school, including, without limitation, any need for programs of remedial study for a particular subject area and appropriate counseling;

(d) Methods to increase the involvement of parents and legal guardians of pupils enrolled in their initial year in a middle school or junior high school in the education of their children; and

(e) The assignment of:

(1) Guidance counselors;

(2) At least one licensed school administrator or a designee of such an administrator; and

(3) Appropriate adult mentors,

➤ specifically for the pupils enrolled in their initial year at the middle school or junior high school.

2. The principal of each middle school or junior high school in which 500 pupils or more are enrolled shall:

(a) Carry out a program of small learning communities in accordance with the policy prescribed by the board of trustees pursuant to subsection 1; and

(b) Submit an annual report, on a date prescribed by the board of trustees, that sets forth the specific strategies, programs and methods which are used to focus on the pupils enrolled in their initial year at the middle school or junior high school, including, without limitation, the program of mentoring provided pursuant to NRS 388.176.

~~‡ NRS 388.176 Adoption of policy for peer mentoring. Effective July 1, 2011.~~

~~—NRS 388.181 Adoption of policy for pupil-led conferences. Effective July 1, 2011.~~

~~—NRS 388.205 Development of academic plan required for ninth grade pupils.~~

NRS 388.215 Program of small learning communities required for ninth grade pupils enrolled in larger schools.

388.215 1. The board of trustees of each school district which includes at least one high school with an enrollment of 1,200 pupils or more, including pupils enrolled in ninth grade, shall adopt a policy for each of those high schools to provide a program of small learning communities. The policy must require:

(a) Where practicable, the designation of a separate area geographically within the high school where the pupils enrolled in ninth grade attend classes;

(b) The collection and maintenance of information relating to pupils enrolled in ninth grade, including, without limitation, credits earned, attendance, truancy and indicators that a pupil may be at risk of dropping out of high school;

(c) Based upon the information collected pursuant to paragraph (b), the timely identification of any special needs of a pupil enrolled in ninth grade, including, without limitation, any need for programs of remedial study for a particular subject area and appropriate counseling;

(d) Methods to increase the involvement of parents and legal guardians of pupils enrolled in ninth grade in the education of their children; and

(e) The assignment of:

(1) Guidance counselors;

(2) At least one licensed school administrator; and

(3) Appropriate adult mentors,

➔ specifically for the pupils enrolled in ninth grade.

2. The principal of each high school in which 1,200 pupils or more are enrolled, including pupils enrolled in ninth grade, shall:

(a) Carry out a program of small learning communities in accordance with the policy prescribed by the board of trustees pursuant to subsection 1; and

(b) Submit an annual report, on a date prescribed by the board of trustees, that sets forth the specific strategies, programs and methods that are used to focus on the pupils enrolled in ninth grade at the school.

~~† NRS 388.221 Adoption of policy for peer mentoring.~~

~~—NRS 388.5317 Annual report by school districts on use of restraint and violations; compilation of reports by Department; submission of compilation to Legislature.~~

~~—NRS 389.011 Administration to pupils who are limited English proficient; State Board required to prescribe modifications and accommodations; administration in language other than English required under certain circumstances; assessment of proficiency in English language.~~

~~—NRS 389.065 Instruction on acquired immune deficiency syndrome, human reproductive system, related communicable diseases and sexual responsibility.~~

NRS 390.220 Enforcement by board of trustees of use of prescribed textbooks; exception for charter schools.

390.220 Boards of trustees of school districts in this State shall enforce in the public schools, excluding charter schools, the use of textbooks prescribed and adopted by the State Board.

~~† NRS 391.235 Program to engage district-level administrators in classroom.~~

~~—NRS 392.018 Written notice of certain courses, services and educational programs available to pupils within school district; posting at public schools; availability to parents.~~

- ~~— NRS 392.126 Creation of advisory board in each county; membership; terms; compensation.~~
- ~~— NRS 392.127 Administrative support to advisory boards and school attendance councils.~~
- ~~— NRS 392.128 Duties of advisory boards; division into subcommittees; provision of assistance in conjunction with community service providers; use and accounting of available money by advisory board.~~
- ~~— NRS 392.129 Establishment of school attendance councils; membership; duties; annual report.~~
- ~~— NRS 392.141 Applicability of provisions to pupils.~~
- ~~— NRS 392.146 Contents of written referral to advisory board; notice to parents or guardian.~~
- ~~— NRS 392.147 Hearing by advisory board; written agreement for participation of pupil in certain programs; reporting of pupil to law enforcement agency under certain circumstances; confidentiality of information.~~
- ~~— NRS 392.461 Code of honor relating to cheating; contents; distribution.~~
- ~~— NRS 392.4635 Policy for prohibition of activities of criminal gangs on school property.~~
- ~~— NRS 392.4637 Policy concerning use and possession of pagers, cellular telephones and other electronic devices.~~
- ~~— NRS 392.4642 "Principal" defined.~~
- ~~— NRS 392.4643 Actions taken against pupils with disabilities.~~
- ~~— NRS 392.4644 Plan for progressive discipline and on-site review of disciplinary decisions; annual review and revision of plan; posting and availability of plan; written reports by superintendent of schools, board of trustees and Superintendent of Public Instruction concerning compliance with section.~~
- ~~— NRS 392.4645 Removal of pupil from classroom: Notice; assignment to temporary alternative placement; exceptions.~~
- ~~— NRS 392.4646 Removal of pupil from classroom: Conference; recommendation of principal.~~
- ~~— NRS 392.4647 Establishment of committee to review temporary alternative placement of pupils.~~
- ~~— NRS 392.4648 Powers and duties of committee to review temporary alternative placement of pupils.~~
- ~~— NRS 392.604 "Crisis" defined.~~
- ~~— NRS 392.608 "Development committee" defined.~~
- ~~— NRS 392.612 "School committee" defined.~~
- ~~— NRS 392.616 Development committee: Establishment by school districts and charter schools; membership; terms of members.~~
- ~~— NRS 392.620 Development committee: Development of plan to be used by schools in responding to crisis; submission of plan to board of trustees or governing body of charter school; compliance with plan required.~~

- ~~—NRS 392.624 Annual review and update of plan for responding to crisis; maintenance, posting and distribution of plan; annual training for school employees in responding to crisis; acceptance of gifts and grants.~~
- ~~—NRS 392.628 School committee: Establishment; membership; terms of members.~~
- ~~—NRS 392.632 School committee: Annual review of plan prepared by development committee; determination whether to request deviation from plan; notice of review.~~
- ~~—NRS 392.636 Review by development committee of proposed deviation from plan; notice of approval or denial; submission of copy of approved deviation to board of trustees or governing body.~~
- ~~—NRS 393.097 Duty to submit recommendations for financing costs for construction to Legislature; oversight panels required to approve or deny request for issuance of certain bonds.~~
- ~~—NRS 394.168 Definitions.~~
- ~~—NRS 394.1681 "Crisis" defined.~~
- ~~—NRS 394.1682 "Development committee" defined.~~
- ~~—NRS 394.1683 "School committee" defined.~~
- ~~—NRS 394.1685 Development committee: Establishment by private school; membership; terms of members.~~
- ~~—NRS 394.1687 Development committee: Development of plan to be used by private school in responding to crisis; submission of plan to governing body of private school; compliance with plan required of private school.~~
- ~~—NRS 394.1688 Annual review and update of plan for responding to crisis; maintenance, posting and distribution of plan; annual training for school employees.~~
- ~~—NRS 394.169 School committee: Establishment; membership; terms of members.~~
- ~~—NRS 394.1691 School committee: Annual review of plan prepared by development committee; determination whether to request deviation from plan; notice of review.~~
- ~~—NRS 394.1692 Review by development committee of proposed deviation from plan; notice of approval or denial; submission of copy of approved deviation to governing body of private school.~~
- ~~—NRS 394.1694 Adoption of regulations concerning development of plans in responding to crisis, review of proposed deviations and requirements for training.~~
- ~~—NRS 394.1698 Confidentiality of plans, approved deviations and certain other information.~~
- ~~—NRS 394.1699 Inapplicability of Open Meeting Law to development committee, school committee and certain meetings of State Board related to crisis response.]~~

Senator Denis moved the adoption of the amendment.

Remarks by Senators Denis and McGinness.

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

SENATOR DENIS:

Thank you, Mr. President. This amendment replaces the previous amendment listed for Senate Bill No. 365. Amendment No. 541 repeals or amends several statutory sections pertaining to school districts.

The amendment deletes the requirement that school districts provide a district-level plan for student achievement for all schools. Federal requirements remain in place for such district plans for its Title 1 schools.

It revises the effective date for statutes concerning middle school academic plans.

It eliminates statutory provisions concerning the establishment of small learning communities in middle schools and high schools with high enrollment numbers.

It repeals the requirement that the State Board of Education approve textbooks for us in public schools.

It makes permissive the requirement that certain district-level administrators teach for a day in a classroom.

It authorizes Nevada's school district boards of trustees to review the sections recommended for repeal in the bill as introduced, or other statutory requirements, and to provide a report of their recommendations to the interim Legislative Committee on Education and the Director of the Legislative Counsel Bureau prior to the 2013 Legislative Session.

SENATOR MCGINNIS:

Thank you, Mr. President. I appreciate the Chair of the Committee on Education for working with me on this bill. We felt it would be a money saving action to remove the number of requirements placed on school districts. I urge your support.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 381.

Bill read third time.

Roll call on Senate Bill No. 381:

YEAS—15.

NAYS—Brower, Cegavske, Halseth, Hardy, Kieckhefer, Roberson—6.

Senate Bill No. 381 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 396.

Bill read third time.

Roll call on Senate Bill No. 396:

YEAS—21.

NAYS—None.

Senate Bill No. 396 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 400.

Bill read third time.

Roll call on Senate Bill No. 400:

YEAS—21.

NAYS—None.

Senate Bill No. 400 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 412.

Bill read third time.

Roll call on Senate Bill No. 412:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Roberson, Settelmeyer—9.

Senate Bill No. 412 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 419.

Bill read third time.

Roll call on Senate Bill No. 419:

YEAS—21.

NAYS—None.

Senate Bill No. 419 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Joint Resolution No. 5.

Resolution read third time.

Roll call on Senate Joint Resolution No. 5:

YEAS—21.

NAYS—None.

Senate Joint Resolution No. 5 having received a constitutional majority, Mr. President declared it passed, as amended.

Resolution ordered transmitted to the Assembly.

SECOND READING AND AMENDMENT

Senate Bill No. 48.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 266.

"SUMMARY—Revises provisions relating to permitting and enforcement of standards for oversize and overweight vehicles operating on Nevada highways. (BDR 43-485)"

"AN ACT relating to vehicles; revising provisions relating to the issuance of permits for travel on the highways of this State for certain oversize or

overweight vehicles; revising provisions regarding administrative fines and penalties for certain violations of such permits; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Department of Transportation to issue permits for travel on the highways of this State by vehicles that exceed certain limits regarding size or weight, and provides criminal penalties for the failure to obtain such a permit or to misuse such a permit. (NRS 484D.600, 484D.620, 484D.680, 484D.745) **Sections 25, 26 and 35** of this bill require the Department of Motor Vehicles to issue permits for vehicles that exceed certain length requirements. **Section 25** also authorizes the Department of Transportation to issue permits that further restrict size or weight limits in certain circumstances, and to allow reciprocity with other states regarding various vehicle permits. **Section 19** of this bill authorizes the Department of Transportation to impose an administrative fine for certain violations of a permit, and **sections 27 and 35** of this bill give the Department of Motor Vehicles similar authority. **Section 19** also requires the Department of Transportation to issue, free of charge, a replacement for a permit that has been lost or stolen, and **section 35** also authorizes the Department of Motor Vehicles to charge a fee for a similar replacement permit. **Section 20** of this bill authorizes both the Department of Transportation and the Department of Motor Vehicles to impose certain penalties for repeated permit violations within 1 year. **Section 32** of this bill authorizes a city, a county, the Department of Transportation and any other agency involved to charge the holder of certain permits for any costs incurred in the travel of the permitted vehicle, such as traffic escorts, movement of various utilities to allow travel and damage done to any highway of this State.

~~Sections 15, 8, 15 and 22 of this bill provide for or amend the definitions of farm and ranch equipment and vehicles for consistency and to comport with certain federal regulations. Sections 2, 14 and 17 of this bill [also] provide various definitions to comport with certain federal regulations.~~

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. Chapter 484D of NRS is hereby amended by adding thereto the provisions set forth as sections 14 to 20, inclusive, of this act.

Sec. 14. *"Divisible" means capable of being separated into smaller loads or vehicle combinations without:*

- 1. Compromising the intended use of the load or vehicles;*
- 2. Destroying the value of the load or a vehicle; or*
- 3. Requiring more than 8 hours of work, using appropriate equipment, to separate.*

Sec. 15. ~~*1. "Farm or ranch vehicle" means any vehicle or combination of vehicles, including trailers, which is:*~~

~~*—(a) Controlled and operated by a farmer or rancher, or a relative or employee of a farmer or rancher;*~~

~~*—(b) Engaged in operations of a family farm as that term is defined in 7 C.F.R. § 761.2; and*~~

~~*—(c) Used to transport on the highways of the State livestock, agricultural products, farm or ranch equipment or supplies of the farm or ranch between properties owned by, or leased or granted to the farmer or rancher;*~~

~~*2. The term does not include farm or ranch equipment as defined in NRS 484D.015, special mobile equipment as defined in NRS 484A.245 or any vehicle being used on a highway of this State for personal transportation.]*~~

(Deleted by amendment.)

Sec. 16. *"Longer combination vehicle" means a truck-tractor, coupled with two or three trailers and any load that is divisible, which is longer than 70 feet and has been issued a permit by the Department of Motor Vehicles, in cooperation with the Department of Transportation, to operate, or to operate at a gross vehicle weight that is over 80,000 pounds but under 129,001 pounds.*

Sec. 17. *"Over-dimensional vehicle" means a vehicle, including its load, that is nondivisible as defined in 23 C.F.R. § 658.5, and exceeds the weight or size requirements of this chapter.*

Sec. 18. *"Special mobile equipment" has the meaning ascribed to it in NRS 484A.245.*

Sec. 19. *1. Except as otherwise provided in subsection 3, the Department of Transportation shall issue, free of charge, a replacement permit to any original purchaser of a permit issued by the Department of Transportation pursuant to this chapter upon receipt from the purchaser of a signed and notarized statement that the original permit was lost or stolen.*

2. The Department of Motor Vehicles shall issue replacement permits for longer combination vehicles for a fee of \$50 upon receipt from the purchaser of a signed and notarized statement that the original permit was lost or stolen.

3. Any person who uses or attempts to use a permit issued pursuant to this chapter that has been reported lost or stolen is guilty of a misdemeanor and subject to an administrative fine of \$2,500. The Department of Transportation or the Department of Motor Vehicles shall afford to any

person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

4. All administrative fines and fees for replacement permits that are collected by the Department of Transportation or the Department of Motor Vehicles pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

5. The administrative remedy provided in this section is not exclusive and is in addition to any other remedy provided by law.

Sec. 20. 1. If a person to whom a permit is issued pursuant to this chapter receives more than one citation within 12 months for violations of the permit conditions or restrictions, the Department of Transportation or the Department of Motor Vehicles may take the following actions:

(a) After the second citation within 12 months, the issuance of a warning letter.

(b) After the third citation within 12 months, suspension of permit privileges for 14 days from the date of receipt of written notification of the suspension.

(c) After the fourth and any subsequent citations within 12 months, suspension of permit privileges for 30 days from the date of receipt of written notification of the suspension.

2. The Department of Transportation or the Department of Motor Vehicles shall afford to any person receiving a suspension pursuant to this section an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

3. As used in this section, "suspension of permit privileges" means that the permittee may not operate a vehicle under any permit issued pursuant to this chapter for the duration of the suspension.

Sec. 21. NRS 484D.010 is hereby amended to read as follows:

484D.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 484D.015 to 484D.055, inclusive, *and sections 14 to 18, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. NRS 484D.445 is hereby amended to read as follows:

484D.445 1. Every motor vehicle, except motorcycles or mopeds, equipped with a windshield ~~{shall}~~ **must** be equipped with a self-operating windshield wiper system which ~~{shall}~~ **must** be so constructed as to be controlled by the driver.

2. The windshield wiper system with which the vehicle is equipped ~~{shall}~~ **must** be maintained in good operating condition and capable of effectively clearing the windshield so as to provide clear vision through the windshield for the driver under all ordinary conditions of rain, snow or other moisture.

3. The wiper system ~~{shall}~~ **must** be operated while the vehicle is being driven during conditions of rain, snow or other moisture which obstruct or reduce the driver's clear view through the windshield.

~~4. Subsection 1 does not apply to {highway maintenance vehicles, special mobile equipment, implements of husbandry, or} vehicles manufactured before~~

~~July 1, 1935, with adequate manually operated windshield wipers.~~

Sec. 25. NRS 484D.600 is hereby amended to read as follows:

484D.600 1. Except as otherwise provided in this section, a person shall not drive, move, stop or park any vehicle or combination of vehicles, and an owner shall not cause or knowingly ~~{permit}~~ **allow** any vehicle or combination of vehicles to be driven, moved, stopped or parked, on any highway if the vehicle or combination of vehicles exceeds in size or weight or gross loaded weight the maximum limitation specified by law for that size, weight and gross loaded weight unless the person or owner is authorized to drive, move, stop or park the vehicle or combination of vehicles by ~~{a special}~~ **an oversize or overweight vehicle** permit issued by the ~~{proper public authority.}~~ **Department of Transportation or the Department of Motor Vehicles.**

2. The Department of Motor Vehicles shall issue longer combination vehicle permits as provided for in this section and pursuant to regulations promulgated by the Department of Transportation.

3. If the Department of Transportation, **the Nevada Highway Patrol** or a local law enforcement agency determines that an emergency exists, the Department **of Transportation, the Nevada Highway Patrol** or the local law enforcement agency may authorize, **orally or in writing**, a person to drive, move, stop or park a vehicle or combination of vehicles without obtaining ~~{a special}~~ **an oversize or overweight** permit pursuant to subsection 1 ~~{Such an authorization may be given orally and may, if requested by a local law enforcement agency or a public safety agency,}~~ **in or to the nearest safe location and may** include driving or moving the vehicle or combination of vehicles to and from the site of the emergency. If a person receives such an authorization, the person shall, on the next business day after receiving the authorization, obtain a ~~{special}~~ permit pursuant to subsection 1.

~~{3. This section does not apply to:~~

~~—(a) Fire apparatus, highway machinery or snowplows temporarily moved upon a highway.~~

~~—(b) A farm tractor or other implement of husbandry temporarily moved upon a highway other than an interstate highway or a controlled-access highway.}~~

4. The Department of Transportation may issue permits that further limit vehicle size, vehicle weight, or the duration or repetition of any authorized movement pursuant to this section or impose other vehicle or movement restrictions as the Department of Transportation deems necessary for public safety and the preservation of the highway

infrastructure, in such a manner that does not jeopardize the ability of this State to receive federal money for highway purposes and does not adversely impede interstate or intrastate commerce.

5. All vehicles, including, without limitation, any vehicle exempted from obtaining an oversize or overweight permit pursuant to this chapter, are subject to any highway-specific or bridge-specific size or weight restrictions established by the Department of Transportation, except during an emergency as determined by the Department of Transportation, the Nevada Highway Patrol or a local law enforcement agency.

6. The Department of Transportation may, by regulation, restrict and require permits of those vehicles providing public transit, public safety, military and other governmental functions, in such a manner that does not jeopardize the ability of this State to receive federal money for highway purposes. The Department of Transportation shall issue such permits to government agencies without charge.

7. To facilitate interstate commerce and uniformity and pursuant to this chapter, the Department of Transportation may, by regulation and appropriate agreements, authorize reciprocity with authorities who issue vehicle permits in other states and with the Western Association of State Highway and Transportation Officials.

Sec. 26. NRS 484D.615 is hereby amended to read as follows:

484D.615 1. Except as otherwise provided in subsection 2, the length of a bus may not exceed 45 feet and the length of a motortruck may not exceed 40 feet.

2. A passenger bus which has three or more axles and two sections joined together by an articulated joint with a trailer which is equipped with a mechanically steered rear axle may not exceed a length of 65 feet.

3. Except as otherwise provided in subsections 4, 7 and 9, no combination of vehicles, including any attachments thereto coupled together, may exceed a length of 70 feet.

4. The Department of Transportation, by regulation, shall provide for the operation of ~~{combinations—of}~~ **longer combination vehicles and over-dimensional** vehicles in excess of 70 feet in length. The regulations must establish standards for the operation of such vehicles which must be consistent with their safe operation upon the public highways and with the provisions of 23 C.F.R. § 658.23. Such standards must include:

- (a) Types and number of vehicles to be permitted in combination;
- (b) Horsepower of a motortruck;
- (c) Operating speeds;
- (d) Braking ability; and
- (e) Driver qualifications.

➡ The operation of such vehicles is not permitted on highways where, in the opinion of the Department of Transportation, their use would be inconsistent with the public safety because of a narrow roadway, excessive grades, extreme curvature or vehicular congestion.

5. ~~{Combinations—of}~~ ***Longer combination vehicles and over-dimensional*** vehicles operated under the provisions of subsection 4 may, after obtaining a ~~{special}~~ permit, ~~{issued at the discretion of, and in accordance with procedures established by, the Department of Transportation,}~~ carry loads not to exceed the values set forth in the following formula: $W=500 [LN/(N-1) + 12N + 36]$, wherein:

(a) W equals the maximum load in pounds carried on any group of two or more consecutive axles computed to the nearest 500 pounds;

(b) L equals the distance in feet between the extremes of any group of two or more consecutive axles; and

(c) N equals the number of axles in the group under consideration.

↪ The distance between axles must be measured to the nearest foot. If a fraction is exactly one-half foot, the next largest whole number must be used. The permits may be restricted in such manner as the Department of Transportation ***or the Department of Motor Vehicles*** considers necessary and may, at the option of the Department ~~{}~~ ***that issued the permit,*** be cancelled without notice. No such permits may be issued for operation on any highway where that operation would prevent this State from receiving federal money for highway purposes.

6. ~~{Upon approving an application for a permit to operate combinations of vehicles pursuant to subsection 5, the Department of Transportation shall withhold issuance of the permit until the applicant has furnished proof of compliance with the provisions of}~~ ***The Department of Motor Vehicles shall issue permits for longer combination vehicles pursuant to subsection 5 and NRS 706.531.***

7. The load upon any motor vehicle operated alone, or the load upon any combination of vehicles, must not extend beyond the front or the rear of the vehicle or combination of vehicles for a distance of more than 10 feet, or a total of 10 feet both to the front or the rear, and a combination of vehicles and load thereon may not exceed a total of 75 feet without having secured a permit pursuant to subsection 4 or NRS 484D.600. The provisions of this subsection do not apply to the booms or masts of shovels, cranes or water well drilling and servicing equipment carried upon a vehicle if:

(a) The booms or masts do not extend by a distance greater than two-thirds of the wheelbase beyond the front tires of the vehicle.

(b) The projecting structure or attachments thereto are securely held in place to prevent dropping or swaying.

(c) No part of the structure which extends beyond the front tires is less than 7 feet from the roadway.

(d) The driver's vision is not impaired by the projecting or supporting structure.

8. Lights and other warning devices which are required to be mounted on a vehicle pursuant to this chapter must not be included in determining the length of a vehicle or combination of vehicles and the load thereon.

9. This section does not apply to:

- (a) Vehicles used by a public utility for the transportation of poles;
- (b) A combination of vehicles consisting of a truck-tractor drawing a semitrailer that does not exceed 53 feet in length;
- (c) A combination of vehicles consisting of a truck-tractor drawing a semitrailer and a trailer, neither of which exceeds 28 1/2 feet in length; or
- (d) A driveaway saddle mount with full mount vehicle transporter combination that does not exceed 97 feet in length.

10. As used in this section:

(a) "Driveaway saddle mount with full mount vehicle transporter combination" means a vehicle combination designed and specifically used to tow up to three trucks or truck-tractors, each connected by a saddle to the frame or fifth wheel of the forward vehicle of the truck-tractor in front of it.

(b) "Motortruck" has the meaning ascribed to it in NRS 482.073.

Sec. 27. NRS 484D.620 is hereby amended to read as follows:

484D.620 **1.** Any person operating or moving any vehicle or equipment over any highway who violates any ~~length~~ **size** limitation in this chapter is guilty of a misdemeanor.

2. *Any size violation of an oversize permit issued pursuant to this chapter is subject to an administrative fine to be administered by the Department of Motor Vehicles in the amount of \$100 for each foot and fraction thereof that the size exceeds permit limits. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.*

3. *All administrative fines collected by the Department of Motor Vehicles pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.*

4. *The administrative remedy provided in this section is not exclusive and is in addition to any other remedy provided by law.*

Sec. 28. NRS 484D.685 is hereby amended to read as follows:

484D.685 **1.** ~~{As used in this section and NRS 484D.700, "special mobile equipment" means a vehicle, not self-propelled, not designed or used primarily for the transportation of persons or property, and only incidentally operated or moved over a highway, excepting implements of husbandry.~~

~~—2.} The Department of Transportation with respect to highways under its jurisdiction and governing bodies of cities and counties with respect to roads under their jurisdiction may, upon application in writing, authorize the applicant to operate or move {a} any vehicle, combination of vehicles, special mobile equipment, ~~farm for ranch equipment~~ **tractor, implement of husbandry** or load thereon of a size or weight exceeding the legal maximum, or to use corrugations on the periphery of the movable tracks on a traction engine or tractor, the propulsive power of which is not exerted through wheels resting on the roadway but by means of a flexible band or chain, or, under emergency conditions, to operate or move a type of vehicle otherwise prohibited by law, upon any highway under the jurisdiction of the Department of Transportation or governing body granting that permit.~~

~~{3-}~~ 2. Except as otherwise provided in *this section and* NRS ~~{484D.690 to 484D.725, inclusive,}~~ **484D.700**, the legal maximum ~~{width of any vehicle, combination of vehicles, special mobile equipment or load thereon is}~~ *size of any vehicle, including combinations of vehicles, special mobile equipment ~~{or}~~ , a farm ~~{for ranch equipment,}~~ tractor, implement of husbandry, or load thereon, is:*

(a) *Width of 102 inches.*

(b) *Height of 14 feet.*

(c) *Length of 70 feet.*

(d) *Overhang, front or rear, from the vehicle of 10 feet.*

~~{4-}~~ 3. If a vehicle is equipped with pneumatic tires, the maximum width from the outside of one wheel and tire to the outside of the opposite outer wheel and tire must not exceed 108 inches, and the outside width of the body of the vehicle or the load thereon must not exceed 102 inches.

~~{5-}~~ 4. Lights ~~{or}~~ , *mirrors or other devices for safety* which must be mounted upon a vehicle under this chapter may extend beyond the permissible width of the vehicle to a distance not exceeding 10 inches on each side of the vehicle, but the maximum width must not exceed 126 inches.

~~{6-}~~ 5. Door handles, hinges, cable cinchers and chain binders may extend 3 inches on each side, but the maximum width of body and door handles, hinges, cable cinchers or chain binders must not exceed 108 inches.

~~{7-}~~ 6. A person shall not operate a passenger vehicle on any highway with any load carried thereon extending beyond the line of the hubcaps on its left side or more than 6 inches beyond the line of the hubcaps on its right side.

7. An awning attached to a recreational vehicle and any hardware required for the awning may extend beyond the permissible width of the vehicle to a distance not exceeding 10 inches on either side of the vehicle, but the maximum width must not exceed 126 inches.

Sec. 29. NRS 484D.700 is hereby amended to read as follows:

484D.700 **1.** Subject to the provisions of subsection ~~{2}~~ **1** of NRS 484D.685, the following vehicles must not exceed a width of 120 inches:

~~{1. Any trailer or semitrailer, including lift carriers and tip-bed trailers, used exclusively for the transportation of implements of husbandry by farmers or implement dealers.~~

~~2-}~~ (a) Special mobile equipment.

~~{3. Highway construction or maintenance equipment.}~~

(b) *Fire apparatus.*

(c) *Snow removal equipment.*

2. *A vehicle carrying a load of loosely piled agricultural products, including, without limitation, hay or leguminous plants, that are in bulk but not crated, boxed, baled or sacked, the load and any racks or other structures or devices retaining the load must not exceed 120 inches in width.*

3. ~~{Farm}~~ **A farm tractor or ~~franch equipment~~ implement of husbandry operated, towed or moved as a load on another vehicle over any highway other than an interstate highway or a controlled-access highway may travel during daylight hours only, must travel as far to the right side of the highway as is practicable, and may not:**

- (a) *Exceed 14 feet in width;*
- (b) *Travel for a distance of more than 25 miles from the point of origin; and*
- (c) *Exceed a speed of 30 miles per hour.*

Sec. 30. NRS 484D.725 is hereby amended to read as follows:

484D.725 1. Upon receipt of the necessary application in writing, the Department of Transportation shall issue a permit to operate or move a vehicle , *including, without limitation, a combination of vehicles, special mobile equipment ~~for~~, a farm tractor or ~~franch equipment~~ implement of husbandry* on the highways of this State which has a load that ~~is~~:

~~1-} meets the definition of nondivisible in 23 C.F.R. § 658.5 and:~~

- (a) Exceeds 14 feet in height;
- ~~{2-}~~ (b) Exceeds 70 feet in length; ~~{or~~
- ~~3-}~~ (c) Exceeds 102 inches in width ~~{,}~~ ;
- (d) *Exceeds 10 feet of front or rear overhang; or*
- (e) *Exceeds 80,000 pounds of gross weight,*

↪ unless the Department of Transportation determines that the operation of the vehicle would be a safety hazard or impede the flow of traffic.

2. *The Department of Transportation shall issue a permit pursuant to subsection 1 for a farm tractor or ~~franch equipment~~ implement of husbandry at no cost to any farmer or rancher who is not engaged in a commercial enterprise, ~~as defined in section 2 of this act.~~*

3. *As used in this section, the term "commercial enterprise" means the activity of producing goods or services for profit. The term does not include operation of a family farm as that term is defined in 7 C.F.R. § 761.2, or the vehicles and equipment used in that operation.*

Sec. 31. NRS 484D.730 is hereby amended to read as follows:

484D.730 The application for a permit under NRS 484D.685 to 484D.725, inclusive, must ~~is~~ *specifically identify:*

1. ~~{Specifically describe the vehicle or special mobile equipment and load to be operated or moved and the particular highways over which the permit to operate is requested.}~~ *The vehicle to be operated;*

2. ~~{State whether the permit is requested for a single trip, for continuous use or for multiple trips over a limited time.}~~ *Any load to be moved; and*

3. *The intended route for movement.*

Sec. 32. NRS 484D.735 is hereby amended to read as follows:

484D.735 1. ~~{No vehicle operated or moved upon any public highway under the authority of a continuous or multiple trip limited time permit may exceed a maximum weight of 20,000 pounds on any single axle. Before any continuous permit is issued,}~~ *Upon a determination by the Department of*

Transportation that the potential exists for significant traffic impact or damage to the highway or highways based on an application for a permit issued pursuant to this chapter, the applicant shall pay a reasonable fee to be determined by the Department of Transportation to pay the costs and expenses of conducting ~~{an initial investigation of}~~ *a movement impact survey of* the highway or highways involved.

2. If, after issuance of a ~~{continuous or multiple trip limited time}~~ permit, the Department of Transportation finds that the traffic authorized by such ~~{continuous or multiple trip limited time}~~ permit has caused substantial highway distress, the permit may be revoked summarily, but the revocation does not operate to prevent a subsequent filing of a new application for another ~~{continuous or multiple trip limited time}~~ permit.

3. The Department of Transportation shall consider the recommendation of a city or county regarding whether traffic authorized by the issuance of a ~~{continuous or multiple trip limited time}~~ permit has caused substantial distress to a highway under the jurisdiction of that city or county, and whether the permit should be revoked.

4. ~~{The}~~ *A county or city, the Department of Transportation and any other agencies involved, including, without limitation, the Nevada Highway Patrol, may charge the permittee for the actual costs incurred by the agency for preparation for, participation in and any damages caused by the traffic authorized by the permit.*

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. NRS 706.531 is hereby amended to read as follows:

706.531 1. The Department ~~{of Transportation}~~ shall approve an application for a permit pursuant to the provisions of subsection 5 of NRS 484D.615. The permit must be carried and displayed in such a manner as the Department determines on every combination so operating. The permit issued may be transferred from one combination to another, under such conditions as the Department may by regulation prescribe, but must not be transferred from one person or operator to another without prior approval of the Department. The permit may be used only on motor vehicles regularly licensed pursuant to the provisions of NRS 482.482.

2. The annual fee for each permit for a *longer* combination ~~{of vehicles}~~ *vehicle* is \$60 for each 1,000 pounds or fraction thereof of gross weight in excess of 80,000 pounds. The fee must be reduced one-twelfth for each month *or portion thereof* that ~~{has elapsed since the beginning of each calendar year.}~~ *the permit is valid*, rounded to the nearest dollar, but must not be less than \$50. The annual fee for each permit for a *longer* combination ~~{of vehicles}~~ *vehicle* not exceeding 80,000 pounds is \$10. The fee must be paid in addition to all other fees required by the provisions of this chapter.

3. Any person operating a *longer* combination ~~{of vehicles}~~ *vehicle* licensed pursuant to the provisions of subsection 2 who is apprehended operating a combination in excess of the gross weight for which the fee in

subsection 2 has been paid is, in addition to all other penalties provided by law, liable for the difference between the fee for the load being carried and the fee paid, for the full licensing period.

4. Any person apprehended operating a **longer** combination ~~{of vehicles}~~ **vehicle** without having complied with the provisions of this section and NRS 484D.615 is, in addition to all other penalties provided by law, liable for the payment of the fee which would be due pursuant to the provisions of subsection 2 for the balance of the calendar year for the gross load being carried at the time of apprehension.

5. The holder of an original permit may, ~~{upon surrendering the permit to the Department or}~~ upon delivering to the Department a signed and notarized statement that the permit was lost or stolen and such other documentation as the Department may require, apply to the Department ~~};~~

—(a) For a refund of an amount equal to that portion of the fees paid for the permit that is attributable, on a pro rata monthly basis, to the remainder of the calendar year; or

—(b) To have that amount credited against excise taxes due pursuant to the provisions of chapter 366 of NRS. **for a replacement permit. The Department shall issue such a replacement permit and may charge a fee not to exceed \$50.**

6. *Any person who uses or attempts to use a permit issued pursuant to this chapter that has been reported lost or stolen is guilty of a misdemeanor and subject to an administrative fine of \$2,500. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.*

7. *All administrative fines collected by the Department pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.*

8. *The administrative remedy provided in this section is not exclusive and is in addition to any other remedy provided by law.*

9. *As used in this section, "longer combination vehicle" has the meaning ascribed to it in section 16 of this act.*

Sec. 36. NRS ~~{482.035, 484D.020,}~~ 484D.645, 484D.690, 484D.695 and 484D.705 are hereby repealed.

Sec. 37. This act becomes effective upon passage and approval for the purpose of adopting regulations and on July 1, 2011, for all other purposes.

~~{HEADLINES}~~ TEXT OF REPEALED SECTIONS

~~{ 482.035 "Farm tractor" defined. "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.~~

~~—484D.020 "Implement of husbandry" defined. "Implement of husbandry" means every vehicle designed and adapted exclusively for agricultural, horticultural or livestock-raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highways.}~~

484D.645 Limitations on weight for vehicle used by regional transportation commission or its contractor to provide public mass transportation; exception for certain vehicles used as part of demonstration project; definitions.

1. Except as otherwise provided in subsection 2, a vehicle that is used by a regional transportation commission or its contractor to provide public mass transportation may be operated or moved upon a public highway, other than a highway within the designated interstate system, if the maximum weight does not exceed, on a single axle with:

- (a) Single tires, 20,000 pounds; or
- (b) Dual tires, 25,000 pounds.

2. A vehicle with a maximum weight on a single axle with single tires of more than 20,000 pounds but not more than 29,000 pounds that is used by a regional transportation commission or its contractor to provide public mass transportation as part of a demonstration project may be operated or moved upon a public highway, other than a highway within the designated interstate system, if the tires are not less than 20 inches in width and the Department of Transportation, after conducting an evaluation of the vehicle:

(a) Determines that such operation or movement of the vehicle is in the best interest of the Department; and

(b) In its discretion, issues a permit authorizing such operation or movement of the vehicle.

3. As used in this section:

(a) "Contractor" means any person or governmental entity that has entered into a contract with a regional transportation commission to provide services related to the provision of public mass transportation, but only during the period in which the contract remains legally effective.

(b) "Regional transportation commission" means any regional transportation commission created and organized in accordance with chapter 277A of NRS, and which provides or sponsors public mass transportation services.

484D.690 Maximum width of bus. The legal maximum width of a bus is 102 inches, excluding mirrors, lights and other devices required for safety.

484D.695 Maximum width of recreational vehicle. The legal maximum width of a recreational vehicle is 102 inches, excluding:

- 1. Mirrors, lights and other devices required for safety; and
- 2. An awning and any hardware required for the awning which is attached to the recreational vehicle and which does not extend beyond any mirror specified in subsection 1 which is attached to the side of the recreational vehicle.

484D.705 Width of load of loosely piled agricultural products; restrictions for implement of husbandry moved over highway.

1. If a vehicle is carrying a load of loosely piled agricultural products such as hay, straw or leguminous plants in bulk but not crated, baled, boxed

or sacked, the load of loosely piled material and any loading racks retaining the load must not exceed 120 inches in width.

2. The provisions of NRS 484D.685 with respect to maximum widths do not apply to implements of husbandry incidentally operated, transported, moved or towed over a highway other than an interstate highway or a controlled-access highway.

3. If an implement of husbandry is transported or moved as a load on another vehicle over:

(a) An interstate highway or a controlled-access highway, and the load exceeds 102 inches in width, the movement is subject to the provisions of NRS 484D.720 and the regulations adopted pursuant thereto.

(b) Any highway other than an interstate highway or a controlled-access highway, and the load exceeds 120 inches in width, the vehicle and load must not be operated for a distance of more than 25 miles from the point of origin of the trip and must not be operated at a speed in excess of 30 miles per hour.

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. 266 to Senate Bill No. 48 removes several sections in the bill that modify definitions of farm and ranch equipment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 51.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 408.

"SUMMARY—Revises provisions relating to the reporting of and imposition of penalties for certain convictions for the violation of certain traffic laws. (BDR 43-492)"

"AN ACT relating to motor vehicles; revising provisions relating to the reporting of certain convictions for the violation of certain traffic laws; revising the penalties imposed for operating a commercial motor vehicle under certain circumstances; **providing for the imposition of a civil penalty against the employer of a person who operates a commercial motor vehicle under certain circumstances; deleting a provision concerning driver's licenses surrendered to a court under certain circumstances;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing state law prohibits a person from driving a commercial motor vehicle on the highways of this State at any time while the person is subject to an out-of-service order. (NRS 483.924) **Section 4** of this bill expands the definition of the term "out-of-service order" to include both a temporary

prohibition against a person operating a commercial motor vehicle, as described in 49 C.F.R. § 395.13, and a temporary prohibition against a commercial motor vehicle being operated, as described in 49 C.F.R. § 396.9(c). **Section 1** of this bill, with respect to drivers who are declared out-of-service pursuant to 49 C.F.R. § 395.13 and are convicted of violating such a declaration, requires the Department of Motor Vehicles to suspend the privilege of the person to drive a commercial motor vehicle for the period specified in 49 C.F.R. § 383.51(e) and to impose a civil penalty against the person in the amount specified by 49 C.F.R. § ~~383.53(b)~~ **383.53(b)(1). Section 1 also requires the Department to impose a civil penalty in the amount specified in 49 C.F.R. § 383.53(b)(2) against the employer of a driver of a commercial motor vehicle if the employer is convicted of knowingly allowing, requiring, permitting or authorizing the person to operate a commercial motor vehicle during any period in which the person or the commercial motor vehicle is subject to an out-of-service order.**

Under existing state law, courts having jurisdiction over violations of certain licensing laws or other laws regulating the operation of motor vehicles on highways are required to forward to the Department of Motor Vehicles a record of the conviction of a person for violating such laws. The record must be forwarded to the Department within 20 days after the conviction. (NRS 483.450) Under existing federal law, in the context of a person who holds a commercial driver's license or is operating a commercial motor vehicle, the licensing entity of the state in which the person is convicted of violating a law relating to motor vehicle traffic control must provide notice of the conviction to the licensing entity of the state in which the person is licensed. The notification must be made within 10 days after the conviction. (49 C.F.R. § 384.209) **Section 2** of this bill: (1) reduces from 20 days to 5 days the period within which a court must forward to the Department a record of conviction; and (2) requires the Department, if the conviction is of a person holding a commercial driver's license, to provide notice of the conviction to the Commercial Driver's License Information System within 5 days after the date on which the Department received the record of conviction from the court. **Section 2** thus allows the Department to comply with the 10-day reporting period imposed pursuant to federal regulation. **Section 2 also deletes a provision of existing law pursuant to which a court that requires the surrender of the driver's licenses of a person convicted of certain traffic offenses may forward those licenses to the Department together with the record of the person's conviction.**

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

Section 1. Chapter 483 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Department receives notice that a person who holds a commercial driver's license has been convicted of driving a commercial

motor vehicle in violation of an out-of-service declaration, as described in 49 C.F.R. § 395.13, the Department shall:

(a) Suspend the privilege of the person to operate a commercial motor vehicle for the period set forth in 49 C.F.R. § 383.51(e); and

(b) In addition to any other applicable fees and penalties that must be paid to reinstate the commercial driver's license after suspension, impose against the person a civil penalty in the amount set forth in 49 C.F.R. § ~~383.53(b)~~ 383.53(b)(1).

2. If the Department receives notice that the employer of a person who holds a commercial driver's license has been convicted of a violation of 49 C.F.R. § 383.37(c) for knowingly allowing, requiring, permitting or authorizing the person to operate a commercial motor vehicle during any period in which the person or the commercial motor vehicle is subject to an out-of-service order, the Department shall impose against the employer a civil penalty in the amount set forth in 49 C.F.R. § 383.53(b)(2).

3. All money collected by the Department pursuant to paragraph (b) of subsection 1 or subsection 2 must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

~~3.~~ 4. The Department ~~may~~ shall adopt regulations to carry out the provisions of this section.

Sec. 2. NRS 483.450 is hereby amended to read as follows:

483.450 1. ~~[Whenever any person is convicted of any offense for which the provisions of NRS 483.010 to 483.630, inclusive, make mandatory the revocation of his or her driver's license by the Department, the court in which the person is convicted may require the surrender to it of all driver's licenses then held by the person convicted, and the court may, within 20 days after the conviction, forward these licenses] [, together with a record of the conviction,] [to the Department.~~

~~—2.]~~ A record of conviction must be made in a manner approved by the Department. The court shall provide sufficient information to allow the Department to include accurately the information regarding the conviction in the driver's record.

~~3.]~~ 2. The Department shall adopt regulations prescribing the information necessary to record the conviction in the driver's record.

~~4.]~~ 3. Every court, including a juvenile court, having jurisdiction over violations of the provisions of NRS 483.010 to 483.630, inclusive, or any other law of this State or municipal ordinance regulating the operation of motor vehicles on highways, shall forward to the Department:

(a) If the court is other than a juvenile court, a record of the conviction of any person in that court for a violation of any such laws other than regulations governing standing or parking; or

(b) If the court is a juvenile court, a record of any finding that a child has violated a traffic law or ordinance other than one governing standing or parking,

↳ within ~~[20]~~ 5 days after the conviction or finding, and may recommend the suspension of the driver's license of the person convicted or child found in violation of a traffic law or ordinance.

~~[5-]~~ **4.** *If a record forwarded to the Department pursuant to subsection ~~[4]~~ 3 is a record of the conviction of a person who holds a commercial driver's license, the Department shall, within 5 days after the date on which it receives such a record, transmit notice of the conviction to the Commercial Driver's License Information System.*

~~[6-]~~ **5.** For the purposes of NRS 483.010 to 483.630, inclusive:

(a) "Conviction" has the meaning prescribed by regulation pursuant to NRS 481.052.

(b) A forfeiture of bail or collateral deposited to secure a defendant's appearance in court, if the forfeiture has not been vacated, is equivalent to a conviction.

~~6. [7-]~~ The necessary expenses of mailing ~~[licenses and]~~ records of conviction to the Department as required by ~~[subsections 1 and 4]~~ **this section** must be paid by the court charged with the duty of forwarding those ~~[licenses and]~~ records of conviction.

~~[8-]~~ **7.** *As used in this section, "Commercial Driver's License Information System" has the meaning ascribed to it in NRS 483.904.*

Sec. 3. NRS 483.902 is hereby amended to read as follows:

483.902 The provisions of NRS 483.900 to 483.940, inclusive, **and section 1 of this act** apply only with respect to commercial drivers' licenses.

Sec. 4. NRS 483.904 is hereby amended to read as follows:

483.904 As used in NRS 483.900 to 483.940, inclusive, **and section 1 of this act**, unless the context otherwise requires:

1. "Commercial driver's license" means a license issued to a person which authorizes the person 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) *A person operating a commercial motor vehicle ~~[+]~~ as such a prohibition is described in 49 C.F.R. § 395.13; or*

(b) *The operation of a commercial motor vehicle as such a prohibition is described in 49 C.F.R. § 396.9(c).*

Sec. 5. NRS 483.924 is hereby amended to read as follows:

483.924 A person shall not drive a commercial motor vehicle on the highways of this State:

1. Unless the person has been issued and has in his or her immediate possession a:

(a) Commercial driver's license with applicable endorsements valid for the vehicle the person is driving issued by this State or by any other jurisdiction in accordance with the minimum federal standards for the issuance of a commercial driver's license; or

(b) Valid learner's permit for the operation of a commercial motor vehicle and is accompanied by the holder of a commercial driver's license valid for the vehicle being driven.

2. At any time while the person's driving privilege is suspended, revoked or cancelled, or while subject to a disqualification ~~{or}~~ , ***including, without limitation, a disqualification for violating*** an out-of-service order ~~{-}~~ ***that is imposed pursuant to 49 C.F.R. § 383.51(e).***

Sec. 6. 1. This section and sections 1, 3, 4 and 5 of this act become effective on October 1, 2011.

2. Section 2 of this act becomes effective on January 1, 2012.

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. 408 to Senate Bill No. 51 corrects a reference in the bill to the Code of Federal Regulations. The amendment requires the Department of Motor Vehicles to impose a civil penalty against the employer of a driver subject to an out-of-service order in the event that the employer is convicted of knowingly allowing such a person to operate a commercial vehicle.

The amendment also deletes a requirement in existing law that a court must forward the driver's license of an individual found guilty of certain traffic violations to the Department.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Settlemeyer requested that his name be removed as a sponsor on Senate Bill No. 188.

SECOND READING AND AMENDMENT

Senate Bill No. 73.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 384.

"SUMMARY—Makes various changes concerning state financial administration. (BDR 31-427)"

"AN ACT relating to state financial administration; authorizing the State Board of Examiners to delegate certain authority to a person designated by the Clerk of the Board; revising provisions concerning the approval of requests for the revision of work programs, the acceptance of certain gifts and grants, allocations of certain money from federal block grants and certain changes of positions; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the State Board of Examiners to delegate to its ex officio Clerk, the Chief of the Budget Division of the Department of

Administration, the authority to approve the payment of claims from the Stale Claims Account and the Reserve for Statutory Contingency Account under such circumstances as the Board deems appropriate. (NRS 353.097, 53.190, 353.264) **Sections 1 and 3** of this bill authorize the Board to also delegate the authority to approve the payment of such claims to a person designated by the Clerk.

Existing law prescribes certain thresholds at which or conditions under which a state agency, department or commission of the Executive Department of State Government is required to obtain approval before revising work programs ~~or accepting certain gifts and grants~~ and allocating certain money from federal block grants. (NRS 353.220, ~~353.335,~~ 353.345) **Sections 2, ~~4~~ and 5** of this bill remove these thresholds and conditions prescribed in existing law and instead require the State Board of Examiners and the Interim Finance Committee, upon the joint recommendation of the Chief, the Senate Fiscal Analyst and the Assembly Fiscal Analyst, to establish criteria for such approval.

Section ~~4~~ 2.5 of this bill ~~removes~~ revises the prohibition against certain agencies in the Executive Department of State Government changing a position from one occupational group to another if money for the position was appropriated or authorized by the Legislature unless the Legislature itself or the Interim Finance Committee approves the change. **The revision makes approval by the Interim Finance Committee required only if the change in the position would result in increased salary cost to the state agency.** Therefore, those agencies may carry out such changes of positions without legislative approval ~~or~~ **unless an increase in salary cost would result.**

Section 4 of this bill increases the threshold amounts for acceptance of gifts and grants by state agencies without the approval of the Interim Finance Committee.

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

Section 1. NRS 353.097 is hereby amended to read as follows:

353.097 1. As used in this section, "stale claim" means a claim which is presented by a state agency to the State Board of Examiners after the date on which it is provided by law that money appropriated to that state agency for the previous fiscal year reverts to the fund from which appropriated.

2. There is hereby created a Stale Claims Account in the State General Fund. Money for the Account must be provided by direct legislative appropriation.

3. Upon the approval of a stale claim as provided in this section, the claim must be paid from the Stale Claims Account. Payments of stale claims for a state agency must not exceed the amount of money reverted to the fund from which appropriated by the state agency for the fiscal year in which the obligations represented by the stale claims were incurred.

4. A stale claim must be approved for payment from the Stale Claims Account by the State Board of Examiners, except that the State Board of

Examiners may authorize its Clerk ~~or~~ **or a person designated by the Clerk**, under such circumstances as it deems appropriate, to approve stale claims on behalf of the Board. A state agency that is aggrieved by a determination of the Clerk ~~or his or her designee~~ to deny all or any part of a stale claim may appeal that determination to the State Board of Examiners.

5. A stale claim may be approved and paid at any time, despite the age of the claim, if payable from available federal grants or from a permanent fund in the State Treasury other than the State General Fund.

Sec. 2. NRS 353.220 is hereby amended to read as follows:

353.220 1. The head of any department, institution or agency of the Executive Department of the State Government, whenever he or she deems it necessary because of changed conditions, may request the revision of the work program of his or her department, institution or agency at any time during the fiscal year, and submit the revised program to the Governor through the Chief with a request for revision of the allotments for the remainder of that fiscal year.

2. Every request for revision must be submitted to the Chief on the form and with supporting information as the Chief prescribes.

3. Before encumbering any appropriated or authorized money, every request for revision must be approved or disapproved in writing by the Governor or the Chief, if the Governor has by written instrument delegated this authority to the Chief.

4. Whenever a request for the revision of a work program of a department, institution or agency ~~in an amount more than \$20,000 would, when considered with all other changes in allotments for that work program made pursuant to NRS 353.215 and subsections 1, 2 and 3 of this section, increase or decrease by 10 percent or \$50,000, whichever is less, the expenditure level approved by the Legislature for any of the allotments within the work program,~~ **meets the criteria established pursuant to this subsection**, the request must be approved as provided in subsection 5 before any appropriated or authorized money may be encumbered for the revision. ***The State Board of Examiners and the Interim Finance Committee shall, upon the joint recommendation of the Chief, the Senate Fiscal Analyst and the Assembly Fiscal Analyst, establish criteria to be used in determining whether a request for the revision of a work program requires approval as provided in subsection 5. The criteria established must require such approval if the proposed revision of the work program could potentially conflict with the intent of the Legislature in approving the budget for the present biennium or in originally enacting the statutes which the work program is designed to effectuate.***

5. If a request for the revision of a work program requires additional approval as provided in subsection 4 and:

(a) Is necessary because of an emergency as defined in NRS 353.263 or for the protection of life or property, the Governor shall take reasonable and proper action to approve it and shall report the action, and his or her reasons

for determining that immediate action was necessary, to the Interim Finance Committee at its first meeting after the action is taken. Action by the Governor pursuant to this paragraph constitutes approval of the revision, and other provisions of this chapter requiring approval before encumbering money for the revision do not apply.

(b) The Governor determines that the revision is necessary and requires expeditious action, he or she may certify that the request requires expeditious action by the Interim Finance Committee. Whenever the Governor so certifies, the Interim Finance Committee has 15 days after the request is submitted to its Secretary within which to consider the revision. Any request for revision which is not considered within the 15-day period shall be deemed approved.

(c) Does not qualify pursuant to paragraph (a) or (b), it must be submitted to the Interim Finance Committee. The Interim Finance Committee has 45 days after the request is submitted to its Secretary within which to consider the revision. Any request which is not considered within the 45-day period shall be deemed approved.

6. The Secretary shall place each request submitted pursuant to paragraph (b) or (c) of subsection 5 on the agenda of the next meeting of the Interim Finance Committee.

7. In acting upon a proposed revision of a work program, the Interim Finance Committee shall consider, among other things:

(a) The need for the proposed revision; and

(b) The intent of the Legislature in approving the budget for the present biennium and originally enacting the statutes which the work program is designed to effectuate.

Sec. 2.5. NRS 353.224 is hereby amended to read as follows:

353.224 1. ~~{A state agency other than the Nevada System of Higher Education and vocational licensing boards may not change a position for which money has been appropriated or authorized from one occupational group to another, as defined by the index developed pursuant to NRS 284.171, without the approval of the Legislature or of the Interim Finance Committee.~~

~~—2—~~ All proposed changes of positions from one occupational group to another **, as defined by the index developed pursuant to NRS 284.171, which would result in an increase in salary cost to a state agency other than the Nevada System of Higher Education and vocational licensing boards** must be submitted to the Interim Finance Committee. The Interim Finance Committee has 45 days after a proposal is submitted to its Secretary within which to consider it. Any proposed change of a position from one occupational group to another which is not considered within the 45-day period shall be deemed approved.

~~{3—~~ **2.** The Secretary shall place each request submitted pursuant to subsection ~~{2—~~ **1** on the agenda of the next meeting of the Interim Finance Committee.

~~4.1~~ **3.** In acting upon a proposed change of position, the Interim Finance Committee shall consider, among other things:

- (a) The need for the proposed change; and
- (b) The intent of the Legislature in approving the existing classification of positions.

Sec. 3. NRS 353.264 is hereby amended to read as follows:

353.264 1. The Reserve for Statutory Contingency Account is hereby created in the State General Fund.

2. The State Board of Examiners shall administer the Reserve for Statutory Contingency Account. The money in the Account must be expended only for:

(a) The payment of claims which are obligations of the State pursuant to NRS 41.03435, 41.0347, 621.025, 176.485, 179.310, 212.040, 212.050, 212.070, 281.174, 282.290, 282.315, 288.203, 293.253, 293.405, 353.120, 353.262, 412.154 and 475.235;

(b) The payment of claims which are obligations of the State pursuant to:

(1) Chapter 472 of NRS arising from operations of the Division of Forestry of the State Department of Conservation and Natural Resources directly involving the protection of life and property; and

(2) NRS 7.155, 34.750, 176A.640, 179.225 and 213.153,
 ➤ except that claims may be approved for the respective purposes listed in this paragraph only when the money otherwise appropriated for those purposes has been exhausted;

(c) The payment of claims which are obligations of the State pursuant to NRS 41.0349 and 41.037, but only to the extent that the money in the Fund for Insurance Premiums is insufficient to pay the claims; and

(d) The payment of claims which are obligations of the State pursuant to NRS 535.030 arising from remedial actions taken by the State Engineer when the condition of a dam becomes dangerous to the safety of life or property.

3. The State Board of Examiners may authorize its Clerk ~~to~~ **or a person designated by the Clerk**, under such circumstances as it deems appropriate, to approve, on behalf of the Board, the payment of claims from the Reserve for Statutory Contingency Account. For the purpose of exercising any authority granted to the Clerk of the State Board of Examiners **or his or her designee** pursuant to this subsection, any statutory reference to the State Board of Examiners relating to such a claim shall be deemed to refer to the Clerk of the Board ~~to~~ **or his or her designee**.

Sec. 4. NRS 353.335 is hereby amended to read as follows:

353.335 1. Except as otherwise provided in subsections 5 and 6, ~~subsection 5,~~ a state agency may accept any gift or grant of property or services from any source only if it is included in an act of the Legislature authorizing expenditures of nonappropriated money or, when it is not so included, if it is approved as provided in subsection 2. ~~The State Board of Examiners and the Interim Finance Committee shall, upon the joint recommendation of the Chief, the Senate Fiscal Analyst and the Assembly~~

~~Fiscal Analyst, establish criteria to be used in determining whether acceptance of a gift or grant requires approval as provided in subsection 2. The criteria established must require such approval if the gift or grant is for a purpose that could potentially conflict with the intent of the Legislature in approving the budget for the present biennium or in enacting the statutes governing the powers and duties of the state agency.]~~

2. If:

(a) Any proposed gift or grant is necessary because of an emergency as defined in NRS 353.263 or for the protection or preservation of life or property, the Governor shall take reasonable and proper action to accept it and shall report the action and his or her reasons for determining that immediate action was necessary to the Interim Finance Committee at its first meeting after the action is taken. Action by the Governor pursuant to this paragraph constitutes acceptance of the gift or grant, and other provisions of this chapter requiring approval before acceptance do not apply.

(b) The Governor determines that any proposed gift or grant would be forfeited if the State failed to accept it before the expiration of the period prescribed in paragraph (c), the Governor may declare that the proposed acceptance requires expeditious action by the Interim Finance Committee. Whenever the Governor so declares, the Interim Finance Committee has 15 days after the proposal is submitted to its Secretary within which to approve or deny the acceptance. Any proposed acceptance which is not considered within the 15-day period shall be deemed approved.

(c) The proposed acceptance of any gift or grant does not qualify pursuant to paragraph (a) or (b), it must be submitted to the Interim Finance Committee. The Interim Finance Committee has 45 days after the proposal is submitted to its Secretary within which to consider acceptance. Any proposed acceptance which is not considered within the 45-day period shall be deemed approved.

3. The Secretary shall place each request submitted to the Secretary pursuant to paragraph (b) or (c) of subsection 2 on the agenda of the next meeting of the Interim Finance Committee.

4. In acting upon a proposed gift or grant, the Interim Finance Committee shall consider, among other things:

- (a) The need for the facility or service to be provided or improved;
- (b) Any present or future commitment required of the State;
- (c) The extent of the program proposed; and
- (d) The condition of the national economy, and any related fiscal or monetary policies.

5. A state agency may accept:

(a) Gifts, including grants from nongovernmental sources, not exceeding \$10,000, \$500,000 each in value; and

(b) Governmental grants not exceeding \$100,000, \$500,000 each in value.

if the gifts or grants are used for purposes which do not involve the hiring of new employees and if the agency has the specific approval of the Governor or, if the Governor delegates this power of approval to the Chief of the Budget Division of the Department of Administration, the specific approval of the Chief.

6. This section does not apply to:

- (a) The Nevada System of Higher Education;
- (b) The Department of Health and Human Services while acting as the state health planning and development agency pursuant to paragraph (d) of subsection 2 of NRS 439A.081 or for donations, gifts or grants to be disbursed pursuant to NRS 433.395; or
- (c) Artifacts donated to the Department of Cultural Affairs.

Sec. 5. NRS 353.345 is hereby amended to read as follows:

353.345 **1.** Whenever ~~{federal funding in the form of a categorical grant of a specific program administered by a state agency, commission or department is terminated and incorporated into}~~ **a proposed allocation of money from** a block grant from the Federal Government to the State of Nevada ~~{, the}~~ **meets the criteria established pursuant to subsection 2, a** state agency, commission or department must obtain the approval of the Interim Finance Committee in order to allocate the money . ~~{received from any block grant.}~~

2. The State Board of Examiners and the Interim Finance Committee shall, upon the joint recommendation of the Chief, the Senate Fiscal Analyst and the Assembly Fiscal Analyst, establish criteria to be used in determining whether a proposed allocation of money from a block grant from the Federal Government requires approval pursuant to subsection 1. The criteria established must require such approval if the money from the block grant is to be used for a purpose that could potentially conflict with the intent of the Legislature in approving the budget for the present biennium or in enacting the statutes governing the powers and duties of the state agency, commission or department.

Sec. 6. ~~{NRS 218E.405 is hereby amended to read as follows:~~

~~— 218E.405 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.~~

~~— 2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, NRS 284.1729, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, subsection 3 of NRS 341.090, NRS 341.142, subsection 6 of NRS 341.145, NRS 353.220, [353.224,] 353.2705 to 353.2771, inclusive, 353.288, 353.335, 353C.226, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650. In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results~~

~~of their respective votes to the Chair of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.~~

~~— 3. The Chair of the Interim Finance Committee may appoint a subcommittee consisting of six members of the Committee to review and make recommendations to the Committee on matters of the State Public Works Board that require prior approval of the Interim Finance Committee pursuant to subsection 3 of NRS 341.090, NRS 341.142 and subsection 6 of NRS 341.145. If the Chair appoints such a subcommittee:~~

~~— (a) The Chair shall designate one of the members of the subcommittee to serve as the chair of the subcommittee;~~

~~— (b) The subcommittee shall meet throughout the year at the times and places specified by the call of the chair of the subcommittee; and~~

~~— (c) The Director of the Legislative Counsel Bureau or the Director's designee shall act as the nonvoting recording secretary of the subcommittee.†~~

(Deleted by amendment.)

Sec. 7. ~~[NRS 284.171 is hereby amended to read as follows:~~

~~— 284.171 For the purposes of NRS 353.205 [and 353.224,] the Director shall prepare and maintain an index which categorizes all positions in the classified service of the State into the following broad occupational groups:~~

~~— 1. Occupations in the fields of agriculture and conservation.~~

~~— 2. Clerical and related occupations.~~

~~— 3. Occupations relating to custodial and domestic services.~~

~~— 4. Occupations relating to library services.~~

~~— 5. Occupations in the field of education.~~

~~— 6. Engineering and allied occupations.~~

~~— 7. Occupations in fiscal management and related staff services.~~

~~— 8. Occupations relating to legal services.~~

~~— 9. Occupations in the mechanical and construction trades.~~

~~— 10. Occupations in the fields of medicine and health and related services.~~

~~— 11. Occupations in regulatory fields and in public safety.~~

~~— 12. Occupations in social services and rehabilitation.~~

~~— 13. Positions that require certification by the Peace Officers' Standards and Training Commission pursuant to NRS 289.150 to 289.360, inclusive.~~

~~— 14. Other occupations.† (Deleted by amendment.)~~

Sec. 8. ~~[NRS 353.224 is hereby repealed.† (Deleted by amendment.)~~

Sec. 9. This act becomes effective upon passage and approval.†† for the establishment of the criteria required by sections 2 and 5 of this act and on October 1, 2011, for all other purposes.

†

TEXT OF REPEALED SECTION

~~— 353.224 Approval of Legislature or Interim Finance Committee required for certain changes of positions.~~

~~— 1. A state agency other than the Nevada System of Higher Education and vocational licensing boards may not change a position for which money has been appropriated or authorized from one occupational group to another, as~~

~~defined by the index developed pursuant to NRS 284.171, without the approval of the Legislature or of the Interim Finance Committee.~~

~~— 2. All proposed changes of positions from one occupational group to another must be submitted to the Interim Finance Committee. The Interim Finance Committee has 45 days after a proposal is submitted to its Secretary within which to consider it. Any proposed change of a position from one occupational group to another which is not considered within the 45-day period shall be deemed approved.~~

~~— 3. The Secretary shall place each request submitted pursuant to subsection 2 on the agenda of the next meeting of the Interim Finance Committee.~~

~~— 4. In acting upon a proposed change of position, the Interim Finance Committee shall consider, among other things:~~

~~— (a) The need for the proposed change; and~~

~~— (b) The intent of the Legislature in approving the existing classification of positions.~~

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

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

Amendment No. 384 to Senate Bill No. 73 makes various changes to statute regarding the review of requests by the State Board of Examiners and the Interim Finance Committee. The bill authorizes the State Board of Examiners to delegate authority to approve the payment of claims from the State Claims Account and the Reserve for Statutory Contingency Account to persons designated by the Clerk of the Board.

The bill removes from statute the thresholds and conditions prescribed for revising work programs and allocating money from federal block grants and instead allows the Board of Examiners and the Interim Finance Committee to establish criteria for such approval, based upon the joint recommendation of the Chief of the Budget Division of the Department of Administration, the Senate Fiscal Analyst and Assembly Fiscal Analyst. The bill also increases the threshold amount for the acceptance of gifts and grants by State agencies without the approval of the Interim Finance Committee.

The bill eliminates the requirement in statute for agencies in the Executive Branch to receive approval from the Legislature or the Interim Finance Committee to change a position from one occupational group to another, if the change in occupational groups does not result in an increase in salary cost.

This bill becomes effective upon passage and approval for the establishment of approval criteria and on October 1, 2011, for all other purposes.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 98.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 363.

"SUMMARY—Revises provisions relating to collective bargaining between local governments and employee organizations. (BDR 23-415)"

"AN ACT relating to local governments; revising provisions relating to mediation ~~and arbitration~~ during the process of collective bargaining; revising provisions relating to certain reports on final agreements between local government employers and employee organizations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~† Sections 1, 2 and 4 of this bill require: (1) local governments and employee organizations representing police officers or firefighters; and (2) school districts and employee organizations representing teachers and educational support personnel to take part in nonbinding mediation before submitting disputes to arbitration.~~

~~— Sections 3 and 4 of this bill provide that in the arbitration process during collective bargaining: (1) between local governments and employee organizations representing firefighters or police officers; and (2) between school districts and employee organizations representing teachers and educational support personnel, the arbitrator is not bound to accept one of the final offers of the parties involved.~~

Section 1.3 of this bill revises provisions relating to mediation between local governments and employee organizations during collective bargaining. Sections 1, 1.7, 3 and 4 of this bill require that the reports made by the chief executive officer of a local government or the superintendent of a school district to the local government or to the board of trustees of the school district, respectively, concerning the fiscal impact of a collective bargaining agreement between the local government and an employee organization include information relating to the estimated total cost of the agreement and the difference in that cost and the total cost of the immediately preceding agreement.

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

Section 1. NRS 288.153 is hereby amended to read as follows:

288.153 Any new, extended or modified collective bargaining agreement or similar agreement between a local government employer and an employee organization must be approved by the governing body of the local government employer at a public hearing. The chief executive officer of the local government shall report to the local government the fiscal impact of the agreement. The report must include, without limitation:

1. The estimated total cost of the agreement, including, without limitation, the estimated total cost of the employees' portion of contributions to the Public Employees' Retirement System that the local government employer will pay on behalf of the employees during the period of the agreement in lieu of equivalent base salary increases or cost-of-living increases, or both, in the employees' salaries; and

2. The difference between the estimated total cost of the agreement and the total cost of the immediately preceding agreement between the parties.

~~{Section 1.}~~ **Sec. 1.3.** NRS 288.190 is hereby amended to read as follows:

288.190 Except ~~{in cases to which}~~ *as otherwise provided in* NRS 288.205 : ~~{and 288.215 apply:}~~

1. ~~{Anytime before March 1, the dispute may be submitted to a mediator, if both parties agree. Anytime after March 1,}~~ **If the parties to a negotiation have failed to reach an agreement after at least four meetings of negotiation,** either party involved ~~{in negotiations}~~ may request a mediator. If the parties do not agree upon a mediator, ~~{the Commissioner shall submit to the parties a list of seven potential mediators.}~~ **either party may request from the American Arbitration Association or the Federal Mediation and Conciliation Service a list of seven potential mediators. If the parties are unable to agree upon which mediation service should be used, the Federal Mediation and Conciliation Service must be used.** The parties shall select their mediator from the list by alternately striking one name until the name of only one mediator remains, who will be the mediator to hear the dispute. The employee organization shall strike the first name.

2. If mediation is ~~{agreed to or}~~ requested pursuant to subsection 1, the mediator must be selected at the time the parties agree upon a mediator or, if the parties do not agree upon a mediator, within 5 days after the parties receive the list of potential mediators. ~~{from the Commissioner.}~~

3. The mediator shall bring the parties together as soon as possible and, unless otherwise agreed upon by the parties, attempt to settle the dispute within 30 days after being notified of the mediator's selection as mediator. The mediator may establish the times and dates for meetings and compel the parties to attend but has no power to compel the parties to agree.

4. ~~{The}~~ **If the parties do not use a mediator provided by the Federal Mediation and Conciliation Service, the** local government employer and employee organization each shall pay one-half of the cost of mediation. Each party shall pay its own costs of preparation and presentation of its case in mediation.

5. If the dispute is submitted to a mediator and then submitted to a fact finder, the mediator shall, within 15 days after the last meeting between the parties, give to the Commissioner of the Board a report of the efforts made to settle the dispute.

Sec. 1.7. NRS 288.200 is hereby amended to read as follows:

288.200 Except in cases to which NRS 288.205 and 288.215, or NRS 288.217 apply:

1. If:

(a) The parties have failed to reach an agreement after at least ~~{six}~~ **four** meetings of negotiations; and

(b) The parties have participated in mediation and by April 1, have not reached agreement,

↪ either party to the dispute, at any time after April 1, may submit the dispute to an impartial fact finder for the findings and recommendations of

the fact finder. The findings and recommendations of the fact finder are not binding on the parties except as provided in subsections 5, 6 and 11. The mediator of a dispute may also be chosen by the parties to serve as the fact finder.

2. If the parties are unable to agree on an impartial fact finder or a panel of neutral arbitrators within 5 days, either party may request from the American Arbitration Association or the Federal Mediation and Conciliation Service a list of seven potential fact finders. If the parties are unable to agree upon which arbitration service should be used, the Federal Mediation and Conciliation Service must be used. Within 5 days after receiving a list from the applicable arbitration service, the parties shall select their fact finder from this list by alternately striking one name until the name of only one fact finder remains, who will be the fact finder to hear the dispute in question. The employee organization shall strike the first name.

3. The local government employer and employee organization each shall pay one-half of the cost of fact-finding. Each party shall pay its own costs of preparation and presentation of its case in fact-finding.

4. A schedule of dates and times for the hearing must be established within 10 days after the selection of the fact finder pursuant to subsection 2, and the fact finder shall report the findings and recommendations of the fact finder to the parties to the dispute within 30 days after the conclusion of the fact-finding hearing.

5. The parties to the dispute may agree, before the submission of the dispute to fact-finding, to make the findings and recommendations on all or any specified issues final and binding on the parties.

6. If the parties do not agree on whether to make the findings and recommendations of the fact finder final and binding, either party may request the formation of a panel to determine whether the findings and recommendations of a fact finder on all or any specified issues in a particular dispute which are within the scope of subsection 11 are to be final and binding. The determination must be made upon the concurrence of at least two members of the panel and not later than the date which is 30 days after the date on which the matter is submitted to the panel, unless that date is extended by the Commissioner of the Board. Each panel shall, when making its determination, consider whether the parties have bargained in good faith and whether it believes the parties can resolve any remaining issues. Any panel may also consider the actions taken by the parties in response to any previous fact-finding between these parties, the best interests of the State and all its citizens, the potential fiscal effect both within and outside the political subdivision, and any danger to the safety of the people of the State or a political subdivision.

7. Except as otherwise provided in subsection 10, any fact finder, whether the fact finder's recommendations are to be binding or not, shall base such recommendations or award on the following criteria:

(a) A preliminary determination must be made as to the financial ability of the local government employer based on all existing available revenues as established by the local government employer and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the local government employer to provide facilities and services guaranteeing the health, welfare and safety of the people residing within the political subdivision.

(b) Once the fact finder has determined in accordance with paragraph (a) that there is a current financial ability to grant monetary benefits, and subject to the provisions of paragraph (c), the fact finder shall consider, to the extent appropriate, compensation of other government employees, both in and out of the State and use normal criteria for interest disputes regarding the terms and provisions to be included in an agreement in assessing the reasonableness of the position of each party as to each issue in dispute and the fact finder shall consider whether the Board found that either party had bargained in bad faith.

(c) A consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multiyear contract, the fact finder must consider the ability to pay over the life of the contract being negotiated or arbitrated.

➤ The fact finder's report must contain the facts upon which the fact finder based the fact finder's determination of financial ability to grant monetary benefits and the fact finder's recommendations or award.

8. Within 45 days after the receipt of the report from the fact finder, the governing body of the local government employer shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

- (a) The issues of the parties submitted pursuant to subsection 3;
- (b) The report of findings and recommendations of the fact finder; and
- (c) The overall fiscal impact of the findings and recommendations, which must not include a discussion of the details of the report.

➤ The fact finder must not be asked to discuss the decision during the meeting.

9. The chief executive officer of the local government shall report to the local government the fiscal impact of the findings and recommendations. The report must include, without limitation, ~~the~~ :

(a) An analysis of the impact of the findings and recommendations on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment ~~that~~; and

(b) If any of the findings or recommendations of the fact finder are to be binding:

(1) The estimated total cost of any contract resulting from the findings or recommendations which are to be binding, including, without limitation, the estimated total cost of the employees' portion of contributions to the Public Employees' Retirement System that the local government employer

will pay on behalf of the employees during the period of the contract in lieu of equivalent base salary increases of cost-of-living increases, or both, in the employees' salaries; and

(2) The difference between the estimated total cost of the contract and the total cost of the immediately preceding contract between the parties.

10. Any sum of money which is maintained in a fund whose balance is required by law to be:

(a) Used only for a specific purpose other than the payment of compensation to the bargaining unit affected; or

(b) Carried forward to the succeeding fiscal year in any designated amount, to the extent of that amount,

↪ must not be counted in determining the financial ability of a local government employer and must not be used to pay any monetary benefits recommended or awarded by the fact finder.

11. The issues which may be included in a panel's order pursuant to subsection 6 are:

(a) Those enumerated in subsection 2 of NRS 288.150 as the subjects of mandatory bargaining, unless precluded for that year by an existing collective bargaining agreement between the parties; and

(b) Those which an existing collective bargaining agreement between the parties makes subject to negotiation in that year.

↪ This subsection does not preclude the voluntary submission of other issues by the parties pursuant to subsection 5.

Sec. 2. ~~NRS 288.205 is hereby amended to read as follows:~~

~~—288.205 In the case of an employee organization and a local government employer to which NRS 288.215 applies, the following departures from the provisions of NRS 288.200 [also] apply:~~

~~—1. If the parties have not reached agreement [by April 10] [.] and the parties participated in mediation pursuant to NRS 288.190, either party may submit the dispute to an impartial fact finder at any time for the findings of the fact finder.~~

~~—2. In a regular legislative year, the fact-finding hearing must be stayed up to 20 days after the adjournment of the Legislature sine die.~~

~~—3. Any time limit prescribed by this section or NRS 288.200 may be extended by agreement of the parties.] (Deleted by amendment.)~~

Sec. 3. NRS 288.215 is hereby amended to read as follows:

288.215 1. As used in this section:

(a) "Firefighters" means those persons who are salaried employees of a fire prevention or suppression unit organized by a political subdivision of the State and whose principal duties are controlling and extinguishing fires.

(b) "Police officers" means those persons who are salaried employees of a police department or other law enforcement agency organized by a political subdivision of the State and whose principal duties are to enforce the law.

2. The provisions of this section apply only to firefighters and police officers and their local government employers.

3. If the parties have not agreed to make the findings and recommendations of the fact finder final and binding upon all issues, and do not otherwise resolve their dispute, they shall, within 10 days after the fact finder's report is submitted, submit the issues remaining in dispute to an arbitrator who must be selected in the manner provided in NRS 288.200 and have the same powers provided for fact finders in NRS 288.210.

4. The arbitrator shall, within 10 days after the arbitrator is selected, and after 7 days' written notice is given to the parties, hold a hearing to receive information concerning the dispute. The hearings must be held in the county in which the local government employer is located and the arbitrator shall arrange for a full and complete record of the hearings.

5. At the hearing, or at any subsequent time to which the hearing may be adjourned, information may be presented by:

- (a) The parties to the dispute; or
- (b) Any interested person.

6. The parties to the dispute shall each pay one-half of the costs incurred by the arbitrator.

7. A determination of the financial ability of a local government employer must be based on:

(a) All existing available revenues as established by the local government employer and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the local government employer to provide facilities and services guaranteeing the health, welfare and safety of the people residing within the political subdivision.

(b) Consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multi-year contract the arbitrator must consider the ability to pay over the life of the contract being negotiated or arbitrated.

➡ Once the arbitrator has determined in accordance with this subsection that there is a current financial ability to grant monetary benefits, the arbitrator shall consider, to the extent appropriate, compensation of other governmental employees, both in and out of this State.

8. At the recommendation of the arbitrator, the parties may, before the submission of a final offer, enter into negotiations. If the negotiations are begun, the arbitrator may adjourn the hearings for a period of 3 weeks. An agreement by the parties is final and binding, and upon notification to the arbitrator, the arbitration terminates.

9. If the parties do not enter into negotiations or do not agree within 30 days, each of the parties shall submit a single written statement containing its final offer for each of the unresolved issues.

10. The arbitrator shall, within 10 days after the final offers are submitted, accept one of the written statements, ~~and~~ on the basis of the criteria provided in NRS 288.200, and shall report the decision to the parties. The decision of the arbitrator is final and binding on the parties. Any award of the arbitrator is retroactive to the expiration date of the last contract.

11. The decision of the arbitrator must include a statement:

(a) Giving the arbitrator's ~~reason~~ **reasons** for accepting the final offer that is the basis of the arbitrator's award; and

(b) Specifying the arbitrator's estimate of the total cost of the award.

12. Within 45 days after the receipt of the decision from the arbitrator pursuant to subsection 10, the governing body of the local government employer shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

(a) The issues submitted pursuant to subsection 3;

(b) The statement of the arbitrator pursuant to subsection 11; and

(c) The overall fiscal impact of the decision, which must not include a discussion of the details of the decision.

➤ The arbitrator must not be asked to discuss the decision during the meeting.

13. The chief executive officer of the local government shall report to the local government the fiscal impact of the decision. The report must include, without limitation, ~~the~~ :

(a) An analysis of the impact of the decision on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment.

(b) The estimated total cost of any contract resulting from the decision, including, without limitation, the estimated total cost of the employees' portion of contributions to the Public Employees' Retirement System that the local government employer will pay on behalf of firefighters or police officers, as applicable, during the period of the contract in lieu of equivalent base salary increases or cost-of-living increases, or both, in the employees' salaries; and

(c) The difference between the estimated total cost of the contract and the total cost of the immediately preceding contract between the parties.

Sec. 4. NRS 288.217 is hereby amended to read as follows:

288.217 1. The provisions of this section govern negotiations between school districts and employee organizations representing teachers and educational support personnel.

2. If the parties to a negotiation pursuant to this section have failed to reach an agreement after at least four sessions of negotiation, ~~and the parties participated in mediation pursuant to NRS 288.190,~~ either party may declare the negotiations to be at an impasse and, after 5 days' written notice is given to the other party, submit the issues remaining in dispute to an arbitrator. The arbitrator must be selected in the manner provided in subsection 2 of NRS 288.200 and has the powers provided for fact finders in NRS 288.210.

3. The arbitrator shall, within 30 days after the arbitrator is selected, and after 7 days' written notice is given to the parties, hold a hearing to receive information concerning the dispute. The hearing must be held in the county

in which the school district is located and the arbitrator shall arrange for a full and complete record of the hearing.

4. The parties to the dispute shall each pay one-half of the costs of the arbitration.

5. A determination of the financial ability of a school district must be based on:

(a) All existing available revenues as established by the school district and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the school district to provide an education to the children residing within the district.

(b) Consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multi-year contract the arbitrator must consider the ability to pay over the life of the contract being negotiated or arbitrated.

➤ Once the arbitrator has determined in accordance with this subsection that there is a current financial ability to grant monetary benefits, the arbitrator shall consider, to the extent appropriate, compensation of other governmental employees, both in and out of this State.

6. At the recommendation of the arbitrator, the parties may, before the submission of a final offer, enter into negotiations. If the negotiations are begun, the arbitrator may adjourn the hearing for a period of 3 weeks. If an agreement is reached, it must be submitted to the arbitrator, who shall certify it as final and binding.

7. If the parties do not enter into negotiations or do not agree within 30 days after the hearing held pursuant to subsection 3, each of the parties shall submit a single written statement containing its final offer for each of the unresolved issues.

8. The arbitrator shall, within 10 days after the final offers are submitted, render a decision on the basis of the criteria set forth in NRS 288.200. The arbitrator shall accept one of the written statements and shall report the decision to the parties. The decision of the arbitrator is final and binding on the parties. Any award of the arbitrator is retroactive to the expiration date of the last contract between the parties.

9. The decision of the arbitrator must include a statement:

(a) Giving the arbitrator's ~~reason~~ **reasons** for accepting the final offer that is the basis of the arbitrator's award; and

(b) Specifying the arbitrator's estimate of the total cost of the award.

10. Within 45 days after the receipt of the decision from the arbitrator, the board of trustees of the school district shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

(a) The issues submitted pursuant to subsection 2;

(b) The statement of the arbitrator pursuant to subsection 9; and

(c) The overall fiscal impact of the decision which must not include a discussion of the details of the decision.

↪ The arbitrator must not be asked to discuss the decision during the meeting.

11. The superintendent of the school district shall report to the board of trustees the fiscal impact of the decision. The report must include, without limitation ~~the~~ **;**

(a) An analysis of the impact of the decision on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment ~~the~~ **;**

(b) The estimated total cost of any contract resulting from the decision, including, without limitation, the estimated total cost of the employees' portion of contributions to the Public Employees' Retirement System that the school district will pay on behalf of teachers and educational support personnel during the period of the contract in lieu of equivalent base salary increases or cost-of-living increases, or both, in the salaries of the teachers and educational support personnel; and

(c) The difference between the estimated total cost of the contract and the total cost of the immediately preceding contract between the parties.

12. As used in this section:

(a) "Educational support personnel" means all classified employees of a school district, other than teachers, who are represented by an employee organization.

(b) "Teacher" means an employee of a school district who is licensed to teach in this State and who is represented by an employee organization.

Sec. 5. This act becomes effective on July 1, 2011.

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy and Horsford.

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

SENATOR HARDY:

Senate Bill No. 98 relates to public employee collective bargaining. Amendment No. 363 makes the following changes: The chief executive officer of a local government or a superintendent of a school district shall include the estimated costs of the contract in the report on the fiscal impact of a collective bargaining agreement; At least four negotiation sessions are required, after which either party may submit the dispute to mediation; deadline dates by which parties may submit to mediation are repealed; either party may request a list of mediators from federal mediators or national arbitrators and the proposal to repeal existing law that requires the arbitrator to pick one of the final offers of the parties involved is deleted.

SENATOR HORSFORD:

I rise in support of this amendment. I would like to thank the sponsor of the bill and my colleague from Clark District No. 12 as well as the Committee Chair. Many times we talk about reform and the importance of making government more accountable. Senate Bill No. 98 as amended does that. The provisions around local government transparency regarding the collective bargaining contracts is another improvement over those reforms that were adopted during the 2009 75th Session. There are people who would like to see even more reforms but in the true spirit of cooperation this bill and the bill we voted on earlier, Senate Bill No. 135, go a long way in helping local government better control their costs and helping the public have full

transparency on any collective bargaining agreements entered into by those public entities. I commend the sponsor and the Committee for working on this bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 133.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 510.

"SUMMARY—Revises provisions governing initiative petitions. (BDR 24-1)"

"AN ACT relating to ~~initiative petitions;~~ **elections;** providing that petition districts from which signatures for an initiative **or referendum** petition must be gathered are conterminous with ~~assembly~~ **congressional** districts; **providing for the method by which county clerks verify signatures on such petitions; revising certain requirements for petitions of referendum; amending the filing deadline for certain petitions;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Legislature to create petition districts from which signatures for a petition for initiative must be gathered. **(NRS 293.069, 293.127561) [This] Section 1 of this bill provides that petition districts are conterminous with ~~assembly~~ congressional districts. Sections 2 and 5 of this bill provide the manner by which the Secretary of State determines the number of signatures required from each petition district. Section 4 of this bill provides for the manner in which county clerks verify the signatures gathered on a petition. Sections 2-6 of this bill provide that the signature and verification requirements for initiative petitions also apply to petitions for referendum. Section 8 of this bill requires a person who signs a petition to indicate the petition district in which the person resides, if known. Section 9 of this bill amends the filing deadline for initiative petitions proposing an amendment to the Constitution and for petitions for referenda from the third Tuesday in May of an even-numbered year to the third Tuesday in June of an even-numbered year to comply with the holding of the Nevada Supreme Court in *We the People Nevada v. Miller*, 124 Nev. Adv. Op. 75, 192 P.3d 1166 (2008). Section 10 of this bill requires a circulator of a petition to include his or her street address on the affidavit accompanying the petition.**

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

Section 1. NRS 293.069 is hereby amended to read as follows:

293.069 "Petition district" means a district established by the Legislature pursuant to NRS 293.127561.] ~~an assembly district created pursuant to the provisions of NRS 218B.600 to 218B.805, inclusive, for the~~

~~election of members to the Assembly.] created pursuant to the provisions of NRS 304.060 to 304.120, inclusive, for the election of Representatives in Congress.~~

Sec. 2. NRS 293.127563 is hereby amended to read as follows:

293.127563 1. As soon as practicable after each general election, the Secretary of State shall determine the number of signatures required to be gathered from each petition district within the State for a petition for initiative **or referendum** that proposes a ~~statute, an amendment to a statute or an amendment to the Constitution of this State.]~~ **constitutional amendment or statewide measure.**

2. To determine the number of signatures required to be gathered from ~~that~~ **each** petition district, the Secretary of State shall calculate the amount that equals 10 percent of the voters who voted in ~~that petition district~~ **this State** at the last preceding general election ~~that~~ **and divide that amount by the number of petition districts. Fractional numbers must be rounded up to the nearest whole number.**

Sec. 3. NRS 293.1276 is hereby amended to read as follows:

293.1276 1. Within 4 days, excluding Saturdays, Sundays and holidays, after the submission of a petition containing signatures which are required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110, the county clerk shall determine the total number of signatures affixed to the documents and, in the case of a petition **for initiative or referendum** proposing a ~~statute, an amendment to a statute or an amendment to the Constitution.]~~ **constitutional amendment or statewide measure,** shall tally the number of signatures for each petition district contained fully or partially within the county and forward that information to the Secretary of State.

2. If the Secretary of State finds that the total number of signatures filed with all the county clerks is less than 100 percent of the required number of registered voters, the Secretary of State shall so notify the person who submitted the petition and the county clerks and no further action may be taken in regard to the petition. If the petition is a petition to recall a county, district or municipal officer, the Secretary of State shall also notify the officer with whom the petition is to be filed.

3. After the petition is submitted to the county clerk, it must not be handled by any other person except by an employee of the county clerk's office until it is filed with the Secretary of State.

4. The Secretary of State may adopt regulations establishing procedures to carry out the provisions of this section.

Sec. 4. NRS 293.1277 is hereby amended to read as follows:

293.1277 1. If the Secretary of State finds that the total number of signatures submitted to all the county clerks is 100 percent or more of the number of registered voters needed to declare the petition sufficient, the Secretary of State shall immediately so notify the county clerks. Within 9 days, excluding Saturdays, Sundays and holidays, after notification, each of

the county clerks shall determine the number of registered voters who have signed the documents submitted in the county clerk's county and, in the case of a petition for initiative or referendum proposing a ~~statute, an amendment to a statute or an amendment to the Constitution,~~ constitutional amendment or statewide measure, shall tally the number of signatures for each petition district contained or fully contained within the county clerk's county. For the purpose of verification pursuant to this section, the county clerk shall not include in his or her tally of total signatures any signature included in the incorrect petition district.

2. ~~##~~ Except as otherwise provided in subsection 3, if more than 500 names have been signed on the documents submitted to a county clerk, the county clerk shall examine the signatures by sampling them at random for verification. The random sample of signatures to be verified must be drawn in such a manner that every signature which has been submitted to the county clerk is given an equal opportunity to be included in the sample. The sample must include an examination of at least 500 or 5 percent of the signatures, whichever is greater.

~~{3-}~~ If documents were submitted to the county clerk for more than one petition district wholly contained within that county, a separate random sample must be performed for each petition district.

3. If a petition district comprises more than one county and the petition is for an initiative or referendum proposing a constitutional amendment or a statewide measure, and if more than 500 names have been signed on the documents submitted for that petition district, the appropriate county clerks shall examine the signatures by sampling them at random for verification. The random sample of signatures to be verified must be drawn in such a manner that every signature which has been submitted to the county clerks within the petition district is given an equal opportunity to be included in the sample. The sample must include an examination of at least 500 or 5 percent of the signatures presented in the petition district, whichever is greater. The Secretary of State shall determine the number of signatures that must be verified by each county clerk within the petition district.

4. In determining from the records of registration the number of registered voters who signed the documents, the county clerk may use the signatures contained in the file of applications to register to vote. If the county clerk uses that file, the county clerk shall ensure that every application in the file is examined, including any application in his or her possession which may not yet be entered into the county clerk's records. The county clerk shall rely only on the appearance of the signature and the address and date included with each signature in making his or her determination.

~~{4-}~~ 5. In the case of a petition for initiative or referendum proposing a ~~statute, an amendment to a statute or an amendment to the Constitution,~~ constitutional amendment or statewide measure, when the county clerk is

determining the number of registered voters who signed the documents from each petition district contained fully or partially within the county clerk's county, he or she must use the statewide voter registration list available pursuant to NRS 293.675.

~~§5.1~~ 6. Except as otherwise provided in subsection ~~§7.1~~ 8., upon completing the examination, the county clerk shall immediately attach to the documents a certificate properly dated, showing the result of the examination, including the tally of signatures by petition district, if required, and transmit the documents with the certificate to the Secretary of State. ~~¶¶~~ **In the case of a petition for initiative or referendum proposing a constitutional amendment or statewide measure, if** a petition district comprises more than one county, ~~and the petition proposes a statute, an amendment to a statute or an amendment to the Constitution,~~ the appropriate county clerks shall comply with the regulations adopted by the Secretary of State pursuant to this section to complete the certificate. A copy of this certificate must be filed in the clerk's office. When the county clerk transmits the certificate to the Secretary of State, the county clerk shall notify the Secretary of State of the number of requests to remove a name received by the county clerk pursuant to NRS 295.055 or 306.015.

~~¶6.1~~ 7. A person who submits a petition to the county clerk which is required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110 must be allowed to witness the verification of the signatures. A public officer who is the subject of a recall petition must also be allowed to witness the verification of the signatures on the petition.

~~¶7.1~~ 8. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not transmit to the Secretary of State the documents containing the signatures of the registered voters.

~~¶8.1~~ 9. The Secretary of State shall by regulation establish further procedures for carrying out the provisions of this section.

Sec. 5. NRS 293.1278 is hereby amended to read as follows:

293.1278 1. If the certificates received by the Secretary of State from all the county clerks establish that the number of valid signatures is less than 90 percent of the required number of registered voters, the petition shall be deemed to have failed to qualify, and the Secretary of State shall immediately so notify the petitioners and the county clerks.

2. If those certificates establish that the number of valid signatures is equal to or more than the sum of 100 percent of the number of registered voters needed to make the petition sufficient plus the total number of requests to remove a name received by the county clerks pursuant to NRS 295.055 or 306.015 and, in the case of a petition **for initiative or referendum** proposing a ~~statute, an amendment to a statute or an amendment to the Constitution,~~ **constitutional amendment or statewide measure,** that the petition has the

minimum number of signatures required for each petition district, the petition shall be deemed to qualify as of the date of receipt by the Secretary of State of those certificates, and the Secretary of State shall immediately so notify the petitioners and the county clerks.

3. If the certificates establish that the petitioners have 100 percent or more of the number of registered voters needed to make the petition sufficient but the petition fails to qualify pursuant to subsection 2, each county clerk who received a request to remove a name pursuant to NRS 295.055 or 306.015 shall remove each name as requested, amend the certificate and transmit the amended certificate to the Secretary of State. If the amended certificates establish that the petitioners have 100 percent or more of the number of registered voters needed to make the petition sufficient and, in the case of a petition *for initiative or referendum* proposing a ~~statute, an amendment to a statute or an amendment to the Constitution,~~ *constitutional amendment or statewide measure*, that the petition has the minimum number of signatures required for each petition district, the petition shall be deemed to qualify as of the date of receipt by the Secretary of State of the amended certificates, and the Secretary of State shall immediately so notify the petitioners and the county clerks.

Sec. 6. NRS 293.1279 is hereby amended to read as follows:

293.1279 1. If the statistical sampling shows that the number of valid signatures filed is 90 percent or more, but less than the sum of 100 percent of the number of signatures of registered voters needed to declare the petition sufficient plus the total number of requests to remove a name received by the county clerks pursuant to NRS 295.055 or 306.015, the Secretary of State shall order the county clerks to examine the signatures for verification. The county clerks shall examine the signatures for verification until they determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid. If the county clerks received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerks may not determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid until they have removed each name as requested pursuant to NRS 295.055 or 306.015.

2. Except as otherwise provided in this subsection, if the statistical sampling shows that the number of valid signatures filed in any county is 90 percent or more but less than the sum of 100 percent of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county plus the total number of requests to remove a name received by the county clerk in that county pursuant to NRS 295.055 or 306.015, the Secretary of State may order the county clerk in that county to examine every signature for verification. If the county clerk received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerk may not determine that 100 percent or more of the number of signatures of registered voters needed

to constitute 10 percent of the number of voters who voted at the last preceding general election in that county are valid until the county clerk has removed each name as requested pursuant to NRS 295.055 or 306.015. In the case of a petition for initiative or referendum that proposes a ~~statute, an amendment to a statute or an amendment to the Constitution of this State,~~ constitutional amendment or statewide measure, if the statistical sampling shows that the number of valid signatures in any petition district is 90 percent or more but less than the sum of 100 percent of the number of signatures of registered voters required for that petition district pursuant to NRS 295.012 plus the total number of requests to remove a name received by the county clerk or county clerks, if the petition district comprises more than one county, pursuant to NRS 295.055, the Secretary of State may order a county clerk to examine every signature for verification.

3. Within 12 days, excluding Saturdays, Sundays and holidays, after receipt of such an order, the county clerk or county clerks shall determine from the records of registration what number of registered voters have signed the petition and, if appropriate, tally those signatures by petition district. If necessary, the board of county commissioners shall allow the county clerk additional assistants for examining the signatures and provide for their compensation. In determining from the records of registration what number of registered voters have signed the petition and in determining in which petition district the voters reside, the county clerk must use the statewide voter registration list. The county clerk may rely on the appearance of the signature and the address and date included with each signature in determining the number of registered voters that signed the petition.

4. Except as otherwise provided in subsection 5, upon completing the examination, the county clerk or county clerks shall immediately attach to the documents of the petition an amended certificate, properly dated, showing the result of the examination and shall immediately forward the documents with the amended certificate to the Secretary of State. A copy of the amended certificate must be filed in the county clerk's office. In the case of a petition for initiative or referendum to propose a ~~statute, an amendment to a statute or an amendment to the Constitution,~~ constitutional amendment or statewide measure, if a petition district comprises more than one county, the county clerks shall comply with the regulations adopted by the Secretary of State pursuant to this section to complete the amended certificate.

5. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not forward to the Secretary of State the documents containing the signatures of the registered voters.

6. Except for a petition to recall a county, district or municipal officer, the petition shall be deemed filed with the Secretary of State as of the date on which the Secretary of State receives certificates from the county clerks

showing the petition to be signed by the requisite number of voters of the State.

7. If the amended certificates received from all county clerks by the Secretary of State establish that the petition is still insufficient, the Secretary of State shall immediately so notify the petitioners and the county clerks. If the petition is a petition to recall a county, district or municipal officer, the Secretary of State shall also notify the officer with whom the petition is to be filed.

8. The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 7. NRS 295.012 is hereby amended to read as follows:

295.012 ~~{A petition for initiative that proposes a statute, an amendment to a statute or an amendment to the Constitution must be proposed by a number of registered voters from each petition district in the State that is at least equal to 10 percent of the voters who voted in that petition district at the last preceding general election.}~~ **The number of registered voters required pursuant to Section 1 of Article 19 of the Nevada Constitution to propose a petition for referendum must be apportioned equally among the petition districts, and the number of signatures required from each petition district must be equal.**

Sec. 8. NRS 295.055 is hereby amended to read as follows:

295.055 1. The Secretary of State shall by regulation specify:

(a) The format for the signatures on a petition for an initiative or referendum and make free specimens of the format available upon request. The regulations must ensure that the format includes, without limitation, that:

(1) In addition to signing the petition, a person who signs a petition:

(I) Shall print the person's given name followed by the person's surname on the petition before the person's signature; and

(II) ~~{May}~~ **Must** indicate the petition district in which the person resides, ~~{. If the person does not indicate the petition district on the petition, the circulator shall indicate the petition district of the person}~~ if known.

(2) Each signature must be dated.

(b) The manner of fastening together several sheets circulated by one person to constitute a single document.

2. The registered voter may consult the list of the registered voters in this State posted on the website maintained by the Secretary of State pursuant to subsection 1 of NRS 293.4687 to determine the petition district in which the registered voter resides. The registered voter may rely on the information contained in the list when the registered voter indicates the appropriate petition district, unless the registered voter believes that the information is inaccurate.

3. Each document of the petition must bear the name of a ~~{county,}~~ **petition district**, and only registered voters of that ~~{county,}~~ **petition district** may sign the document.

4. A person who signs a petition may request that the county clerk remove the person's name from the petition by transmitting a request in writing to the county clerk at any time before the petition is filed with the county clerk.

Sec. 9. NRS 295.056 is hereby amended to read as follows:

295.056 1. Before a petition for initiative or referendum is filed with the Secretary of State, the petitioners must submit to each county clerk for verification pursuant to NRS 293.1276 to 293.1279, inclusive, the document or documents which were circulated for signature within the clerk's county. The clerks shall give the person submitting a document or documents a receipt stating the number of documents and pages and the person's statement of the number of signatures contained therein.

2. If a petition for initiative proposes a statute or an amendment to a statute, the document or documents must be submitted not later than the second Tuesday in November of an even-numbered year.

3. If a petition for initiative proposes an amendment to the Constitution, the document or documents must be submitted not later than the third Tuesday in ~~May~~ June of an even-numbered year.

4. If the petition is for referendum, the document or documents must be submitted not later than the third Tuesday in ~~May~~ June of an even-numbered year.

5. All documents which are submitted to a county clerk for verification must be submitted at the same time. If documents concerning the same petition are submitted for verification to more than one county clerk, the documents must be submitted to each county clerk on the same day. At the time that the petition is submitted to a county clerk for verification, the petitioners may designate a contact person who is authorized by the petitioners to address questions or issues relating to the petition.

Sec. 10. NRS 295.0575 is hereby amended to read as follows:

295.0575 A petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or referendum may consist of more than one document. Each document of a petition must have attached to it when submitted an affidavit executed by the circulator thereof stating:

1. That the circulator personally circulated the document. ~~1.~~

2. *The street address of the residence where the circulator actually resides, unless a street address has not been assigned. If a street address has not been assigned, the document must contain the mailing address of the circulator.*

~~3.~~ 3. The number of signatures thereon. ~~1.~~

~~3.~~ 4. That all the signatures were affixed in the circulator's presence. ~~1.~~
and

~~4.~~ 5. That each signer had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

~~{Sec. 2.}~~ **Sec. 11.** NRS 293.127561, 293.127562 and 295.005 are hereby repealed.

~~{Sec. 3.}~~ **Sec. 12.** This act becomes effective ~~on July 1, 2011.~~ **upon passage and approval.**

TEXT OF REPEALED SECTIONS

293.127561 Establishment of petition districts; criteria.

1. The Legislature shall establish petition districts from which signatures for a petition for initiative that proposes a statute, an amendment to a statute or an amendment to the Constitution of this State must be gathered. The petition districts must be established in a manner that is fair to all residents of the State, represent approximately equal populations and ensure that each signature is afforded the same weight.

2. Petition districts must be:

(a) Based on the population databases compiled by the Bureau of the Census of the United States Department of Commerce as validated and incorporated into the geographic information system by the Legislative Counsel Bureau for use by the Nevada Legislature.

(b) Designated in the maps filed with the Office of the Secretary of State pursuant to NRS 293.127562.

293.127562 Maps of petition districts: Duties of Director of Legislative Counsel Bureau. The Director of the Legislative Counsel Bureau shall:

1. Retain in an office of the Legislative Counsel Bureau, copies of maps of the petition districts established pursuant to NRS 293.127561.

2. Make available copies of the maps to any interested person for a reasonable fee, not to exceed the actual costs of producing copies of the maps.

3. File a copy of the maps with the Secretary of State.

295.005 "Petition district" defined. As used in NRS 295.005 to 295.061, inclusive, unless the context otherwise requires, "petition district" has the meaning ascribed to it in NRS 293.069.

Senator Rhoads moved the adoption of the amendment.

Remarks by Senator Rhoads.

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

Senate Bill No. 133 relates to petition districts. Amendment No. 510 makes the following changes.

Petition districts are defined to mean congressional districts and the number of signatures from each district required to propose a petition must be equal among the districts; a petition document must contain the name of the petition district and the affidavit must include the address of the petition circulator; the filing deadline for petitions is moved from the third Tuesday in May to the third Tuesday in June in even-numbered years; and procedures for counting signatures and for a random sampling to verify signatures are provided.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 137.

Bill read second time.

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

Amendment No. 20.

"SUMMARY—Revises provisions relating to the construction of bus turnouts at certain locations. (BDR 22-917)"

"AN ACT relating to local governmental planning; providing for the construction of additional bus turnouts at certain locations in certain counties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the regional transportation commission in a county whose population is 400,000 or more (currently Clark County) was required to designate, on or before December 31, 2009, 10 bus stops at which a bus turnout—an area for loading and unloading passengers outside of the lanes of traffic—must be constructed by December 31, 2012. Such a bus turnout must be constructed on land owned by the State or a local government. The commission must fund the construction of the bus turnout. (NRS 278.02587)

Section 1 of this bill requires the regional transportation commission in a county whose population is ~~400,000~~ **700,000** or more (**currently Clark County**) to designate, on or before December 31, 2011, 15 additional bus stops at which a bus turnout must be constructed by December 31, 2014. Such a bus turnout must be constructed on land owned by the State or a local government. The commission must fund the construction of the bus turnout.

Section 1 also requires the commission to establish a technical advisory committee to work cooperatively with utility companies and franchise holders who may be impacted by the construction of a bus turnout.

Section 2 of this bill requires the regional transportation commission in a county whose population is ~~400,000~~ **700,000** or more to report to the Legislature on the designation and construction of bus turnouts before the 77th Session of the Legislature convenes.

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

Section 1. NRS 278.02587 is hereby amended to read as follows:

278.02587 1. Not later than December 31, 2009:

(a) Except as otherwise provided in subsection ~~{5}~~ **7**, the commission shall designate 10 locations in the county that are owned by the State or by local governments and at which a bus turnout must be constructed pursuant to this section; and

(b) For each location designated pursuant to paragraph (a), the commission and the State or the local government that owns the location shall execute an interlocal or cooperative agreement that authorizes the construction of a bus turnout at the location.

2. For each location designated pursuant to subsection 1, the commission and the State or the local government that owns the location shall ensure that a bus turnout is constructed not later than December 31, 2012.

3. ***Not later than December 31, 2011:***

(a) ***Except as otherwise provided in subsection 7, the commission shall designate 15 locations in the county that are owned by the State or by local governments and at which a bus turnout must be constructed pursuant to this section; and***

(b) ***For each location designated pursuant to paragraph (a), the commission and the State or the local government that owns the location shall execute an interlocal or cooperative agreement that authorizes the construction of a bus turnout at the location.***

4. ***For each location designated pursuant to subsection 3, the commission and the State or the local government that owns the location shall ensure that a bus turnout is constructed not later than December 31, 2014.***

5. The commission shall fund the construction of a bus turnout built pursuant to this section.

~~{4-}~~ 6. When determining the locations to be designated pursuant to subsection 1 ~~{-}~~ ***or 3***, the commission shall consider, without limitation:

(a) The amount of traffic congestion at the location during hours of peak traffic;

(b) The extent of improvements to the location that would need to be completed before the bus turnout could be constructed;

(c) The proximity of the location to an intersection;

(d) The frequency with which buses receive and discharge passengers at the location;

(e) The number of bus passengers regularly using the bus stop at the location;

(f) The general need for a bus turnout at the location; and

(g) Any obstacle that may prevent the completion of the construction of a bus turnout by the date set forth in subsection 2 ~~{-}~~ ***or 4, as applicable.***

~~{5-}~~ 7. The commission shall not designate more than three locations pursuant to subsection 1 ***or 3*** that are owned by the State or by the same local government.

~~{6-}~~ 8. ***The commission shall establish a technical advisory committee which shall:***

(a) As soon as practicable after the locations have been designated pursuant to subsection 1 and before the development of construction plans for the bus turnouts, meet with all utility companies and franchise holders whose utilities or facilities may be impacted by a bus turnout constructed pursuant to that subsection. Such meetings may include visits to the designated locations.

(b) Work in a cooperative manner with the affected utilities and franchise holders to minimize the total cost for the placement or relocation of the affected utility or facility.

9. As used in this section:

(a) "Bus" has the meaning ascribed to it in NRS 484A.030.

(b) "Bus turnout" means a fixed area that is:

(1) Adjacent or appurtenant to, or within reasonable proximity of, a public highway; and

(2) To be occupied exclusively by buses in receiving or discharging passengers.

(c) "Commission" means the regional transportation commission created and organized pursuant to chapter 277A of NRS in a county whose population is ~~1400,000~~ **700,000** or more.

(d) "Local government" means any political subdivision of the State, including, without limitation, any county, city, town, board, airport authority, fire protection district, irrigation district, school district, hospital district or other special district which performs a governmental function and which is located within the jurisdiction of the commission.

(e) "Location" means a parcel of real property which:

(1) Is owned by the State or by a local government;

(2) Is adjacent to a public highway; and

(3) Contains a bench, shelter or transit stop for passengers of public transportation.

(f) "Public highway" means any street, road, alley, thoroughfare, way or place of any kind used by the public or open to the use of the public as a matter of right for the purpose of vehicular traffic.

Sec. 2. 1. On or before February 1, 2013, the commission shall submit a report on the designation and construction by the commission of bus turnouts pursuant to NRS 278.02587, as amended by section 1 of this act, and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmission to the 77th Session of the Nevada Legislature.

2. As used in this section:

(a) "Bus" has the meaning ascribed to it in NRS 484A.030.

(b) "Bus turnout" means a fixed area that is:

(1) Adjacent or appurtenant to, or within reasonable proximity of, a public highway; and

(2) To be occupied exclusively by buses in receiving or discharging passengers.

(c) "Commission" means the regional transportation commission created and organized pursuant to chapter 277A of NRS in a county whose population is ~~1400,000~~ **700,000** or more.

(d) "Public highway" means any street, road, alley, thoroughfare, way or place of any kind used by the public or open to the use of the public as a matter of right for the purpose of vehicular traffic.

Sec. 3. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 4. 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.

Amendment No. 20 to Senate Bill No. 137 requires the Regional Transportation Commission of Southern Nevada to establish a technical advisory committee to meet with and work cooperatively with utility companies and franchise holders who may be impacted by the construction of a bus turnout specified in the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 151.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 467.

"SUMMARY—Requires certain governmental entities to ~~work cooperatively to establish the Henderson to North Las Vegas Fixed Guideway Corridor.~~ **develop a plan for a regional rapid transit system.** (BDR ~~{S-612}~~ **22-612**)"

"AN ACT relating to transportation; requiring certain governmental entities **in certain counties** to ~~work cooperatively to establish the Henderson to North Las Vegas Fixed Guideway Corridor;~~ requiring those entities, to the extent practicable, to acquire any necessary rights-of-way for that purpose;~~;~~ **develop a plan for a regional rapid transit system;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill requires ~~{Clark County, the Cities of Henderson, Las Vegas and North Las Vegas and the Department of Transportation to work cooperatively to establish the Henderson to North Las Vegas Fixed Guideway Corridor, a fixed guideway to be constructed beginning at Nevada State College in the City of Henderson, running through the City of Henderson, a portion of the unincorporated area of Clark County, the City of Las Vegas and the City of North Las Vegas, and ending at the North Las Vegas regional campus of the University of Nevada, Las Vegas. This bill also requires those entities to acquire, to the extent practicable, any necessary rights-of-way to establish the fixed guideway.}~~ **the regional transportation commission in any county whose population is 700,000 or more (currently Clark County) to establish a regional rapid transit authority. The authority is required to analyze various considerations concerning the development of a regional rapid transit system, to develop a plan for such a system and to report to the appropriate**

committees of the Legislature the progress made on such analyses and plan development.

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

Section 1. ~~{This act may be cited as the Henderson to North Las Vegas Fixed Guideway Corridor Act.}~~ **(Deleted by amendment.)**

Sec. 2. ~~{As used in this act:~~

~~— 1. "Fixed guideway" means a mass transportation facility which uses and occupies a separate right of way or rails exclusively for public transportation, including, without limitation, fixed rail, automated guideway transit and exclusive facilities for buses.~~

~~— 2. "Henderson to North Las Vegas Fixed Guideway Corridor" means the three interconnected corridors in Clark County located along the Union Pacific Railroad to be further specified by the Regional Transportation Commission of Southern Nevada, which must include:~~

~~— (a) A segment running between Nevada State College in the City of Henderson and the South Strip Intermodal Transportation Terminal in the unincorporated area of Clark County;~~

~~— (b) A segment running between the South Strip Intermodal Transportation Terminal and the Central City Intermodal Transportation Terminal in the City of Las Vegas; and~~

~~— (c) A segment running between the Central City Intermodal Transportation Terminal and the North Las Vegas regional campus of the University of Nevada, Las Vegas.}~~ **(Deleted by amendment.)**

Sec. 3. ~~{1. Clark County, the City of Henderson, the City of Las Vegas, the City of North Las Vegas and the Department of Transportation shall work cooperatively to establish the Henderson to North Las Vegas Fixed Guideway Corridor.~~

~~— 2. The entities specified in subsection 1 shall, to the extent practicable, acquire and use any rights of way necessary to establish the Henderson to North Las Vegas Fixed Guideway Corridor, including, without limitation, the Henderson branch of the Union Pacific Railroad.}~~ **(Deleted by amendment.)**

Sec. 4. Chapter 277A of NRS is hereby amended by adding thereto a new section to read as follows:

1. In a county whose population is 700,000 or more, the commission shall establish a regional rapid transit authority. The membership of the regional rapid transit authority must consist of:

(a) The general manager of the commission, who shall act as chair of the authority;

(b) One member appointed by the board of county commissioners;

(c) Three members, one from each of the three largest cities within the county, who are appointed by the respective governing bodies of each city;

(d) One member selected by the association of gaming establishments whose membership collectively paid the most gaming license fees to the State pursuant to NRS 463.370 in the county in the preceding year;

(e) One member who is selected by the economic development authority in the county;

(f) One member selected by the Department of Transportation; and

(g) One member who has expertise in urban planning and design or architecture selected by the Nevada Arts Council.

2. The regional rapid transit authority shall develop a plan for the establishment of a regional rapid transit system:

(a) In cooperation with economic development, engineering, planning and tourism interests in the county; and

(b) With the goal of quantifying the implications of introducing an exclusive rapid transit system in identified corridors in the county.

3. In carrying out its duties pursuant to subsection 2, the regional rapid transit authority shall:

(a) Hold public meetings to, without limitation:

(1) Evaluate the need for and desirability of a regional rapid transit system;

(2) Assess corridor and route feasibility and desirability; and

(3) Review existing mass transit options to determine how to incorporate such options into a regional rapid transit system;

(b) Undertake an analysis of various considerations involved with introducing and implementing a regional rapid transit system in the county, including, without limitation:

(1) An assessment of the available rapid transit technologies, including, without limitation, technologies that use solar power or other renewable energy sources to minimize or eliminate the use of carbon-based fuels;

(2) An assessment of the opportunities, costs and constraints of corridor options, including, without limitation:

(I) An examination and evaluation of existing rail corridors and transit routes for inclusion in the regional rapid transit system;

(II) An evaluation of potential sites for stations and facilities for the regional rapid transit system; and

(III) Identification of locations in the county that would benefit most from proximity to a regional rapid transit system, including, without limitation, airports and existing or proposed special event venues such as stadiums and racetracks;

(3) Estimates as to capital and operating costs;

(4) An assessment of potential ridership and passenger demand;

(5) An assessment of the environmental impact;

(6) A potential project schedule; and

(7) An assessment of financing options and funding sources, including, without limitation:

(I) Processes for securing federal funding; and

(II) The potential for voter approval for bonds to support any portion of the regional rapid transit system.

4. On or before February 1 of each year, the regional rapid transit authority shall submit a written report to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committee or committees of the Legislature. The report must set forth, without limitation:

(a) The activities and meetings of the authority;

(b) Any findings made by the authority regarding the analysis required by subsection 3; and

(c) The plan or current draft of the plan developed by the authority pursuant to subsection 2.

Sec. 5. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

~~{Sec. 4.}~~ **Sec. 6.** This act becomes effective upon passage and approval.

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. 467 to Senate Bill No. 151 deletes all existing provisions in the bill. The amendment instead requires a regional transportation commission in a county of 700,000 or more, currently only Clark County, to establish a regional rapid transit authority. The authority is required to analyze various considerations concerning the development of a regional rapid transit system, to develop a plan for such a system and to report to the appropriate committees of the Legislature on their progress.

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 Legislative Operations and Elections:

Amendment No. 512.

"SUMMARY—Revises provisions governing petitions for initiative or referendum. (BDR 24-537)"

"AN ACT relating to elections; requiring the formation of a petitioners' committee before commencing proceedings for statewide initiative or referendum; authorizing the withdrawal of a petition for statewide initiative or referendum in certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the registered voters of each county and municipality to propose local, special and municipal legislation by initiative or referendum. (Nev. Const. Art. 19, § 4) Before circulating a county or municipal petition for initiative or referendum, five registered voters of the county or city, as applicable, must form a petitioners' committee and file certain information with the county clerk or city clerk, as appropriate.

(NRS 295.095, 295.205) A petition for county or municipal initiative or referendum may be withdrawn by four of the five members of the petitioners' committee. (NRS 295.115, 295.215)

Existing law authorizes the people of the State of Nevada to propose constitutional amendments and statewide measures by initiative or referendum. (Nev. Const. Art. 19, §§ 1, 2) Similar to the requirements relating to county and municipal initiative or referendum, **section 1** of this bill requires the formation of a petitioners' committee consisting of any five registered voters of this State before the commencement of statewide initiative or referendum proceedings. **Section 1** also authorizes four of the five members of the petitioners' committee to withdraw a petition for statewide initiative or referendum.

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

Section 1. NRS 295.015 is hereby amended to read as follows:

295.015 1. *Any five registered voters of the State may commence initiative or referendum proceedings by filing with the Secretary of State an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent.*

2. Before a petition for initiative or referendum may be presented to the registered voters for their signatures, *the petitioners' committee must place* a copy of the petition for initiative or referendum, including the description required pursuant to NRS 295.009, ~~{must be placed}~~ on file with the Secretary of State.

~~{2-}~~ 3. If a petition for initiative or referendum or a description of the effect of an initiative or referendum required pursuant to NRS 295.009 is amended after the petition is placed on file with the Secretary of State pursuant to subsection ~~{1-}~~ 2:

(a) The revised petition must be placed on file with the Secretary of State before it is presented to the registered voters for their signatures;

(b) Any signatures that were collected on the original petition before it was amended are not valid; and

(c) The requirements for submission of the petition to each county clerk set forth in NRS 295.056 apply to the revised petition.

~~{3-}~~ 4. Upon receipt of a petition for initiative or referendum placed on file pursuant to subsection ~~{1-or 2-}~~ 2 or 3:

(a) The Secretary of State shall consult with the Fiscal Analysis Division of the Legislative Counsel Bureau to determine if the initiative or referendum may have any anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters. If the Fiscal Analysis Division determines that the initiative or referendum may have an anticipated financial effect on the State or local governments if the initiative or

referendum is approved by the voters, the Division must prepare a fiscal note that includes an explanation of any such effect.

(b) The Secretary of State shall consult with the Legislative Counsel regarding the petition for initiative or referendum. The Legislative Counsel may provide technical suggestions regarding the petition for initiative or referendum.

~~{4.}~~ 5. Not later than 10 business days after the Secretary of State receives a petition for initiative or referendum filed pursuant to subsection ~~{1- or 2.}~~ 2 or 3, the Secretary of State shall post a copy of the petition, including the description required pursuant to NRS 295.009, any fiscal note prepared pursuant to subsection ~~{3.}~~ 4 and any suggestions made by the Legislative Counsel pursuant to subsection ~~{3.}~~ 4, on the Secretary of State's Internet website.

6. A petition may be withdrawn:

(a) If the petition is for an initiative that proposes an amendment to the Constitution of this State, ~~at any time before the absent ballots for the first general election at which the question of approval or disapproval of the amendment will be voted upon are prepared and distributed to registered voters who reside outside the State pursuant to NRS 293.309~~ by filing with the Secretary of State a request for withdrawal signed by at least four members of the petitioners' committee ~~at any time on or before 5 p.m. on the third Friday after the first Monday in March of the year of the first general election at which the question of approval or disapproval of the amendment will be voted upon.~~ Upon the filing of that request, the petition has no further effect and all proceedings thereon must be terminated.

(b) If the petition is for an initiative that proposes a statute or an amendment to a statute, and except as otherwise provided in this paragraph, ~~at any time before the absent ballots for the general election at which the question of approval or disapproval of the statute or amendment will be voted upon are prepared and distributed to registered voters who reside outside the State pursuant to NRS 293.309~~ by filing with the Secretary of State a request for withdrawal signed by at least four members of the petitioners' committee ~~at any time on or before 5 p.m. on the third Friday after the first Monday in March of the year of the general election at which the question of approval or disapproval of the statute or amendment to the statute will be voted upon.~~ Upon the filing of that request, the petition has no further effect and all proceedings thereon must be terminated. A petition for an initiative that proposes a statute or an amendment to a statute may not be withdrawn pursuant to this paragraph if the proposed statute or amendment to a statute is enacted by the Legislature and approved by the Governor.

(c) If the petition is for a referendum, ~~at any time before the absent ballots for the general election at which the question of approval or disapproval of the referendum will be voted upon are prepared and~~

~~distributed to registered voters who reside outside the State pursuant to NRS 293.309] by filing with the Secretary of State a request for withdrawal signed by at least four members of the petitioners' committee ~~and~~ at any time on or before 5 p.m. on the third Friday after the first Monday in March of the year of the general election at which the question of approval or disapproval of the referendum will be voted upon. Upon the filing of that request, the petition has no further effect and all proceedings thereon must be terminated.~~

Sec. 2. NRS 295.056 is hereby amended to read as follows:

295.056 1. Before a petition for initiative or referendum is filed with the Secretary of State, the ~~petitioners]~~ **petitioners' committee** must submit to each county clerk for verification pursuant to NRS 293.1276 to 293.1279, inclusive, the document or documents which were circulated for signature within the clerk's county. The clerks shall give the person submitting a document or documents a receipt stating the number of documents and pages and the person's statement of the number of signatures contained therein.

2. If a petition for initiative proposes a statute or an amendment to a statute, the document or documents must be submitted not later than the second Tuesday in November of an even-numbered year.

3. If a petition for initiative proposes an amendment to the Constitution, the document or documents must be submitted not later than the third Tuesday in May of an even-numbered year.

4. If the petition is for referendum, the document or documents must be submitted not later than the third Tuesday in May of an even-numbered year.

5. All documents which are submitted to a county clerk for verification must be submitted at the same time. If documents concerning the same petition are submitted for verification to more than one county clerk, the documents must be submitted to each county clerk on the same day. At the time that the petition is submitted to a county clerk for verification, the ~~petitioners]~~ **petitioners' committee** may designate a contact person who is authorized ~~by the petitioners]~~ to address questions or issues relating to the petition.

Sec. 3. 1. The amendatory provisions of this act apply to a petition for initiative or referendum which was placed on file with the Secretary of State pursuant to NRS 295.015 before the effective date of this act.

2. The person who placed the petition for initiative or referendum on file with the Secretary of State pursuant to subsection 1 of NRS 295.015 before the effective date of this act must, not later than 90 days after the effective date of this act, submit to the Secretary of State a list of the five persons who compose the petitioners' committee and the information about the petitioners' committee required by NRS 295.015, as amended by section 1 of this act.

Sec. 4. This act becomes effective upon passage and approval.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

Senate Bill No. 170 relates to petitioners' committees. Amendment No. 512 makes the following changes. Petitions may be withdrawn at any time on or before the third Friday after the first Monday in March of the year in which the question will be placed on the general election ballot. That provision was requested by the registrars of the various counties.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 177.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 332.

"SUMMARY—Revises provisions governing the ~~wearing of protective headgear when operating motorcycles.~~ **equipment and training required to operate a motorcycle.** (BDR 43-571)"

"AN ACT relating to motorcycles; revising provisions governing the wearing of protective headgear when operating motorcycles under certain circumstances; **requiring that all applicants for a motorcycle driver's license complete an approved motorcycle safety course;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law defines a motorcycle to mean a motor vehicle equipped with a seat or a saddle to travel on not more than three wheels, specifically excluding an electric bicycle, a tractor and a moped. (NRS 486.041) **Under existing law, an applicant for a motorcycle driver's license is required to complete a written examination and driving test or complete a course of motorcycle safety approved by the Department of Motor Vehicles. (NRS 486.071) Sections 1-3 of this bill require all applicants for a motorcycle driver's license or a motorcycle endorsement to a driver's license to successfully complete an approved motorcycle safety course. Section 5 of this bill exempts a person who obtains such a license or endorsement before July 1, 2011, from the requirement to successfully complete an approved motorcycle safety course.** Existing law requires drivers and passengers of motorcycles that are driven on a highway to wear protective headgear and exempts drivers and passengers of trimobles and mopeds from the requirement. (NRS 486.231) ~~[[This]]~~ **Section 4 of this bill** eliminates the requirement of wearing protective headgear for drivers of motorcycles who: (1) are 21 years of age or older; **and** (2) have possessed a valid motorcycle license for not less than 1 year. ~~[[and (3) have completed an approved motorcycle safety course. This bill]]~~ **Section 4** also removes the exception from these requirements concerning protective headgear for trimobles and mopeds. ~~[[Finally, this bill]]~~ **Additionally, section 4** eliminates the requirement of wearing protective headgear for a passenger of a motorcycle who is 21 years of age or older.

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

Section 1. NRS 486.071 is hereby amended to read as follows:

486.071 Except as otherwise provided in NRS 486.161, the Department shall not issue a motorcycle driver's license unless the applicant:

1. Is at least 16 years of age; and
2. Has successfully completed:
 - (a) Such written examination and driving test as may be required by the Department; ~~for~~ **and**
 - (b) A course of motorcycle safety approved by the Department.

Sec. 2. NRS 486.131 is hereby amended to read as follows:

486.131 1. The Department may require every applicant for a motorcycle driver's license to submit to an examination conducted by the Department. ~~for successfully complete a course of motorcycle safety approved by the Department.~~

2. An examination may be held in the county where the applicant resides within 30 days after the date application is made and may include:

- (a) A test of the applicant's ability to understand official devices used to control traffic;
- (b) A test of the applicant's knowledge of practices for safe driving and the traffic laws of this State;
- (c) Except as otherwise provided in a regulation adopted pursuant to subsection 2 of NRS 483.330, a test of the applicant's eyesight; and
- (d) An actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motorcycle.

➤ The examination may also include such further physical and mental examination as the Department finds necessary to determine the applicant's fitness to drive a motorcycle safely upon the highways.

Sec. 3. NRS 486.161 is hereby amended to read as follows:

486.161 1. Except as otherwise provided in subsection 4, every motorcycle driver's license expires on the fourth anniversary of the licensee's birthday, measured in the case of an original license, a renewal license or a license renewing an expired license, from the birthday nearest the date of issuance or renewal. Any applicant whose date of birth is February 29 is, for the purposes of NRS 486.011 to 486.381, inclusive, considered to have the anniversary of his or her birth fall on February 28.

2. Every license is renewable at any time before its expiration upon application, submission of the statement required pursuant to NRS 486.084 and payment of the required fee. Every motorcycle endorsement to a driver's license issued on or after January 1, 1972, expires simultaneously with the expiration of the driver's license.

3. Except as otherwise provided in subsection 1 of NRS 483.384, each applicant for renewal must appear before an examiner for a driver's license and successfully pass a test of the applicant's eyesight.

4. Any person who has been issued a driver's license without having the authority to drive a motorcycle endorsed thereon must, before driving a motorcycle, successfully ~~pass~~:

(a) ~~Pass such~~ driving test ~~conducted~~ **as may be required** by the Department; ~~for~~ **and**

(b) ~~Complete a~~ course of motorcycle safety approved by the Department,

and have the authority endorsed upon the license.

~~Section 1.~~ **Sec. 4.** NRS 486.231 is hereby amended to read as follows:

486.231 1. The Department shall adopt standards for protective headgear and protective glasses, goggles or face shields to be worn by the drivers and passengers of motorcycles and transparent windscreens for motorcycles.

2. Except as *otherwise* provided in this section, when any motorcycle ~~except a trimobile or moped~~ is being driven on a highway ~~it~~:

(a) *The driver shall wear protective headgear which meets the standards adopted pursuant to subsection 1 and is securely fastened on his or her head, unless the driver:*

(1) *Is 21 years of age or older; and*

(2) *Has been licensed to operate a motorcycle for not less than 1 year* ~~and~~

~~(3) *Has completed a course of instruction on motorcycle safety that has been approved pursuant to NRS 486.372.*~~

(b) *A passenger of a motorcycle shall wear protective headgear which meets the standards adopted pursuant to subsection 1 and is securely fastened on his or her head, unless the passenger is 21 years of age or older.*

(c) *Both the driver and passenger shall wear ~~protective headgear securely fastened on the head and~~ protective glasses, goggles or face shields ~~meeting those standards. Drivers and passengers of trimobiles shall wear protective glasses, goggles or face shields~~ which meet ~~those~~ the standards ~~it~~ adopted pursuant to subsection 1.*

3. When a motorcycle ~~for a trimobile~~ is equipped with a transparent windscreen ~~meeting those standards,~~ *which meets the standards adopted pursuant to subsection 1*, the driver and passenger are not required to wear *protective* glasses, goggles or face shields.

4. When a motorcycle is being driven in a parade authorized by a local authority, the driver and passenger are not required to wear the protective devices provided for in this section.

5. When a three-wheel motorcycle on which the driver and passengers ride within an enclosed cab is being driven on a highway, the driver and passengers are not required to wear the protective devices required by this section.

Sec. 5. Notwithstanding the amendatory provisions of this act, the requirement to successfully complete an approved motorcycle safety course before obtaining a motorcycle driver's license or a motorcycle endorsement to a driver's license does not apply to a person who obtains such a license or endorsement before July 1, 2011.

Sec. 6. This act becomes effective upon passage and approval.

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. 332 to Senate Bill No. 177 requires all applicants for a motorcycle driver's license or a motorcycle endorsement to a driver's license, to successfully complete an approved motorcycle safety course. This provision is effective from July 1, 2011 forward; anyone who already holds such a license or endorsement is not required to complete the course.

The amendment changes the effective date of the bill by making it effective upon passage and approval.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 185.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 521.

"SUMMARY—Makes various changes relating to real property. (BDR 10-23)"

"AN ACT relating to real property; providing for the regulation of private transfer fee obligations affecting real property; revising the disclosures that a seller of real property must make to a buyer to include certain information concerning private transfer fee obligations; ~~revising provisions governing fees charged for products or services provided to owners of units in a common-interest community; prohibiting the use of information from radar guns as a basis for a fine or penalty in a common-interest community;~~ requiring certain additional information to be included in the declaration of a common-interest community; amending provisions governing the composition of the executive board of an association of a common-interest community; revising provisions relating to hearings on alleged violations of the governing documents of a common-interest community; revising provisions governing civil actions ~~commenced~~ to protect health, safety and welfare within a common-interest community; amending provisions governing fees imposed by an association upon the sale of real property within a common-interest community; making various other changes relating to common-interest communities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1-14 of this bill regulate obligations created by a conveyance or other instrument affecting the title to real property that require the payment

of a fee to a payee upon a subsequent transfer of an interest in the real property. **Section 10** provides that certain transfer fee obligations created or recorded in this State on or after July 1, 2011, are void and unenforceable. **Sections 11 and 12** impose certain requirements on the payee under a private transfer fee obligation created before July 1, 2011. If a payee does not comply with these requirements, the private transfer fee obligation becomes void and unenforceable and, under **section 13**, the payee is subject to civil liability. **Section 14** revises the disclosures that a seller of real property must make to a buyer by requiring a seller of real property that is subject to a private transfer fee obligation to furnish to the buyer a written statement disclosing certain information concerning the private transfer fee obligation.

~~‡ Existing law authorizes homeowners' associations to impose and receive various fees for services provided to units' owners. (NRS 116.3102, 116.3108, 116.31083, 116.31175, 116.4109) Sections 16, 19, 20, 22, 23, 26-33 and 35 of this bill revise the provisions governing fees charged by homeowners' associations. According to these sections, from July 1, 2011, through September 30, 2012, an association is prohibited from charging a fee for a good or service provided to a unit's owner, tenant or invitee in an amount which exceeds: (1) the actual cost incurred by the association to provide the good or service; or (2) the maximum amount of the fee authorized by statute or by a regulation adopted by the Commission for Common-Interest Communities and Condominium Hotels. On and after October 1, 2012, a homeowners' association is prohibited from charging a fee for a good or service provided to a unit's owner, tenant or invitee unless: (1) the fee is specifically authorized by statute or by a regulation adopted by the Commission; and (2) the maximum amount of the fee is established by statute or by a regulation adopted by the Commission. The amounts of certain existing fees which have been prescribed by statute remain effective until October 1, 2012, or the effective date of a regulation adopted by the Commission which prescribes the maximum amount of the fee, whichever is later.~~

~~—Section 17 of this bill prohibits a common-interest community from using information from radar guns as the basis for a fine or penalty.‡~~

Section 18 of this bill requires the declaration creating the common-interest community to contain information concerning: (1) any restrictions on the ability of a unit's owner to rent or lease his or her unit; and (2) **describing the responsibilities of the association with respect to the maintenance, repair and replacement of the common elements, specific limited common elements and other specific areas within the common-interest community, and the responsibility of each unit's owner for maintenance, repair and replacement of his or her unit.**

Section 21 of this bill replaces the requirement that all members of the executive board of an association be units' owners with a requirement that at

least a majority of the members of the executive board be units' owners unless the declaration provides otherwise.

Existing law requires the executive board to meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned requests an open hearing. Under existing law, if the person who may be sanctioned requests an open hearing, that person has certain rights with respect to the hearing. (NRS 116.31085) **Section 24** of this bill requires that the person who may be sanctioned be provided these rights whether or not the person requests an open hearing.

Existing law requires a homeowner's association to obtain the approval of units' owners before commencing certain civil actions. However, existing law authorizes an association to commence a civil action without such approval if the civil action is commenced to protect the health, safety and welfare of the members of the association. (NRS 116.31088) **Section 25** of this bill ~~requires~~ **provides that** an association ~~which has commenced~~, **or the executive board acting on behalf of an association, may not retain an attorney for the purpose of considering or commencing** such a civil action without the preapproval of its members. ~~It to apply for and obtain court approval to proceed with the civil action. Under section 25, if the court makes certain findings, the association may proceed with the civil action and the civil action must be ratified by the units' owners within 90 days after the court's approval.~~

Existing law authorizes an association to charge 25 cents per page for providing copies of certain documents to a unit's owner. (NRS 116.31177, 116.4109) Sections 27 and 30 of this bill provide that an association may charge 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

Existing law authorizes an association to charge certain fees for furnishing certain documents and certificates in connection with the resale of a unit. (NRS 116.4109) **Sections 30 and 31** of this bill prohibit an agreement entered into by the association for the furnishing of such documents or certificates from allowing a unit's owner to be charged a fee exceeding the amount which the association is authorized to charge. ~~In addition, under sections 30 and 35 of this bill, from July 1, 2011, through September 30, 2012, an association is prohibited from charging a unit's owner any fee related to the resale of a unit that is not specifically authorized, except that the association may charge a fee to cover the actual cost of transferring the unit to a new owner in the books and records of the association. Under sections 31, 33 and 35, on and after October 1, 2012, the association is prohibited from charging any fee related to the resale of a unit, unless the fee is authorized, and the maximum amount of the fee established, by statute or regulation.~~

~~—Section 32 of this bill revises provisions governing the nonbinding arbitration of certain claims relating to residential property subject to covenants, conditions and restrictions to: (1) prohibit the award of costs and~~

~~attorney's fees to the parties to the arbitration unless, during a proceeding to confirm an award, a court finds that a party has asserted a frivolous or vexatious claim or engaged in conduct for the purpose of harassment or delay; (2) require the parties to pay an equal share of the arbitrator's fees and expenses in certain circumstances; and (3) allow a party to apply to vacate the arbitration award if another party has applied to confirm the award.]~~

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

Section 1. Chapter 111 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this act.

Sec. 2. *As used in sections 2 to 13, inclusive, of this act, the words and terms defined in sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Buyer" includes, without limitation, a grantee or other transferee of an interest in real property.*

Sec. 4. *"Payee" means the natural person to whom or the entity to which a private transfer fee is to be paid and the successors or assigns of the natural person or entity.*

Sec. 5. 1. *"Private transfer fee" means a fee or charge required by a private transfer fee obligation and payable upon the transfer of an interest in real property, or payable for the right to make or accept such a transfer, regardless of whether the fee or charge is a fixed amount or is determined as a percentage of the value of the interest in real property or the purchase price or other consideration paid for the transfer of the interest in real property.*

2. *The term does not include any:*

(a) Consideration payable by the buyer to the seller for the interest in real property being transferred, including any subsequent additional consideration payable by the buyer based upon any subsequent appreciation, development or sale of the property if the additional consideration is payable on a one-time basis only and the obligation to make the payment does not bind successors in title to the property;

(b) Commission payable to a licensed real estate broker for the transfer of real property pursuant to an agreement between the broker and the seller or buyer, including any subsequent additional commission payable by the seller or buyer based upon any subsequent appreciation, development or sale of the property;

(c) Interest, charge, fee or other amount payable by a borrower to a lender pursuant to a loan secured by a mortgage on real property, including, without limitation, any fee payable to the lender for consenting to an assumption of the loan or a transfer of the real property, any amount paid to the lender pursuant to an agreement which gives the lender the right to share in any subsequent appreciation in the value of the property and any other consideration payable to the lender in connection with the loan;

(d) *Rent, reimbursement, charge, fee or other amount payable by a lessee to a lessor under a lease, including, without limitation, any fee payable to the lessor for consenting to any assignment, subletting, encumbrance or transfer of the lease;*

(e) *Consideration payable to the holder of an option to purchase an interest in real property or to the holder of a right of first refusal to purchase an interest in real property for waiving, releasing or not exercising the option or right upon the transfer of the real property to another person;*

(f) *Tax, fee, charge, assessment, fine or other amount payable to or imposed by a governmental entity; ~~or~~*

(g) *Fee, charge, assessment, fine or other amount payable to an association of property owners or any other form of organization of property owners, including, without limitation, a unit-owners' association or master association of a common-interest community, a unit-owners' association of a condominium hotel or an association of owners of a time-share plan, pursuant to a declaration, covenant or specific statute applicable to the association or organization ~~or~~; or*

(h) *Any fee or charge payable to the master developer of a planned community on account of the failure of an owner of real property to construct a residence and own that residence for a specified period before a subsequent sale, as set forth in a document which is recorded before the date on which the master developer initially sells the real property and which binds all subsequent owners of the real property.*

Sec. 6. "Private transfer fee obligation" means an obligation created by a conveyance or other instrument affecting the title to real property that requires the payment of a private transfer fee to a payee upon a subsequent transfer of an interest in the real property.

Sec. 7. "Seller" includes, without limitation, a grantor or other transferor of an interest in real property.

Sec. 8. "Transfer" means the sale, gift, conveyance, assignment, inheritance or other transfer of an interest in real property.

Sec. 9. The Legislature finds and declares that:

1. The public policy of this State favors the marketability of real property and the transferability of interests in real property free of defects in title or unreasonable restraints on the alienation of real property; and

2. A private transfer fee obligation violates the public policy of this State by impairing the marketability and transferability of real property and by constituting an unreasonable restraint on the alienation of real property regardless of the duration or amount of the private transfer fee or the method by which the private transfer fee obligation is created or imposed.

Sec. 10. 1. Except as otherwise provided in section 11 of this act:

(a) A person shall not, on or after July 1, 2011, create or record a private transfer fee obligation in this State; and

(b) A private transfer fee obligation that is created or recorded in this State on or after July 1, 2011, is void and unenforceable.

2. The provisions of subsection 1 do not validate or make enforceable any private transfer fee obligation that was created or recorded in this State before July 1, 2011.

Sec. 11. 1. The payee under a private transfer fee obligation that was created before July 1, 2011, shall, on or before December 31, 2011, record in the office of the county recorder of the county in which the real property that is subject to the private transfer fee obligation is located a notice which includes:

(a) The title "Notice of Private Transfer Fee Obligation" in not less than 14-point boldface type;

(b) The legal description of the real property;

(c) The amount of the private transfer fee or the method by which the private transfer fee must be calculated;

(d) If the real property is residential property, the amount of the private transfer fee that would be imposed on the sale of a home for \$100,000, the sale of a home for \$250,000 and the sale of a home for \$500,000;

(e) The date or circumstances under which the private transfer fee obligation expires, if any;

(f) The purpose for which the money received from the payment of the private transfer fee will be used;

(g) The name, address and telephone number of the payee; and

(h) If the payee is:

(1) A natural person, the notarized signature of the payee; or

(2) An entity, the notarized signature of an authorized officer or employee of the entity.

2. Upon any change in the information set forth in the notice described in subsection 1, the payee may record an amendment to the notice.

3. If the payee fails to comply with the requirements of subsection 1:

(a) The private transfer fee obligation is void and unenforceable and any interest in the real property that is subject to the private transfer fee obligation may thereafter be conveyed free and clear of the private transfer fee obligation; and

(b) The payee is subject to the liability described in section 13 of this act.

4. Any person with an interest in the real property that is subject to the private transfer fee obligation may record in the office of the county recorder of the county in which the real property is located an affidavit which:

(a) States that the affiant has actual knowledge of, and is competent to testify to, the facts set forth in the affidavit;

(b) Sets forth the legal description of the real property that is subject to the private transfer fee obligation;

(c) Sets forth the name of the owner of the real property as recorded in the office of the county recorder;

(d) States that the private transfer fee obligation was created before July 1, 2011, and specifies the date on which the private transfer fee obligation was created;

(e) States that the payee under the private transfer fee obligation failed on or before December 31, 2011, to record in the office of the county recorder of the county in which the real property that is subject to the private transfer fee obligation is located a notice which complies with the requirements of subsection 1; and

(f) Is signed by the affiant under penalty of perjury.

5. When properly recorded, the affidavit described in subsection 4 constitutes prima facie evidence that:

(a) The real property described in the affidavit was subject to a private transfer fee obligation that was created before July 1, 2011;

(b) The payee under the private transfer fee obligation failed on or before December 31, 2011, to record in the office of the county recorder of the county in which the real property that was subject to the private transfer fee obligation is located a notice which complies with the requirements of subsection 1; and

(c) The private transfer fee obligation is void and unenforceable and any interest in the real property that is subject to the private transfer fee obligation may thereafter be conveyed free and clear of the private transfer fee obligation.

Sec. 12. 1. If a written request for a written statement of the amount of the private transfer fee due upon the sale of real property is sent by certified mail, return receipt requested, to the payee under a private transfer fee obligation that was created before July 1, 2011, at the address appearing in the recorded notice described in section 11 of this act, the payee shall provide such a written statement to the person who requested the written statement not later than 30 days after the date of mailing.

2. If the payee fails to comply with the requirements of subsection 1:

(a) The private transfer fee obligation is void and unenforceable and any interest in the real property that is subject to the private transfer fee obligation may thereafter be conveyed free and clear of the private transfer fee obligation; and

(b) The payee is subject to the liability described in section 13 of this act.

3. The person who requested the written statement may record in the office of the county recorder of the county in which the real property is located an affidavit which:

(a) States that the affiant has actual knowledge of, and is competent to testify to, the facts set forth in the affidavit;

(b) Sets forth the legal description of the real property that is subject to the private transfer fee obligation;

(c) Sets forth the name of the owner of the real property as recorded in the office of the county recorder;

(d) Expressly refers to the recorded notice described in section 11 of this act by:

(1) The date on which the notice was recorded in the office of the county recorder; and

(2) The book, page and document number, as applicable, of the recorded notice;

(e) States that a written request for a written statement of the amount of the private transfer fee due upon the sale of the real property was sent by certified mail, return receipt requested, to the payee at the address appearing in the recorded notice described in section 11 of this act, and that the payee failed to provide such a written statement to the person who requested the written statement within 30 days after the date of mailing; and

(f) Is signed by the affiant under penalty of perjury.

4. When properly recorded, the affidavit described in subsection 3 constitutes prima facie evidence that:

(a) A written request for a written statement of the amount of the private transfer fee due upon the sale of the real property was sent by certified mail, return receipt requested, to the payee at the address appearing in the recorded notice described in section 11 of this act;

(b) The payee failed to provide such a written statement to the person who requested the written statement within 30 days after the date of mailing; and

(c) The private transfer fee obligation is void and unenforceable and any interest in the real property that is subject to the private transfer fee obligation may thereafter be conveyed free and clear of the private transfer fee obligation.

Sec. 13. 1. Any person who fails to comply with a requirement imposed by subsection 1 of section 11 of this act or subsection 1 of section 12 of this act is liable for all:

(a) Damages resulting from the enforcement of the private transfer fee obligation upon the transfer of an interest in the real property, including, without limitation, the amount of any private transfer fee paid by a party to the transfer; and

(b) Attorney's fees, expenses and costs incurred by a party to the transfer or mortgagee of the real property to recover any private transfer fee paid or in connection with an action to quiet title.

2. A principal is liable pursuant to this section for the acts or omissions of an authorized agent of the principal.

Sec. 14. Chapter 113 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A seller of real property that is subject to a private transfer fee obligation shall furnish to the buyer a written statement which discloses the existence of the private transfer fee obligation, includes a description of the

private transfer fee obligation and sets forth a notice in substantially the following form:

A private transfer fee obligation has been created with respect to this property. The private transfer fee obligation may lower the value of this property. The laws of this State prohibit the enforcement of certain private transfer fee obligations that are created or recorded on or after July 1, 2011 (section 10 of this act), and impose certain notice requirements with respect to private transfer fee obligations that were created before July 1, 2011 (section 11 of this act).

2. As used in this section, "private transfer fee obligation" has the meaning ascribed to it in section 6 of this act.

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. NRS 116.2105 is hereby amended to read as follows:

116.2105 1. The declaration must contain:

(a) The names of the common-interest community and the association and a statement that the common-interest community is either a condominium, cooperative or planned community;

(b) The name of every county in which any part of the common-interest community is situated;

(c) A sufficient description of the real estate included in the common-interest community;

(d) A statement of the maximum number of units that the declarant reserves the right to create;

(e) In a condominium or planned community, a description of the boundaries of each unit created by the declaration, including the unit's identifying number or, in a cooperative, a description, which may be by plats, of each unit created by the declaration, including the unit's identifying number, its size or number of rooms, and its location within a building if it is within a building containing more than one unit;

(f) A description of any limited common elements, other than those specified in subsections 2 and 4 of NRS 116.2102, as provided in paragraph (g) of subsection 2 of NRS 116.2109 and, in a planned community, any real estate that is or must become common elements;

(g) A description of any real estate, except real estate subject to developmental rights, that may be allocated subsequently as limited common elements, other than limited common elements specified in subsections 2 and 4 of NRS 116.2102, together with a statement that they may be so allocated;

(h) A description of any developmental rights and other special declarant's rights reserved by the declarant, together with a legally sufficient description of the real estate to which each of those rights applies, and a time within which each of those rights must be exercised;

(i) If any developmental right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with:

(1) Either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each developmental right or a statement that no assurances are made in those regards; and

(2) A statement whether, if any developmental right is exercised in any portion of the real estate subject to that developmental right, that developmental right must be exercised in all or in any other portion of the remainder of that real estate;

(j) Any other conditions or limitations under which the rights described in paragraph (h) may be exercised or will lapse;

(k) An allocation to each unit of the allocated interests in the manner described in NRS 116.2107;

(l) Any restrictions:

(1) On use, occupancy and alienation of the units ~~{ }~~ , *including, without limitation, a clear and conspicuous statement written in plain English, in bold type and in a font that is easy to read indicating whether a unit's owner is prohibited from renting or leasing his or her unit and whether a unit's owner is required to secure or obtain any approval from the association in order to rent or lease his or her unit;* and

(2) On the amount for which a unit may be sold or on the amount that may be received by a unit's owner on sale, condemnation or casualty to the unit or to the common-interest community, or on termination of the common-interest community;

(m) *A statement written in plain English ~~f~~*

~~— (1) Describing~~ *describing the provisions of NRS 116.3107 pertaining to the responsibility of the association for maintenance, repair and replacement of the common elements and the responsibility of each unit's owner for maintenance, repair and replacement of his or her unit; ~~and~~*

~~— (2) Identifying and describing the specific obligations, duties and responsibilities of the association with respect to the maintenance, repair and replacement of specific common elements, specific limited common elements and other specific areas within the common-interest community and identifying and describing any limitations or restrictions on such obligations, duties and responsibilities;~~

(n) The file number and book or other information to show where easements and licenses are recorded appurtenant to or included in the common-interest community or to which any portion of the common-interest community is or may become subject by virtue of a reservation in the declaration; and

~~{(n)}~~ (o) All matters required by NRS 116.2106 to 116.2109, inclusive, 116.2115 and 116.2116 and 116.31032.

2. The declaration may contain any other matters the declarant considers appropriate.

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, ~~{all}~~ ***at least a majority*** of whom must be units' owners. ***Unless the governing documents provide otherwise, the remaining members of the executive board are not required to be units' owners.*** The executive board shall elect the officers of the association. Unless the governing documents provide otherwise, the officers of the association are not required to be units' owners. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed 3 years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of the unit's owner's eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his or her name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. Before the secretary or other officer specified in the bylaws of the association causes notice to be given to each unit's owner of his or her eligibility to serve as a member of the executive board pursuant to subsection 4, the executive board may determine that if, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board at the election, then the secretary or other officer specified in the bylaws of the association will cause notice to be given to each unit's owner informing each unit's owner that:

(a) The association will not prepare or mail any ballots to units' owners pursuant to this section and the nominated candidates shall be deemed to be duly elected to the executive board unless:

(1) A unit's owner who is qualified to serve on the executive board nominates himself or herself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection; and

(2) The number of units' owners who submit such a nomination causes the number of candidates nominated for membership on the executive board to be greater than the number of members to be elected to the executive board.

(b) Each unit's owner who is qualified to serve as a member of the executive board may nominate himself or herself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection.

6. If the notice described in subsection 5 is given and if, at the closing of the prescribed period for nominations for membership on the executive board described in subsection 5, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board, then:

(a) The association will not prepare or mail any ballots to units' owners pursuant to this section;

(b) The nominated candidates shall be deemed to be duly elected to the executive board not later than 30 days after the date of the closing of the period for nominations described in subsection 5; and

(c) The association shall send to each unit's owner notification that the candidates nominated have been elected to the executive board.

7. If the notice described in subsection 5 is given and if, at the closing of the prescribed period for nominations for membership on the executive board described in subsection 5, the number of candidates nominated for membership on the executive board is greater than the number of members to be elected to the executive board, then the association shall:

(a) Prepare and mail ballots to the units' owners pursuant to this section; and

(b) Conduct an election for membership on the executive board pursuant to this section.

8. Each person who is nominated as a candidate for a member of the executive board pursuant to subsection 4 or 5 must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in

"good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

➡ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his or her candidacy information. Except as otherwise provided in this subsection, the association shall distribute the disclosures, on behalf of the candidate, to each member of the association with the ballot or, in the event ballots are not prepared and mailed pursuant to subsection 6, in the next regular mailing of the association. The association is not obligated to distribute any disclosure pursuant to this subsection if the disclosure contains information that is believed to be defamatory, libelous or profane.

9. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, the person's spouse or the person's parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, the person's spouse or the person's parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

10. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, the person shall file proof in the records of the association that:

(a) The person is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

11. Except as otherwise provided in subsection 6 or NRS 116.31105, the election of any member of the executive board must be conducted by secret written ballot in the following manner:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

12. An association shall not adopt any rule or regulation that has the effect of prohibiting or unreasonably interfering with a candidate in the candidate's campaign for election as a member of the executive board, except that the candidate's campaign may be limited to 90 days before the date that ballots are required to be returned to the association. A candidate may request that the secretary or other officer specified in the bylaws of the association send, 30 days before the date of the election and at the association's expense, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner a candidate informational statement. The candidate informational statement:

(a) Must be no longer than a single, typed page;

(b) Must not contain any defamatory, libelous or profane information; and

(c) May be sent with the secret ballot mailed pursuant to subsection 11 or in a separate mailing.

↪ The association and its directors, officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to this subsection.

13. Each member of the executive board shall, within 90 days after his or her appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that the member has read and understands the governing documents of the association and the provisions of this chapter to the best of his or her ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. NRS 116.31085 is hereby amended to read as follows:

116.31085 1. Except as otherwise provided in this section, a unit's owner may attend any meeting of the units' owners or of the executive board and speak at any such meeting. The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting.

2. An executive board may not meet in executive session to open or consider bids for an association project as defined in NRS 116.31086, or to enter into, renew, modify, terminate or take any other action regarding a contract.

3. An executive board may meet in executive session only to:

(a) Consult with the attorney for the association on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115, inclusive.

(b) Discuss the character, alleged misconduct, professional competence, or physical or mental health of a community manager or an employee of the association.

(c) Except as otherwise provided in subsection 4, discuss a violation of the governing documents, including, without limitation, the failure to pay an assessment.

(d) Discuss the alleged failure of a unit's owner to adhere to a schedule required pursuant to NRS 116.310305 if the alleged failure may subject the unit's owner to a construction penalty.

4. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the executive board. ~~At any hearing on an alleged violation of the governing documents, whether or not~~ the person who may be sanctioned for the alleged violation ~~requests~~ *has requested* in writing that an open hearing be conducted, the person ~~who may be sanctioned~~:

(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses;

(b) Is entitled to due process, as set forth in the standards adopted by regulation by the Commission, which must include, without limitation, the right to counsel, the right to present witnesses and the right to present information relating to any conflict of interest of any member of the hearing panel; and

(c) Is not entitled to attend the deliberations of the executive board.

5. The provisions of subsection 4 establish the minimum protections that the executive board must provide before it may make a decision. The provisions of subsection 4 do not preempt any provisions of the governing documents that provide greater protections.

6. Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session must be generally noted in the minutes of the meeting of the executive board. The executive board shall maintain minutes of any decision made pursuant to subsection 4 concerning an alleged violation and, upon request, provide a copy of the decision to the person who was subject to being sanctioned at the hearing or to the person's designated representative.

7. Except as otherwise provided in subsection 4, a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.

Sec. 25. NRS 116.31088 is hereby amended to read as follows:

116.31088 1. *The association, or the executive board acting on behalf of the association, may not retain an attorney for the purpose of considering or commencing a civil action to protect the health, safety and welfare of the members of the association unless the retention of the attorney is first approved by the association in accordance with the following requirements:*

(a) At least 60 calendar days before a meeting of the association or executive board at which the retention of an attorney for such a purpose is to be considered, the association shall provide an initial written notice to each unit's owner that includes the following information:

(1) A statement that the retention of an attorney for such a purpose will be considered at a meeting to be held not earlier than 60 calendar days after the date of the written notice.

(2) A statement that at least 30 calendar days before the date of the scheduled meeting, the association will provide a second written notice containing the information set forth in the initial written notice, along with a secret written ballot allowing the unit's owner to vote on whether or not an attorney will be retained for such a purpose.

(3) A reasonable estimate of the costs to the association of retaining the attorney for such a purpose.

(4) An explanation of the potential benefits of retaining the attorney and the potential adverse consequences if the association does not retain the attorney.

(b) At least 30 calendar days before the date of the scheduled meeting, the association shall provide a second written notice to each unit's owner that includes the information provided in the initial written notice, along with a secret written ballot allowing the unit's owner to vote on whether or not an attorney will be retained for such a purpose. The secretary or other officer specified in the bylaws of the association shall cause a secret written ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner. Each unit's owner must be provided with at least 21 calendar days after the

date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) The secret written ballots must be opened and counted at a meeting of the association or executive board. Only the secret written ballots that are returned to the association may be counted to determine the outcome of the vote. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(d) The association, or the executive board acting on behalf of the association, may not retain an attorney for such a purpose unless a majority of the votes cast pursuant to this subsection are cast in favor of retaining the attorney.

2. The association shall provide written notice to each unit's owner of a meeting at which the commencement of a civil action is to be considered at least 21 calendar days before the date of the meeting. Except as otherwise provided in this subsection, the association may commence a civil action only upon a vote or written agreement of the owners of units to which at least a majority of the votes of the members of the association are allocated. The provisions of this subsection do not apply to a civil action that is commenced:

- (a) To enforce the payment of an assessment;
- (b) To enforce the declaration, bylaws or rules of the association;
- (c) To enforce a contract with a vendor;
- (d) To proceed with a counterclaim; or
- (e) To protect the health, safety and welfare of the members of the association ~~;~~ ~~for the occupants of units within the common-interest community.~~

If a civil action is commenced pursuant to this paragraph without the required vote or agreement, the action must be ratified ~~f~~

~~—(1) Approved in accordance with this section by the district court in which the action is commenced; and~~

~~—(2) Ratified~~ within 90 days after the commencement of the action ~~such approval~~ by a vote or written agreement of the owners of the units to which at least a majority of votes of the members of the association are allocated. If the association, after making a good faith effort, cannot obtain the required vote or agreement to commence or ratify such a civil action, the association may thereafter seek to dismiss the action without prejudice for that reason only if a vote or written agreement of the owners of the units to which at least a majority of votes of the members of the association are allocated was obtained at the time the approval to commence or ratify the action was sought.

~~{2. To obtain court approval for a civil action commenced pursuant to paragraph (e) of subsection 1, the association must file with the district court in which the action was commenced an application seeking such approval. Upon the filing of an application pursuant to this subsection, the court shall give preference in setting a date for the hearing on the application. Any member of an association which has filed an application pursuant to this~~

~~subsection and the Ombudsman may intervene in a hearing on the application. If a member of an association or the Ombudsman intervenes in such a hearing, the member or Ombudsman is a party of record to that hearing.~~

~~—3.— At least 10 days before filing an application pursuant to subsection 2, the association:~~

~~—(a) Shall prominently post a notice of its intent to file the application at each place within the common-interest community where the association ordinarily posts notice of matters of interest to members of the association;~~

~~—(b) Shall send such a notice by electronic mail to each member of the association who has requested such a notice in a written record or electronic mail which includes the electronic mail address of the member; and~~

~~—(c) Shall send such a notice to the Ombudsman by electronic mail and registered mail.~~

~~—4.— If, after a hearing on an application filed pursuant to subsection 2, the court finds that the civil action commenced pursuant to paragraph (c) of subsection 1 seeks to prevent or remedy a substantial likelihood of immediate and serious harm to the health, safety and welfare of the members of the association or the occupants of units within the common-interest community, the court must issue an order approving the civil action. If the court does not make such a finding:~~

~~—(a) The court must dismiss the civil action for which the application was filed without prejudice;~~

~~—(b) The association may not commence another civil action based on the same claims unless units' owners approve the action by a vote or written agreement of the units' owners to which at least a majority of the votes of the members of the association are allocated; and~~

~~—(c) Any statutes of limitation or repose applicable to the civil action are tolled from the time the action was commenced pursuant to paragraph (c) of subsection 1 until the time the court dismissed the action without prejudice.~~

~~—5.7 3.~~ At least 10 days before an association commences or seeks to ratify the commencement of a civil action, the association shall provide a written statement to all the units' owners that includes:

(a) A reasonable estimate of the costs of the civil action, including reasonable attorney's fees;

(b) An explanation of the potential benefits of the civil action and the potential adverse consequences if the association does not commence the action or if the outcome of the action is not favorable to the association; and

(c) All disclosures that are required to be made upon the sale of the property.

~~{3.} {6.7} 4.~~ No person other than a unit's owner may request the dismissal of a civil action commenced by the association on the ground that the association failed to comply with any provision of this section.

~~{4.} {7.7} 5.~~ If any civil action in which the association is a party is settled, the executive board shall disclose the terms and conditions of the

settlement at the next regularly scheduled meeting of the executive board after the settlement has been reached. The executive board may not approve a settlement which contains any terms and conditions that would prevent the executive board from complying with the provisions of this subsection.

Sec. 26. (Deleted by amendment.)

Sec. 27. NRS 116.31177 is hereby amended to read as follows:

116.31177 1. The executive board of an association shall maintain and make available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties:

- (a) The financial statement of the association;
- (b) The budgets of the association required to be prepared pursuant to NRS 116.31151; and
- (c) The study of the reserves of the association required to be conducted pursuant to NRS 116.31152.

2. The executive board shall provide a copy of any of the records required to be maintained pursuant to subsection 1 to a unit's owner or the Ombudsman within 14 days after receiving a written request therefor. The executive board may charge a fee to cover the actual costs of preparing a copy, but not to exceed 25 cents per page +- for the first 10 pages, and 10 cents per page thereafter.

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his or her authorized agent shall, at the expense of the unit's owner, furnish to a purchaser a resale package containing all of the following:

- (a) A copy of the declaration, other than any plats, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;
- (b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;
- (c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152;
- (d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to

the common-interest community of which the unit's owner has actual knowledge;

(e) A statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit; and

(f) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, the purchaser must hand deliver the notice of cancellation to the unit's owner or his or her authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his or her authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his or her authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his or her authorized agent, the association shall furnish all of the following to the unit's owner or his or her authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b), (d) and (e) of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his or her authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his or her authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page ~~for the first 10 pages, and 10 cents per page thereafter,~~ to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. *If the association enters into a contract or agreement with any person or entity to furnish the documents and certificate pursuant to subsection 3:*

(a) *The contract or agreement must not allow a unit's owner to be charged any fee that exceeds the amount of the fee that the association may charge pursuant to subsection 4; and*

(b) *The person or entity shall not charge or attempt to charge any such fee.*

6. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

~~{6-}~~ **7.** Upon the request of a unit's owner or his or her authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his or her authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

8. *The association may not charge a unit's owner, and may not require a unit's owner to pay, any fee related to the resale of a unit that is not specifically authorized pursuant to this section, including, without limitation, any transaction fee, transfer fee, asset enhancement fee or other similar fee, except the association may charge the unit's owner a reasonable fee to cover the cost of recording in the books and records of the association the transfer of the ownership of the unit. Such a fee must be based on the actual cost the association incurs to record the transfer of the ownership of the unit. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for transferring the ownership of a unit.*

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. The Commission for Common-Interest Communities and Condominium Hotels shall adopt the regulations required by section 30 of this act on or before December 31, 2011.

Sec. 35. ~~††~~ This ~~{section and sections 30 and 34 of this} act {become}~~ **becomes** effective upon passage and approval for the purpose of adopting regulations, and on July 1, 2011, for all other purposes.

~~† 2. Sections 1 to 19, inclusive, 21, 24, 25, 28 and 32 of this act become effective on July 1, 2011.~~

~~— 3. Sections 20, 29, 31 and 33 of this act become effective on October 1, 2012.~~

~~— 4. Section 22 of this act becomes effective on October 1, 2012, or the effective date of a regulation adopted by the Commission for Common-Interest Communities and Condominium Hotels which authorizes, and establishes the maximum amount of, the fees set forth in NRS 116.3108, whichever is later.~~

~~— 5. Section 23 of this act becomes effective on October 1, 2012, or the effective date of a regulation adopted by the Commission for Common-Interest Communities and Condominium Hotels which authorizes, and establishes the maximum amount of, the fees set forth in NRS 116.31083, whichever is later.~~

~~— 6. Section 26 of this act becomes effective on October 1, 2012, or the effective date of a regulation adopted by the Commission for Common-Interest Communities and Condominium Hotels which authorizes, and establishes the maximum amount of, the fee set forth in NRS 116.31175, whichever is later.~~

~~— 7. Section 27 of this act becomes effective on October 1, 2012, or the effective date of a regulation adopted by the Commission for Common-Interest Communities and Condominium Hotels which authorizes, and establishes the maximum amount of, the fee set forth in NRS 116.31177, whichever is later.~~

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. 521 to Senate Bill No. 185 provides that the definition of a "private transfer fee" does not include fees charged by master developers for failure to construct and own a residence within a specified period of time, which discourages speculation and the "flipping" of lots. It deletes all fee provisions contained in the bill. The amendment eliminates Section 17 that would have prohibited the use of radar guns. It deletes from Section 18 specific information that would have been required for inclusion in the declaration concerning obligations, duties, and responsibilities of the association, and instead requires that in addition to describing the responsibilities of the association with respect to common elements, the declaration must also describe the responsibilities of each unit owner with respect to his or her unit. It revises Section 25 to require approval by the association of the retention of an attorney for the purpose of considering or commencing a civil action to protect the health, safety, and welfare of the members of the association unless the retention of the attorney is first approved by the association in accordance with certain requirements. The amendment conforms to statutes regarding copy charges; and eliminates Section 32 relating to arbitration and mediation.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bills Nos. 177, 185, be re-referred to the Committee on Finance upon return from reprint.

Motion carried on a division of the house.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 5:36 p.m.

SENATE IN SESSION

At 5:46 p.m.

President Krolicki presiding.

Quorum present.

Senator Settelmeyer has approved the addition of Senator Horsford as a sponsor of Senate Bill No. 188.

Senator Copening moved that Senate Bill No. 52 be taken from the Secretary's desk and placed on the bottom of the Second Reading File on the third agenda.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 188.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 366.

"SUMMARY—Revises provisions relating to ~~correctional officers;~~ **the work schedules of certain employees of the Department of Corrections.** (BDR 23-699)"

"AN ACT relating to ~~correctional officers; authorizing correctional officers;~~ **the Department of Corrections; requiring certain employees of institutions and facilities** of the Department ~~of Corrections;~~ to work a nontraditional workweek **; under certain circumstances;** revising the calculation of overtime for such ~~correctional officers;~~ **employees** to account for nontraditional workweeks; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 207(k), as amended, an employee in law enforcement activities may be required to work 85 1/2 hours within a biweekly pay period before being entitled to overtime compensation. **The Fair Labor Standards Act specifically includes security personnel in correctional institutions as employees in law**

enforcement activities, regardless of their rank, and excludes those persons who are considered "civilian" employees of correctional institutions. (29 C.F.R. § 553.211(f) and (g)) Under existing state law, with limited exceptions, employees of the State of Nevada or of any county, city, town, township or other political subdivision thereof are only authorized to work 8 hours in any 1 calendar day and 40 hours in any 1 workweek. (NRS 281.100) Employees are entitled to overtime compensation when they work more than 8 hours in 1 workday, 8 hours in any 16-hour period or 40 hours in 1 workweek. (NRS 284.180) This bill ~~authorizes~~ **mandates the Director of the Department of Corrections to ensure that** the warden of ~~an~~ **each** institution ~~for~~ **and** the manager of ~~for~~ **each** facility of the Department ~~of Corrections, after approval from the Director of the Department, to approve~~ **require that at least 65 percent of the employees of the institution or facility in law enforcement activities are scheduled for 84-hour work schedules within a 14-day pay period composed of 12-hour shifts, for all correctional officers employed in that institution or facility.** This bill also provides that, under the 84-hour work schedule, ~~correctional officers~~ **those employees** are not entitled to overtime compensation unless they work more than 12 hours in one shift or more than 84 hours in a 14-day pay period. **Finally, this bill authorizes the Director of the Department of Corrections to submit a request to the Board of State Prison Commissioners for a waiver from those shift requirements for an institution or facility of the Department. If the Board finds that sufficient justification exists for such a waiver, the waiver is valid for 1 year.**

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

Section 1. NRS 284.180 is hereby amended to read as follows:

284.180 1. The Legislature declares that since uniform salary and wage rates and classifications are necessary for an effective and efficient personnel system, the pay plan must set the official rates applicable to all positions in the classified service, but the establishment of the pay plan in no way limits the authority of the Legislature relative to budgeted appropriations for salary and wage expenditures.

2. Credit for overtime work directed or approved by the head of an agency or the representative of the head of the agency must be earned at the rate of time and one-half, except for those employees described in NRS 284.148.

3. Except as otherwise provided in ~~subsections 4, 6, 7, and 9, 1, 8 and 10,~~ **this section,** overtime is considered time worked in excess of:

- (a) Eight hours in 1 calendar day;
- (b) Eight hours in any 16-hour period; or
- (c) A 40-hour week.

4. Firefighters who choose and are approved for a 24-hour shift shall be deemed to work an average of 56 hours per week and 2,912 hours per year,

regardless of the actual number of hours worked or on paid leave during any biweekly pay period. A firefighter so assigned is entitled to receive 1/26 of the firefighter's annual salary for each biweekly pay period. In addition, overtime must be considered time worked in excess of:

(a) Twenty-four hours in one scheduled shift; or

(b) Fifty-three hours average per week during one work period for those hours worked or on paid leave.

➤ The appointing authority shall designate annually the length of the work period to be used in determining the work schedules for such firefighters. In addition to the regular amount paid such a firefighter for the deemed average of 56 hours per week, the firefighter is entitled to payment for the hours which comprise the difference between the 56-hour average and the overtime threshold of 53 hours average at a rate which will result in the equivalent of overtime payment for those hours.

5. The Commission shall adopt regulations to carry out the provisions of subsection 4.

6. ~~{Correctional officers}~~ **Except as otherwise provided in subsection 7, the Director of the Department of Corrections shall ensure that the warden of each institution and the manager of each facility require that at least 65 percent of the ~~employed~~ employees at ~~any~~ the institution or facility ~~of the Department of Corrections may be~~ who are in law enforcement activities, as described in 29 C.F.R. § 553.211(f), are scheduled to work not less than three consecutive 12-hour shifts and not less than seven 12-hour shifts during each 14-day pay period .** ~~{if approved by the Director of the Department of Corrections and either the warden of the institution or the manager of the facility, as applicable.}~~ **Overtime for such ~~correctional officers}~~ employees must be considered time worked in excess of:**

(a) Twelve hours in any one shift; or

(b) Eighty-four hours in a 14-day pay period.

7. **The Director of the Department of Corrections may submit a request to the Board of State Prison Commissioners for a waiver from the requirements of subsection 6 for an institution or facility. If the Board of State Prison Commissioners determines sufficient justification exists for such a waiver, the waiver is effective for 1 year after the date on which it is granted.**

8. For employees who choose and are approved for a variable workday, overtime will be considered only after working 40 hours in 1 week.

~~{7-}~~ ~~{8-}~~ 9. Employees who are eligible under the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., to work a variable 80-hour work schedule within a biweekly pay period and who choose and are approved for such a work schedule will be considered eligible for overtime only after working 80 hours biweekly, except those eligible employees who are approved for overtime in excess of one scheduled shift of 8 or more hours per day.

~~{8-}~~ ~~{9-}~~ 10. An agency may experiment with innovative workweeks upon the approval of the head of the agency and after majority consent of the affected employees. ~~{The}~~ ***Except as otherwise provided in subsections 4 and 6, the*** affected employees are eligible for overtime only after working 40 hours in a workweek.

~~{9-}~~ ~~{10-}~~ 11. This section does not supersede or conflict with existing contracts of employment for employees hired to work 24 hours a day in a home setting. Any future classification in which an employee will be required to work 24 hours a day in a home setting must be approved in advance by the Commission.

~~{10-}~~ ~~{11-}~~ 12. All overtime must be approved in advance by the appointing authority or the designee of the appointing authority. No officer or employee, other than a director of a department or the chair of a board, commission or similar body, may authorize overtime for himself or herself. The chair of a board, commission or similar body must approve in advance all overtime worked by members of the board, commission or similar body.

~~{11-}~~ ~~{12-}~~ 13. The Budget Division of the Department of Administration shall review all overtime worked by employees of the Executive Department to ensure that overtime is held to a minimum. The Budget Division shall report quarterly to the State Board of Examiners the amount of overtime worked in the quarter within the various agencies of the State.

~~{13-}~~ 14. *As used in this section:*

- (a) *"Facility" has the meaning ascribed to it in NRS 209.065.*
- (b) *"Institution" has the meaning ascribed to it in NRS 209.071.*
- (c) *"Manager" has the meaning ascribed to it in NRS 209.075*
- (d) *"Warden" has the meaning ascribed to it in NRS 209.085.*

Sec. 2. This act becomes effective on July 1, 2011.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

Senate Bill No. 188 relates to compensation for correctional officers. Amendment No. 366 makes the following changes: the Director of the Department of Corrections will ensure wardens of institutions or managers of facilities require that a minimum of 65 percent of employees who are in law enforcement activities shall be scheduled to work not less than three consecutive 12-hour shifts and not less than seven 12-hour shifts during each 14-day pay period.

The Director may seek from the Board of State Prison Commissioners a waiver from compliance with these requirements for an institution or facility. The waiver, if granted, is effective for one year.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that upon return from reprint, Senate Bill No. 188 be re-referred to the Committee on Finance.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 214.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 507.

"SUMMARY—Requires the Department of Transportation to establish a demonstration project for a toll road in connection with the Boulder City Bypass Project. (BDR S-842)"

"AN ACT relating to transportation; requiring the Department of Transportation to establish a demonstration project for a toll road in connection with the Boulder City Bypass Project ~~and~~; **authorizing the Department of Transportation** to enter into one or more public-private partnerships to design, construct, develop, finance, operate or maintain the demonstration project; providing for the establishment of ~~tolls,~~ **user fees,** administrative fines and penalties; **providing for the disposition of money which is received and is to be retained by the Department of Transportation pursuant to a public-private partnership in connection with the demonstration project; providing that such money must first be used to defray the obligations of the Department of Transportation under the public-private partnership;** requiring the Department of Motor Vehicles to place a hold on the renewal of the registration of a motor vehicle of a registered owner who fails to pay a required ~~toll~~ **user fee** for the use of the demonstration project and to otherwise assist in the collection of such ~~tolls,~~ **user fees,** fines and penalties; authorizing the Department of Motor Vehicles to establish certain administrative fees; authorizing the issuance of revenue bonds or notes of the State; **amending Nevada Revised Statutes to exempt the demonstration project from certain provisions governing public works; amending Nevada Revised Statutes to exempt various highway projects from certain provisions governing public works; amending Nevada Revised Statutes to exempt various property interests connected to the demonstration project from certain provisions governing taxation; amending Nevada Revised Statutes to remove statutory limitations on the use of design-build teams for highway projects and remove statutory limitations on the proposals submitted by such design-build teams; amending Nevada Revised Statutes to revise the procedure for renewing the registration of a motor vehicle;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section ~~14~~ 15 of this bill requires the Department of Transportation to establish a demonstration project for a toll road in connection with the Boulder City Bypass Project. **Section ~~14~~ 15** also provides that the demonstration project must be and remain a public highway owned by the Department. **Section ~~15~~ 16** of this bill ~~requires~~ **authorizes** the Department to enter into contracts with one or more public-private partnerships for planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights-of-way for the demonstration project. **Section ~~21~~ 22** of this bill requires the Board of Directors of the Department to establish or include in a public-private partnership: (1) a schedule of ~~tolls~~ **user fees** for the use of the demonstration project or a methodology for establishing such a schedule; and (2) administrative fines and other penalties for nonpayment of ~~tolls~~ **user fees**. **Section ~~21~~ 22** also authorizes the Board to establish exemptions from the ~~tolls~~ **user fees** for certain motor vehicles. **Section ~~22~~ 23** of this bill provides that registered owners are subject to administrative fines and penalties for failure to pay a required ~~toll~~ **user fee**. **Section ~~22~~ 23** also requires the Department of Motor Vehicles to place a hold on the renewal of the registration of a motor vehicle if the Department of Transportation or a private partner provides notice to the Department of Motor Vehicles that the registered owner of the motor vehicle has failed to pay a required ~~toll~~ **user fee**.

Section ~~23~~ 24 of this bill ~~is in accordance with the provisions of the Nevada Constitution, provides~~ **requires** that **all** money ~~collected~~ **that is received and is to be retained** by the Department of Transportation ~~for a private partner~~ **pursuant to a public-private partnership** in connection with the demonstration project that is derived from the imposition of any charge with respect to the operation of any motor vehicle upon any public highway in this State must be deposited in the State Highway Fund and, except for costs of administration, must be used exclusively for the construction, maintenance and repair of the public highways of this State. ~~(Nev. Const. Art. 9, § 5)~~ **Section ~~23~~ 24** also provides that the money must first be used to defray the **obligations of the Department under the public-private partnership, including, without limitation, the** costs of administration, **design, construction, operation, maintenance, financing** and repair of the demonstration project.

Section ~~24~~ 25 of this bill provides that the demonstration project and any property improvement determined by the Department to be necessary or desirable therefor may be financed by the private partner to a public-private partnership using its own funds or obtaining funds in any lawful manner for that entity or by the issuance of revenue bonds or notes of the State.

Section ~~26~~ 27 of this bill provides that a private partner is exempt from any assessment on property which the Department provides to the private partner pursuant to a public-private partnership and on which the demonstration project is located. **Section ~~27~~ 28** of this bill requires a

private partner to pay prevailing wages to workers engaged in construction on the demonstration project.

Section ~~29~~ 30 of this bill authorizes the Board of Directors of the Department of Transportation to adopt regulations to carry out the demonstration project. **Section ~~31~~ 32** of this bill requires the Board to submit a report concerning the demonstration project to the Legislative Commission on or before February 1 of each even-numbered year and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature on or before February 1 of each odd-numbered year. **Section 33 of this bill requires the Department to submit quarterly reports relating to the demonstration project to the Legislative Commission and the Interim Finance Committee.**

Under existing law, the Department is authorized to enter into contracts with a design-build team to design and construct highway projects for which the estimated cost exceeds \$20 million and which meet certain conditions. Once each fiscal year, the Department is authorized to contract with a design-build team for a project the estimated cost of which is at least \$5 million but less than \$20 million. (NRS 408.388) Section 37 of this bill removes the monetary thresholds that limit the number of projects of the Department that may be constructed pursuant to the design-build method and, therefore, allows the Department to contract with a design-build team for any highway project if the conditions set forth in existing law are met.

A design-build team that submits a final proposal to the Department on a project is required under existing law to submit, as part of the proposal, certain information about the subcontractors who will provide a portion of the work on the project. (NRS 408.3886) Section 38 of this bill eliminates the requirement that a design-build team provide this information regarding subcontractors.

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

Section 1. This act may be cited as the Boulder City Bypass Toll Road Demonstration Project Act.

Sec. 2. As used in this act, unless the context otherwise requires, the words and terms defined in sections 3 to ~~13~~ **14**, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 3. "Authorized emergency vehicle" has the meaning ascribed to it in NRS 484A.020.

Sec. 4. "Board" means the Board of Directors of the Department of Transportation.

Sec. 5. "Concession" means any lease, ground lease, franchise, easement, permit, right of entry, operating agreement or other binding agreement transferring rights for the use or control, in whole or in part, of the demonstration project by the Department to a private partner.

Sec. 6. "Demonstration project" means the toll road demonstration project established by the Department pursuant to section ~~144~~ **15** of this act.

Sec. 7. "Department" means the Department of Transportation.

Sec. 8. "Motor vehicle" has the meaning ascribed to it in NRS 484A.130.

Sec. 9. "Private partner" means a person with whom the Department enters into a public-private partnership.

Sec. 10. "Public-private partnership" means a contract entered into by the Department and a private partner under which the private partner:

1. Assists the Department in defining a potential project concerning the demonstration project and negotiates terms for potentially carrying out the planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights-of-way for, or any combination thereof, the demonstration project, or any portion thereof; or

2. Assumes responsibility for planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights-of-way for the demonstration project or any portion thereof.

Sec. 11. "Registered owner" means a person whose name appears in the records of the Department of Motor Vehicles as the person to whom a motor vehicle is registered.

Sec. 12. ~~["Toll" means a fee, fare or other similar charge, including, without limitation, any incidental, account maintenance, administrative, credit card or video tolling fee or charge authorized by a public private partnership and imposed on a person for his or her use of a toll road.]~~
(Deleted by amendment.)

Sec. 13. "Toll road" means a highway and appurtenant facilities for which a user must pay a ~~toll~~ **user fee** as a condition of use.

Sec. 14. **"User fee" means a toll, fee, fare or other similar charge, including, without limitation, any incidental, account maintenance, administrative, credit card or video tolling fee or charge authorized by the Department or a public-private partnership and imposed on a person for his or her use of a toll road.**

~~[Sec. 14.]~~ **Sec. 15.** 1. The Department shall establish a toll road demonstration project in connection with the Boulder City Bypass Project. The demonstration project **is a toll road in the vicinity of Boulder City, and** may:

(a) Include, without limitation, highways, roads, bridges, on-ramps, off-ramps, direct connectors to or from other highways or arterials, tunnels, connectors to an airport, pavement, shoulders, structures, culverts, curbs, toll gantries and systems, drains, rights-of-way, buildings, communication facilities, equipment appurtenances, lighting, signage, service centers, operations centers, services, personal property and works incidental to, related to or desirable for highway design, construction, improvement, maintenance or operation required, laid out, constructed, improved, maintained or operated for highway purposes.

(b) Include any appurtenant facilities and facilities necessary for **financing, connectivity, operations, maintenance, mobility or safety of the demonstration project, which may include tolled and nontolled elements, ~~and~~ and on- and off-site facilities.**

(c) Be developed in one or more phases, through one or more solicitations and with one or more private partners.

2. The Department may perform such tasks as are necessary and appropriate to plan, finance, design, construct, improve, maintain, operate and acquire rights-of-way for the demonstration project, including, without limitation:

(a) Plan, design, finance, construct, maintain, operate and make such other improvements to existing highways as may be necessary and appropriate to accommodate, develop and own the demonstration project.

(b) Determine the allowable uses of and the goals, standards, specifications and criteria of the demonstration project.

(c) Enter into agreements with any local government or other political subdivision of this State, another state or the Federal Government for planning, designing, financing, constructing, improving, maintaining, operating and acquiring rights-of-way for the demonstration project.

(d) Enter into contracts with a public-private partnership for planning, designing, financing, constructing, improving, maintaining, operating and acquiring rights-of-way for the demonstration project.

(e) Retain legal, financial, technical and other consultants to assist the Department concerning the demonstration project.

(f) Secure financial and other assistance for planning, designing, financing, constructing, improving, maintaining, operating and acquiring rights-of-way for the demonstration project.

(g) Apply for, accept and expend money from any lawful source, including, without limitation, any public or private funding, loan, grant, line of credit, loan guarantee, credit instrument, private activity bond allocation, credit assistance from the Federal Government or other type of assistance that is available to carry out the demonstration project.

(h) Accept from any source any grant, donation, gift or other form of conveyance of land, money, other real or personal property or other thing of value made to the Department to carry out the demonstration project.

(i) Pay any compensation to which a private partner is entitled, pursuant to the terms of the public-private partnership, upon the termination of the public-private partnership.

(j) Enter into a bond indenture, loan agreement, interest rate swap, ~~hedge agreement,~~ financing agreement, security agreement, pledge agreement, credit facility, trust agreement or other financial agreement in connection with the financing of the demonstration project.

3. The demonstration project, whether planned, designed, financed, constructed, improved, maintained or operated by the Department or private partner, must be and remain:

- (a) A public highway;
- (b) A public use;
- (c) A public facility; and
- (d) Owned by the Department.

4. Before construction of the demonstration project begins, U.S. Highway 93 shall be deemed an alternate route to the toll road which does not require a user fee. The Department may establish one or more additional alternate routes to the toll road which do not require a user fee and which can accommodate the same types of vehicles as the toll road.

~~{Sec. 15.}~~ **Sec. 16.** 1. The Department ~~{shall}~~ **may** enter into a public-private partnership with one or more private partners for planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights-of-way for the demonstration project. A public-private partnership entered into pursuant to this section may include, without limitation, a concession and ~~{must}~~ **may** be awarded through one or more solicitations that must include, without limitation, some or all of the requests for qualifications, short-listing of qualified proposers, requests for proposals, negotiations and best and final offers.

2. For any solicitation in which the Department issues a request for qualifications, request for proposals or similar solicitation for a public-private partnership, the Department may determine which factors it will consider and the relative weight of those factors in the evaluation process for the demonstration project to obtain the best value for the Department.

3. Each request for proposals issued for the demonstration project must require each person submitting a proposal to include with the proposal an executive summary. The executive summary must address the major elements of the proposal but must not include the financial terms of the proposal, the financing plan or other confidential or proprietary information or trade secrets that the person submitting the proposal intends to be exempt from disclosure.

4. The executive summary may be released to the public by the Department at any time.

5. After evaluation of the proposals submitted in response to a request for proposals, the Department ~~{shall}~~ **may** enter into negotiations with the applicant whose proposal appeared to have the best value to enter into a public-private partnership. If the Department is unable to negotiate a public-private partnership with that applicant upon such terms and conditions that the Department determines to be in the best interest of the public, the Department ~~{shall}~~ **may** suspend or terminate negotiations with that applicant. The Department may then undertake negotiations with the next highest-ranked applicant in sequence until a public-private partnership is entered into or a determination is made by the Department to reject all applicants that submitted proposals.

6. After the award and execution of the public-private partnership, the Department shall make available to the applicants and the public the results of the evaluations of proposals and the final rankings of the applicants.

7. Notwithstanding any other law to the contrary, to maximize competition and to obtain the best value for the public, no part of a proposal other than the executive summary may be released or disclosed by the Department before the award and execution of the public-private partnership and the conclusion of any specified period to protest or otherwise challenge the award, except pursuant to an administrative or judicial order requiring release or disclosure of any part of the proposal.

~~{Sec. 16.}~~ **Sec. 17.** 1. The Department may reimburse an unsuccessful bidder for a portion of the cost of preparing a proposal or best and final offer, or both. If the Department intends to make such a reimbursement, the Department shall set forth the terms and conditions of the reimbursement in the request for qualifications or request for proposals for the demonstration project.

2. In exchange for the reimbursement, the Department shall require the recipient to grant to the Department the nonexclusive right to use any work product contained in the proposal, including, without limitation, technologies, techniques, methods, processes and information contained in the design. Such use by the Department is at the sole risk of the Department, and the recipient does not have any responsibility for such use.

~~{Sec. 17.}~~ **Sec. 18.** 1. The provisions of NRS 338.1385, 338.141, 408.327 ~~{408.337,}~~ to 408.343, inclusive, 408.357 and subsection 1 of NRS 408.3884 do not apply to a public-private partnership.

2. To be eligible as a private partner in connection with a public-private partnership, a private partner must:

(a) Obtain a performance bond, payment bond, letter of credit, parent guarantee or other security acceptable to the Department, or any combination thereof, as the Department may require;

(b) Obtain insurance covering general liability and liability for errors and omissions ~~{,}~~ **in amounts determined by the Department;**

(c) Not have been found liable for breach of contract with respect to a previous project with the Department, other than a breach for legitimate cause during the 5 years immediately preceding the commencement of the solicitation of the public-private partnership; and

(d) Not have been disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333.

3. A private partner is not required to hold the licenses and certifications required to undertake the work for the demonstration project as a condition of eligibility to be a private partner but must ensure that any work which requires a license or certification is performed by persons that possess the required licenses and certifications.

~~{Sec. 18.}~~ **Sec. 19.** Information obtained by or disclosed to the Department during the procurement or negotiation of a public-private

partnership may be kept confidential until the public-private partnership is executed, except that the Department may exempt from release any proprietary information obtained by or disclosed to the Department during the procurement or negotiation.

~~{Sec. 19.}~~ **Sec. 20.** 1. Except as otherwise provided in subsection 2, notwithstanding any other law to the contrary, a public-private partnership may be for a term of not more than 55 years after ~~it~~.

~~—(a) The~~ the opening of the demonstration project to the public and the commencement of its full operations and collection of revenue. ~~it~~

~~—(b) The opening of the demonstration project and the commencement of its full operations; or~~

~~—(c) The commencement of the public-private partnership, if the public-private partnership involves a facility or service that is not generally open to or used by the public.~~

2. A public-private partnership may be extended:

(a) As a result of an event in the nature of force majeure;

(b) As a means to compensate the private partner for events set forth in the public-private partnership that entitle the private partner to compensation; or

(c) For additional terms upon the mutual agreement of the private partner and the Department, as authorized by the Board.

~~{Sec. 20.}~~ **Sec. 21.** 1. A public-private partnership entered into pursuant to this act may include provisions that:

(a) Authorize the Department and the private partner to charge, collect, use, enforce and retain ~~{tolls,}~~ user fees, including, without limitation, provisions that:

(1) Specify the technology to be used in the demonstration project;

(2) Establish circumstances under which the Department may receive the revenues or a share of the revenues from such ~~{tolls,}~~ user fees;

(3) State that the ~~{tolls,}~~ user fees may be collected directly by the Department, the private partner or by a third party engaged for that purpose;

(4) Prescribe a formula, indexation or mechanism for the adjustment of ~~{tolls,}~~ user fees during the term of the public-private partnership;

(5) Allow a variety of strategies to be employed to manage traffic on the demonstration project ~~it, including, without limitation:~~

~~—(I) High occupancy vehicle lanes where single- or low-occupancy vehicles may use higher occupancy vehicle lanes by paying a toll;~~

~~—(II) Managed lanes or facilities in which the tolls may vary during the course of the day or week or according to the levels of congestion that are anticipated or experienced; and~~

~~—(III) Any combination of, or variation on, the strategies set forth in sub-subparagraphs (I) and (II), or any other strategy;~~ that the Department determines ~~it~~ are appropriate based on the specific circumstances of the demonstration project; and

(6) Govern the enforcement of ~~{tolls,}~~ user fees, including, without limitation, provisions for the use of cameras or other mechanisms to ensure

that users have paid ~~tolls~~ **user fees** which are due and provisions that allow the Department of Transportation and private partner ~~access~~ to **request information from** relevant databases, including, without limitation, databases of the Department of Motor Vehicles, **pursuant to the provisions of NRS 481.063,** for enforcement purposes. The Department of Transportation may impose a civil penalty of not more than \$10,000 per violation for misuse of the data contained in such databases, including, without limitation, negligence in securing the data properly. Any civil penalty collected pursuant to this subparagraph must be deposited in the State General Fund.

(b) Allow for payments to be made by this State to the private partner, including, without limitation, periodic payments, construction payments, payments for attaining milestones, progress payments, payments based on availability or other performance-based payments, payments relating to events for which the public-private partnership requires payment of compensation and payments relating to or arising out of the termination of the public-private partnership.

(c) Allow the Department to accept payments of money from, and share revenues with, the private partner. The Department shall deposit such money in the State Highway Fund.

(d) Address the manner in which the Department and the private partner will share management of the risks of the demonstration project.

(e) Specify the manner in which the Department and the private partner will share the costs of any development of the demonstration project.

(f) Allocate financial responsibility for any costs that exceed the amount specified in the public-private partnership.

(g) Establish applicable liquidated or stipulated damages to be assessed for nonperformance by the private partner.

(h) Establish performance criteria or incentives, or both.

(i) Address the acquisition of rights-of-way and other property interests that may be required for the demonstration project, including, without limitation, provisions that address the exercise of eminent domain by the Department in the manner authorized pursuant to chapters 37 and 408 of NRS.

(j) Establish recordkeeping, accounting and auditing standards to be used for the project.

(k) Upon termination of the public-private partnership, address responsibility for repair, rehabilitation, reconstruction or renovations that are required for the demonstration project to meet all applicable standards set forth in the public-private partnership upon reversion of the demonstration project to this State.

(l) Provide for security and law enforcement.

(m) Identify any specifications of the Department that must be satisfied, including, without limitation, provisions allowing the private partner to

request and receive authorization to deviate from the specifications on making a showing satisfactory to the Department.

(n) Specify remedies available and procedures for dispute resolution, including, without limitation, the right of the private partner to institute legal proceedings to obtain an enforceable judgment or award against the Department in the event of a default by the Department and procedures for the use of dispute review boards, mediation, facilitated negotiation, nonbinding and binding arbitration and other alternative dispute resolution procedures.

2. A public-private partnership entered into pursuant to this act must contain a provision by which the private partner expressly agrees to be barred from seeking injunctive or other equitable relief to delay, prevent or otherwise hinder the Department from developing or constructing a facility which was planned at the time the public-private partnership was executed and which may impact the revenue that the private partner derives from the demonstration project developed under the public-private partnership. The public-private partnership may provide for reasonable compensation to the private partner for the adverse effect on revenue from the demonstration project developed under the public-private partnership resulting from the development or construction of another facility by the Department.

~~{Sec. 21}~~ **Sec. 22.** 1. ~~{The}~~ **If the Department enters into a public-private partnership pursuant to this act, the** Board:

(a) Shall adopt, establish or include in the public-private partnership a schedule of ~~{tolls}~~ **user fees** or a methodology for establishing the ~~{tolls}~~ **user fees** that may be charged by the Department or a private partner for the use of the demonstration project, which may include, without limitation, provisions for adjusting the ~~{tolls}~~ **user fees** based on the types of motor vehicle, time of day, traffic conditions or other factors determined necessary by the Department or a private partner to implement, finance or improve the performance of the demonstration project;

(b) Shall, consistent with the provisions of section ~~{22}~~ **23** of this act, establish or provide in the public-private partnership for the establishment of administrative fines, late charges and other penalties for any person who violates any regulation or rule governing the use of the demonstration project or who fails to pay a ~~{toll}~~ **user fee**; and

(c) In addition to the exemptions provided in subsection 2, may establish or provide in the public-private partnership for exemptions from the payment of a ~~{toll}~~ **user fee**.

2. The following motor vehicles are exempt from any ~~{toll}~~ **user fee** established by the Board:

(a) ~~{A preregistered vehicle transporting three or more persons;}~~
~~{(b)}~~ A transit bus or vanpool vehicle owned or operated by an agency or political subdivision of this State or the United States, to the extent that such vehicles are exempted pursuant to an agreement between the agency or political subdivision and the Department or a private partner;

~~((c))~~ **(b)** An authorized emergency vehicle if the person operating it is:

- (1) Responding to an emergency and its emergency lights are in use; or
- (2) Enforcing traffic laws; and

~~((d))~~ **(c)** A vehicle that is exempt pursuant to the terms of a public-private partnership.

3. Not less frequently than once each calendar year, the Board shall review any fee schedule established pursuant to this section and any adjustments to the fee schedule made by the Department or a private partner to determine whether the ~~tolls~~ **user fees** effectively manage travel times, speed and reliability with regard to the demonstration project.

4. The Department or a private partner may use any method it determines appropriate to collect a ~~toll~~ **user fee**, including, without limitation, the issuance of invoices, prepayment requirements and the use of an electronic, video or automated collection system. An electronic, video or automated collection system may be used to verify payment or to charge the ~~toll~~ **user fee** to the:

(a) Account of a person whose vehicle is equipped with a transponder approved by the Department or other automated payment technology approved by the Department;

(b) Account of a person who otherwise registers to use the demonstration project in accordance with the policies and procedures established by the Board or set forth in the public-private partnership; or

(c) Registered owner.

5. The name, address, other personal identifying information and trip data of a user is confidential, and the Department, a private partner, consultant, contractor or representative thereof shall not release, sell or distribute such information without the express written consent of the user, except that the Department or a private partner may release such information:

(a) As is necessary to collect a ~~toll~~ **user fee** and enforce any penalty for a violation of this act or any policies and procedures established pursuant thereto or set forth in the public-private partnership; and

(b) To a law enforcement agency pursuant to a subpoena.

6. The Department or a private partner may solicit and contract with any person to provide services relating to the collection of a ~~toll~~.

~~Sec. 22.~~ **user fee.**

Sec. 23. 1. Except as otherwise provided in subsection 3, a registered owner who fails to pay a ~~toll~~ **user fee** is subject to an administrative fine for nonpayment and is liable to the Department or private partner for the payment of the ~~toll~~ **user fee**, the administrative fine and any additional charges or penalties prescribed by the Board or set forth in the public-private partnership.

2. If a driver or registered owner fails to pay a ~~toll~~ **user fee**, the Department or private partner shall provide notice of nonpayment to the registered owner. The notice must describe the claimed nonpayment and the amount due, including any additional charges, administrative fines or

penalties, and explain that the registered owner must, within 20 days after receiving the notice, pay the full amount due or contest the claim in the manner described in the notice. A registered owner who does not pay the full amount due or contest the claim within 20 days after receiving the notice may not challenge the claim in any proceeding or action brought by the Department or the private partner.

3. ~~{An automobile rental agency}~~ **A short-term lessor of a motor vehicle** that is the registered owner is not liable to the Department or a private partner for any ~~{violation}~~ **failure to pay a user fee** arising out of the use of a ~~{leased or}~~ rented motor vehicle during any period in which the motor vehicle is not in the possession of the ~~{agency}~~ **lessor** if, within ~~{20}~~ **45** days after receiving the written notice from the Department or private partner, the ~~{automobile rental agency}~~ **lessor** provides to the Department or private partner the name, address, **driver's license number** and other identifying information of the person to whom the motor vehicle was rented ~~{or leased}~~ at the time of the ~~{violation}~~ **use of the demonstration project**. **If the lessor provides such information, the person to whom the motor vehicle was rented at the time of the use of the demonstration project is liable for the user fee or administrative fee, or both, and any late charges or other penalties or charges resulting from the failure to pay the user fee.**

4. The Department or a private partner may use a photo-monitoring, video, image capture or other automated or technology-based enforcement and collections system to detect the failure of a motor vehicle to register payment of the required ~~{toll}~~ **user fee**, to detect the failure of the driver or registered owner to pay a ~~{toll}~~ **user fee** or to verify and assess the payment of a ~~{toll}~~ **user fee**. The data, including photographs, images, videotapes and other vehicle and owner information generated and obtained by the system, may be used to establish the nonpayment of the ~~{toll}~~ **user fee** and to enforce collection of the ~~{toll}~~ **user fee and any administrative fines, late charges and other penalties or charges imposed pursuant to the public-private partnership**. The Department or private partner shall not use the information for any other purpose.

5. If the registered owner fails to respond to the notice described in subsection 2, the Department of Transportation or private partner may file a notice of nonpayment with the Department of Motor Vehicles. The notice must include:

(a) The place, time and date of the **use of the demonstration project which, through nonpayment of user fees, administrative fees, late charges or other penalties or charges, constitutes a violation**;

(b) The number of the license plate and the make and model year of the motor vehicle; and

(c) The total amount owed the Department or private partner for the violation.

6. Upon receipt of the notice described in subsection 5, the Department of Motor Vehicles shall place a hold on the renewal of the registration of the motor vehicle described in the notice. ~~The Department of Motor Vehicles shall not renew the registration of the motor vehicle unless the registered owner:~~

~~— (a) Pays to the Department of Motor Vehicles the total amount owed the Department of Transportation or private partner, which the Department of Motor Vehicles shall forward to the Department of Transportation or private partner, along with an accounting indicating the amount paid, from whom, for which motor vehicle and the corresponding license plate number of the motor vehicle; or~~

~~— (b) Presents proof to the Department of Motor Vehicles of payment or satisfaction issued by the Department of Transportation or private partner.~~
pursuant to the provisions of NRS 482.2805.

7. In addition to any ~~penalty, administrative fine or fee prescribed by the Board or set forth in the public-private partnership for nonpayment of a toll,~~ **administrative fine, late charge or other penalty or charge for nonpayment of a user fee established pursuant to the public-private partnership which is payable to the Department of Transportation or a private partner,** the Department of Motor Vehicles may impose an additional administrative fee of not more than \$15 upon any person who applies for the renewal of the registration of a motor vehicle subject to a hold pursuant to this section.

8. The Department of Motor Vehicles shall work cooperatively with the Department of Transportation and any private partner to establish a timely and efficient manner for providing ~~the motor vehicle information, including, without limitation, the name and address of the registered owner,~~ **registration of the registered owner, pursuant to the provisions of NRS 481.063,** to the Department of Transportation and any private partner for the purposes of collecting ~~fees~~ and enforcing any **user fees and any administrative fines, late charges and other** penalties imposed pursuant to this act. ~~established by the Board or set forth in the public-private partnership.~~ To the extent practicable, such information must be transmitted electronically.

~~— 9. The Department of Motor Vehicles shall work cooperatively with departments of motor vehicles and similar agencies of other jurisdictions and states to assist:~~

~~— (a) The Department of Transportation and a private partner with the collection and enforcement of tolls charged against a motor vehicle operated on the demonstration project by a person from such other jurisdiction or state; and~~

~~— (b) Such other departments of motor vehicles and similar agencies with the collection and enforcement of tolls charged against a motor vehicle operated on the toll facilities of such other jurisdiction or state by a motor vehicle registered in this State.~~

~~➔ The cooperation must include providing motor vehicle information and the name and address of the registered owner to such departments of motor vehicles and similar agencies of other jurisdictions and states and forwarding such information received from such other departments of motor vehicles and similar agencies of other jurisdictions and states to the Department of Transportation or private partner.~~

~~{Sec. 23.}~~ **Sec. 24.** 1. All money ~~{collected}~~ **that is received and is to be retained** by the Department ~~{for a private partner}~~ **pursuant to a public-private partnership** in connection with the demonstration project that is derived from the imposition of any charge with respect to the operation of any motor vehicle upon any public highway in this State must be deposited in the State Highway Fund and, except for costs of administration, must be used exclusively for the **design, construction, operation, maintenance, financing** and repair of the public highways of this State. The money must first be used to defray the **obligations of the Department under the public-private partnership, including, without limitation, the costs of administration, design, construction, operation, maintenance, financing** and repair of the demonstration project.

2. Any other money received by the Department pursuant to this act or any policies or procedures established by the Department or set forth in the public-private partnership must be deposited in the State Highway Fund and accounted for separately. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. The money in the account may be used for:

(a) The payment of the costs of planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights-of-way for the demonstration project;

(b) The payment of the costs of administering the demonstration project and enforcing the collection of ~~{tolls,}~~ **user fees;**

(c) Satisfaction of any obligations of the Department pursuant to a public-private partnership; and

(d) The costs of administration, construction, maintenance and repair of the public highways located in Clark County.

~~{Sec. 24.}~~ **Sec. 25.** 1. The demonstration project and any property improvement determined by the Department to be necessary or desirable therefor may, as determined by the Department, be financed:

(a) By the private partner using its own funds or obtaining funds in any lawful manner for that entity.

(b) By the issuance of revenue bonds or notes of the State which are payable from and secured by:

(1) Revenues from the demonstration project, including, without limitation, ~~{tolls,}~~ **user fees** and payments established, due and collected pursuant to sections ~~{21}~~ **22** and ~~{22}~~ **23** of this act, other than subsection 7 of section ~~{22}~~ **23** of this act;

(2) Payments from the Department to the private partner pursuant to a public-private partnership;

(3) Payments from the private partner as described in section ~~1231~~ 24 of this act;

(4) Guarantees or other forms of financial assistance from the private partner or any other person;

(5) Any grants, donations or other sources of funding mentioned in paragraph (f), (g) or (h) of subsection 2 of section ~~144~~ 15 of this act, if use of the money to pay and secure the payment of the principal of and interest on those bonds or notes is consistent with and not prohibited by the instrument, law or regulation under which the money is received;

(6) Interest or other gain accruing on any of the money deposited in the State Highway Fund pursuant to section ~~1231~~ 24 of this act; and

(7) Any combination thereof,

➤ as described in the resolution authorizing the issuance of the bonds or notes. The bonds or notes must be authorized and issued under the procedure described in NRS 408.273, but the bonds or notes must be secured as provided in this section and may have a maturity of up to 40 years after the date of issuance. Any bonds or notes authorized by this paragraph are special, limited obligations of the State payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for the issuance of the bonds or notes, and shall never be a debt of the State under Section 3 of Article 9 of the Constitution of the State of Nevada.

(c) By the issuance of revenue bonds or notes of the State, to finance the demonstration project directly or by making a loan to the private partner, pursuant to a financing agreement entered into between the State and the private partner to secure the bonds or notes and provide for their payment. Any bonds or notes issued under this paragraph must be solely payable from and secured by payments made by and property of and other security provided by the private partner, including, without limitation, any payments made to the private partner by the Department pursuant to the public-private partnership. Any bonds or notes issued pursuant to this paragraph must be authorized and issued under the procedure described in NRS 408.273, but the bonds or notes must be secured as provided in this paragraph and may have a maturity of up to 40 years from the date of issuance. Any bonds or notes authorized by this paragraph are special, limited obligations of the State payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for the issuance of bonds or notes, and shall never be a debt of the State under Section 3 of Article 9 of the Constitution of the State of Nevada.

(d) By the issuance of private activity bonds or notes of the State or other eligible issuer, to finance the demonstration project directly or by making a loan to the private partner, pursuant to a financing agreement entered into between the State and the private partner for the purpose of securing the bonds or notes and providing for their payment. Any bonds or notes issued

pursuant to this paragraph must be payable solely from and secured by payments made by and property of and other security provided by the private partner, including, without limitation, any payments made to the private partner by the Department pursuant to the public-private partnership. Any bonds or notes issued pursuant to this paragraph must be authorized and issued under the procedure described in NRS 408.273 but the bonds or notes must be secured as provided in this paragraph and may have a maturity of up to 40 years from the date of issuance. Any bonds or notes authorized by this paragraph are special, limited obligations of the State payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for the issuance of the bonds or notes, and shall never be a debt of the State under Section 3 of Article 9 of the Constitution of the State of Nevada.

(e) By any loan, grant, line of credit, loan guarantee, credit instrument, private activity bond allocation, credit assistance from the Federal Government or other type of assistance that is available to carry out the demonstration project.

(f) With any grant, donation, gift or other form of conveyance of land, money or other real or personal property or other thing of value made to the Department to carry out the demonstration project.

(g) With legally available money from any other source, including a source described in paragraph (f), (g) or (h) of subsection 2 of section ~~17~~ **15** of this act, or from ~~tolls,~~ user fees.

(h) By any combination of paragraphs (a) to (g), inclusive.

2. If so determined by the Department, any bonds or notes issued as described in paragraph (b) of subsection 1 may also be payable from and secured by taxes which are credited to the State Highway Fund and which would not cause the bonds or notes to create a public debt under the provisions of Section 3 of Article 9 of the Constitution of the State of Nevada. In addition, the Department may pledge those taxes to and use those taxes for the payment of any of its obligations under a public-private partnership.

~~Sec. 25.~~ **Sec. 26.** 1. The Department may acquire, condemn or hold real property and related appurtenances under fee title, lease, easement, dedication or license for the demonstration project. The Department may grant to a private partner a lease, easement, operating agreement, license, permit or right of entry for such real property and related appurtenances, and such grant and use shall be deemed for all purposes:

- (a) A public use;
- (b) A public facility; and
- (c) A public highway.

2. The real property and related appurtenances, or the use thereof, that are granted by the Department to the private partner shall be exempt from all real property and ad valorem taxes.

~~{Sec. 26.}~~ **Sec. 27.** Notwithstanding any specific statute to the contrary, a private partner is exempt from any assessment on property:

1. Which the Department owns or acquires or in which the Department has a possessory interest;
2. Which the Department provides to the private partner pursuant to a public-private partnership; and
3. On which the demonstration project is located.

~~{Sec. 27.}~~ **Sec. 28.** A private partner who enters into a contract for construction work pursuant to a public-private partnership shall pay the prevailing wage required pursuant to NRS 338.013 to 338.090, inclusive, and solely for the purposes of those provisions, the demonstration project shall be deemed to be a public work and the Department shall be deemed to be a party to the contract and to be the public body advertising for bids for the demonstration project and awarding the construction contract for the demonstration project.

~~{Sec. 28.}~~ **Sec. 29.** The Department may include authority in a public-private partnership or otherwise authorize a private partner to remove any encroachments or relocate any utility from the right-of-way of the demonstration project.

~~{Sec. 29.}~~ **Sec. 30.** 1. The Board may adopt regulations to carry out the provisions of this act.

2. Any public-private partnership entered into pursuant to this act must include a provision which provides that any regulation adopted by the Board pursuant to this act that is effective on the date of the public-private partnership shall be deemed incorporated as a term of the public-private partnership.

~~{Sec. 30.}~~ **Sec. 31.** To the extent practicable, the provisions of this act are intended to supplement other statutory provisions governing the administration of highways in this State, and such other provisions must be given effect to the extent that those provisions do not conflict with the provisions of this act. If there is a conflict between such other provisions and the provisions of this act, the provisions of this act control.

~~{Sec. 31.}~~ **Sec. 32.** 1. The Department shall report annually to the Board on the status of the demonstration project.

2. On or before February 1 of each year, the Board shall prepare a written report concerning the demonstration project. The report must include, without limitation:

- (a) The current status of the demonstration project.
- (b) The amount of ~~{tolls}~~ **user fees** collected by the Department and any private partners.
- (c) The amount of money received by the Department in connection with the demonstration project from sources other than ~~{tolls}~~ **user fees**.
- (d) The amount paid by the Department under any public-private partnership.
- (e) Such other information as the Board determines appropriate.

3. On or before February 1 of each even-numbered year, the Board shall submit the report prepared pursuant to subsection 2 to the Legislative Commission. On or before February 1 of each odd-numbered year, the Board shall submit the report to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.

Sec. 33. 1. In addition to the requirements of section 32 of this act, the Department shall report on the status of the demonstration project to the Legislative Commission and the Interim Finance Committee. The report must include, without limitation:

(a) The current status of the demonstration project.

(b) The amount of user fees collected by the Department and any private partners.

(c) The amount of money received by the Department in connection with the demonstration project from sources other than user fees.

(d) The amount paid by the Department under any public-private partnership.

(e) Such other information as the Legislative Commission or the Interim Finance Committee determines appropriate.

2. The report required pursuant to subsection 1 must be submitted at least quarterly and at such other times as the Legislative Commission or the Interim Finance Committee may require.

Sec. 34. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

(a) NRS 338.1377 to 338.139, inclusive;

(b) NRS 338.143 to 338.148, inclusive;

(c) NRS 338.169 to 338.1699, inclusive; or

(d) NRS 338.1711 to 338.1727, inclusive.

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142, 338.169 to 338.1699, inclusive, and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive ~~and~~, **and sections 1 to 33, inclusive, of this act.**

Sec. 35. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 8 and NRS 338.1907, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the

required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 and 338.1446.

(c) Divide a project work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not responsive or responsible;

(b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(c) The public interest would be served by such a rejection.

6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to ~~NRS 408.323 or 408.327;~~ the provisions of chapter 408 of NRS;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983, or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a local government or its authorized representative enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive.

Sec. 36. NRS 361.157 is hereby amended to read as follows:

361.157 1. When any real estate or portion of real estate which for any reason is exempt from taxation is leased, loaned or otherwise made available to and used by a natural person, association, partnership or corporation in connection with a business conducted for profit or as a residence, or both, the leasehold interest, possessory interest, beneficial interest or beneficial use of the lessee or user of the property is subject to taxation to the extent the:

(a) Portion of the property leased or used; and

(b) Percentage of time during the fiscal year that the property is leased by the lessee or used by the user, in accordance with NRS 361.2275,

➡ can be segregated and identified. The taxable value of the interest or use must be determined in the manner provided in subsection 3 of NRS 361.227 and in accordance with NRS 361.2275.

2. Subsection 1 does not apply to:

(a) Property located upon a public airport, park, market or fairground, or any property owned by a public airport, unless the property owned by the public airport is not located upon the public airport and the property is leased, loaned or otherwise made available for purposes other than for the purposes of a public airport, including, without limitation, residential, commercial or industrial purposes;

(b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;

(c) Property of any state-supported educational institution, except any part of such property located within a tax increment area created pursuant to NRS 278C.155;

(d) Property leased or otherwise made available to and used by a natural person, private association, private corporation, municipal corporation, quasi-municipal corporation or a political subdivision under the provisions of the Taylor Grazing Act or by the United States Forest Service or the Bureau of Reclamation of the United States Department of the Interior;

(e) Property of any Indian or of any Indian tribe, band or community which is held in trust by the United States or subject to a restriction against alienation by the United States;

(f) Vending stand locations and facilities operated by persons who are blind under the auspices of the Bureau of Services to Persons Who Are Blind or Visually Impaired of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation, whether or not the property is owned by the federal, state or a local government;

(g) Leases held by a natural person, corporation, association, municipal corporation, quasi-municipal corporation or political subdivision for development of geothermal resources, but only for resources which have not been put into commercial production;

(h) The use of exempt property that is leased, loaned or made available to a public officer or employee, incident to or in the course of public employment;

(i) A parsonage owned by a recognized religious society or corporation when used exclusively as a parsonage;

(j) Property owned by a charitable or religious organization all, or a portion, of which is made available to and is used as a residence by a natural person in connection with carrying out the activities of the organization;

(k) Property owned by a governmental entity and used to provide shelter at a reduced rate to elderly persons or persons having low incomes;

(l) The occasional rental of meeting rooms or similar facilities for periods of less than 30 consecutive days; ~~for~~

(m) The use of exempt property to provide day care for children if the day care is provided by a nonprofit organization ~~for~~; or

(n) Any lease, easement, operating agreement, license, permit or right of entry for any exempt state property granted by the Department pursuant to section 26 of this act.

3. Taxes must be assessed to lessees or users of exempt real estate and collected in the same manner as taxes assessed to owners of other real estate, except that taxes due under this section do not become a lien against the property. When due, the taxes constitute a debt due from the lessee or user to the county for which the taxes were assessed and, if unpaid, are recoverable by the county in the proper court of the county.

Sec. 37. NRS 408.388 is hereby amended to read as follows:

408.388 ~~{1}~~ Except as otherwise provided in NRS 408.5471 to 408.549, inclusive, the Department may contract with a design-build team for the design and construction of a project if the **Director determines that the design-build process is appropriate and in the best interests of this State and the** Department determines that ~~{1}~~

~~—(a) Except as otherwise provided in subsection 2, the estimated cost of the project exceeds \$20,000,000; and~~

~~—(b) Contracting~~ **contracting** with a design-build team will enable the Department to:

~~{(1)}~~ **1.** Design and construct the project at a cost that is significantly lower than the cost that the Department would incur to design and construct the project using a different method;

~~{(2)}~~ **2.** Design and construct the project in a shorter time than would be required to complete the project using a different method, if exigent circumstances require that the project be designed and constructed within a short time; or

~~{(3)}~~ **3.** Ensure that the design and construction of the project is properly coordinated, if the project is unique, highly technical and complex in nature.

~~{2. Notwithstanding the provisions of subsection 1, the Department may, once in each fiscal year, contract with a design-build team for the design and construction of a project the estimated cost of which is at least \$5,000,000 but less than \$20,000,000 if the Department makes the determinations otherwise required pursuant to paragraph (b) of subsection 1.}~~

Sec. 38. NRS 408.3886 is hereby amended to read as follows:

408.3886 1. After selecting the finalists pursuant to NRS 408.3885, the Department shall provide to each finalist a request for final proposals for the project. The request for final proposals must:

(a) Set forth the factors that the Department will use to select a design-build team to design and construct the project, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the Department.

2. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the Department shall assign, without limitation, a relative weight of 5 percent to the possession of a certificate of eligibility to receive a preference in bidding on public works and a relative weight of at least

30 percent for the proposed cost of design and construction of the project. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular project because of the provisions of this subsection relating to preference in bidding on public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that project.

3. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly ~~it~~ and be responsive to the criteria that the Department will use to select a design-build team to design and construct the project described in subsection 1. ~~and comply with the provisions of NRS 338.141.~~

4. After receiving the final proposals for the project, the Department shall:

(a) Select the most cost-effective and responsive final proposal, using the criteria set forth pursuant to subsections 1 and 2;

(b) Reject all the final proposals; or

(c) Request best and final offers from all finalists in accordance with subsection 5.

5. If the Department determines that no final proposal received is cost-effective or responsive and the Department further determines that requesting best and final offers pursuant to this subsection will likely result in the submission of a satisfactory offer, the Department may prepare and provide to each finalist a request for best and final offers for the project. In conjunction with preparing a request for best and final offers pursuant to this subsection, the Department may alter the scope of the project, revise the estimates of the costs of designing and constructing the project, and revise the selection factors and relative weights described in paragraph (a) of subsection 1. A request for best and final offers prepared pursuant to this subsection must set forth the date by which best and final offers must be submitted to the Department. After receiving the best and final offers, the Department shall:

(a) Select the most cost-effective and responsive best and final offer, using the criteria set forth in the request for best and final offers; or

(b) Reject all the best and final offers.

6. If the Department selects a final proposal pursuant to paragraph (a) of subsection 4 or selects a best and final offer pursuant to paragraph (a) of subsection 5, the Department shall hold a public meeting to:

(a) Review and ratify the selection.

(b) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (f) of subsection 3 of NRS 408.3883. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(c) Make available to the public a summary setting forth the factors used by the Department to select the successful design-build team and the ranking of the design-build teams who submitted final proposals and, if applicable, best and final offers. The Department shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

7. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive; and

(b) Must specify:

(1) An amount that is the maximum amount that the Department will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the Department will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

8. A design-build team to whom a contract is awarded pursuant to this section shall:

(a) Assume overall responsibility for ensuring that the design and construction of the project is completed in a satisfactory manner; and

(b) Use the workforce of the prime contractor on the design-build team to construct at least 15 percent of the project.

Sec. 39. NRS 482.2805 is hereby amended to read as follows:

482.2805 1. Except as otherwise provided in subsection 3, the Department of Motor Vehicles shall not renew the registration of a motor vehicle if a local authority has filed with the Department of Motor Vehicles a notice of nonpayment pursuant to NRS 484B.527, or if the Department of Transportation or a private partner under a public-private partnership has filed a notice of nonpayment pursuant to section 23 of this act, unless, at the time for renewal of the registration, the registered owner of the motor vehicle provides to the Department of Motor Vehicles a receipt issued by the local authority pursuant to NRS 482.2807 ~~1~~, or a receipt issued by the Department of Transportation or a private partner under a public-private partnership.

2. If the registered owner provides a receipt to the Department of Motor Vehicles pursuant to subsection 1 and complies with the other requirements of this chapter, the Department of Motor Vehicles shall renew the registration of the motor vehicle.

3. The Department of Motor Vehicles shall renew the registration of a motor vehicle owned by a short-term lessor for which the Department of Motor Vehicles has received a notice of nonpayment pursuant to NRS 484B.527 or section 23 of this act without requiring the short-term

lessor to provide a receipt pursuant to subsection 1 if the short-term lessor submits to the Department of Motor Vehicles a certificate issued by a local authority, the Department of Transportation or a private partner under a public-private partnership pursuant to subsection 4.

4. A local authority, the Department of Transportation or a private partner under a public-private partnership shall, upon request, issue to a short-term lessor a certificate which requires the Department of Motor Vehicles to renew the registration of a motor vehicle owned by the short-term lessor without requiring the short-term lessor to provide a receipt pursuant to subsection 1 if the short-term lessor provides the local authority, the Department of Transportation or a private partner under a public-private partnership with the name, address and number of the driver's license of the short-term lessee who was leasing the vehicle at the time of the violation.

5. Upon the request of the registered owner of a motor vehicle, the Department of Motor Vehicles shall provide a copy of the notice of nonpayment filed with the Department of Motor Vehicles by the local agency pursuant to NRS 484B.527 or the Department of Transportation or a private partner under a public-private partnership pursuant to section 23 of this act.

6. If the registration of a motor vehicle that is identified in a notice of nonpayment filed with the Department of Motor Vehicles by a local authority pursuant to NRS 484B.527 or the Department of Transportation or a private partner under a public-private partnership pursuant to section 23 of this act is not renewed for two consecutive periods of registration, the Department of Motor Vehicles shall delete any records maintained by the Department of Motor Vehicles concerning that notice.

7. The Department of Motor Vehicles may require a local authority to pay a fee for the creation, maintenance or revision of a record of the Department of Motor Vehicles concerning a notice of nonpayment filed with the Department of Motor Vehicles by the local authority pursuant to NRS 484B.527. The Department of Motor Vehicles may require the Department of Transportation or a private partner under a public-private partnership to pay a fee for the creation, maintenance or revision of a record of the Department of Motor Vehicles concerning a notice of nonpayment filed with the Department of Motor Vehicles by the Department of Transportation or a private partner under a public-private partnership pursuant to section 23 of this act. The Department of Motor Vehicles shall, by regulation, establish any fee required by this subsection. Any fees collected by the Department pursuant to this subsection must be:

(a) Deposited with the State Treasurer for credit to the Motor Vehicle Fund; and

(b) Allocated to the Department to defray the cost of carrying out the provisions of this section.

~~§Sec. 32.4~~ **Sec. 40.** This act becomes effective on July 1, 2011.

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. 507 to Senate Bill No. 214 modifies references from "toll roads" to "user fees" throughout the bill. The amendment requires that all money received is to be retained by the Department to be deposited in the State Highway Fund and separately accounted for in order to ensure it is used only on the demonstration facility.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 269.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 367.

"SUMMARY—Makes various changes concerning elections. (BDR 24-840)"

"AN ACT relating to elections; authorizing write-in voting for state and federal offices under certain circumstances; providing requirements for becoming a write-in candidate for state or federal office; requiring write-in candidates to submit certain campaign contribution and expenditure reports and statements of financial disclosure; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires that voting in all elections be only for candidates whose names appear on the ballot; writing in the name of an additional candidate is prohibited. (NRS 293.270) **Sections 6, 18 and 19** of this bill authorize voters to cast ballots for write-in candidates for state and federal offices in general elections under certain circumstances. **Sections 3, 5 and 13** of this bill provide that a person may become a write-in candidate by filing a declaration of write-in candidacy and paying the appropriate filing fee. **Section 4** of this bill provides that a person may become a write-in candidate if: (1) the person's name will not appear on the ballot at the general election for any office; and (2) the person has not filed a declaration of write-in candidacy for any other office. **Sections 24.5 and 25.5 of this bill provide for the creation of a write-in vote counting board to count the votes cast for write-in candidates.**

Section 26 of this bill amends the definition of "candidate" to include write-in candidates so that write-in candidates are subject to the same reporting requirements related to campaign contributions and expenditures as other candidates. **Sections 31-35** of this bill require write-in candidates to file the same statements of financial disclosure as other candidates for public office.

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *"State office" means an office held by a state officer.*

Sec. 3. *"Write-in candidate" means a person who became a candidate by filing a declaration of write-in candidacy pursuant to section 4 of this act and paying the appropriate filing fee pursuant to NRS 293.193.*

Sec. 4. *A person may file a declaration of write-in candidacy for a state office or federal office if:*

1. The person's name will not appear on the ballot at the general election for any office; and

2. The person has not filed a declaration of write-in candidacy for any other state office or federal office.

Sec. 5. *1. A declaration of write-in candidacy must be:*

(a) Filed with the Secretary of State or a county clerk, as applicable pursuant to NRS 293.185, not earlier than the first Monday ~~following the primary election~~ in July of the year in which the general election is to be held and not later than 5 p.m. on the ~~ninth Friday preceding the general election~~; second Friday after the first Monday in July; and

(b) In substantially the following form:

DECLARATION OF WRITE-IN CANDIDACY OF

FOR THE OFFICE OF

State of Nevada

County of

For the purpose of having any write-in votes for me counted 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 closing of filings 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 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; and that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitations prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office.

.....
(Designation of name)

.....
(Signature of write-in 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*

2. *The address of a write-in candidate which must be included in the declaration of write-in candidacy pursuant to subsection 1 must be the street address of the residence where the write-in candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration of write-in candidacy must not be accepted for filing if:*

(a) The write-in candidate's address is listed as a post office box unless a street address has not been assigned to his or her residence; or

(b) The write-in 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 write-in candidate and the write-in 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 write-in candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

3. *The filing officer shall retain a copy of the proof of identity and residency provided by the write-in candidate pursuant to paragraph (b) of subsection 2. 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 write-in candidate.

4. *By filing the declaration of write-in candidacy, the write-in candidate shall be deemed to have appointed the filing officer for the office as his or her 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 write-in candidate in the declaration of write-in candidacy. If the write-in 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 write-in candidate at the specified address, unless the write-in 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.*

5. *If the filing officer receives credible evidence indicating that a write-in candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the filing officer:*

(a) *May conduct an investigation to determine whether the write-in candidate has been convicted of a felony and, if so, whether the write-in candidate has had his or her 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.*

6. *The receipt of information by the Attorney General or district attorney pursuant to subsection 5 must be treated as a challenge of a write-in candidate pursuant to subsections 4 and 5 of NRS 293.182.*

Sec. 6. 1. *If there is a write-in candidate for a state office or federal office at a general election, ballots at the general election must allow a voter to vote for a write-in candidate.*

2. *Except as otherwise provided in subsection 3, any abbreviation, misspelling or other minor variation in the form of the name of the write-in candidate must be disregarded in determining the validity of the vote, if the intention of the voter can be ascertained.*

3. *A vote for a write-in candidate marked on a ballot with a sticker, stamp or any other similar method must not be counted.*

Sec. 7. NRS 293.010 is hereby amended to read as follows:

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, **and sections 2 and 3 of this act** have the meanings ascribed to them in those sections.

Sec. 8. NRS 293.1755 is hereby amended to read as follows:

293.1755 1. In addition to any other requirement provided by law, no person may be a candidate **or write-in candidate** for any office unless, for at least the 30 days immediately preceding the date of the close of filing of declarations of candidacy, **declarations of write-in candidacy** or acceptances of candidacy for the office which the person seeks, the person has, in accordance with NRS 281.050, actually, as opposed to constructively, resided in the State, district, county, township or other area prescribed by law to which the office pertains and, if elected, over which he or she will have jurisdiction or will represent.

2. Any person who knowingly and willfully files an acceptance of candidacy, ~~or~~ declaration of candidacy **or declaration of write-in candidacy** which contains a false statement in this respect is guilty of a gross misdemeanor.

3. The provisions of this section do not apply to candidates for the office of district attorney.

Sec. 9. NRS 293.181 is hereby amended to read as follows:
293.181 1. A candidate for the office of State Senator, Assemblyman or Assemblywoman must execute and file with his or her declaration of candidacy , ***declaration of write-in candidacy*** or acceptance of candidacy , ***as applicable***, a declaration of residency which must be in substantially the following form:
I, the undersigned, do swear or affirm under penalty of perjury that I have been a citizen resident of this State as required by NRS 218A.200 and have actually, as opposed to constructively, resided at the following residence or residences since November 1 of the preceding year:

..... Street Address	 Street Address
..... City or Town	 City or Town
..... State	 State
From To..... Dates of Residency	From To Dates of Residency
..... Street Address	 Street Address
..... City or Town	 City or Town
..... State	 State
From To..... Dates of Residency	From To Dates of Residency

(Attach additional sheet or sheets of residences as necessary)

2. Each address of a candidate which must be included in the declaration of residency pursuant to subsection 1 must be the street address of the residence where the candidate actually, as opposed to constructively, resided or resides in accordance with NRS 281.050, if one has been assigned. The declaration of residency must not be accepted for filing if any of the candidate's addresses are listed as a post office box unless a street address has not been assigned to the residence.

Sec. 10. NRS 293.182 is hereby amended to read as follows:
293.182 1. After a person files a declaration of candidacy ~~{or}~~ , ***a declaration of write-in candidacy or*** an acceptance of candidacy , ~~{to be a candidate for an office,}~~ and not later than 5 days after the last day the person may withdraw his or her candidacy pursuant to NRS 293.202, an elector may file with the filing officer for the office a written challenge of the person on the grounds that the person fails to meet any qualification required for the office pursuant to the Constitution or a statute of this State, including,

without limitation, a requirement concerning age or residency. Before accepting the challenge from the elector, the filing officer shall notify the elector that if the challenge is found by a court to be frivolous, the elector may be required to pay the reasonable attorney's fees and court costs of the challenged person.

2. A challenge filed pursuant to subsection 1 must:

(a) Indicate each qualification the person fails to meet;
(b) Have attached all documentation and evidence supporting the challenge; and

(c) Be in the form of an affidavit, signed by the elector under penalty of perjury.

3. Upon receipt of a challenge pursuant to subsection 1:

(a) The Secretary of State shall immediately transmit the challenge to the Attorney General.

(b) A filing officer other than the Secretary of State shall immediately transmit the challenge to the district attorney.

4. If the Attorney General or district attorney determines that probable cause exists to support the challenge, the Attorney General or district attorney shall, not later than 5 working days after receiving the challenge, petition a court of competent jurisdiction to order the person to appear before the court. Upon receipt of such a petition, the court shall enter an order directing the person to appear before the court at a hearing, at a time and place to be fixed by the court in the order, to show cause why the challenge is not valid. A certified copy of the order must be served upon the person. The court shall give priority to such proceedings over all other matters pending with the court, except for criminal proceedings.

5. If, at the hearing, the court determines by a preponderance of the evidence that the challenge is valid or that the person otherwise fails to meet any qualification required for the office pursuant to the Constitution or a statute of this State, or if the person fails to appear at the hearing:

(a) The name of the person must not appear on any ballot for the election for the office for which the person filed the declaration of candidacy or acceptance of candidacy; and

(b) The person is disqualified from entering upon the duties of the office for which he or she filed the declaration of candidacy or acceptance of candidacy.

6. If, at the hearing, the court determines that the challenge is frivolous, the court may order the elector who filed the challenge to pay the reasonable attorney's fees and court costs of the challenged person.

Sec. 11. NRS 293.184 is hereby amended to read as follows:

293.184 In addition to any other penalty provided by law, if a person knowingly and willfully files a declaration of candidacy , *declaration of write-in candidacy* or acceptance of candidacy which contains a false statement:

1. The name of the person must not appear on any ballot for the election for which the person filed the declaration of candidacy or acceptance of candidacy; ~~and~~

2. *If the person has filed a declaration of write-in candidacy, no vote cast for the person may be counted; and*

3. The person is disqualified from entering upon the duties of the office for which he or she was a candidate.

Sec. 12. NRS 293.185 is hereby amended to read as follows:

293.185 The declaration of candidacy, *the declaration of write-in candidacy*, the certificate of candidacy and the acceptance of candidacy must be filed during regular office hours, as follows:

1. For United States Senator, Representative in Congress, statewide offices, State Senators, Assemblymen and Assemblywomen to be elected from districts comprising more than one county, and all other offices whose districts comprise more than one county, with the Secretary of State.

2. For Representative in Congress and district offices voted for wholly within one county, State Senators, Assemblymen and Assemblywomen to be elected from districts comprising but one or part of one county, county and township officers, with the county clerk.

Sec. 13. NRS 293.193 is hereby amended to read as follows:

293.193 1. Fees as listed in this section for filing declarations of candidacy , *declarations of write-in candidacy* or acceptances of candidacy must be paid to the filing officer by cash, cashier's check or certified check.

United States Senator.....	\$500
Representative in Congress.....	300
Governor.....	300
Justice of the Supreme Court.....	300
Any state office, other than Governor or justice of the Supreme Court.....	200
District judge	150
Justice of the peace	100
Any county office	100
State Senator	100
Assemblyman or Assemblywoman	100
Any district office other than district judge	30
Constable or other town or township office.....	30

For the purposes of this subsection, trustee of a county school district, hospital or hospital district is not a county office.

2. No filing fee may be required from a candidate for an office the holder of which receives no compensation.

3. The county clerk shall pay to the county treasurer all filing fees received from candidates. The county treasurer shall deposit the money to the credit of the general fund of the county.

4. Except as otherwise provided in NRS 293.194, a filing fee paid pursuant to this section is not refundable.

Sec. 14. NRS 293.196 is hereby amended to read as follows:

293.196 For purposes of elections only, the Secretary of State shall establish designations which separately identify each office of justice of the Supreme Court. Before any person is allowed to file a declaration of candidacy *or declaration of write-in candidacy* for the office of justice of the Supreme Court, the person shall designate the particular office for which he or she is declaring candidacy.

Sec. 15. NRS 293.203 is hereby amended to read as follows:

293.203 Immediately upon receipt by the county clerk of the certified list of candidates from the Secretary of State, the county clerk shall publish a notice of primary election or general election in a newspaper of general circulation in the county once a week for 2 successive weeks. If no such newspaper is published in the county, the publication may be made in a newspaper of general circulation published in the nearest Nevada county. The notice must contain:

1. The date of the election.
2. The location of the polling places.
3. The hours during which the polling places will be open for voting.
4. The names of the candidates [-] *whose names will appear on the ballot for the election.*

5. A list of the offices to which the candidates seek nomination or election.

➤ The notice required for a general election pursuant to this section may be published in conjunction with the notice required for a proposed constitution, constitutional amendment or statewide measure pursuant to NRS 293.253. If the notices are combined in this manner, they must be published three times in accordance with subsection 3 of NRS 293.253.

Sec. 16. NRS 293.247 is hereby amended to read as follows:

293.247 1. The Secretary of State shall adopt regulations, not inconsistent with the election laws of this State, for the conduct of primary, general, special and district elections in all cities and counties. Permanent regulations of the Secretary of State that regulate the conduct of a primary, general, special or district election that are effective on or before December 31 of the year immediately preceding a primary, general, special or district election govern the conduct of that election.

2. The Secretary of State shall prescribe the forms for a declaration of candidacy, *declaration of write-in candidacy*, certificate of candidacy, acceptance of candidacy and any petition which is filed pursuant to the general election laws of this State.

3. The regulations must prescribe:
 - (a) The duties of election boards;
 - (b) The type and amount of election supplies;
 - (c) The manner of printing ballots and the number of ballots to be distributed to precincts and districts;
 - (d) The method to be used in distributing ballots to precincts and districts;

- (e) The method of inspection and the disposition of ballot boxes;
- (f) The form and placement of instructions to voters;
- (g) The recess periods for election boards;
- (h) The size, lighting and placement of voting booths;
- (i) The amount and placement of guardrails and other furniture and equipment at voting places;
- (j) The disposition of election returns;
- (k) The procedures to be used for canvasses, ties, recounts and contests, including, without limitation, the appropriate use of a paper record created when a voter casts a ballot on a mechanical voting system that directly records the votes electronically;
- (l) The procedures to be used to ensure the security of the ballots from the time they are transferred from the polling place until they are stored pursuant to the provisions of NRS 293.391 or 293C.390;
- (m) The procedures to be used to ensure the security and accuracy of computer programs and tapes used for elections;
- (n) The procedures to be used for the testing, use and auditing of a mechanical voting system which directly records the votes electronically and which creates a paper record when a voter casts a ballot on the system;
- (o) The procedures to be used for the disposition of absent ballots in case of an emergency;
- (p) The acceptable standards for the sending and receiving of applications, forms and ballots, by approved electronic transmission, by the county clerks and the electors or registered voters who are authorized to use approved electronic transmission pursuant to the provisions of this title;
- (q) The forms for applications to register to vote and any other forms necessary for the administration of this title; and
- (r) Such other matters as determined necessary by the Secretary of State.

4. The Secretary of State may provide interpretations and take other actions necessary for the effective administration of the statutes and regulations governing the conduct of primary, general, special and district elections in this State.

5. The Secretary of State shall prepare and distribute to each county and city clerk copies of:

- (a) Laws and regulations concerning elections in this State;
- (b) Interpretations issued by the Secretary of State's Office; and
- (c) Any Attorney General's opinions or any state or federal court decisions which affect state election laws or regulations whenever any of those opinions or decisions become known to the Secretary of State.

Sec. 17. 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 or her 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 or her 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. 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. ~~¶¶~~ ***Notwithstanding the provisions of section 6 of this act, if*** a candidate receives one or more votes at the primary election, the candidate must be declared elected to the office and his or her 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 or her 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. 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. 18. NRS 293.269 is hereby amended to read as follows:

293.269 1. Every ballot upon which appears the names of candidates for any statewide office or for President and Vice President of the United States shall contain for each office an additional line equivalent to the lines on which the candidates' names appear and placed at the end of the group of lines containing the names of the candidates for that office. Each additional line shall contain a square in which the voter may express a choice of that line in the same manner as the voter would express a choice of a candidate, and the line shall read "None of these candidates."

2. *In addition to the requirements set forth in subsection 1, if there is a write-in candidate for a state office or federal office at the general election, every ballot upon which appears the names of candidates for the state office or federal office must contain an additional line, equivalent to the lines on which the candidates' names appear and placed at the end of the group of lines containing the names of the candidates for the state or federal office, and the line that contains a square in which the voter may express a choice of "None of these candidates." ~~Each~~ The additional line required pursuant to this subsection must contain a square in which the voter may ~~express a choice for~~ write in the name of a write-in candidate for ~~each~~ the state or federal office.*

3. Only votes cast for the named candidates shall be counted in determining nomination or election to any statewide office or presidential nominations or the selection of presidential electors, but for each office the number of ballots on which the additional line was chosen shall be listed following the names of the candidates and the number of their votes in every posting, abstract and proclamation of the results of the election.

~~{3-}~~ 4. Every sample ballot or other instruction to voters prescribed or approved by the Secretary of State shall clearly explain that the voter may *vote for a write-in candidate* or mark the choice of the line "None of these candidates" only if the voter has not voted for any candidate for the office.

Sec. 19. NRS 293.270 is hereby amended to read as follows:

293.270 1. Voting at any election regulated by this title must be on printed ballots or by any other system approved by the Secretary of State or specifically authorized by law.

2. ~~{Except as otherwise provided in NRS 293.3155, voting must be only upon candidates whose names appear upon the ballot prepared by the election officers, and no person may write in the name of an additional candidate for any office.}~~ *Any ballot or voting system used at a general election at which votes may be cast for a state office or federal office must allow each voter to cast a ballot for a write-in candidate, if any, for each such state office or federal office.*

Sec. 20. NRS 293.3155 is hereby amended to read as follows:

293.3155 Notwithstanding any other provisions of this title:

1. Any registered voter of this State who is Armed Forces personnel or an overseas citizen may use a special absent ballot for a primary, general or special election.

2. The special absent ballot may be used for the offices of President and Vice President of the United States, United States Senator and Representative in Congress, and for any state or local offices and ballot questions for which the registered voter is entitled to cast a ballot. The ballot must allow the registered voter to vote by writing in his or her choice of a political party for each office, ~~for~~ the name of a candidate whose name appears on the ballot for each office ~~or~~ *or the name of a write-in candidate.*

3. The special absent ballot may be voted by completing the ballot according to the instructions and returning it to the county clerk by:

(a) Mail, if it can be returned in a timely manner; or

(b) Approved electronic transmission.

4. The special absent ballot must not be counted if:

(a) It is submitted from any location within the continental United States by an overseas citizen; or

(b) The county clerk receives the regular absent ballot from the voter on or before the date of the primary, general or special election.

5. As used in this section, "regular absent ballot" means the absent ballot prepared by the county clerk pursuant to NRS 293.309.

Sec. 21. 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 April, the deceased candidate's 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 or she was a candidate, except as otherwise provided in subsection 3 of NRS 293.165, the deceased candidate shall be deemed nominated and the vacancy in the nomination 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, the deceased candidate shall be deemed elected and the office to which he or she was elected shall be deemed vacant at the beginning of the term for which he or she 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.

5. *Whenever a write-in candidate dies, the votes cast for the deceased write-in candidate must be counted in determining the results of the election for the office for which the decedent was a write-in candidate.*

6. *If the deceased write-in candidate receives the majority of the votes cast for the office, the deceased write-in candidate shall be deemed elected and the office to which he or she was elected shall be deemed vacant at the beginning of the term for which he or she was elected. The vacancy thus created must be filled in the same manner as if the write-in candidate had died after taking office for that term.*

Sec. 22. NRS 293.370 is hereby amended to read as follows:

293.370 1. When all the votes have been counted, the counting board officers shall enter on the tally lists by the name of each candidate ***and, if applicable, each write-in candidate***, the number of votes the candidate received. The number must be expressed in words and figures. The vote for and against any question submitted to the electors must be entered in the same manner.

2. The tally lists must show the number of votes, other than absentee votes and votes in a mailing precinct, which each candidate received in each precinct at:

- (a) A primary election held in an even-numbered year; or
- (b) A general election.

Sec. 23. NRS 293.400 is hereby amended to read as follows:

293.400 1. If, after the completion of the canvass of the returns of any election, two or more persons receive an equal number of votes, which is sufficient for the election of one or more but fewer than all of them to the office, the person or persons elected must be determined as follows:

(a) In a general election for a United States Senator, Representative in Congress, state officer who is elected statewide or by district, district judge, or district officer whose district includes area in more than one county, the Legislature shall, by joint vote of both houses, elect one of those persons to fill the office.

(b) In a primary election for a United States Senator, Representative in Congress, state officer who is elected statewide or by district, district judge, or district officer whose district includes area in more than one county, the Secretary of State shall summon the candidates who have received the tie votes to appear before the Secretary of State at a time and place designated by the Secretary of State and the Secretary of State shall determine the tie by lot. If the tie vote is for the office of Secretary of State, the Governor shall perform these duties.

(c) For any office of a county, township, incorporated city, city organized under a special charter where the charter is silent as to determination of a tie vote, or district which is wholly located within one county, the county clerk shall summon the candidates who have received the tie votes to appear before

the county clerk at a time and place designated by the county clerk and determine the tie by lot. If the tie vote is for the office of county clerk, the board of county commissioners shall perform these duties.

2. The summons mentioned in this section must be mailed to the address of the candidate as it appears upon the candidate's declaration of candidacy *or declaration of write-in candidacy* at least 5 days before the day fixed for the determination of the tie vote and must contain the time and place where the determination will take place.

3. The right to a recount extends to all candidates in case of a tie.

Sec. 24. NRS 293.403 is hereby amended to read as follows:

293.403 1. A candidate defeated at any election may demand and receive a recount of the vote for the office for which he or she is a candidate to determine the number of votes received for the candidate and the number of votes received for the person who won the election if within 3 working days after the canvass of the vote and the certification by the county clerk or city clerk of the abstract of votes the candidate who demands the recount:

(a) Files in writing a demand with the officer with whom the candidate filed his or her declaration of candidacy , *declaration of write-in candidacy* or acceptance of candidacy; and

(b) Deposits in advance the estimated costs of the recount with that officer.

2. Any voter at an election may demand and receive a recount of the vote for a ballot question if within 3 working days after the canvass of the vote and the certification by the county clerk or city clerk of the abstract of votes, the voter:

(a) Files in writing a demand with:

(1) The Secretary of State, if the demand is for a recount of a ballot question affecting more than one county; or

(2) The county or city clerk who will conduct the recount, if the demand is for a recount of a ballot question affecting only one county or city; and

(b) Deposits in advance the estimated costs of the recount with the person to whom the demand was made.

3. The estimated costs of the recount must be determined by the person with whom the advance is deposited based on regulations adopted by the Secretary of State defining the term "costs."

4. As used in this section, "canvass" means:

(a) In any primary election, the canvass by the board of county commissioners of the returns for a candidate or ballot question voted for in one county or the canvass by the board of county commissioners last completing its canvass of the returns for a candidate or ballot question voted for in more than one county.

(b) In any primary city election, the canvass by the city council of the returns for a candidate or ballot question voted for in the city.

(c) In any general election:

(1) The canvass by the Supreme Court of the returns for a candidate for a statewide office or a statewide ballot question; or

(2) The canvass of the board of county commissioners of the returns for any other candidate or ballot question, as provided in paragraph (a).

(d) In any general city election, the canvass by the city council of the returns for a candidate or ballot question voted for in the city.

Sec. 24.5. Chapter 293B of NRS is hereby amended by adding thereto a new section to read as follows:

The two teams of a write-in vote counting board created pursuant to NRS 293B.360 shall count votes cast for write-in candidates in accordance with procedures established by the Secretary of State.

Sec. 25. NRS 293B.075 is hereby amended to read as follows:

293B.075 A mechanical voting system must permit the voter to vote for any person for any office for which he or she has the right to vote, but none other, ***indicate a vote for a write-in candidate, if applicable***, or indicate a vote against all candidates.

Sec. 25.5. NRS 293B.360 is hereby amended to read as follows:

293B.360 1. To facilitate the processing and computation of votes cast at any election conducted under a mechanical voting system, the county clerk shall create a computer program and processing accuracy board, and may create:

- (a) A central ballot inspection board;
- (b) An absent ballot mailing precinct inspection board;
- (c) A ballot duplicating board;
- (d) A ballot processing and packaging board; ~~and~~
- (e) **A write-in vote counting board; and**

~~(f)~~ Such additional boards or appoint such officers as the county clerk deems necessary for the expeditious processing of ballots.

2. Except as otherwise provided in ~~subsection~~ **subsections 3, 4, and 5,** the county clerk may determine the number of members to constitute any board. The county clerk shall make any appointments from among competent persons who are registered voters in this State. The members of each board must represent all political parties as equally as possible. The same person may be appointed to more than one board but must meet the particular qualifications for each board to which he or she is appointed.

3. If the county clerk creates a ballot duplicating board, the county clerk shall appoint to the board at least two members. The members of the ballot duplicating board must not all be of the same political party.

4. **If the county clerk creates a write-in vote counting board, the county clerk shall appoint four members to the board, which must consist of two teams of two members each.**

~~5.~~ All persons appointed pursuant to this section serve at the pleasure of the county clerk.

Sec. 26. NRS 294A.005 is hereby amended to read as follows:

294A.005 "Candidate" means any person:

1. Who files a declaration of candidacy;
2. ***Who files a declaration of write-in candidacy;***
3. Who files an acceptance of candidacy;
- ~~{3-}~~ 4. Whose name appears on an official ballot at any election; or
- ~~{4-}~~ 5. Who has received contributions in excess of \$100, regardless of whether:

(a) The person has filed a declaration of candidacy , ***declaration of write-in candidacy*** or an acceptance of candidacy; or

(b) The name of the person appears on an official ballot at any election.

Sec. 27. NRS 294A.290 is hereby amended to read as follows:

294A.290 1. The filing officer shall give to each candidate who files a declaration of candidacy , ***declaration of write-in candidacy*** or acceptance of candidacy a copy of the form set forth in subsection 2. The filing officer shall inform the candidate that subscription to the Code is voluntary.

2. The Code must be in the following form:

CODE OF FAIR CAMPAIGN PRACTICES

There are basic principles of decency, honesty and fair play which every candidate for public office in the State of Nevada has a moral obligation to observe and uphold, in order that, after vigorously contested but fairly conducted campaigns, the voters may exercise their constitutional right to vote for the candidate of their choice and that the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

1. I will conduct my campaign openly and publicly and limit attacks against my opponent to legitimate challenges to my opponent's voting record or qualifications for office.

2. I will not use character defamation or other false attacks on a candidate's personal or family life.

3. I will not use campaign material which misrepresents, distorts or otherwise falsifies the facts, nor will I use malicious or unfounded accusations which are intended to create or exploit doubts, without justification, about the personal integrity of my opposition.

4. I will not condone any dishonest or unethical practice which undermines the American system of free elections or impedes or prevents the full and free expression of the will of the voters.

I, the undersigned, as a candidate for election to public office in the State of Nevada, hereby voluntarily pledge myself to conduct my campaign in accordance with the principles and practices set forth in this Code.

.....

Date

.....

Signature of Candidate

3. A candidate who subscribes to the Code and submits the form set forth in subsection 2 to the filing officer may indicate on the candidate's campaign materials that he or she subscribes to the Code.

4. The Secretary of State shall provide a sufficient number of copies of the form to the county clerks, registrar of voters and other filing officers.

Sec. 28. NRS 294A.390 is hereby amended to read as follows:

294A.390 The officer from whom a candidate or entity requests a form for:

1. A declaration of candidacy;
2. *A declaration of write-in candidacy;*
3. An acceptance of candidacy;

~~{3-}~~ 4. The registration of a committee for political action pursuant to NRS 294A.230, a committee for the recall of a public officer pursuant to NRS 294A.250 or a business entity that wishes to engage in certain political activity pursuant to NRS 294A.227;

~~{4-}~~ 5. The reporting of the creation of a legal defense fund pursuant to NRS 294A.286; or

~~{5-}~~ 6. The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.283 or 294A.360 and the reporting of contributions received by and expenditures made from a legal defense fund pursuant to NRS 294A.286,

➤ shall furnish the candidate with the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.283 or 294A.360 relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420, and an explanation of NRS 294A.286 and 294A.287 relating to the accepting or reporting of contributions received by and expenditures made from a legal defense fund and the penalties for a violation of those provisions as set forth in NRS 294A.287 and 294A.420, must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

Sec. 29. NRS 217.468 is hereby amended to read as follows:

217.468 1. Except as otherwise provided in subsections 2 and 3, the Secretary of State shall cancel the fictitious address of a participant 4 years after the date on which the Secretary of State approved the application.

2. The Secretary of State shall not cancel the fictitious address of a participant if, before the fictitious address of the participant is cancelled, the participant shows to the satisfaction of the Secretary of State that the participant remains in imminent danger of becoming a victim of domestic violence, sexual assault or stalking.

3. The Secretary of State may cancel the fictitious address of a participant at any time if:

(a) The participant changes his or her confidential address from the one listed in the application and fails to notify the Secretary of State within 48 hours after the change of address;

(b) The Secretary of State determines that false or incorrect information was knowingly provided in the application; or

(c) The participant files a declaration or acceptance of candidacy pursuant to NRS 293.177 or 293C.185 ~~†~~ ***or a declaration of write-in candidacy pursuant to section 4 of this act.***

Sec. 30. NRS 218A.660 is hereby amended to read as follows:

218A.660 1. Except as otherwise provided in this section and NRS 218A.655, each Senator, Assemblywoman and Assemblyman is entitled to receive, during the legislative interim, an allowance for travel within the State to participate in a meeting of a legislative committee or subcommittee of which the Legislator is not a member or with an officer, employee, agency, board, bureau, commission, department, division, district or other unit of federal, state or local government or any other public entity regarding an issue relating to the State.

2. The allowance for travel payable pursuant to this section applies only to trips whose one-way distance is 50 miles or more or whose round-trip distance is 100 miles or more.

3. The maximum allowance for travel payable to each Senator, Assemblywoman and Assemblyman pursuant to this section during a legislative interim is \$3,000, except that no allowance for travel pursuant to this section is payable to a Senator, Assemblywoman or Assemblyman for travel that occurs during the legislative interim at any time after the date on which the Senator, Assemblywoman or Assemblyman has filed a declaration or an acceptance of candidacy ***or a declaration of write-in candidacy*** for an elective office and remains a candidate for that office.

4. Transportation must be by the most economical means, considering total cost and time spent in transit. The allowance is:

(a) If the travel is by private conveyance, the standard mileage reimbursement rate for which a deduction is allowed for the purposes of federal income tax.

(b) If the travel is not by private conveyance, the actual amount expended.

5. Claims made pursuant to this section must be paid from the Legislative Fund unless otherwise provided by specific statute. A claim must not be paid unless the Senator, Assemblywoman or Assemblyman submits a signed statement affirming:

(a) The date of travel;

(b) The purpose of the travel and of the participant's attendance; and

(c) The places of departure and arrival and, if the travel is by private conveyance, the actual miles traveled. If the travel is not by private conveyance, the claim must include a receipt or other evidence of the expenditure.

Sec. 31. NRS 281A.050 is hereby amended to read as follows:

281A.050 "Candidate" means any person:

1. Who files a declaration of candidacy;
2. ***Who files a declaration of write-in candidacy;***
3. Who files an acceptance of candidacy; or
- ~~{3-}~~ 4. Whose name appears on an official ballot at any election.

Sec. 32. NRS 281A.520 is hereby amended to read as follows:

281A.520 1. Except as otherwise provided in subsections 4 and 5, a public officer or employee shall not request or otherwise cause a governmental entity to incur an expense or make an expenditure to support or oppose:

- (a) A ballot question.
- (b) A candidate.

2. For the purposes of paragraph (b) of subsection 1, an expense incurred or an expenditure made by a governmental entity shall be considered an expense incurred or an expenditure made in support of a candidate if:

(a) The expense is incurred or the expenditure is made for the creation or dissemination of a pamphlet, brochure, publication, advertisement or television programming that prominently features the activities of a current public officer of the governmental entity who is a candidate for a state, local or federal elective office; and

(b) The pamphlet, brochure, publication, advertisement or television programming described in paragraph (a) is created or disseminated during the period specified in subsection 3.

3. The period during which the provisions of subsection 2 apply to a particular governmental entity begins when a current public officer of that governmental entity files a declaration of candidacy, ***declaration of write-in candidacy*** or acceptance of candidacy and ends on the date of the general election, general city election or special election for the office for which the current public officer of the governmental entity is a candidate.

4. The provisions of this section do not prohibit the creation or dissemination of, or the appearance of a candidate in or on, as applicable, a pamphlet, brochure, publication, advertisement or television programming that:

(a) Is made available to the public on a regular basis and merely describes the functions of:

- (1) The public office held by the public officer who is the candidate; or
- (2) The governmental entity by which the public officer who is the candidate is employed; or

(b) Is created or disseminated in the course of carrying out a duty of:

- (1) The public officer who is the candidate; or
- (2) The governmental entity by which the public officer who is the candidate is employed.

5. The provisions of this section do not prohibit an expense or an expenditure incurred to create or disseminate a television program that provides a forum for discussion or debate regarding a ballot question, if

persons both in support of and in opposition to the ballot question participate in the television program.

6. As used in this section:

(a) "Governmental entity" means:

- (1) The government of this State;
- (2) An agency of the government of this State;
- (3) A political subdivision of this State; and
- (4) An agency of a political subdivision of this State.

(b) "Pamphlet, brochure, publication, advertisement or television programming" includes, without limitation, a publication, a public service announcement and any programming on a television station created to provide community access to cable television. The term does not include:

- (1) A press release issued to the media by a governmental entity; or
- (2) The official website of a governmental entity.

Sec. 33. NRS 281A.610 is hereby amended to read as follows:

281A.610 1. Except as otherwise provided in subsection 2, each candidate for public office who will be entitled to receive annual compensation of \$6,000 or more for serving in the office that the candidate is seeking and, except as otherwise provided in subsection 3, each public officer who was elected to the office for which the public officer is serving shall file with the Secretary of State a statement of financial disclosure, as follows:

(a) ~~{A}~~ ***Except as otherwise provided in this paragraph, a*** candidate for nomination, election or reelection to public office shall file a statement of financial disclosure no later than the 10th day after the last day to qualify as a candidate for the office. ***If a person became a candidate for the office by filing a declaration of write-in candidacy, the person shall file a statement of financial disclosure no later than the 10th day after the last day to file the declaration of write-in candidacy for the office.*** The statement must disclose the required information for the full calendar year immediately preceding the date of filing and for the period between January 1 of the year in which the election for the office will be held and , ***as applicable***, the last day to ~~{qualify as a candidate}~~ ***file a declaration of candidacy, declaration of write-in candidacy or acceptance of candidacy*** for the office. The filing of a statement of financial disclosure for a portion of a calendar year pursuant to this paragraph does not relieve the candidate of the requirement of filing a statement of financial disclosure for the full calendar year pursuant to paragraph (b) in the immediately succeeding year, if the candidate is elected to the office.

(b) Each public officer shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires. The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. Except as otherwise provided in this subsection, if a candidate for public office is serving in a public office for which the candidate is required

to file a statement pursuant to paragraph (b) of subsection 1 or subsection 1 of NRS 281A.600, the candidate need not file the statement required by subsection 1 for the full calendar year for which the candidate previously filed a statement. The provisions of this subsection do not relieve the candidate of the requirement pursuant to paragraph (a) of subsection 1 to file a statement of financial disclosure for the period between January 1 of the year in which the election for the office will be held and , *as applicable*, the last day to ~~{qualify as a candidate}~~ ***file a declaration of candidacy, declaration of write-in candidacy or acceptance of candidacy*** for the office.

3. A person elected pursuant to NRS 548.285 to the office of supervisor of a conservation district is not required to file a statement of financial disclosure relative to that office pursuant to subsection 1.

4. A candidate for judicial office or a judicial officer shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281A.620.

5. A statement of financial disclosure shall be deemed to be filed with the Secretary of State:

- (a) On the date that it was mailed if it was sent by certified mail; or
- (b) On the date that it was received by the Secretary of State if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

6. The statement of financial disclosure filed pursuant to this section must be filed on the form prescribed by the Commission pursuant to NRS 281A.290.

7. The Secretary of State shall prescribe, by regulation, procedures for the submission of statements of financial disclosure filed pursuant to this section, maintain files of such statements and make the statements available for public inspection.

Sec. 34. NRS 281A.640 is hereby amended to read as follows:

281A.640 1. A list of each public officer who is required to file a statement of financial disclosure must be submitted electronically to the Commission and to the Secretary of State, in a form prescribed by the Commission, on or before December 1 of each year by:

- (a) Each county clerk for all public officers of the county and other local governments within the county other than cities;
- (b) Each city clerk for all public officers of the city;
- (c) The Director of the Legislative Counsel Bureau for all public officers of the Legislative Branch; and
- (d) The Chief of the Budget Division of the Department of Administration for all public officers of the Executive Branch.

2. The Secretary of State, each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk shall submit electronically to the Commission, and each county clerk,

or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk shall submit electronically to the Secretary of State, in a form prescribed by the Commission, a list of each candidate for public office who filed a declaration of candidacy, *declaration of write-in candidacy* or acceptance of candidacy with that officer within 10 days after the last day to ~~{qualify as a candidate for the applicable office.}~~ *file a declaration or acceptance of candidacy and, if applicable, within 10 days after the last day to file the declaration of write-in candidacy.*

Sec. 35. NRS 281A.650 is hereby amended to read as follows:

281A.650 The Secretary of State and each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, or city clerk who receives from a candidate for public office a declaration of candidacy, *declaration of write-in candidacy*, acceptance of candidacy or certificate of candidacy shall give to the candidate the form prescribed by the Commission for the making of a statement of financial disclosure, accompanied by instructions on how to complete the form, where it must be filed and the time by which it must be filed.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

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

Senate Bill No. 269 relates to elections. Amendment No. 367 makes the following changes: write-in candidates must file within designated dates in July of election years; ballot design requirements include a line for a write-in candidate for each state or federal office for which a write-in candidate has filed; and the county clerk is permitted to create a write-in ballot vote counting board.

Amendment adopted.

The following amendment was proposed by Senator Hardy:

Amendment No. 523.

"SUMMARY—Makes various changes concerning elections.
(BDR 24-840)"

"AN ACT relating to elections; authorizing write-in voting for state and federal offices under certain circumstances; providing requirements for becoming a write-in candidate for state or federal office; requiring write-in candidates to submit certain campaign contribution and expenditure reports and statements of financial disclosure; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires that voting in all elections be only for candidates whose names appear on the ballot; writing in the name of an additional candidate is prohibited. (NRS 293.270) **Sections 6, 18 and 19** of this bill authorize voters to cast ballots for write-in candidates for state and federal offices in general elections under certain circumstances. **Sections 3, 5 and 13** of this bill provide that a person may become a write-in candidate by filing a declaration of write-in candidacy and paying the appropriate filing fee. **Section 4** of this bill provides that a person may become a write-in candidate

if: (1) the person's name will not appear on the ballot at the general election for any office; and (2) the person has not filed a declaration of write-in candidacy for any other office.

When determining the results of an election, existing law requires the counting board officers to enter on tally lists, by the name of each candidate, the number of votes the candidate received at the election. (NRS 293.370) Section 6.5 of this bill provides that if there is a write-in candidate for a state or federal office at a general election, each county clerk must report to the Secretary of State the total number of votes cast in the county for write-in candidates for each state or federal office for which there is a write-in candidate. If the Secretary of State determines that a majority of votes cast in a particular race for state or federal office are for write-in candidates, the Secretary of State shall require the county clerks to tally the number of votes cast for each write-in candidate for that state or federal office. Section 22 of this bill then requires that the counting board officers enter on the tally list, by the name of each write-in candidate, the number of votes that each write-in candidate received at the election.

Section 26 of this bill amends the definition of "candidate" to include write-in candidates so that write-in candidates are subject to the same reporting requirements related to campaign contributions and expenditures as other candidates. Sections 31-35 of this bill require write-in candidates to file the same statements of financial disclosure as other candidates for public office.

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~16~~ **6.5**, inclusive, of this act.

Sec. 2. *"State office" means an office held by a state officer.*

Sec. 3. *"Write-in candidate" means a person who became a candidate by filing a declaration of write-in candidacy pursuant to section 5 of this act and paying the appropriate filing fee pursuant to NRS 293.193.*

Sec. 4. *A person may file a declaration of write-in candidacy for a state office or federal office if:*

1. The person's name will not appear on the ballot at the general election for any office; and

2. The person has not filed a declaration of write-in candidacy for any other state office or federal office.

Sec. 5. 1. *A declaration of write-in candidacy must be:*

(a) Filed with the Secretary of State or a county clerk, as applicable pursuant to NRS 293.185, not earlier than the first Monday following the primary election and not later than 5 p.m. on the ninth Friday preceding the general election; and

(b) In substantially the following form:

DECLARATION OF WRITE-IN CANDIDACY OF
FOR THE OFFICE OF

State of Nevada

County of

For the purpose of having any write-in votes for me counted 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 closing of filings 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 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; and that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitations prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office.

.....
(Designation of name)

.....
(Signature of write-in 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

2. The address of a write-in candidate which must be included in the declaration of write-in candidacy pursuant to subsection 1 must be the street address of the residence where the write-in candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration of write-in candidacy must not be accepted for filing if:

- (a) The write-in candidate's address is listed as a post office box unless a street address has not been assigned to his or her residence; or*
- (b) The write-in 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 write-in candidate and the write-in 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 write-in candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

3. The filing officer shall retain a copy of the proof of identity and residency provided by the write-in candidate pursuant to paragraph (b) of subsection 2. 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 write-in candidate.

4. By filing the declaration of write-in candidacy, the write-in candidate shall be deemed to have appointed the filing officer for the office as his or her 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 write-in candidate in the declaration of write-in candidacy. If the write-in 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 write-in candidate at the specified address, unless the write-in 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.

5. If the filing officer receives credible evidence indicating that a write-in candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the filing officer:

(a) May conduct an investigation to determine whether the write-in candidate has been convicted of a felony and, if so, whether the write-in candidate has had his or her 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.

6. The receipt of information by the Attorney General or district attorney pursuant to subsection 5 must be treated as a challenge of a write-in candidate pursuant to subsections 4 and 5 of NRS 293.182.

Sec. 6. 1. If there is a write-in candidate for a state office or federal office at a general election, ballots at the general election must allow a voter to vote for a write-in candidate.

2. *Except as otherwise provided in subsection 3, any abbreviation, misspelling or other minor variation in the form of the name of the write-in candidate must be disregarded in determining the validity of the vote, if the intention of the voter can be ascertained.*

3. *A vote for a write-in candidate marked on a ballot with a sticker, stamp or any other similar method must not be counted.*

Sec. 6.5. 1. *If there is a write-in candidate for a state office or federal office at a general election, the county clerk of each county shall report to the Secretary of State how many total votes were cast in that county for write-in candidates.*

2. *If based on the information received pursuant to subsection 1, the Secretary of State determines that a majority of votes cast at the general election for a particular state office or federal office were for write-in candidates, the Secretary of State shall order each county clerk to tally the votes cast for each write-in candidate for such state office or federal office.*

3. *The Secretary of State may adopt regulations to carry out the provisions of this section.*

Sec. 7. NRS 293.010 is hereby amended to read as follows:

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, **and sections 2 and 3 of this act** have the meanings ascribed to them in those sections.

Sec. 8. NRS 293.1755 is hereby amended to read as follows:

293.1755 1. In addition to any other requirement provided by law, no person may be a candidate **or write-in candidate** for any office unless, for at least the 30 days immediately preceding the date of the close of filing of declarations of candidacy, **declarations of write-in candidacy** or acceptances of candidacy for the office which the person seeks, the person has, in accordance with NRS 281.050, actually, as opposed to constructively, resided in the State, district, county, township or other area prescribed by law to which the office pertains and, if elected, over which he or she will have jurisdiction or will represent.

2. Any person who knowingly and willfully files an acceptance of candidacy, ~~{or}~~ declaration of candidacy **or declaration of write-in candidacy** which contains a false statement in this respect is guilty of a gross misdemeanor.

3. The provisions of this section do not apply to candidates for the office of district attorney.

Sec. 9. NRS 293.181 is hereby amended to read as follows:

293.181 1. A candidate for the office of State Senator, Assemblyman or Assemblywoman must execute and file with his or her declaration of candidacy, **declaration of write-in candidacy** or acceptance of candidacy, **as applicable**, a declaration of residency which must be in substantially the following form:

I, the undersigned, do swear or affirm under penalty of perjury that I have been a citizen resident of this State as required by NRS 218A.200 and have actually, as opposed to constructively, resided at the following residence or residences since November 1 of the preceding year:

..... Street Address	 Street Address
..... City or Town	 City or Town
..... State	 State
From To..... Dates of Residency	From To Dates of Residency
..... Street Address	 Street Address
..... City or Town	 City or Town
..... State	 State
From To..... Dates of Residency	From To Dates of Residency

(Attach additional sheet or sheets of residences as necessary)

2. Each address of a candidate which must be included in the declaration of residency pursuant to subsection 1 must be the street address of the residence where the candidate actually, as opposed to constructively, resided or resides in accordance with NRS 281.050, if one has been assigned. The declaration of residency must not be accepted for filing if any of the candidate's addresses are listed as a post office box unless a street address has not been assigned to the residence.

Sec. 10. NRS 293.182 is hereby amended to read as follows:
293.182 1. After a person files a declaration of candidacy ~~for~~ , **a declaration of write-in candidacy or** an acceptance of candidacy , ~~to be a candidate for an office,~~ and not later than 5 days after the last day the person may withdraw his or her candidacy pursuant to NRS 293.202, an elector may file with the filing officer for the office a written challenge of the person on the grounds that the person fails to meet any qualification required for the office pursuant to the Constitution or a statute of this State, including, without limitation, a requirement concerning age or residency. Before accepting the challenge from the elector, the filing officer shall notify the elector that if the challenge is found by a court to be frivolous, the elector may be required to pay the reasonable attorney's fees and court costs of the challenged person.

2. A challenge filed pursuant to subsection 1 must:

- (a) Indicate each qualification the person fails to meet;
- (b) Have attached all documentation and evidence supporting the challenge; and
- (c) Be in the form of an affidavit, signed by the elector under penalty of perjury.

3. Upon receipt of a challenge pursuant to subsection 1:

(a) The Secretary of State shall immediately transmit the challenge to the Attorney General.

(b) A filing officer other than the Secretary of State shall immediately transmit the challenge to the district attorney.

4. If the Attorney General or district attorney determines that probable cause exists to support the challenge, the Attorney General or district attorney shall, not later than 5 working days after receiving the challenge, petition a court of competent jurisdiction to order the person to appear before the court. Upon receipt of such a petition, the court shall enter an order directing the person to appear before the court at a hearing, at a time and place to be fixed by the court in the order, to show cause why the challenge is not valid. A certified copy of the order must be served upon the person. The court shall give priority to such proceedings over all other matters pending with the court, except for criminal proceedings.

5. If, at the hearing, the court determines by a preponderance of the evidence that the challenge is valid or that the person otherwise fails to meet any qualification required for the office pursuant to the Constitution or a statute of this State, or if the person fails to appear at the hearing:

(a) The name of the person must not appear on any ballot for the election for the office for which the person filed the declaration of candidacy or acceptance of candidacy; and

(b) The person is disqualified from entering upon the duties of the office for which he or she filed the declaration of candidacy or acceptance of candidacy.

6. If, at the hearing, the court determines that the challenge is frivolous, the court may order the elector who filed the challenge to pay the reasonable attorney's fees and court costs of the challenged person.

Sec. 11. NRS 293.184 is hereby amended to read as follows:

293.184 In addition to any other penalty provided by law, if a person knowingly and willfully files a declaration of candidacy , ***declaration of write-in candidacy*** or acceptance of candidacy which contains a false statement:

1. The name of the person must not appear on any ballot for the election for which the person filed the declaration of candidacy or acceptance of candidacy; ~~and~~

2. ***If the person has filed a declaration of write-in candidacy, no vote cast for the person may be counted; and***

3. The person is disqualified from entering upon the duties of the office for which he or she was a candidate.

Sec. 12. NRS 293.185 is hereby amended to read as follows:

293.185 The declaration of candidacy, *the declaration of write-in candidacy*, the certificate of candidacy and the acceptance of candidacy must be filed during regular office hours, as follows:

1. For United States Senator, Representative in Congress, statewide offices, State Senators, Assemblymen and Assemblywomen to be elected from districts comprising more than one county, and all other offices whose districts comprise more than one county, with the Secretary of State.

2. For Representative in Congress and district offices voted for wholly within one county, State Senators, Assemblymen and Assemblywomen to be elected from districts comprising but one or part of one county, county and township officers, with the county clerk.

Sec. 13. NRS 293.193 is hereby amended to read as follows:

293.193 1. Fees as listed in this section for filing declarations of candidacy, *declarations of write-in candidacy* or acceptances of candidacy must be paid to the filing officer by cash, cashier's check or certified check.

United States Senator.....	\$500
Representative in Congress.....	300
Governor.....	300
Justice of the Supreme Court.....	300
Any state office, other than Governor or justice of the Supreme Court.....	200
District judge	150
Justice of the peace	100
Any county office	100
State Senator	100
Assemblyman or Assemblywoman	\$100
Any district office other than district judge	30
Constable or other town or township office.....	30

For the purposes of this subsection, trustee of a county school district, hospital or hospital district is not a county office.

2. No filing fee may be required from a candidate for an office the holder of which receives no compensation.

3. The county clerk shall pay to the county treasurer all filing fees received from candidates. The county treasurer shall deposit the money to the credit of the general fund of the county.

4. Except as otherwise provided in NRS 293.194, a filing fee paid pursuant to this section is not refundable.

Sec. 14. NRS 293.196 is hereby amended to read as follows:

293.196 For purposes of elections only, the Secretary of State shall establish designations which separately identify each office of justice of the Supreme Court. Before any person is allowed to file a declaration of candidacy *or declaration of write-in candidacy* for the office of justice of the Supreme Court, the person shall designate the particular office for which he or she is declaring candidacy.

Sec. 15. NRS 293.203 is hereby amended to read as follows:

293.203 Immediately upon receipt by the county clerk of the certified list of candidates from the Secretary of State, the county clerk shall publish a notice of primary election or general election in a newspaper of general circulation in the county once a week for 2 successive weeks. If no such newspaper is published in the county, the publication may be made in a newspaper of general circulation published in the nearest Nevada county. The notice must contain:

1. The date of the election.
2. The location of the polling places.
3. The hours during which the polling places will be open for voting.
4. The names of the candidates ~~to~~ ***whose names will appear on the ballot for the election.***

5. A list of the offices to which the candidates seek nomination or election.

➡ The notice required for a general election pursuant to this section may be published in conjunction with the notice required for a proposed constitution, constitutional amendment or statewide measure pursuant to NRS 293.253. If the notices are combined in this manner, they must be published three times in accordance with subsection 3 of NRS 293.253.

Sec. 16. NRS 293.247 is hereby amended to read as follows:

293.247 1. The Secretary of State shall adopt regulations, not inconsistent with the election laws of this State, for the conduct of primary, general, special and district elections in all cities and counties. Permanent regulations of the Secretary of State that regulate the conduct of a primary, general, special or district election that are effective on or before December 31 of the year immediately preceding a primary, general, special or district election govern the conduct of that election.

2. The Secretary of State shall prescribe the forms for a declaration of candidacy, ***declaration of write-in candidacy***, certificate of candidacy, acceptance of candidacy and any petition which is filed pursuant to the general election laws of this State.

3. The regulations must prescribe:
- (a) The duties of election boards;
 - (b) The type and amount of election supplies;
 - (c) The manner of printing ballots and the number of ballots to be distributed to precincts and districts;
 - (d) The method to be used in distributing ballots to precincts and districts;
 - (e) The method of inspection and the disposition of ballot boxes;
 - (f) The form and placement of instructions to voters;
 - (g) The recess periods for election boards;
 - (h) The size, lighting and placement of voting booths;
 - (i) The amount and placement of guardrails and other furniture and equipment at voting places;
 - (j) The disposition of election returns;

(k) The procedures to be used for canvasses, ties, recounts and contests, including, without limitation, the appropriate use of a paper record created when a voter casts a ballot on a mechanical voting system that directly records the votes electronically;

(l) The procedures to be used to ensure the security of the ballots from the time they are transferred from the polling place until they are stored pursuant to the provisions of NRS 293.391 or 293C.390;

(m) The procedures to be used to ensure the security and accuracy of computer programs and tapes used for elections;

(n) The procedures to be used for the testing, use and auditing of a mechanical voting system which directly records the votes electronically and which creates a paper record when a voter casts a ballot on the system;

(o) The procedures to be used for the disposition of absent ballots in case of an emergency;

(p) The acceptable standards for the sending and receiving of applications, forms and ballots, by approved electronic transmission, by the county clerks and the electors or registered voters who are authorized to use approved electronic transmission pursuant to the provisions of this title;

(q) The forms for applications to register to vote and any other forms necessary for the administration of this title; and

(r) Such other matters as determined necessary by the Secretary of State.

4. The Secretary of State may provide interpretations and take other actions necessary for the effective administration of the statutes and regulations governing the conduct of primary, general, special and district elections in this State.

5. The Secretary of State shall prepare and distribute to each county and city clerk copies of:

(a) Laws and regulations concerning elections in this State;

(b) Interpretations issued by the Secretary of State's Office; and

(c) Any Attorney General's opinions or any state or federal court decisions which affect state election laws or regulations whenever any of those opinions or decisions become known to the Secretary of State.

Sec. 17. 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 or her 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 or her 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. 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. ~~¶¶~~ ***Notwithstanding the provisions of section 6 of this act, if*** a candidate receives one or more votes at the primary election, the candidate must be declared elected to the office and his or her 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 or her 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. 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. 18. NRS 293.269 is hereby amended to read as follows:

293.269 1. Every ballot upon which appears the names of candidates for any statewide office or for President and Vice President of the United States shall contain for each office an additional line equivalent to the lines on which the candidates' names appear and placed at the end of the group of

lines containing the names of the candidates for that office. Each additional line shall contain a square in which the voter may express a choice of that line in the same manner as the voter would express a choice of a candidate, and the line shall read "None of these candidates."

2. ***In addition to the requirements set forth in subsection 1, if there is a write-in candidate for a state office or federal office at the general election, every ballot upon which appears the names of candidates for the state office or federal office must contain an additional line, equivalent to the lines on which the candidates' names appear and placed at the end of the group of lines containing the names of the candidates for the state or federal office, and the line that contains a square in which the voter may express a choice of "None of these candidates." ~~Each~~ The additional line required pursuant to this subsection must contain a square in which the voter may ~~express a choice for~~ write in the name of a write-in candidate for each state office or federal office.***

3. Only votes cast for the named candidates shall be counted in determining nomination or election to any statewide office or presidential nominations or the selection of presidential electors, but for each office the number of ballots on which the additional line was chosen shall be listed following the names of the candidates and the number of their votes in every posting, abstract and proclamation of the results of the election.

~~{3-}~~ 4. Every sample ballot or other instruction to voters prescribed or approved by the Secretary of State shall clearly explain that the voter may ***vote for a write-in candidate or*** mark the choice of the line "None of these candidates" only if the voter has not voted for any candidate for the office.

Sec. 19. NRS 293.270 is hereby amended to read as follows:

293.270 1. Voting at any election regulated by this title must be on printed ballots or by any other system approved by the Secretary of State or specifically authorized by law.

2. ~~{Except as otherwise provided in NRS 293.3155, voting must be only upon candidates whose names appear upon the ballot prepared by the election officers, and no person may write in the name of an additional candidate for any office.}~~ ***Any ballot or voting system used at a general election at which votes may be cast for a state office or federal office must allow each voter to cast a ballot for a write-in candidate, if any, for each such state office or federal office.***

Sec. 20. NRS 293.3155 is hereby amended to read as follows:

293.3155 Notwithstanding any other provisions of this title:

1. Any registered voter of this State who is Armed Forces personnel or an overseas citizen may use a special absent ballot for a primary, general or special election.

2. The special absent ballot may be used for the offices of President and Vice President of the United States, United States Senator and Representative in Congress, and for any state or local offices and ballot questions for which the registered voter is entitled to cast a ballot. The ballot must allow the

registered voter to vote by writing in his or her choice of a political party for each office, ~~for~~ the name of a candidate whose name appears on the ballot for each office ~~+~~ ***or the name of a write-in candidate.***

3. The special absent ballot may be voted by completing the ballot according to the instructions and returning it to the county clerk by:

- (a) Mail, if it can be returned in a timely manner; or
- (b) Approved electronic transmission.

4. The special absent ballot must not be counted if:

(a) It is submitted from any location within the continental United States by an overseas citizen; or

(b) The county clerk receives the regular absent ballot from the voter on or before the date of the primary, general or special election.

5. As used in this section, "regular absent ballot" means the absent ballot prepared by the county clerk pursuant to NRS 293.309.

Sec. 21. 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 April, the deceased candidate's 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 or she was a candidate, except as otherwise provided in subsection 3 of NRS 293.165, the deceased candidate shall be deemed nominated and the vacancy in the nomination 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, the deceased candidate shall be deemed elected and the office to which he or she was elected shall be deemed vacant at the beginning of the term for which he or she 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.

5. *Whenever a write-in candidate dies, the votes cast for the deceased write-in candidate must be counted in determining the results of the election for the office for which the decedent was a write-in candidate.*

6. *If the deceased write-in candidate receives the majority of the votes cast for the office, the deceased write-in candidate shall be deemed elected and the office to which he or she was elected shall be deemed vacant at the beginning of the term for which he or she was elected. The vacancy thus*

created must be filled in the same manner as if the write-in candidate had died after taking office for that term.

Sec. 22. NRS 293.370 is hereby amended to read as follows:

293.370 1. **Except as otherwise provided in subsection 2:**

(a) When all the votes have been counted, the counting board officers shall enter on the tally lists by the name of each candidate ~~and, if applicable, each write-in candidate,~~ the number of votes the candidate received. The number must be expressed in words and figures. The vote for and against any question submitted to the electors must be entered in the same manner.

~~12-1~~ **(b)** The tally lists must show the number of votes, other than absentee votes and votes in a mailing precinct, which each candidate received in each precinct at:

~~1(a)~~ **(1)** A primary election held in an even-numbered year; or

~~1(b)~~ **(2)** A general election.

2. The counting board officers shall enter on the tally lists by the name of each write-in candidate the number of votes the write-in candidate received if the Secretary of State determines that the votes for a write-in candidate need to be tallied pursuant to section 6.5 of this act.

Sec. 23. NRS 293.400 is hereby amended to read as follows:

293.400 1. If, after the completion of the canvass of the returns of any election, two or more persons receive an equal number of votes, which is sufficient for the election of one or more but fewer than all of them to the office, the person or persons elected must be determined as follows:

(a) In a general election for a United States Senator, Representative in Congress, state officer who is elected statewide or by district, district judge, or district officer whose district includes area in more than one county, the Legislature shall, by joint vote of both houses, elect one of those persons to fill the office.

(b) In a primary election for a United States Senator, Representative in Congress, state officer who is elected statewide or by district, district judge, or district officer whose district includes area in more than one county, the Secretary of State shall summon the candidates who have received the tie votes to appear before the Secretary of State at a time and place designated by the Secretary of State and the Secretary of State shall determine the tie by lot. If the tie vote is for the office of Secretary of State, the Governor shall perform these duties.

(c) For any office of a county, township, incorporated city, city organized under a special charter where the charter is silent as to determination of a tie vote, or district which is wholly located within one county, the county clerk shall summon the candidates who have received the tie votes to appear before the county clerk at a time and place designated by the county clerk and determine the tie by lot. If the tie vote is for the office of county clerk, the board of county commissioners shall perform these duties.

2. The summons mentioned in this section must be mailed to the address of the candidate as it appears upon the candidate's declaration of candidacy

or declaration of write-in candidacy at least 5 days before the day fixed for the determination of the tie vote and must contain the time and place where the determination will take place.

3. The right to a recount extends to all candidates in case of a tie.

Sec. 24. NRS 293.403 is hereby amended to read as follows:

293.403 1. A candidate defeated at any election may demand and receive a recount of the vote for the office for which he or she is a candidate to determine the number of votes received for the candidate and the number of votes received for the person who won the election if within 3 working days after the canvass of the vote and the certification by the county clerk or city clerk of the abstract of votes the candidate who demands the recount:

(a) Files in writing a demand with the officer with whom the candidate filed his or her declaration of candidacy , *declaration of write-in candidacy* or acceptance of candidacy; and

(b) Deposits in advance the estimated costs of the recount with that officer.

2. Any voter at an election may demand and receive a recount of the vote for a ballot question if within 3 working days after the canvass of the vote and the certification by the county clerk or city clerk of the abstract of votes, the voter:

(a) Files in writing a demand with:

(1) The Secretary of State, if the demand is for a recount of a ballot question affecting more than one county; or

(2) The county or city clerk who will conduct the recount, if the demand is for a recount of a ballot question affecting only one county or city; and

(b) Deposits in advance the estimated costs of the recount with the person to whom the demand was made.

3. The estimated costs of the recount must be determined by the person with whom the advance is deposited based on regulations adopted by the Secretary of State defining the term "costs."

4. As used in this section, "canvass" means:

(a) In any primary election, the canvass by the board of county commissioners of the returns for a candidate or ballot question voted for in one county or the canvass by the board of county commissioners last completing its canvass of the returns for a candidate or ballot question voted for in more than one county.

(b) In any primary city election, the canvass by the city council of the returns for a candidate or ballot question voted for in the city.

(c) In any general election:

(1) The canvass by the Supreme Court of the returns for a candidate for a statewide office or a statewide ballot question; or

(2) The canvass of the board of county commissioners of the returns for any other candidate or ballot question, as provided in paragraph (a).

(d) In any general city election, the canvass by the city council of the returns for a candidate or ballot question voted for in the city.

Sec. 25. NRS 293B.075 is hereby amended to read as follows:

293B.075 A mechanical voting system must permit the voter to vote for any person for any office for which he or she has the right to vote, but none other, ***indicate a vote for a write-in candidate, if applicable***, or indicate a vote against all candidates.

Sec. 26. NRS 294A.005 is hereby amended to read as follows:

294A.005 "Candidate" means any person:

1. Who files a declaration of candidacy;
2. ***Who files a declaration of write-in candidacy;***
3. Who files an acceptance of candidacy;
- ~~{3-}~~ 4. Whose name appears on an official ballot at any election; or
- ~~{4-}~~ 5. Who has received contributions in excess of \$100, regardless of whether:

(a) The person has filed a declaration of candidacy , ***declaration of write-in candidacy*** or an acceptance of candidacy; or

(b) The name of the person appears on an official ballot at any election.

Sec. 27. NRS 294A.290 is hereby amended to read as follows:

294A.290 1. The filing officer shall give to each candidate who files a declaration of candidacy , ***declaration of write-in candidacy*** or acceptance of candidacy a copy of the form set forth in subsection 2. The filing officer shall inform the candidate that subscription to the Code is voluntary.

2. The Code must be in the following form:

CODE OF FAIR CAMPAIGN PRACTICES

There are basic principles of decency, honesty and fair play which every candidate for public office in the State of Nevada has a moral obligation to observe and uphold, in order that, after vigorously contested but fairly conducted campaigns, the voters may exercise their constitutional right to vote for the candidate of their choice and that the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

1. I will conduct my campaign openly and publicly and limit attacks against my opponent to legitimate challenges to my opponent's voting record or qualifications for office.

2. I will not use character defamation or other false attacks on a candidate's personal or family life.

3. I will not use campaign material which misrepresents, distorts or otherwise falsifies the facts, nor will I use malicious or unfounded accusations which are intended to create or exploit doubts, without justification, about the personal integrity of my opposition.

4. I will not condone any dishonest or unethical practice which undermines the American system of free elections or impedes or prevents the full and free expression of the will of the voters.

I, the undersigned, as a candidate for election to public office in the State of Nevada, hereby voluntarily pledge myself to conduct my

campaign in accordance with the principles and practices set forth in this Code.

.....	
Date	Signature of Candidate

3. A candidate who subscribes to the Code and submits the form set forth in subsection 2 to the filing officer may indicate on the candidate's campaign materials that he or she subscribes to the Code.

4. The Secretary of State shall provide a sufficient number of copies of the form to the county clerks, registrar of voters and other filing officers.

Sec. 28. NRS 294A.390 is hereby amended to read as follows:

294A.390 The officer from whom a candidate or entity requests a form for:

1. A declaration of candidacy;
2. *A declaration of write-in candidacy;*
3. An acceptance of candidacy;

~~{3-}~~ 4. The registration of a committee for political action pursuant to NRS 294A.230, a committee for the recall of a public officer pursuant to NRS 294A.250 or a business entity that wishes to engage in certain political activity pursuant to NRS 294A.227;

~~{4-}~~ 5. The reporting of the creation of a legal defense fund pursuant to NRS 294A.286; or

~~{5-}~~ 6. The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.283 or 294A.360 and the reporting of contributions received by and expenditures made from a legal defense fund pursuant to NRS 294A.286,

➤ shall furnish the candidate with the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.283 or 294A.360 relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420, and an explanation of NRS 294A.286 and 294A.287 relating to the accepting or reporting of contributions received by and expenditures made from a legal defense fund and the penalties for a violation of those provisions as set forth in NRS 294A.287 and 294A.420, must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

Sec. 29. NRS 217.468 is hereby amended to read as follows:

217.468 1. Except as otherwise provided in subsections 2 and 3, the Secretary of State shall cancel the fictitious address of a participant 4 years after the date on which the Secretary of State approved the application.

2. The Secretary of State shall not cancel the fictitious address of a participant if, before the fictitious address of the participant is cancelled, the

participant shows to the satisfaction of the Secretary of State that the participant remains in imminent danger of becoming a victim of domestic violence, sexual assault or stalking.

3. The Secretary of State may cancel the fictitious address of a participant at any time if:

(a) The participant changes his or her confidential address from the one listed in the application and fails to notify the Secretary of State within 48 hours after the change of address;

(b) The Secretary of State determines that false or incorrect information was knowingly provided in the application; or

(c) The participant files a declaration or acceptance of candidacy pursuant to NRS 293.177 or 293C.185 ~~or~~ ***or a declaration of write-in candidacy pursuant to section 5 of this act.***

Sec. 30. NRS 218A.660 is hereby amended to read as follows:

218A.660 1. Except as otherwise provided in this section and NRS 218A.655, each Senator, Assemblywoman and Assemblyman is entitled to receive, during the legislative interim, an allowance for travel within the State to participate in a meeting of a legislative committee or subcommittee of which the Legislator is not a member or with an officer, employee, agency, board, bureau, commission, department, division, district or other unit of federal, state or local government or any other public entity regarding an issue relating to the State.

2. The allowance for travel payable pursuant to this section applies only to trips whose one-way distance is 50 miles or more or whose round-trip distance is 100 miles or more.

3. The maximum allowance for travel payable to each Senator, Assemblywoman and Assemblyman pursuant to this section during a legislative interim is \$3,000, except that no allowance for travel pursuant to this section is payable to a Senator, Assemblywoman or Assemblyman for travel that occurs during the legislative interim at any time after the date on which the Senator, Assemblywoman or Assemblyman has filed a declaration or an acceptance of candidacy ***or a declaration of write-in candidacy*** for an elective office and remains a candidate for that office.

4. Transportation must be by the most economical means, considering total cost and time spent in transit. The allowance is:

(a) If the travel is by private conveyance, the standard mileage reimbursement rate for which a deduction is allowed for the purposes of federal income tax.

(b) If the travel is not by private conveyance, the actual amount expended.

5. Claims made pursuant to this section must be paid from the Legislative Fund unless otherwise provided by specific statute. A claim must not be paid unless the Senator, Assemblywoman or Assemblyman submits a signed statement affirming:

(a) The date of travel;

(b) The purpose of the travel and of the participant's attendance; and

(c) The places of departure and arrival and, if the travel is by private conveyance, the actual miles traveled. If the travel is not by private conveyance, the claim must include a receipt or other evidence of the expenditure.

Sec. 31. NRS 281A.050 is hereby amended to read as follows:

281A.050 "Candidate" means any person:

1. Who files a declaration of candidacy;
2. ***Who files a declaration of write-in candidacy;***
3. Who files an acceptance of candidacy; or
- ~~{3-}~~ 4. Whose name appears on an official ballot at any election.

Sec. 32. NRS 281A.520 is hereby amended to read as follows:

281A.520 1. Except as otherwise provided in subsections 4 and 5, a public officer or employee shall not request or otherwise cause a governmental entity to incur an expense or make an expenditure to support or oppose:

- (a) A ballot question.
- (b) A candidate.

2. For the purposes of paragraph (b) of subsection 1, an expense incurred or an expenditure made by a governmental entity shall be considered an expense incurred or an expenditure made in support of a candidate if:

(a) The expense is incurred or the expenditure is made for the creation or dissemination of a pamphlet, brochure, publication, advertisement or television programming that prominently features the activities of a current public officer of the governmental entity who is a candidate for a state, local or federal elective office; and

(b) The pamphlet, brochure, publication, advertisement or television programming described in paragraph (a) is created or disseminated during the period specified in subsection 3.

3. The period during which the provisions of subsection 2 apply to a particular governmental entity begins when a current public officer of that governmental entity files a declaration of candidacy, ***declaration of write-in candidacy*** or acceptance of candidacy and ends on the date of the general election, general city election or special election for the office for which the current public officer of the governmental entity is a candidate.

4. The provisions of this section do not prohibit the creation or dissemination of, or the appearance of a candidate in or on, as applicable, a pamphlet, brochure, publication, advertisement or television programming that:

(a) Is made available to the public on a regular basis and merely describes the functions of:

- (1) The public office held by the public officer who is the candidate; or
- (2) The governmental entity by which the public officer who is the candidate is employed; or

(b) Is created or disseminated in the course of carrying out a duty of:

- (1) The public officer who is the candidate; or

(2) The governmental entity by which the public officer who is the candidate is employed.

5. The provisions of this section do not prohibit an expense or an expenditure incurred to create or disseminate a television program that provides a forum for discussion or debate regarding a ballot question, if persons both in support of and in opposition to the ballot question participate in the television program.

6. As used in this section:

(a) "Governmental entity" means:

- (1) The government of this State;
- (2) An agency of the government of this State;
- (3) A political subdivision of this State; and
- (4) An agency of a political subdivision of this State.

(b) "Pamphlet, brochure, publication, advertisement or television programming" includes, without limitation, a publication, a public service announcement and any programming on a television station created to provide community access to cable television. The term does not include:

- (1) A press release issued to the media by a governmental entity; or
- (2) The official website of a governmental entity.

Sec. 33. NRS 281A.610 is hereby amended to read as follows:

281A.610 1. Except as otherwise provided in subsection 2, each candidate for public office who will be entitled to receive annual compensation of \$6,000 or more for serving in the office that the candidate is seeking and, except as otherwise provided in subsection 3, each public officer who was elected to the office for which the public officer is serving shall file with the Secretary of State a statement of financial disclosure, as follows:

(a) ~~{A}~~ ***Except as otherwise provided in this paragraph, a*** candidate for nomination, election or reelection to public office shall file a statement of financial disclosure no later than the 10th day after the last day to qualify as a candidate for the office. ***If a person became a candidate for the office by filing a declaration of write-in candidacy, the person shall file a statement of financial disclosure no later than the 10th day after the last day to file the declaration of write-in candidacy for the office.*** The statement must disclose the required information for the full calendar year immediately preceding the date of filing and for the period between January 1 of the year in which the election for the office will be held and , ***as applicable,*** the last day to ~~{qualify as a candidate}~~ ***file a declaration of candidacy, declaration of write-in candidacy or acceptance of candidacy*** for the office. The filing of a statement of financial disclosure for a portion of a calendar year pursuant to this paragraph does not relieve the candidate of the requirement of filing a statement of financial disclosure for the full calendar year pursuant to paragraph (b) in the immediately succeeding year, if the candidate is elected to the office.

(b) Each public officer shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires. The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. Except as otherwise provided in this subsection, if a candidate for public office is serving in a public office for which the candidate is required to file a statement pursuant to paragraph (b) of subsection 1 or subsection 1 of NRS 281A.600, the candidate need not file the statement required by subsection 1 for the full calendar year for which the candidate previously filed a statement. The provisions of this subsection do not relieve the candidate of the requirement pursuant to paragraph (a) of subsection 1 to file a statement of financial disclosure for the period between January 1 of the year in which the election for the office will be held and , *as applicable*, the last day to ~~{qualify as a candidate}~~ ***file a declaration of candidacy, declaration of write-in candidacy or acceptance of candidacy*** for the office.

3. A person elected pursuant to NRS 548.285 to the office of supervisor of a conservation district is not required to file a statement of financial disclosure relative to that office pursuant to subsection 1.

4. A candidate for judicial office or a judicial officer shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281A.620.

5. A statement of financial disclosure shall be deemed to be filed with the Secretary of State:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the Secretary of State if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

6. The statement of financial disclosure filed pursuant to this section must be filed on the form prescribed by the Commission pursuant to NRS 281A.290.

7. The Secretary of State shall prescribe, by regulation, procedures for the submission of statements of financial disclosure filed pursuant to this section, maintain files of such statements and make the statements available for public inspection.

Sec. 34. NRS 281A.640 is hereby amended to read as follows:

281A.640 1. A list of each public officer who is required to file a statement of financial disclosure must be submitted electronically to the Commission and to the Secretary of State, in a form prescribed by the Commission, on or before December 1 of each year by:

(a) Each county clerk for all public officers of the county and other local governments within the county other than cities;

(b) Each city clerk for all public officers of the city;

(c) The Director of the Legislative Counsel Bureau for all public officers of the Legislative Branch; and

(d) The Chief of the Budget Division of the Department of Administration for all public officers of the Executive Branch.

2. The Secretary of State, each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk shall submit electronically to the Commission, and each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk shall submit electronically to the Secretary of State, in a form prescribed by the Commission, a list of each candidate for public office who filed a declaration of candidacy, ***declaration of write-in candidacy*** or acceptance of candidacy with that officer within 10 days after the last day to ~~{qualify as a candidate for the applicable office.}~~ ***file a declaration or acceptance of candidacy and, if applicable, within 10 days after the last day to file the declaration of write-in candidacy.***

Sec. 35. NRS 281A.650 is hereby amended to read as follows:

281A.650 The Secretary of State and each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, or city clerk who receives from a candidate for public office a declaration of candidacy, ***declaration of write-in candidacy***, acceptance of candidacy or certificate of candidacy shall give to the candidate the form prescribed by the Commission for the making of a statement of financial disclosure, accompanied by instructions on how to complete the form, where it must be filed and the time by which it must be filed.

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy and Lee.

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

SENATOR HARDY:

Thank you, Mr. President. Amendment No. 523 is compatible with the last amendment. If there is a write-in candidate for a State or Federal office, the county clerk of each county shall report to the Secretary of State the total number of votes cast in that county for the write-in candidate. If the Secretary of State determines the majority of votes cast for a particular office were for a write-in candidate, the Secretary shall order each county clerk to tally the votes cast for each write-in candidate. The Secretary of State shall determine if the votes for the write-in candidate need to be tallied statewide.

SENATOR LEE:

What are we trying to accomplish with this amendment?

SENATOR HARDY:

Thank you, Mr. President. At this time, we have the option of choosing "none of the above" on our voting machines. I do not feel that "none of the above" is a good choice. For example, if I preferred to vote for someone, but that person died, and there was not another choice offered between the primary and the general election, or I wanted to vote for someone who had some other issue which precluded that person from running. There is not, now, the ability or option for someone to have a choice in the general election. Recognizing that write-in ballots are rarely effective for getting a majority, this amendment would allow the Secretary of State to say if a

majority was not reached by the write-in ballot, then the counties are not obligated to have two people, a Democrat and a Republican, counting the ballots. It never got to the point of making a difference.

SENATOR LEE:

Thank you for the answer.

Amendments adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 286.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 368.

"SUMMARY—~~{Authorizes awards to certain state employees who suggest ways to improve the operation of State Government.}~~ **Revises provisions governing the Merit Award Program. (BDR 31-980)**"

"AN ACT relating to state employees; ~~{authorizing an award to a state employee or group of state employees who make a suggestion that results in savings to the State under certain circumstances;}~~ **revising provisions governing the Merit Award Program;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~{ This bill authorizes an award to be made by the State to any state employee or group of state employees who make a suggestion that results in savings to the State, in the form of an actual reduction, elimination or avoidance of expenditures or improvements in operations. Section 3 of this bill specifies which employees are eligible for awards and which suggestions are eligible to be awarded. Under section 4 of this bill, a suggestion must be made to the head of the state agency that employs the state employee and then must be forwarded to the Interim Finance Committee. If the state agency adopts the suggestion, the head of the state agency must report to the Interim Finance Committee on the savings realized because of the adoption of the suggestion. Under section 5 of this bill, the Interim Finance Committee may then award the state employee or group of employees an amount not to exceed 50 percent of the amount of the savings. If the award goes to a group of state employees, the head of the state agency must divide the award in a way that is proportionate, fair and equitable, based on the contributions by each state employee to the suggestion. }~~

The Merit Award Program is established under existing law to provide awards to state employees who propose suggestions which would reduce or eliminate state expenditures or improve the operation of State Government. (NRS 285.030) The Program is administered by the Merit Award Board. Existing law limits the amount of an award to \$500, with a maximum amount of total annual awards limited to \$5,000. (NRS 285.070)

This bill revises the Merit Award Program. Section 11 of this bill provides additional criteria for making a qualifying employee suggestion. Section 12 of this bill requires the Board to annually report information concerning employee suggestions to the Budget Division of the Department of Administration and the Interim Finance Committee. Section 13 of this bill: (1) authorizes the award of 10 percent of the savings resulting from the employee suggestion to the state employee or group of state employees who made the suggestion; (2) provides for the transfer of 50 percent of the savings to the State General Fund; and (3) authorizes the state agency that employs the state employee or group of state employees to retain the remaining 40 percent of the savings to use for one-time nonoperational expenses such as training and equipment. Awards that exceed \$5,000 require the approval of the Interim Finance Committee. Under section 13, awards are paid in two installments consisting of one payment after the end of the first fiscal year during which the employee suggestion was adopted and one payment after the end of the subsequent fiscal year.

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

Delete existing sections 1 through 7 of this bill and replace with the following new sections 1 through 16:

Section 1. Chapter 285 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 285.010 and sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 3. "Board" means the Merit Award Board.

Sec. 4. "Employee suggestion" means a proposal by a state employee or group of state employees which would:

1. Reduce, eliminate or avoid state expenditures, whether or not such money would be expended from the State General Fund; or

2. Improve the operation of the State Government.

Sec. 5. "State agency" has the meaning ascribed to it in NRS 281.195, except that the term does not include a board which is exempt from the provisions of chapter 353 of NRS pursuant to NRS 353.005.

Sec. 6. "State employee" means any person employed by a state agency who is not the head of the state agency or a designee of the head of a state agency for the purposes of this chapter.

Sec. 7. NRS 285.010 is hereby amended to read as follows:

285.010 ~~{As used in this chapter unless the context otherwise requires:~~

~~1. "Adoption" means the putting of an employee suggestion into effect.~~

~~2. "Board" means the Merit Award Board.~~

~~3. "Employee suggestion" means a proposal by a state employee which would:~~

~~(a) Reduce or eliminate state expenditures; or~~

~~—(b) Improve the operation of State Government.~~

~~—4. "Merit award" means an award to a state employee for an adopted suggestion in the form of either the Governor's certificate of commendation or a cash payment.~~

~~—5. "State employee" means any person employed by a state agency who is not the head of the department.~~

Sec. 8. NRS 285.020 is hereby amended to read as follows:

285.020 1. There is hereby established a Merit Award Program for state employees.

2. The award ~~{shall}~~ **must** be designated as the ~~{Governor's Award for Achievement of Excellence in State Service.}~~ **"Good Government, Great Employees" Award.**

Sec. 9. NRS 285.030 is hereby amended to read as follows:

285.030 1. The controlling authority of the Merit Award Program is the Merit Award Board.

2. The Board must be composed of five members as follows:

(a) Two **persons who are** members of the ~~{State of Nevada Employees Association.}~~ **American Federation of State, County and Municipal Employees or its successor,** designated by the executive committee of that ~~{association.}~~ **Federation or its successor.**

(b) One member from the Budget Division of the Department of Administration appointed by the Chief of the Budget Division.

(c) One member from the Department of Personnel appointed by the Director of the Department.

(d) One member appointed by and representing the Governor.

3. The member from either the Budget Division of the Department of Administration or from the Department of Personnel must serve as the Secretary of the Board.

4. The Board shall adopt regulations for transacting its business and carrying out the provisions of this chapter.

5. Within the limits of legislative appropriations, the Board may expend up to \$1,000 per year on expenses relating to the operation of the Board.

Sec. 10. NRS 285.040 is hereby amended to read as follows:

285.040 The Board shall investigate, review and evaluate the merits of each ~~{recommendation}~~ proposed ~~{.}~~ **employee suggestion in the manner set forth in NRS 285.060.**

Sec. 11. NRS 285.050 is hereby amended to read as follows:

285.050 1. ~~{Every}~~ **Except as otherwise provided in this section, any** state employee ~~{is eligible to offer}~~ **or group of state employees may make** an employee suggestion.

2. To be eligible for an award ~~{an}~~ **pursuant to NRS 285.070, a state employee or group of state employees** must ~~{propose a change which is.}~~ **make a suggestion:**

(a) Which is not currently under active consideration by the state agency affected ~~{.}~~ **;**

(b) For which the act of developing or proposing is not a normal part of the job duties of the state employee, whether acting individually or as a member of a group of state employees;

(c) Which is not within the state employee's authority or responsibility to carry out or implement, whether acting individually or as a member of a group of state employees;

(d) Which proposes to do more than merely suggest that an existing policy or procedure be followed correctly;

(e) Which does not concern an individual grievance or complaint;

(f) Which would not reduce the quality or quantity of services provided by the relevant state agency; and

(g) Which would not transfer costs from one state agency to another state agency.

3. If duplicate employee suggestions are submitted, only the state employee or group of state employees who makes the first employee suggestion received is eligible for an award ~~and pursuant to NRS 285.070.~~

4. Except as otherwise provided in this subsection, a state employee, either individually or as a member of a group of state employees, may not make more than two employee suggestions in any calendar year. For any employee suggestion made by a state employee, either individually or as a member of a group of state employees, that is approved in a calendar year, the state employee may make one additional employee suggestion during the calendar year.

Sec. 12. NRS 285.060 is hereby amended to read as follows:

285.060 1. ~~Employee suggestions shall be submitted.~~ An employee suggestion must be made in writing to the Board.

2. The Board ~~may~~, in consultation with the Budget Division of the Department of Administration and the Interim Finance Committee, establish such additional standards for the making and submission of employee suggestions as it deems proper.

3. ~~The~~ Upon receiving an employee suggestion pursuant to subsection 1, the Secretary of the Board shall ~~receive, record~~ :

(a) Record and acknowledge receipt of ~~suggestions, and shall notify the suggestor~~ the employee suggestion;

(b) Notify the state employee or each state employee of a group of state employees who made the employee suggestion of any undue delays in the consideration of the employee suggestion ~~;~~

~~4. Suggestions shall be referred~~ ; and

(c) Refer the employee suggestion at once to the head of the state agency or agencies affected, or his or her designee, for consideration.

4. Within 30 days after receiving an employee suggestion that is referred pursuant to subsection 3, the head of the state agency, or his or her designee, shall report ~~its~~ his or her findings and recommendations to the Board. The ~~agency~~ report ~~shall~~ must indicate:

(a) Whether ~~it~~ the employee suggestion has been adopted.

(b) If adopted ~~by the~~ :

(1) The day on which ~~the~~ *the employee* suggestion was placed in effect.

~~{(c) If adopted, any}~~

(2) The actual or estimated reduction, elimination or avoidance of expenditures or *any* improvement in operations made possible by ~~an employee's~~ *the employee* suggestion.

~~{(d)}~~ (3) *If the employee suggestion was made by a group of state employees, a recommendation of the distribution of any potential award made pursuant to NRS 285.070 to each state employee in the group. Such a distribution must be proportionate, fair and equitable based on the contributions by each state employee to the employee suggestion.*

(c) If rejected, the reasons for rejection.

(d) *If applicable, whether legislation will be required before the employee suggestion may be adopted.*

5. The Board shall ~~review agency~~ :

(a) *Review the* findings and recommendations *of the state agency* and may obtain additional information or take such other action as is necessary for prompt, thorough and impartial consideration of each *employee* suggestion.

~~{6. The Board shall evaluate}~~

(b) *Evaluate* each *employee* suggestion, taking into consideration ~~agency~~ *any* action ~~by the state agency~~, staff recommendations and the objectives of the Merit Award Program. ~~{For each suggestion eligible for an award the Board shall formulate an official recommendation covering the merit of the suggestion, and the amount of recommended award.}~~

(c) *Monitor the efficacy and progress of employee suggestions that have been adopted and placed into effect.*

(d) *Provide a report to the Budget Division of the Department of Administration and the Interim Finance Committee not later than 30 days after the end of each fiscal year summarizing, for that fiscal year:*

(1) *The employee suggestions that were rejected by state agencies.*

(2) *The employee suggestions that were adopted by state agencies and detailing any actual reduction, elimination or avoidance of expenditures or any improvement in operations made possible by the employee suggestion.*

(3) *Any legislation required to be enacted before an employee suggestion may be adopted.*

Sec. 13. NRS 285.070 is hereby amended to read as follows:

285.070 1. ~~Insofar as it may be equitable and practicable, the amount of the cash award allowed for an employee's suggestion must be predicated upon the~~ *Except as otherwise provided in this section, after reviewing and evaluating an employee suggestion, the Board, in consultation with the Budget Division of the Department of Administration, may make an award to the state employee or to each state employee of a group of state employees who made the employee suggestion.*

2. If the amount of a proposed award will exceed \$5,000, the award must be approved by the Interim Finance Committee. On a quarterly basis, the Board shall transmit any proposed awards that exceed \$5,000 to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee. In acting upon such an award, the Interim Finance Committee shall consider, among other things:

(a) The reduction, elimination or avoidance of expenditures or any improvement in operations made possible by the employee suggestion; and

(b) The intent of the Legislature in enacting this chapter.

3. An award made pursuant to this section may not exceed:

(a) Ten percent of the amount of any actual savings to the State ~~if~~ No cash award may exceed \$500.

~~2. Cash payments~~, as determined at the end of the second fiscal year after the adoption of the employee suggestion; or

(b) A total of \$25,000,

↪ whichever is less, whether distributed to an individual employee or to a group of state employees who made the employee suggestion.

4. Any actual savings to the State resulting from the adoption of an employee suggestion that remains after an award is made pursuant to this section must be distributed as follows:

(a) Fifty percent must be transferred to the State General Fund; and

(b) After a revision to the appropriate work program pursuant to NRS 353.220, the remaining balance must be used by the state agency that employs the state employee or the group of state employees who made the employee suggestion for one-time, nonoperational expenses which do not require ongoing maintenance, including, without limitation, training and equipment.

5. Awards to employees arising out of adopted employee suggestions must , insofar as is practicable, be paid from money ~~appropriated by the Legislature for that purpose.~~

~~3. No more than \$5,000 each fiscal year may be distributed as cash payments to employees pursuant to NRS 285.010 to 285.070, inclusive, other than money in the State General Fund.~~

6. The total amount of an award made pursuant to this section must be paid in two equal installments. The first installment must be paid not later than 30 days after the end of the fiscal year during which the employee suggestion was adopted, and the second installment must be paid not later than 30 days after the end of the subsequent fiscal year.

7. A former state employee is eligible to receive an award pursuant to this section if the person was a state employee at the time he or she made an employee suggestion, or was a member of a group of state employees who made an employee suggestion, that is subsequently adopted.

8. An award may not be made for an employee suggestion pursuant to this section until the State has realized a reduction, elimination or

avoidance of expenditures or any improvement in operations as a result of the employee suggestion.

Sec. 13.5. NRS 218E.405 is hereby amended to read as follows:

218E.405 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.

2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, NRS 284.1729, **285.070**, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, subsection 3 of NRS 341.090, NRS 341.142, subsection 6 of NRS 341.145, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, 353.288, 353.335, 353C.226, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650. In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chair of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.

3. The Chair of the Interim Finance Committee may appoint a subcommittee consisting of six members of the Committee to review and make recommendations to the Committee on matters of the State Public Works Board that require prior approval of the Interim Finance Committee pursuant to subsection 3 of NRS 341.090, NRS 341.142 and subsection 6 of NRS 341.145. If the Chair appoints such a subcommittee:

(a) The Chair shall designate one of the members of the subcommittee to serve as the chair of the subcommittee;

(b) The subcommittee shall meet throughout the year at the times and places specified by the call of the chair of the subcommittee; and

(c) The Director of the Legislative Counsel Bureau or the Director's designee shall act as the nonvoting recording secretary of the subcommittee.

Sec. 14. NRS 285.080 is hereby repealed.

Sec. 15. 1. The Fiscal Analysis Division of the Legislative Counsel Bureau shall, on or before October 1, 2011, and in consultation with the Budget Division of the Department of Administration, prepare the form to be used by a state employee or group of state employees in making an employee suggestion.

2. As used in this section:

(a) "Employee suggestion" has the meaning ascribed to it in section 4 of this act.

(b) "State employee" has the meaning ascribed to it in section 6 of this act.

Sec. 16. This act becomes effective upon passage and approval for the purpose of adopting the form described in section 15 of this act, and on October 1, 2011, for all other purposes.

TEXT OF REPEALED SECTION**285.080 Service award; conditions; regulations.**

1. The Governor or head of a state agency may present service awards to state employees if:

(a) The cost of each award does not exceed the amount established by the State Board of Examiners; and

(b) The Office of the Governor or the agency has sufficient funds available for such awards.

2. The State Board of Examiners shall establish by regulation a maximum amount of money that the Governor or the head of a state agency may spend on a service award pursuant to this section.

3. As used in this section, "service award" means a suitable symbol, other than money, for faithful and exceptional public service.

Senator Rhoads moved the adoption of the amendment.

Remarks by Senator Rhoads.

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

Senate Bill No. 286 revises the Merit Award Program for State employees. Amendment No. 368 makes the following changes: only current and former employees of State agencies are eligible to participate; procedures are established for an employee to make a suggestion to the Merit Award Board, which shall refer the suggestion to the appropriate State agency. Certain limitations are placed on employee suggestions; an agency head must report to the Board on consideration of the suggestion; the amount of the incentive award is based on actual savings at the end of the second fiscal year and may not be made until the State has realized a savings as a result of the suggestion; the money saved must be distributed to the General Fund, the agency affected, and the employee or group, not to exceed certain amounts; the Interim Finance Committee must approve any award that exceeds \$5,000; an agency head must propose a revision to law if that is necessary in order to implement the suggestion.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 302.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 400.

"SUMMARY—Prohibits the sale of black powder and smokeless gunpowder to certain persons. (BDR 42-981)"

"AN ACT relating to crimes; prohibiting the sale of black powder and smokeless gunpowder to certain persons; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under ~~{certain circumstances,}~~ federal law, ~~{makes}~~ it is a crime for ~~{a person}~~ **licensed importers, manufacturers, dealers or collectors of firearms or ammunition** to ~~{knowingly distribute explosive materials, including black powder and smokeless gunpowder,}~~ **sell or deliver any firearm or ammunition : (1)** to a person who **the licensee knows or**

reasonably believes is under 18 years of age; or (2) if the firearm is not a shotgun or rifle or the ammunition is not for use in a shotgun or rifle, to a person who the licensee knows or reasonably believes is under 21 years of age. (18 U.S.C. ~~§§ 841, 842~~) § 922(b)(1) This bill similarly makes it unlawful for a person to distribute : (1) black powder ~~for smokeless gunpowder~~ to a person who is under 18 years of age; or (2) smokeless gunpowder to a person who is under 18 years of age or, if such smokeless gunpowder is not intended for use in a rifle or shotgun, to a person who is under 21 years of age. A person who ~~commits this crime~~ violates any such provision is guilty of a misdemeanor, punishable by a fine of up to \$500.

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 a new section to read as follows:

1. Except as otherwise provided in subsection 2, any person who distributes ~~black~~ :

(a) Black powder ~~for smokeless gunpowder~~ to a person under the age of ~~21~~ 18 years ; or

(b) Smokeless gunpowder to a person:

(1) Under the age of 18 years; or

(2) Under the age of 21 years, if the smokeless gunpowder is intended for use other than in a rifle or shotgun,

↗ is guilty of a misdemeanor and shall be punished by a fine of not more than \$500.

2. A person shall be deemed to be in compliance with the provisions of subsection 1 if, before the person distributes black powder or smokeless gunpowder to another person, the person:

(a) Asks the other person to declare the intended use for the black powder or smokeless gunpowder;

(b) Demands that the other person present a valid driver's license or other written or documentary evidence which shows that the other person ~~is 21 years of age or older;~~ meets the appropriate age requirement set forth in subsection 1;

~~((b))~~ (c) Is presented a valid driver's license or other written or documentary evidence which shows that the other person ~~is 21 years of age or older;~~ meets the appropriate age requirement set forth in subsection 1; and

~~((c))~~ (d) Reasonably relies upon the declaration of intended use by the other person and the driver's license or other written or documentary evidence presented by the other person.

3. As used in this section, "distribute" has the meaning ascribed to it in NRS 476.010.

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. 400 to Senate Bill No. 302 creates different standards for the distribution of black powder and smokeless gunpowder. It provides that neither black powder nor smokeless gunpowder may be sold to a person under the age of 18 years. In addition, if a distributor of smokeless gunpowder has a reason to believe it is being purchased for use other than in a rifle or shotgun, it may not be sold to a person under the age of 21 years. The amendment requires a distributor to ask for a declaration of the intended use of both types of powder in order to ensure compliance.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 321.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 460.

"SUMMARY—Revises provisions governing taxicabs. (BDR 58-997)"

"AN ACT relating to taxicabs; requiring the Taxicab Authority to establish a system ~~that uses~~ **for the use of radio frequency identification** or other electronic means ~~to track~~ **in the enforcement of its allocations of** taxicabs; providing for the use of an electronic security seal for a taximeter under certain circumstances; requiring the establishment of standards for a daily trip sheet in electronic form; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Taxicab Authority regulates taxicabs in a county whose population is 400,000 or more (currently Clark County) and in any county that, by ordinance, has placed itself under the jurisdiction of the Taxicab Authority. (NRS 706.881) The Taxicab Authority is responsible, among other things, for determining whether conditions in a county require the establishment of a system of allocations of the number of taxicabs allowed to operate in the county. If so, the Taxicab Authority is responsible for allocating the taxicabs among the existing operators of taxicab businesses in the county. The Taxicab Authority also performs allocations if it subsequently determines that circumstances require a permanent increase in the number of taxicabs allocated. (NRS 706.8824) Similarly, the Taxicab Authority determines whether circumstances require a temporary increase in the allocations and, if so, the additional number of taxicabs to be allocated, the limits on their operations and the duration of the temporary increase. (NRS 706.88245) **Section 1** of this bill requires the Taxicab Authority to establish by regulation a system ~~that uses~~ **for the use of radio frequency identification** or other electronic means ~~to track taxicabs to monitor, audit and enforce~~ **verify and confirm compliance with any terms and**

conditions placed on the allocations of taxicabs made by the Taxicab Authority.

Existing law requires an operator of a taxicab business subject to the jurisdiction of the Taxicab Authority to equip each taxicab with a two-way mobile radio and to maintain central facilities for dispatching the taxicabs. The operator may maintain the facilities individually or in cooperation with other operators, but the facilities must be principally engaged in communication by radio with the taxicabs. (NRS 706.8832) Section 1.5 of this bill provides a definition of "communication by radio."

Under existing law, each taxicab must be equipped with a taximeter that clearly displays the fare, the miles traveled and certain other information. After installation, the taximeter is sealed by the Administrator of the Taxicab Authority. (NRS 706.8836) **Section 2** of this bill provides that the Administrator will determine the kind of seal to be used, and also specifies that the seal may include an electronic security seal that is encrypted and protected by a password.

Existing law requires that an operator of a taxicab business subject to the jurisdiction of the Taxicab Authority require its drivers to fill out daily trip sheets that include information such as the time, place of origin and destination of each trip. The operator of the taxicab business is required to maintain the daily trip sheets for at least 3 years and make them available to the Administrator for inspection. (NRS 706.8844) **Section 3** of this bill requires the Administrator to establish requirements for the use of an electronic version of a daily trip sheet. If an operator of a taxicab business requires its drivers to keep the daily trip sheet in electronic form, **section 3** requires the operator to maintain the resulting information in a secure database and provide the Administrator with access to the information in the database.

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto a new section to read as follows:

The Taxicab Authority shall establish by regulation a system ~~that uses~~ for the use of radio frequency identification or other electronic means to ~~track taxicabs to monitor, audit and enforce~~ verify and confirm compliance with any terms and conditions placed on the allocations of taxicabs made by the Taxicab Authority pursuant to NRS 706.8824 and 706.88245.

Sec. 1.5. NRS 706.8832 is hereby amended to read as follows:

706.8832 1. A certificate holder shall have each taxicab equipped with a two-way mobile radio and shall maintain central facilities for dispatching taxicabs at all times. The facilities:

~~It~~ (a) May be maintained individually or in cooperation with other certificate holders.

~~12-1~~ (b) Must be principally engaged in communication by radio with the taxicabs of the certificate holder or holders.

2. As used in this section, "communication by radio" means the transmission of writing, signs, signals, pictures, and sounds of all kinds by radio or other wireless methods, including all facilities and services incidental to such transmission, which facilities and services include, without limitation, the receipt, forwarding and delivering of communications.

Sec. 2. NRS 706.8836 is hereby amended to read as follows:

706.8836 1. A certificate holder shall equip each of the certificate holder's taxicabs with a taximeter and shall make provisions when installing the taximeter to allow sealing by the Administrator.

2. The Administrator shall approve the types of taximeters which may be used on a taxicab. All taximeters must conform to a 2-percent plus or minus tolerance on the fare recording, must be equipped with a signal device plainly visible from outside of the taxicab, must be equipped with a device which records fares and is plainly visible to the passenger and must register upon plainly visible counters the following items:

- (a) Total miles;
- (b) Paid miles;
- (c) Number of units;
- (d) Number of trips; and
- (e) Number of extra passengers or extra charges.

3. The Administrator shall inspect each taximeter before its use in a taxicab and shall, if the taximeter conforms to the standards specified in subsection 2, seal the taximeter.

4. The Administrator shall determine the manner in which to seal a taximeter, which may include, without limitation:

(a) Affixing a tamper-evident security seal to each access point of the taximeter; or

(b) Using an electronic security seal that is encrypted and protected by a password.

5. The Administrator may reinspect the taximeter at any reasonable time.

Sec. 3. NRS 706.8844 is hereby amended to read as follows:

706.8844 1. A certificate holder shall require the certificate holder's drivers to keep a daily trip sheet in a form to be prescribed by the Taxicab Authority ~~[-]~~, ***including, without limitation, in electronic form.***

2. At the beginning of each period of duty the driver shall record on the driver's trip sheet:

- (a) The driver's name and the number of the taxicab;
- (b) The time at which the driver began the period of duty by means of a time clock provided by the certificate holder;
- (c) The meter readings for total miles, paid miles, trips, units, extra passengers and extra charges; and
- (d) The odometer reading of the taxicab.

3. During each period of duty the driver shall record on the driver's trip sheet:

- (a) The time, place of origin and destination of each trip; and
- (b) The number of passengers and amount of fare for each trip.

4. At the end of each period of duty the driver shall record on the driver's trip sheet:

(a) The time at which the driver ended the period of duty by means of a time clock provided by the certificate holder;

(b) The meter readings for total miles, paid miles, trips, units and extra passengers; and

(c) The odometer reading of the taxicab.

5. A certificate holder shall furnish a trip sheet form for each taxicab operated by a driver during the driver's period of duty and shall require the drivers to return their completed trip sheets at the end of each period of duty.

6. A certificate holder shall retain all trip sheets of all drivers in a safe place for a period of 3 years immediately succeeding December 31 of the year to which they respectively pertain and shall make such manifests available for inspection by the Administrator upon reasonable demand.

7. Any driver who maintains a trip sheet in a form less complete than that required by subsection 1 is guilty of a misdemeanor.

8. *The Administrator shall prescribe the requirements for the use of an electronic version of a daily trip sheet. If a certificate holder requires its drivers to keep a daily trip sheet in electronic form, the certificate holder shall maintain the information collected from the daily trip sheet in a secure database and provide the Administrator with access to the information in the database at regular intervals established by the Administrator and upon reasonable demand.*

Sec. 4. NRS 706.885 is hereby amended to read as follows:

706.885 1. Any person who knowingly makes or causes to be made, either directly or indirectly, a false statement on an application, account or other statement required by the Taxicab Authority or the Administrator or who violates any of the provisions of NRS 706.881 to 706.885, inclusive, ***and section 1 of this act*** is guilty of a misdemeanor.

2. The Taxicab Authority or Administrator may at any time, for good cause shown and upon at least 5 days' notice to the grantee of any certificate or driver's permit, and after a hearing unless waived by the grantee, penalize the grantee of a certificate to a maximum amount of \$15,000 or penalize the grantee of a driver's permit to a maximum amount of \$500 or suspend or revoke the certificate or driver's permit granted by the Taxicab Authority or Administrator, respectively, for:

(a) Any violation of any provision of NRS 706.881 to 706.885, inclusive, ***and section 1 of this act*** or any regulation of the Taxicab Authority or Administrator.

(b) Knowingly permitting or requiring any employee to violate any provision of NRS 706.881 to 706.885, inclusive, *and section 1 of this act* or any regulation of the Taxicab Authority or Administrator.

➔ If a penalty is imposed on the grantee of a certificate pursuant to this section, the Taxicab Authority or Administrator may require the grantee to pay the costs of the proceeding, including investigative costs and attorney's fees.

3. When a driver or certificate holder fails to appear at the time and place stated in the notice for the hearing, the Administrator shall enter a finding of default. Upon a finding of default, the Administrator may suspend or revoke the license, permit or certificate of the person who failed to appear and impose the penalties provided in this chapter. For good cause shown, the Administrator may set aside a finding of default and proceed with the hearing.

4. Any person who operates or permits a taxicab to be operated in passenger service without a certificate of public convenience and necessity issued pursuant to NRS 706.8827, is guilty of a gross misdemeanor. If a law enforcement officer witnesses a violation of this subsection, the law enforcement officer may cause the vehicle to be towed immediately from the scene.

5. The conviction of a person pursuant to subsection 1 does not bar the Taxicab Authority or Administrator from suspending or revoking any certificate, permit or license of the person convicted. The imposition of a fine or suspension or revocation of any certificate, permit or license by the Taxicab Authority or Administrator does not operate as a defense in any proceeding brought under subsection 1.

Sec. 5. This act becomes effective upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act and on July 1, 2011, for all other purposes.

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. 460 to Senate Bill No. 321 clarifies language relating to radio frequency identification used to verify and confirm compliance with the terms and conditions placed on the allocations of taxicabs. The amendment also defines the phrase "communication by radio."

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 322.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 253.

"SUMMARY—Revises provisions governing motor vehicles. (BDR 43-1008)"

"AN ACT relating to motor vehicles; revising provisions relating to enforcement of weight limits on vehicles; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the enforcement of weight limits on vehicles by specially trained members of the Nevada Highway Patrol, inspectors of the Department of Motor Vehicles and the Department of Public Safety, and to certain law enforcement personnel in counties whose population is 100,000 or more (currently Clark and Washoe Counties). The authorized law enforcement personnel, if they have reason to believe that the weight of a vehicle and load is unlawful, may require the driver to stop and submit to a weighing of the vehicle. (NRS 484D.675) This bill authorizes such a stop only if the officer has a reasonable suspicion that the vehicle is being operated unlawfully by reason of its weight ~~++~~ **, but clarifies that such reasonable suspicion is not required with respect to the weighing of a vehicle which is conducted without requiring the driver to stop the vehicle or leave the roadway.** This bill **also** eliminates the restriction on enforcement of ~~these provisions~~ **weight limits** by local law enforcement officers in less populated counties but specifies that the authority of the law enforcement officers and inspectors is limited to enforcement within their own jurisdiction. ~~This~~ **Finally, this** bill ~~also~~ revises the training requirements for such officers.

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

Section 1. NRS 484D.675 is hereby amended to read as follows:

484D.675 1. Authority for the enforcement of the provisions of NRS 484D.630 to 484D.680, inclusive, is vested in certain law enforcement agencies in this State.

2. Any category I peace officer, officer of the Nevada Highway Patrol or inspector ~~having reason to believe~~ ~~++~~ **acting within his or her jurisdiction** ~~++~~ **who has reasonable suspicion** that the weight of a vehicle and load is unlawful may require the driver to stop and submit to a weighing of the vehicle either by means of portable or stationary scales and may require that the vehicle be driven to the nearest public scales, if they are within 5 miles. **Reasonable suspicion is not required before use of any device that weighs a vehicle without requiring the driver to stop the vehicle or leave the roadway.**

3. An officer of the Nevada Highway Patrol, a category I peace officer or an inspector upon weighing a vehicle and load as provided in subsection 2 who determines that the weight is unlawful may require the driver to stop in a suitable place and remove such portion of the load as may be necessary to reduce the gross weight of the vehicle to those limits permitted under NRS 484D.630 to 484D.680, inclusive. All materials so

unloaded must be cared for by the carrier of the material and at the carrier's expense. The officer of the Nevada Highway Patrol, category I peace officer or inspector may allow the driver of the inspected vehicle to continue on his or her journey if any overload does not exceed by more than 5 percent the limitations prescribed by NRS 484D.630 to 484D.680, inclusive, but the penalties provided in NRS 484D.680 must be imposed for the overload violation.

4. Any driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing, or who fails or refuses when directed by an officer of the Nevada Highway Patrol, a category I peace officer or an inspector upon a weighing of the vehicle to stop and otherwise comply with the provisions of NRS 484D.630 to 484D.680, inclusive, is guilty of a misdemeanor.

5. As used in this section:

(a) "Category I peace officer" means a peace officer, as defined in NRS 289.460, ~~in a county whose population is 100,000 or more~~ who ~~has~~ :

(1) Has received specialized training concerning vehicle weight enforcement;

(2) Is certified by the Commercial Vehicle Safety Alliance to perform a North American Standard Inspection; and

(3) Has completed a vehicle weight enforcement training program that is specific to this State and conducted by the ~~Commercial Vehicle Safety Alliance or an equivalent program approved by the~~ Nevada Highway Patrol ~~for this purpose.~~

(b) "Inspector" means an inspector of the Department of Motor Vehicles or the Department of Public Safety who has completed a vehicle weight enforcement training program that is specific to this State and conducted by the Nevada Highway Patrol.

(c) "Law enforcement agency" has the meaning ascribed to it in NRS 202.873.

(d) "North American Standard Inspection" has the meaning ascribed to it in 49 C.F.R. § 350.105.

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. 253 to Senate Bill No. 322 clarifies that the provisions of the bill do not change the ability of the Department of Public Safety to conduct a program whereby vehicles are weighed while in motion on the roadway. The amendment also requires that completion of the Commercial Vehicle Safety Alliance training program must be specific to this State and conducted by the Nevada Highway Patrol.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 323.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 461.

"SUMMARY—Revises provisions relating to motor vehicle liability insurance and registration. (BDR 43-421)"

"AN ACT relating to vehicles; revising provisions governing the reinstatement of the registration of a motor vehicle whose registered owner has allowed his or her policy of liability insurance to lapse; revising provisions governing registration of vehicles in this State by residents of this State; requiring certain nonresidents to register vehicles in this State; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a registered owner who failed to have liability insurance on a date specified by the Department of Motor Vehicles is required, with respect to a vehicle that is not dormant, to pay to the Department a fee of \$250 to reinstate the registration of the vehicle. (NRS 482.480) Section 1 of this bill replaces the flat \$250 reinstatement fee with a tiered system of penalties that includes, depending upon how many times the registered owner has allowed his or her insurance to lapse and depending upon the length of time during which the insurance has lapsed, escalating reinstatement fees, escalating fines, requirements to file and maintain a certificate of financial responsibility and possible suspension of the registered owner's driver's license.

Existing law requires a person, within 60 days after becoming a resident of this State, to apply for the registration of each vehicle he or she owns which is operated in this State. A nonresident owner of a noncommercial vehicle is not required to apply for registration of the vehicle unless the vehicle is furnished to a resident for his or her continuous use within this State. (NRS 482.385) **Section ~~HH~~ 2** of this bill changes the 60-day period within which a new resident must apply for registration of his or her vehicle to a 30-day period. **Section ~~HH~~ 2** also requires certain persons to register their vehicles: (1) if the person is a nonresident and the vehicle is operated in this State for a period of more than 30 days in the aggregate in any 1 calendar year; (2) within 10 days if the person is a resident or nonresident and engages in a trade, profession or occupation or accepts gainful employment in this State; (3) within 10 days if the person is a resident or nonresident and enrolls his or her children in a public school in this State; or (4) within 30 days if the person is a resident and operates a vehicle owned by a nonresident. **Section 2 provides exceptions to the preceding requirements for persons who are on active duty in the military service of the United States, out-of-state students, certain students of institutions of higher education who are present in this State to participate in a work-study program, and migrant or seasonal farm workers.**

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 a new section to read as follows:

1. Except as otherwise provided in subsection 7 of NRS 485.317, if a registered owner failed to have insurance on the date specified by the Department pursuant to NRS 485.317:

(a) For a first offense, the registered owner shall pay to the Department a registration reinstatement fee of \$250, and if the period during which insurance coverage lapsed was:

(1) At least 31 days but not more than 90 days, pay to the Department a fine of \$250.

(2) At least 91 days but not more than 180 days:

(I) Pay to the Department a fine of \$500; and

(II) File and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated.

(3) More than 180 days:

(I) Pay to the Department a fine of \$1,000; and

(II) File and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated.

(b) For a second offense, the registered owner shall pay to the Department a registration reinstatement fee of \$500, and if the period during which insurance coverage lapsed was:

(1) At least 31 days but not more than 90 days, pay to the Department a fine of \$500.

(2) At least 91 days but not more than 180 days:

(I) Pay to the Department a fine of \$500; and

(II) File and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated.

(3) More than 180 days:

(I) Pay to the Department a fine of \$1,000; and

(II) File and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated.

(c) For a third or subsequent offense:

(1) The driver's license of the registered owner must be suspended for a period to be determined by regulation of the Department but not less than 30 days;

(2) The registered owner shall file and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated; and

(3) The registered owner shall pay to the Department a registration reinstatement fee of \$750, and if the period during which insurance coverage lapsed was:

(I) At least 31 days but not more than 90 days, pay to the Department a fine of \$500.

(II) At least 91 days but not more than 180 days, pay to the Department a fine of \$750.

(III) More than 180 days, pay to the Department a fine of \$1,000.

2. As used in this section, "certificate of financial responsibility" has the meaning ascribed to it in NRS 485.028.

~~{Section 1-}~~ Sec. 2. NRS 482.385 is hereby amended to read as follows:

482.385 1. Except as otherwise provided in ~~{subsection}~~ **subsections 5 and 7** and NRS 482.390, a nonresident owner of a vehicle of a type subject to registration pursuant to the provisions of this chapter, owning any vehicle which has been registered for the current year in the state, country or other place of which the owner is a resident and which at all times when operated in this State has displayed upon it the registration license plate issued for the vehicle in the place of residence of the owner, may operate or permit the operation of the vehicle within this State without its registration in this State pursuant to the provisions of this chapter and without the payment of any registration fees to this State ~~{-}~~ :

(a) For a period of not more than 30 days in the aggregate in any 1 calendar year; and

(b) Notwithstanding the provisions of paragraph (a), during any period in which the owner is ~~{on}~~ :

(1) On active duty in the military service of the United States ~~{-}~~ ;

(2) An out-of-state student;

(3) Registered as a student at a college or university located outside this State and who is in the State for a period of not more than 6 months to participate in a work-study program for which the student earns academic credits from the college or university; or

(4) A migrant or seasonal farm worker.

2. This section does not:

(a) Prohibit the use of manufacturers', distributors' or dealers' license plates issued by any state or country by any nonresident in the operation of any vehicle on the public highways of this State.

(b) Require registration of vehicles of a type subject to registration pursuant to the provisions of this chapter operated by nonresident common motor carriers of persons or property, contract motor carriers of persons or property, or private motor carriers of property as stated in NRS 482.390.

(c) Require registration of a vehicle operated by a border state employee.

3. ~~{When}~~ **Except as otherwise provided in subsection 5, when** a person, formerly a nonresident, becomes a resident of this State, the person shall:

(a) Within ~~{60}~~ 30 days after becoming a resident; or

(b) At the time he or she obtains a driver's license,
 ➤ whichever occurs earlier, apply for the registration of each vehicle the person owns which is operated in this State. When a person, formerly a nonresident, applies for a driver's license in this State, the Department shall inform the person of the requirements imposed by this subsection and of the penalties that may be imposed for failure to comply with the provisions of this subsection.

4. A citation may be issued pursuant to ~~{this}~~ subsection *1, 3 or 5* only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense. The Department shall maintain or cause to be maintained a list or other record of persons who fail to comply with the provisions of ~~{this}~~ subsection 3 and shall, at least once each month, provide a copy of that list or record to the Department of Public Safety.

~~{4-}~~ 5. *Except as otherwise provided in this subsection, a resident or nonresident owner of a vehicle of a type subject to registration pursuant to the provisions of this chapter who engages in a trade, profession or occupation or accepts gainful employment in this State or who enrolls his or her children in a public school in this State shall, within 10 days after the commencement of such employment or enrollment, apply for the registration of each vehicle the person owns which is operated in this State. The provisions of this subsection do not apply to a nonresident who is:*

(a) On active duty in the military service of the United States;

(b) An out-of-state student;

~~{(b)}~~ *(c) Registered as a student at a college or university located outside this State and who is in the State for a period of not more than 6 months to participate in a work-study program for which the student earns academic credits from the college or university; or*

~~{(c)}~~ *(d) A migrant or seasonal farm worker.*

6. A person who violates the provisions of subsection *1, 3 or 5* is guilty of a misdemeanor and, except as otherwise provided in this subsection, shall be punished by a fine of \$1,000. The fine imposed pursuant to this subsection is in addition to any fine or penalty imposed for the other alleged violation or offense for which the vehicle was halted or its driver arrested pursuant to subsection ~~{3-}~~ 4. The fine imposed pursuant to this subsection may be reduced to not less than \$200 if the person presents evidence at the time of the hearing that the person has registered the vehicle pursuant to this chapter.

~~{5-}~~ 7. Any resident operating upon a highway of this State a motor vehicle which is owned by a nonresident and which is furnished to the resident operator for his or her continuous use within this State, shall cause that vehicle to be registered within ~~{60}~~ 30 days after beginning its operation within this State.

~~{6-}~~ 8. A person registering a vehicle pursuant to the provisions of subsection *1, 3, 5, ~~{6-}~~ 7 or 9* or pursuant to NRS 482.390:

(a) Must be assessed the registration fees and governmental services tax, as required by the provisions of this chapter and chapter 371 of NRS; and

(b) Must not be allowed credit on those taxes and fees for the unused months of the previous registration.

~~{7-}~~ **9.** If a vehicle is used in this State for a gainful purpose, the owner shall immediately apply to the Department for registration, except as otherwise provided in NRS 482.390, 482.395 and 706.801 to 706.861, inclusive.

~~{8-}~~ **10.** An owner registering a vehicle pursuant to the provisions of this section shall surrender the existing nonresident license plates and registration certificates to the Department for cancellation.

~~{9-}~~ **11.** A vehicle may be cited for a violation of this section regardless of whether it is in operation or is parked on a highway, in a public parking lot or on private property which is open to the public if, after communicating with the owner or operator of the vehicle, the peace officer issuing the citation determines that:

(a) The owner of the vehicle is a resident of this State; ~~{or}~~

(b) The vehicle is used in this State for a gainful purpose ~~{-}~~ ;

(c) Except as otherwise provided in paragraph (b) of subsection 1, the owner of the vehicle is a nonresident and has operated the vehicle in this State for more than 30 days in the aggregate in any 1 calendar year; or

(d) The owner of the vehicle is a nonresident required to register the vehicle pursuant to subsection 5.

➤ As used in this subsection, "peace officer" includes a constable.

Sec. 3. NRS 482.480 is hereby amended to read as follows:

482.480 There must be paid to the Department for the registration or the transfer or reinstatement of the registration of motor vehicles, trailers and semitrailers, fees according to the following schedule:

1. Except as otherwise provided in this section, for each stock passenger car and each reconstructed or specially constructed passenger car registered to a person, regardless of weight or number of passenger capacity, a fee for registration of \$33.

2. Except as otherwise provided in subsection 3:

(a) For each of the fifth and sixth such cars registered to a person, a fee for registration of \$16.50.

(b) For each of the seventh and eighth such cars registered to a person, a fee for registration of \$12.

(c) For each of the ninth or more such cars registered to a person, a fee for registration of \$8.

3. The fees specified in subsection 2 do not apply:

(a) Unless the person registering the cars presents to the Department at the time of registration the registrations of all the cars registered to the person.

(b) To cars that are part of a fleet.

4. For every motorcycle, a fee for registration of \$33 and for each motorcycle other than a trimobile, an additional fee of \$6 for motorcycle safety. The additional fee must be deposited in the State Highway Fund for

credit to the Account for the Program for the Education of Motorcycle Riders.

5. For each transfer of registration, a fee of \$6 in addition to any other fees.

6. Except as otherwise provided in subsection 7 of NRS 485.317, to reinstate the registration of a motor vehicle that is suspended pursuant to that section:

(a) A fee ~~of \$250~~ as specified in section 1 of this act for a registered owner who failed to have insurance on the date specified by the Department ~~††~~ , which fee is in addition to any fine or penalty imposed pursuant to section 1 of this act; or

(b) A fee of \$50 for a registered owner of a dormant vehicle who cancelled the insurance coverage for that vehicle or allowed the insurance coverage for that vehicle to expire without first cancelling the registration for the vehicle in accordance with subsection 3 of NRS 485.320,

➡ both of which must be deposited in the Account for Verification of Insurance which is hereby created in the State Highway Fund. The money in the Account must be used to carry out the provisions of NRS 485.313 to 485.318, inclusive.

7. For every travel trailer, a fee for registration of \$27.

8. For every permit for the operation of a golf cart, an annual fee of \$10.

9. For every low-speed vehicle, as that term is defined in NRS 484B.637, a fee for registration of \$33.

10. To reinstate the registration of a motor vehicle that is suspended pursuant to NRS 482.451, a fee of \$33.

Sec. 4. NRS 485.317 is hereby amended to read as follows:

485.317 1. The Department shall verify that each motor vehicle which is registered in this State is covered by a policy of liability insurance as required by NRS 485.185.

2. Except as otherwise provided in this subsection, the Department may use any information to verify whether a motor vehicle is covered by a policy of liability insurance as required by NRS 485.185. The Department may not use the name of the owner of a motor vehicle as the primary means of verifying that a motor vehicle is covered by a policy of liability insurance.

3. If the Department is unable to verify that a motor vehicle is covered by a policy of liability insurance as required by NRS 485.185, the Department shall send a request for information by first-class mail to the registered owner of the motor vehicle. The owner shall submit all the information which is requested to the Department within 15 days after the date on which the request for information was mailed by the Department. If the Department does not receive the requested information within 15 days after it mailed the request to the owner, the Department shall send to the owner a notice of suspension of registration by certified mail. The notice must inform the owner that unless the Department is able to verify that the motor vehicle is covered by a policy of liability insurance as required by NRS 485.185 within

10 days after the date on which the notice was sent by the Department, the owner's registration will be suspended pursuant to subsection 4.

4. The Department shall suspend the registration and require the return to the Department of the license plates of any vehicle for which the Department cannot verify the coverage of liability insurance required by NRS 485.185.

5. Except as otherwise provided in subsection 6, the Department shall reinstate the registration of the vehicle and reissue the license plates only upon verification of current insurance and ~~payment of the fee~~ compliance with the requirements for reinstatement of registration prescribed in paragraph (a) of subsection 6 of NRS 482.480.

6. If a registered owner proves to the satisfaction of the Department that the vehicle was a dormant vehicle during the period in which the information provided pursuant to NRS 485.314 indicated that there was no insurance for the vehicle, the Department shall reinstate the registration and, if applicable, reissue the license plates. If such an owner of a dormant vehicle failed to cancel the registration for the vehicle in accordance with subsection 3 of NRS 485.320, the Department shall not reinstate the registration or reissue the license plates unless the owner pays the fee set forth in paragraph (b) of subsection 6 of NRS 482.480.

7. If the Department suspends the registration of a motor vehicle pursuant to subsection 4 because the registered owner of the motor vehicle failed to have insurance on the date specified in the form for verification, and if the registered owner, in accordance with regulations adopted by the Department, proves to the satisfaction of the Department that the owner was unable to comply with the provisions of NRS 485.185 on that date because of extenuating circumstances, the Department may:

(a) Reinstate the registration of the motor vehicle and reissue the license plates upon payment by the registered owner of a fee of \$50, which must be deposited in the Account for Verification of Insurance created by subsection 6 of NRS 482.480; or

(b) Rescind the suspension of the registration without the payment of a fee.

➤ The Department shall adopt regulations to carry out the provisions of this subsection.

~~{Sec. 2.}~~ **Sec. 5.** Notwithstanding the amendatory provisions of this act:

1. The provisions of subsection 3 of NRS 482.385, as amended by section ~~HH 2~~ of this act, do not require a person specified in that subsection to register a vehicle owned by that person and operated in this State until August 1, 2011.

2. The provisions of subsection 5 of NRS 482.385, as added to that section by section ~~HH 2~~ of this act, do not require a resident of this State specified in that subsection to register a vehicle owned by that person and operated in this State until September 1, 2011.

3. The provisions of subsection 7 of NRS 482.385, as amended by section ~~HH~~ **2** of this act, do not require a resident of this State who operates a motor vehicle specified in that subsection to cause that motor vehicle to be registered until August 1, 2011.

~~{Sec. 3.}~~ **Sec. 6.** This act becomes effective upon passage and approval for the purpose of adopting regulations and on July 1, 2011 ~~{H.}~~, for all other purposes.

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. 461 to Senate Bill No. 323 revises provisions relating to reinstatement of registration after a lapse of insurance. It replaces the current flat fee of \$250 for reinstatement with a tiered system of penalties that escalates each time a lapse occurs and takes into consideration the amount of time of the lapse. The amendment also provides vehicle registration exemptions for certain students and migrant or seasonal farm workers.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 362.

Bill read second time.

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

Amendment No. 335.

"SUMMARY—Revises provisions concerning groundwater basins. (BDR 48-926)"

"AN ACT relating to water; requiring the State Engineer to ~~{designate}~~ **develop groundwater management plans in** certain groundwater basins ~~{as critical management areas; requiring the State Engineer to grant a request for an extension of time to work a}~~ **providing exceptions to the requirements for the cancellation or forfeiture of water rights in such basins** in certain circumstances; ~~{revising the fee required for an extension in those circumstances; requiring the use of such fees for the retirement of certain water rights;}~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State Engineer has various powers and duties with respect to regulating the groundwater in this State. (Chapter 534 of NRS) **Section ~~44~~ 2** of this bill requires the State Engineer to ~~{designate as a critical management area any}~~ **develop a groundwater management plan for a basin in a county whose population is 700,000 or more (currently Clark County) which has been designated to be in need of administration by the State Engineer for at least 10 consecutive years and** in which withdrawals of groundwater **have** consistently ~~{exceed}~~ **exceeded** the perennial yield of the basin ~~{H.}~~, **as determined by the State Engineer. Section 2 prescribes the contents of such a plan, including a timeline by which the excessive withdrawals are required to cease, and a procedure**

for the approval of such a plan. If the withdrawals of groundwater in the basin exceed the perennial yield of the basin at the completion of the timeline included in the approved plan, section 2 requires the State Engineer to order that withdrawals of groundwater be restricted in the basin to conform to priority rights.

Under existing law, the State Engineer ~~has the discretion whether to grant a request for the extension of the time necessary to work a~~ **is required to cancel a permit to appropriate water if, in the judgment of the State Engineer, the holder of the permit is not proceeding in good faith and with reasonable diligence to perfect the appropriation. (NRS 533.395) The State Engineer also, with certain exceptions, is required to declare the** forfeiture of a water right ~~for~~ **for nonuse of the water right for 5 successive years. (NRS 534.090) Section 2 of this bill** ~~requires~~ **provides an exception to these requirements if the State Engineer** ~~to extend the time necessary to work a forfeiture in a basin which is designated as a critical management area if the holder of the right pays a fee that is deposited in an account in the State General Fund, the money in which may only be used to pay the costs of retiring water rights in the particular designated basin where the water right is located. Section 2 further requires the State Engineer to adopt a sliding scale for such a fee, based on the priority of the right.~~ **has entered into an agreement with the owner of a water right in a basin for which a groundwater management plan has been approved by the State Engineer pursuant to this bill by which the owner agrees to temporarily cease making withdrawals of groundwater from the basin.**

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

Section 1. ~~{NRS 533.435 is hereby amended to read as follows:~~

~~533.435 1. The State Engineer shall collect the following fees:~~

~~For examining and filing an application for a permit to appropriate water \$300.00~~

~~This fee includes the cost of publication, which is \$50.~~

~~For reviewing a corrected application or map, or both, in connection with an application for a permit to appropriate water 100.00~~

~~For examining and acting upon plans and specifications for construction of a dam 1,000.00~~

~~For examining and filing an application for each permit to change the point of diversion, manner of use or place of use of an existing right 200.00~~

~~This fee includes the cost of the publication of the application, which is \$50.~~

~~For issuing and recording each permit to appropriate water for any purpose, except for generating hydroelectric power which results in nonconsumptive use of the water or watering livestock or wildlife purposes 300.00~~

plus \$3 per acre-foot approved or fraction thereof.	
For issuing and recording each permit to change an existing right whether temporary or permanent for any purpose, except for generating hydroelectric power which results in nonconsumptive use of the water, for watering livestock or wildlife purposes which change the point of diversion or place of use only	250.00
plus \$3 per acre-foot approved or fraction thereof.	
For issuing and recording each permit to appropriate or change the point of diversion or place of use of an existing right only whether temporary or permanent for watering livestock or wildlife purposes	200.00
plus \$50 for each second-foot of water approved or fraction thereof.	
For issuing and recording each permit to appropriate or change an existing right whether temporary or permanent for water for generating hydroelectric power which results in nonconsumptive use of the water	\$400.00
plus \$50 for each second-foot of water approved or fraction thereof.	
For issuing a waiver in connection with an application to drill a well	100.00
For filing a secondary application under a reservoir permit	250.00
For approving and recording a secondary permit under a reservoir permit	450.00
For reviewing each tentative subdivision map	150.00
plus \$1 per lot.	
For reviewing and approving each final subdivision map	100.00
For storage approved under a dam permit for privately owned nonagricultural dams which store more than 50 acre-feet	400.00
plus \$1 per acre-foot storage capacity. This fee includes the cost of inspection and must be paid annually.	
For filing proof of completion of work	50.00
For filing proof of beneficial use	50.00
For filing proof of resumption of a water right	300.00
For filing any protest	25.00
[For] <i>Except as otherwise provided in section 2 of this act, for</i>	
filing any application for extension of time within which to file proofs, for each year for which the extension of time is sought	100.00
For reviewing a cancellation of a water right pursuant to a petition for review	300.00
For examining and filing a report of conveyance filed pursuant to paragraph (a) of subsection 1 of NRS 533.384	100.00
plus \$20 per conveyance document	
For filing any other instrument	10.00

~~For making a copy of any document recorded or filed in the~~	
~~Office of the State Engineer, for the first page.....~~	~~1.00~~
~~For each additional page~~	~~.20~~
~~For certifying to copies of documents, records or maps, for each~~	
~~certificate~~	~~5.00~~
~~For each blueprint copy of any drawing or map, per square foot.....~~	~~\$5.00~~
~~The minimum charge for a blueprint copy, per print~~	~~3.00~~
~~For colored mylar plots~~	~~10.00~~

~~— 2. When fees are not specified in subsection 1 for work required of the Office of the State Engineer, the State Engineer shall collect the actual cost of the work.~~

~~— 3. Except as otherwise provided in this subsection, all fees collected by the State Engineer under the provisions of this section must be deposited in the State Treasury for credit to the State General Fund. All fees received for blueprint copies of any drawing or map must be kept by the State Engineer and used only to pay the costs of printing, replacement and maintenance of printing equipment. Any publication fees received which are not used by the State Engineer for publication expenses must be returned to the persons who paid the fees. If, after exercising due diligence, the State Engineer is unable to make the refunds, the State Engineer shall deposit the fees in the State Treasury for credit to the State General Fund. The State Engineer may maintain, with the approval of the State Board of Examiners, a checking account in any bank or credit union qualified to handle state money to carry out the provisions of this subsection. The account must be secured by a depository bond satisfactory to the State Board of Examiners to the extent the account is not insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755.] (Deleted by amendment.)~~

Sec. 1.5. NRS 533.395 is hereby amended to read as follows:

533.395 Except as otherwise provided in section 2 of this act:

1. If, at any time in the judgment of the State Engineer, the holder of any permit to appropriate the public water is not proceeding in good faith and with reasonable diligence to perfect the appropriation, the State Engineer shall require the submission of such proof and evidence as may be necessary to show a compliance with the law. If, in the judgment of the State Engineer, the holder of a permit is not proceeding in good faith and with reasonable diligence to perfect the appropriation, the State Engineer shall cancel the permit, and advise the holder of its cancellation. The failure to provide the proof and evidence required pursuant to this subsection is prima facie evidence that the holder is not proceeding in good faith and with reasonable diligence to perfect the appropriation.

2. If any permit is cancelled under the provisions of this section or NRS 533.390 or 533.410, the holder of the permit may within 60 days of the cancellation of the permit file a written petition with the State Engineer requesting a review of the cancellation by the State Engineer at a public

hearing. The State Engineer may, after receiving and considering evidence, affirm, modify or rescind the cancellation.

3. If the decision of the State Engineer modifies or rescinds the cancellation of a permit, the effective date of the appropriation under the permit is vacated and replaced by the date of the filing of the written petition with the State Engineer.

4. The cancellation of a permit may not be reviewed or be the subject of any judicial proceedings unless a written petition for review has been filed and the cancellation has been affirmed, modified or rescinded pursuant to subsection 2.

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

6. The appropriation of water or the acquisition or lease of appropriated water from any:

(a) Stream system as provided for in this chapter; or

(b) Underground water as provided for in NRS 534.080,

↳ by a political subdivision of this State or a public utility, as defined in NRS 704.020, to serve the present or the reasonably anticipated future municipal, industrial or domestic needs of its customers for water, as determined in accordance with a master plan adopted pursuant to chapter 278 of NRS or a plan approved by the State Engineer, must be considered when reviewing an extension of time.

Sec. 2. Chapter 534 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *In a basin in a county whose population is 700,000 or more that has been designated* ~~for a critical management area by the State Engineer pursuant to subsection 7 of NRS 534.110, the State Engineer shall adopt, by regulation, a sliding scale for the amount of the fee for an application for extension of time necessary to work a forfeiture for each year for which such an extension of time is sought pursuant to this section. The sliding scale must be based upon the priority in the basin of the right for which the extension is requested such that the amount of the fee for an application for an extension of time for a prior right in the basin is less than the fee for an application for an extension of time for a right that was acquired later in the basin.~~

~~2. Upon request of the holder of a right described in subsection 1 of NRS 534.090 in a basin that has been designated as a critical management area, the State Engineer shall extend the time necessary to work a forfeiture under that subsection if:~~

~~(a) The request is made before the expiration of the time necessary to work a forfeiture; and~~

~~—(b) The fee for the application for the extension is deposited in the account created pursuant to subsection 4.~~

~~—3. The State Engineer shall grant any number of extensions pursuant to subsection 2, but a single extension must not exceed 1 year.~~

~~—4. All fees collected pursuant to subsection 2 must be deposited with the State Treasurer and accounted for separately in the State General Fund. The account created pursuant to this subsection must be administered by the State Engineer. The money in the account does not revert to the State General Fund at the end of any fiscal year and must be carried forward to the next fiscal year.~~

~~—5. If fees are collected pursuant to subsection 2 for the extension of time necessary to work a forfeiture of water rights in more than one basin that has been designated as a critical management area, the State Engineer shall account for the fees that pertain to each such basin in separate subaccounts. Money in such a subaccount must be used only to pay the costs for the retirement of water rights in the particular basin where the right for which the fee was collected is located.~~

~~—6. The State Engineer shall establish, by regulation, the procedure for retiring water rights using fees collected pursuant to this section.]~~ pursuant to NRS 534.030 for at least 10 consecutive years and in which the State Engineer finds that withdrawals of groundwater consistently exceed the perennial yield, the State Engineer shall develop a groundwater management plan for the basin and cause the plan to be published as an order of the State Engineer.

2. A groundwater management plan developed pursuant to subsection 1:

(a) Must include a timeline of not less than 5 years or more than 20 years by which the withdrawals of groundwater in the basin must cease to exceed the perennial yield of the basin, as determined by the State Engineer.

(b) May include provisions which allow an owner of a water right in the basin to:

(1) Voluntarily relinquish the water right;

(2) Voluntarily reduce the owner's withdrawals of groundwater from the basin;

(3) Pay another owner of a water right in the basin to relinquish the water right or connect to a public water system;

(4) Enter into an agreement with all owners of water rights in the basin to regulate the use of water in the basin by a method other than in conformity with priority rights; or

(5) Enter into an agreement with the State Engineer by which the State Engineer agrees, as applicable, to not cancel the owner's permit to appropriate water pursuant to NRS 533.395 or to not declare the forfeiture of the owner's water right pursuant to NRS 534.090 during a period of at

least 5 years in which the owner agrees to cease making withdrawals of groundwater from the basin.

3. Before approving a groundwater management plan developed pursuant to subsection 1, the State Engineer shall hold a public hearing to take testimony on the plan in the county where the basin lies or, if the basin lies in more than one county, within the county where the major portion of the basin lies. The State Engineer shall cause notice of the hearing to be given once each week for 2 consecutive weeks before the hearing in a newspaper of general circulation in the county or counties in which the basin lies.

4. At a hearing held pursuant to subsection 3, any party may submit evidence to substantiate a different perennial yield of the basin based on an empirical study recognized by the State Engineer.

5. The decision of the State Engineer on a groundwater management plan may be reviewed by the district court of the county pursuant to NRS 533.450.

6. If the withdrawals of groundwater in the basin exceed the perennial yield of the basin, as determined by the State Engineer, at the completion of the timeline included in the groundwater management plan approved for the basin pursuant to this section, the State Engineer shall order that withdrawals, including, without limitation, withdrawals from domestic wells, be restricted to conform to priority rights.

7. The provisions of this section must not be construed to:

(a) Authorize the State Engineer to regulate a groundwater basin by a method other than conformity to priority rights unless pursuant to an agreement described in subparagraph (4) of paragraph (b) of subsection 2; or

(b) Prevent the State Engineer from approving a groundwater management plan for any basin to which the provisions of this section do not apply.

Sec. 3. NRS 534.090 is hereby amended to read as follows:

534.090 1. Except as otherwise provided in this section ~~and~~ and section 2 of this act, failure for 5 successive years after April 15, 1967, on the part of the holder of any right, whether it is an adjudicated right, an unadjudicated right or a permitted right, and further whether the right is initiated after or before March 25, 1939, to use beneficially all or any part of the underground water for the purpose for which the right is acquired or claimed, works a forfeiture of both undetermined rights and determined rights to the use of that water to the extent of the nonuse. If the records of the State Engineer or any other documents specified by the State Engineer indicate at least 4 consecutive years, but less than 5 consecutive years, of nonuse of all or any part of a water right which is governed by this chapter, the State Engineer shall notify the owner of the water right, as determined in the records of the Office of the State Engineer, by registered or certified mail that the owner has 1 year after the date of the notice in which to use the water

right beneficially and to provide proof of such use to the State Engineer or apply for relief pursuant to subsection 2 to avoid forfeiting the water right. If, after 1 year after the date of the notice, proof of beneficial use is not sent to the State Engineer, the State Engineer shall, unless the State Engineer has granted a request to extend the time necessary to work a forfeiture of the water right, declare the right forfeited within 30 days. Upon the forfeiture of a right to the use of groundwater, the water reverts to the public and is available for further appropriation, subject to existing rights. If, upon notice by registered or certified mail to the owner of record whose right has been declared forfeited, the owner of record fails to appeal the ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the forfeiture becomes final. The failure to receive a notice pursuant to this subsection does not nullify the forfeiture or extend the time necessary to work the forfeiture of a water right.

2. ~~The [Except as otherwise provided in section 2 of this act, the]~~ State Engineer may, upon the request of the holder of any right described in subsection 1, extend the time necessary to work a forfeiture under that subsection if the request is made before the expiration of the time necessary to work a forfeiture. The State Engineer may grant, upon request and for good cause shown, any number of extensions, but a single extension must not exceed 1 year. In determining whether to grant or deny a request, the State Engineer shall, among other reasons, consider:

(a) Whether the holder has shown good cause for the holder's failure to use all or any part of the water beneficially for the purpose for which the holder's right is acquired or claimed;

(b) The unavailability of water to put to a beneficial use which is beyond the control of the holder;

(c) Any economic conditions or natural disasters which made the holder unable to put the water to that use;

(d) Any prolonged period in which precipitation in the basin where the water right is located is below the average for that basin or in which indexes that measure soil moisture show that a deficit in soil moisture has occurred in that basin; and

(e) Whether the holder has demonstrated efficient ways of using the water for agricultural purposes, such as center-pivot irrigation.

↪ The State Engineer shall notify, by registered or certified mail, the owner of the water right, as determined in the records of the Office of the State Engineer, of whether the State Engineer has granted or denied the holder's request for an extension pursuant to this subsection.

3. If the failure to use the water pursuant to subsection 1 is because of the use of center-pivot irrigation before July 1, 1983, and such use could result in a forfeiture of a portion of a right, the State Engineer shall, by registered or certified mail, send to the owner of record a notice of intent to declare a forfeiture. The notice must provide that the owner has at least 1 year after the date of the notice to use the water beneficially or apply for additional relief

pursuant to subsection 2 before forfeiture of the owner's right is declared by the State Engineer.

4. A right to use underground water whether it is vested or otherwise may be lost by abandonment. If the State Engineer, in investigating a groundwater source, upon which there has been a prior right, for the purpose of acting upon an application to appropriate water from the same source, is of the belief from his or her examination that an abandonment has taken place, the State Engineer shall so state in the ruling approving the application. If, upon notice by registered or certified mail to the owner of record who had the prior right, the owner of record of the prior right fails to appeal the ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the alleged abandonment declaration as set forth by the State Engineer becomes final.

Sec. 4. ~~[NRS 534.110 is hereby amended to read as follows:~~
~~—534.110—1. The State Engineer shall administer this chapter and shall prescribe all necessary regulations within the terms of this chapter for its administration.~~
~~—2. The State Engineer may:~~
~~—(a) Require periodical statements of water elevations, water used, and acreage on which water was used from all holders of permits and claimants of vested rights.~~
~~—(b) Upon his or her own initiation, conduct pumping tests to determine if overpumping is indicated, to determine the specific yield of the aquifers and to determine permeability characteristics.~~
~~—3. The State Engineer shall determine whether there is unappropriated water in the area affected and may issue permits only if the determination is affirmative. The State Engineer may require each applicant to whom a permit is issued for a 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;~~
~~—to report periodically to the State Engineer concerning the effect of that well on other previously existing wells that are located within 2,500 feet of the well.~~
~~—4. It is a condition of each appropriation of groundwater acquired under this chapter that the right of the appropriator relates to a specific quantity of water and that the right must allow for a reasonable lowering of the static water level at the appropriator's point of diversion. In determining a reasonable lowering of the static water level in a particular area, the State Engineer shall consider the economics of pumping water for the general type of crops growing and may also consider the effect of using water on the economy of the area in general.~~
~~—5. This section does not prevent the granting of permits to applicants later in time on the ground that the diversions under the proposed later appropriations may cause the water level to be lowered at the point of~~

~~diversion of a prior appropriator, so long as any protectable interests in existing domestic wells as set forth in NRS 533.024 and the rights of holders of existing appropriations can be satisfied under such express conditions. At the time a permit is granted for a 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 State Engineer shall include as a condition of the permit that pumping water pursuant to the permit may be limited or prohibited to prevent any unreasonable adverse effects on an existing domestic well located within 2,500 feet of the well, unless the holder of the permit and the owner of the domestic well have agreed to alternative measures that mitigate those adverse effects.~~

~~6. The State Engineer shall conduct investigations in any basin or portion thereof where it appears that the average annual replenishment to the groundwater supply may not be adequate for the needs of all permittees and all vested right claimants, and if the findings of the State Engineer so indicate, the State Engineer may order that withdrawals be restricted to conform to priority rights.~~

~~7. The State Engineer shall designate any basin in which withdrawals of groundwater consistently exceed the perennial yield of the basin as a critical management area. Such a designation may be appealed pursuant to NRS 533.450. As used in this subsection, "perennial yield" means the amount of usable water from a groundwater aquifer that can be economically withdrawn and consumed each year for an indefinite period of time, which cannot exceed the natural recharge to that aquifer and is limited to the maximum amount of discharge that can be utilized for beneficial use.~~

~~8. In any basin or portion thereof in the State designated by the State Engineer, the State Engineer may restrict drilling of wells in any portion thereof if the State Engineer determines that additional wells would cause an undue interference with existing wells. Any order or decision of the State Engineer so restricting drilling of such wells may be reviewed by the district court of the county pursuant to NRS 533.450.] (Deleted by amendment.)~~

Sec. 5. This act becomes effective on July 1, 2011.

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. 335 to Senate Bill No. 362 amends the bill in its entirety and adds new language to Chapter 534 of the NRS requiring the State Engineer to develop groundwater management plans in water basins within Clark County that have been under the administration of the State Engineer for a period of ten consecutive years and that have had withdrawals of groundwater consistently exceeding the perennial yield.

A groundwater management plan must include a timeline of not less than 5 years or more than 20 years by which the withdrawals of groundwater in the basin must cease to exceed the perennial yield. If, after this timeframe, it is determined that the withdrawals have exceeded the

perennial yield, the State Engineer shall order that withdrawals, including those from domestic wells, be restricted to conform to priority rights.

The groundwater management plan may also allow a water right owner to, among other things: voluntarily relinquish the water right; pay another water right owner in the basin to relinquish the water right or connect to a public water system; or enter into an agreement with the State Engineer not to cancel the owner's water right for lack of use or failure to perfect the right during a period of at least five years in which the owner agrees to cease making withdrawals of groundwater from the basin.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 390.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 488.

"SUMMARY—Revises provisions relating to the statewide voter registration list. (BDR 24-1117)"

"AN ACT relating to elections; revising provisions relating to the statewide voter registration list; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Secretary of State to establish and maintain an official statewide voter registration list, which, among other requirements, must be coordinated with appropriate databases of other state agencies and must allow for data to be shared with other states. (NRS 293.675) This bill ~~requires~~ **authorizes the Secretary of State to enter into agreements with state agencies pursuant to which the** state agencies ~~to~~ provide to the Secretary of State any information that the Secretary of State ~~requests and~~ deems necessary for the maintenance of that list. ~~If the information provided is otherwise confidential, the Secretary of State must maintain that confidentiality, except that the~~ **This bill also authorizes the** Secretary of State ~~may~~ **to** provide ~~the~~ information ~~to~~ **requested by** the chief election officer of another state if the Secretary of State is satisfied that the information will be used only for the maintenance of a voter registration list in that state. ~~This~~ **Additionally, this bill also** authorizes the Secretary of State to request from another state any information that the Secretary of State deems necessary for the maintenance of the voter registration list in this State.

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

Section 1. NRS 293.675 is hereby amended to read as follows:

293.675 1. The Secretary of State shall establish and maintain an official statewide voter registration list, which may be maintained on the Internet, in consultation with each county and city clerk.

2. The statewide voter registration list must:

- (a) Be a uniform, centralized and interactive computerized list;
- (b) Serve as the single method for storing and managing the official list of registered voters in this State;
- (c) Serve as the official list of registered voters for the conduct of all elections in this State;
- (d) Contain the name and registration information of every legally registered voter in this State;
- (e) Include a unique identifier assigned by the Secretary of State to each legally registered voter in this State;
- (f) ~~{Be} {Subject to the provisions of subsections}~~ **Except as otherwise provided in subsection 6 , {and 7,} be** coordinated with the appropriate databases of other agencies in this State;
- (g) Be electronically accessible to each state and local election official in this State at all times;
- (h) ~~{Allow} {Subject to the provisions of}~~ **Except as otherwise provided in subsection {8,} 7, allow** for data to be shared with other states under certain circumstances; and
- (i) Be regularly maintained to ensure the integrity of the registration process and the election process.

3. Each county and city clerk shall:

- (a) Electronically enter into the statewide voter registration list all information related to voter registration obtained by the county or city clerk at the time the information is provided to the county or city clerk; and
- (b) Provide the Secretary of State with information concerning the voter registration of the county or city and other reasonable information requested by the Secretary of State in the form required by the Secretary of State to establish or maintain the statewide voter registration list.

4. In establishing and maintaining the statewide voter registration list, the Secretary of State shall enter into a cooperative agreement with the Department of Motor Vehicles to match information in the database of the statewide voter registration list with information in the appropriate database of the Department of Motor Vehicles to verify the accuracy of the information in an application to register to vote.

5. The Department of Motor Vehicles shall enter into an agreement with the Social Security Administration pursuant to 42 U.S.C. § 15483, to verify the accuracy of information in an application to register to vote.

6. ~~{Notwithstanding}~~
~~—(a) The provisions of~~ **Except as otherwise provided in NRS 481.063 {,}**
~~and~~
~~—(b) Any~~ **or any provision of law providing for the confidentiality of information, {**
~~—at the request of~~ **the Secretary of State {,} may enter into an agreement with an agency of this State {shall provide} pursuant to which the agency provides to the Secretary of State any information in the possession of the**

agency that the Secretary of State deems necessary to maintain the statewide voter registration list.

~~7. [Except as otherwise provided in subsection 8, any information provided to the Secretary of State pursuant to subsection 6 that is otherwise required to be kept confidential must be kept confidential by the Secretary of State.]~~

~~—8.7~~ *The Secretary of State may:*

(a) Request from the chief officer of elections of another state any information which the Secretary of State deems necessary to maintain the statewide voter registration list; and

(b) Provide to the chief officer of elections of another state any information which is requested and which the Secretary of State deems necessary for the chief officer of elections of that state to maintain a voter registration list, if the Secretary of State is satisfied that the information provided pursuant to this paragraph will be used only for the maintenance of that voter registration list.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Senate Bill No. 390 relates to the statewide voter registration list. Amendment No. 488 makes the following changes: the Secretary of State may enter into an agreement with any State agency to acquire information needed to maintain the statewide voter registration list, and an exception is provided to recognize existing provisions establishing confidentiality of information in records or files.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 391.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 370.

"SUMMARY—Revises provisions relating to ethics in government. (BDR 23-1116)"

"AN ACT relating to ethics in government; revising provisions relating to ethics in government and the enforcement of laws relating thereto; transferring certain authority over the enforcement of laws relating to ethics in government from the Commission on Ethics to the Secretary of State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill makes ~~a number of~~ **various** changes to provisions relating to ethics in government ~~[including provisions]~~ **and the ethics laws. (Chapters 281 and 281A of NRS) Sections 1.05, 2.35, 2.4, 21, 24.5, 34-39 and 41 of this bill revise provisions prohibiting public officers and employees from being interested in or benefitting from governmental**

contracts and clarify certain procedures for voiding governmental contracts or other actions which violate the ethics laws.

Sections 1.1-2.25, 23, 40 and 44 of this bill: (1) repeal the existing provisions governing financial disclosure statements which are administered jointly by the Commission on Ethics and the Secretary of State; and (2) reenact and revise those provisions so the Secretary of State is given sole responsibility to administer and enforce the financial disclosure provisions.

Sections 2.5-5.3 and 8-11 of this bill enact and revise various definitions in the Nevada Ethics in Government Law. Section 3 of this bill revises and makes applicable throughout the Ethics Law the existing definition of "commitment in a private capacity to the interests of another person" in NRS 281A.420, but section 3 retains without change the definition's catchall provision whose constitutionality is being litigated in a case pending before the United States Supreme Court. (*Carrigan v. Comm'n on Ethics*, 126 Nev. Adv. Op. 28, 236 P.3d 616 (2010), cert. granted, *Nev. Comm'n on Ethics v. Carrigan*, 131 S. Ct. 857 (2011))

Section 4 of this bill defines "pecuniary interest," and sections 18 and 20 of this bill require proof of a significant pecuniary interest in defining various types of unethical conduct.

Section 5.5 of this bill enacts provisions for computing periods of time under the Ethics Law. Section 6 of this bill revises and moves the existing provisions from NRS 281A.410 requiring certain public officers to file disclosures if they have represented or counseled a private person for compensation before certain agencies. Section 7 of this bill authorizes the Commission to apply for and accept grants, contributions, services and money for the purposes of carrying out the Ethics Law.

Sections 12-16 of this bill make various changes concerning the makeup and duties of the Commission ~~on Ethics,~~ and the duties of the Executive Director ~~of the Commission and the disposition of a certain assessment,~~ and the Commission Counsel. Those changes include: (1) adjusting the eligibility requirements for certain members of the Commission; (2) requiring the Commission's Chair to designate a qualified person to perform the Executive Director's duties when the Executive Director is disqualified or unable to act on a particular matter; (3) revising the administration of the assessments paid by cities and counties in semiannual installments to the Commission ~~[- This bill also makes]~~; and (4) expanding the Commission's authority to adopt regulations to carry out the Ethics Law.

Section 17 of this bill directs public officers and employees who request the issuance of a subpoena on their behalf in ethics proceedings to serve the subpoena in the manner provided in the Nevada Rules of Civil Procedure and to pay the costs of such service.

Sections 18-23 of this bill make various changes to provisions in the
~~code of ethical standards,~~ **Ethics Law**, including provisions relating to
 conflicts of interest for public officers and employees, **disclosures and**
abstentions, the rendering of opinions and conduct of investigations by the
 Commission and the duties of **specialized and** local ethics committees.
~~[Additionally,]~~

Section 18 of this bill prohibits public officers and employees from
misusing their governmental positions to benefit business entities in
which they have a significant pecuniary interest or persons to whom they
have a commitment in a private capacity. Section 18 also clarifies
existing provisions proscribing various types of unethical conduct.

Section 19 of this bill revises the restrictions on various public officers
and employees representing or counseling private persons for
compensation before certain agencies. Section 19 also revises and moves
the existing "cooling off" provisions from NRS 281A.550 prohibiting
various public officers and employees from being employed by certain
businesses and industries for a specified period after leaving public
service.

Section 24 of this bill provides new requirements relating to ~~the~~
~~acknowledgment by~~ **informing, educating and instructing** public officers
 and employees ~~of notice of state ethics laws . Finally, this bill transfers a~~
~~number of duties relating to state ethics laws from the Commission to the~~
~~Secretary of State.~~ **concerning the statutory ethical standards and their**
duties under the Ethics Law.

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

Section 1. Chapter ~~{281A}~~ **281** of NRS is hereby amended by adding
 thereto the provisions set forth as sections ~~{2 to 7,}~~ **1.05 to 2.25**, inclusive, of
 this act.

Sec. 1.05. 1. In addition to any other penalties provided by law, any
governmental grant, contract or lease made or other governmental action
taken by a public officer or employee in violation of NRS 281.005 to
281.671, or chapter 281A of NRS is voidable by the State, county, city or
political subdivision.

2. The Attorney General, district attorney or city attorney must give
notice of the intent to void a governmental grant, contract or lease or other
governmental action pursuant to this section not later than 30 days after
adjudication of the violation.

3. In determining whether to void a governmental grant, contract or
lease or other governmental action pursuant to this section, the interests of
innocent third parties who could be damaged must be taken into account.

4. In addition to any other penalties provided by law, the
Attorney General, district attorney or city attorney may:

(a) Pursue any other available legal or equitable remedies as a result of a violation of NRS 281.005 to 281.671, or chapter 281A of NRS by a public officer or employee; and

(b) Recover any fee, compensation, gift or benefit received by a person as a result of a violation of NRS 281.005 to 281.671, or chapter 281A of NRS by a public officer or employee. An action to recover pursuant to this section must be brought within 2 years after the violation or reasonable discovery of the violation.

Sec. 1.1. As used in sections 1.1 to 2.25, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 1.15 to 1.75, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 1.15. "Business entity" means an organization or enterprise operated for economic gain, including, without limitation, a proprietorship, partnership, firm, business, company, trust, joint venture, syndicate, corporation or association.

Sec. 1.2. 1. "Candidate" means a person who is a candidate for public office.

2. The term does not include a person who is a candidate for judicial office.

Sec. 1.25. "County clerk" means:

1. The county clerk; or

2. The registrar of voters of the county if one was appointed pursuant to NRS 244.164 and a duty assigned to the county clerk by sections 1.1 to 2.25, inclusive, of this act concerns a candidate.

Sec. 1.3. "Domestic partner" means a person in a domestic partnership.

Sec. 1.35. "Domestic partnership" means:

1. A domestic partnership as defined in chapter 122A of NRS; or

2. A domestic partnership which was validly formed in another jurisdiction and which is substantially equivalent to a domestic partnership as defined in chapter 122A of NRS, regardless of whether it bears the name of a domestic partnership or is registered in this State.

Sec. 1.4. "Financial disclosure statement" means a financial disclosure statement required to be filed with the Secretary of State pursuant to sections 1.1 to 2.25, inclusive, of this act.

Sec. 1.45. "Household" means an association of persons who live in the same home or dwelling, sharing its expenses.

Sec. 1.5. "Intentionally" means voluntarily or deliberately, rather than accidentally or inadvertently. The term does not require proof of bad faith, ill will, evil intent or malice.

Sec. 1.55. "Knowingly" imports a knowledge that the facts exist which constitute the act or omission, and does not require knowledge of the prohibition against the act or omission. Knowledge of any particular fact

may be inferred from the knowledge of such other facts as should put an ordinarily prudent person upon inquiry.

Sec. 1.6. "Member of the candidate's or public officer's household" means:

1. The spouse or domestic partner of the candidate or public officer;
2. A person who lives in the household of the candidate or public officer;

3. A person who does not live in the household of the candidate or public officer, but who is dependent on and receiving substantial support from the candidate or public officer; and

4. A person who lived in the household of the candidate or public officer for 6 months or more in the year immediately preceding the year in which the candidate or public officer files a financial disclosure statement.

Sec. 1.65. "Political subdivision" means any county, city or other local government as defined in NRS 354.474.

Sec. 1.7. "Public officer" means a person who is a public officer for the purposes of chapter 281A of NRS.

Sec. 1.75. "Willfully" means intentionally and knowingly.

Sec. 1.8. 1. A financial disclosure statement must be filed on a form prescribed by the Secretary of State.

2. The Secretary of State shall distribute the form, or cause the form to be distributed, to each candidate and public officer who is required to file a financial disclosure statement.

3. The Secretary of State and each county clerk and city clerk who receives from a candidate a declaration of candidacy, acceptance of candidacy or certificate of candidacy shall give to the candidate:

(a) The form prescribed by the Secretary of State for filing a financial disclosure statement; and

(b) Instructions on how to complete the form, where it must be filed and the time by which it must be filed.

Sec. 1.85. 1. The Secretary of State shall:

(a) Prescribe, by regulation, procedures for filing a financial disclosure statement; and

(b) Adopt any other regulations necessary to carry out the provisions of sections 1.1 to 2.25, inclusive, of this act.

2. The Secretary of State shall:

(a) Maintain files of the financial disclosure statements filed with the Secretary of State;

(b) Make each financial disclosure statement available for public inspection; and

(c) Retain each financial disclosure statement for 6 years after the date of filing, except that for a public officer who serves more than one term in either the same public office or more than one public office, the period prescribed by this paragraph begins to run on the date of the filing of the last financial disclosure statement for the last public office held.

Sec. 1.9. 1. A financial disclosure statement shall be deemed to be filed with the Secretary of State:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the Secretary of State if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

2. If the last day for filing a financial disclosure statement falls on a Saturday, Sunday, legal holiday or holiday proclaimed by the Governor or on a day on which the office of the Secretary of State is not open for the conduct of business, the period for filing the statement is extended to the close of business on the next business day.

Sec. 1.95. 1. If a specialized or local ethics committee requires the filing of a financial disclosure statement by a public officer on a form prescribed by the committee or the city clerk pursuant to NRS 281A.470 and the form is submitted to the Secretary of State for approval as required by that section, the Secretary of State shall not approve the form unless the financial disclosure statement contains all the information required to be included in a financial disclosure statement pursuant to section 2.05 of this act.

2. The Secretary of State is not responsible for the costs of producing or distributing a form for filing a financial disclosure statement pursuant to NRS 281A.470.

Sec. 2. [~~"Agency" means any agency, bureau, board, commission, department, division, office or any other unit of the Executive Department of the State Government, or of any county, city or other political subdivision.~~]
(Deleted by amendment.)

Sec. 2.05. A financial disclosure statement must contain the following information concerning the candidate or public officer:

1. The candidate's or public officer's length of residence in the State of Nevada and the district in which the candidate or public officer is registered to vote.

2. Each source of income for the candidate or public officer and each source of income for a member of the candidate's or public officer's household who is 18 years of age or older. No listing of individual clients, customers or patients is required, but if that is the case, a general source such as "professional services" must be disclosed.

3. A list of the specific location and particular use of real estate, other than a personal residence:

(a) In which the candidate or public officer or a member of the candidate's or public officer's household has a legal or beneficial interest;

(b) Whose fair market value is \$2,500 or more; and

(c) That is located in this State or an adjacent state.

4. The name of each creditor to whom the candidate or public officer or a member of the candidate's or public officer's household owes \$5,000 or more, except for:

(a) A debt secured by a mortgage or deed of trust of real property which is not required to be listed pursuant to subsection 3; and

(b) A debt for which a security interest in a motor vehicle for personal use was retained by the seller.

5. If the candidate or public officer has received gifts in excess of an aggregate value of \$200 from a donor during the preceding taxable year, a list of all such gifts, including the identity of the donor and value of each gift, except:

(a) A gift received from a person who is related to the candidate or public officer by blood, adoption, marriage or domestic partnership within the third degree of relationship.

(b) Ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion if the donor does not have a substantial interest in the legislative, administrative or political action of the candidate or public officer.

6. A list of each business entity with which the candidate or public officer or a member of the candidate's or public officer's household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1 percent or more of the total outstanding stock or securities issued by the business entity.

7. A list of all public offices presently held by the candidate or public officer for which the financial disclosure statement is being filed.

Sec. 2.1. 1. Except as otherwise provided in this section, each candidate who will be entitled to receive annual compensation of \$6,000 or more for serving in the office that the candidate is seeking, each candidate for the office of Legislator and each public officer who was elected to the office for which the public officer is serving shall file with the Secretary of State a financial disclosure statement, as follows:

(a) A candidate for nomination, election or reelection to public office shall file a financial disclosure statement not later than the 10th day after the last day to qualify as a candidate for the office. The statement must disclose the required information for the full calendar year immediately preceding the date of filing and for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office. The filing of a financial disclosure statement for a portion of a calendar year pursuant to this paragraph does not relieve the candidate of the requirement of filing a financial disclosure statement for the full calendar year pursuant to paragraph (b) in the immediately succeeding year, if the candidate is elected to the office.

(b) Each public officer shall file a financial disclosure statement on or before January 15 of:

(1) Each year of the term, including the year in which the public officer leaves office; and

(2) The year immediately following the year in which the public officer leaves office, unless the public officer leaves office before January 15 in the prior year.

↪ The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. Except as otherwise provided in this subsection, if a candidate is serving in a public office for which the candidate is required to file a financial disclosure statement pursuant to paragraph (b) of subsection 1 or subsection 1 of section 2.15 of this act, the candidate need not file the statement required by this section for the full calendar year for which the candidate previously filed a statement. The provisions of this subsection do not relieve the candidate of the requirement pursuant to paragraph (a) of subsection 1 to file a financial disclosure statement for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office.

3. A person elected pursuant to NRS 548.285 to the office of supervisor of a conservation district is not required to file a financial disclosure statement relative to that office pursuant to subsection 1.

4. A candidate for judicial office or a judicial officer shall file a financial disclosure statement pursuant to the requirements of the Revised Nevada Code of Judicial Conduct. Such a financial disclosure statement must include, without limitation, all the information required to be included in a financial disclosure statement pursuant to section 2.05 of this act.

Sec. 2.15. 1. Except as otherwise provided in this section, if a public officer who was appointed to the office for which the public officer is serving is entitled to receive annual compensation of \$6,000 or more for serving in that office or if the public officer was appointed to the office of Legislator, the public officer shall file with the Secretary of State a financial disclosure statement, as follows:

(a) A public officer appointed to fill the unexpired term of an elected or appointed public officer shall file a financial disclosure statement not later than 30 days after the public officer's appointment. The statement must disclose the required information for the current calendar year and for the full calendar year immediately preceding the date of filing.

(b) Each public officer appointed to fill an office shall file a financial disclosure statement on or before January 15 of:

(1) Each year of the term, including the year in which the public officer leaves office; and

(2) The year immediately following the year in which the public officer leaves office, unless the public officer leaves office before January 15 in the prior year.

↪ The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. If a person is serving in a public office for which the person is required to file a financial disclosure statement pursuant to subsection 1, the person may use the statement the person files for that initial office to satisfy the requirements of subsection 1 for every other public office to which the person is appointed and in which the person is also serving.

3. A judicial officer who is appointed to fill the unexpired term of a predecessor or to fill a newly created judgeship shall file a financial disclosure statement pursuant to the requirements of the Revised Nevada Code of Judicial Conduct. Such a financial disclosure statement must include, without limitation, all the information required to be included in a financial disclosure statement pursuant to section 2.05 of this act.

Sec. 2.2. 1. A list of each public officer who is required to file a financial disclosure statement must be submitted electronically to the Secretary of State, in a form prescribed by the Secretary of State, on or before December 1 of each year by:

(a) Each county clerk for all public officers of the county and the other political subdivisions within the county except cities;

(b) Each city clerk for all public officers of the city;

(c) The Director of the Legislative Counsel Bureau for all public officers of the Legislative Department of the State Government; and

(d) The Chief of the Budget Division of the Department of Administration for all public officers of the Executive Department of the State Government.

2. Each county clerk and city clerk shall submit electronically to the Secretary of State, in a form prescribed by the Secretary of State, a list of each candidate who filed a declaration of candidacy, acceptance of candidacy or certificate of candidacy with the clerk within 10 days after the last day to qualify as a candidate for the applicable office.

Sec. 2.25. 1. If a candidate or public officer willfully fails to file a financial disclosure statement or willfully fails to file a financial disclosure statement in a timely manner, the Secretary of State may, after giving notice to that person, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a candidate or public officer who willfully fails to file a financial disclosure statement or willfully fails to file a financial disclosure statement in a timely manner is subject to a civil penalty and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. The amount of the civil penalty is:

(a) If the statement is filed not more than 10 days after the applicable deadline, \$25.

(b) If the statement is filed more than 10 days but not more than 20 days after the applicable deadline, \$50.

(c) If the statement is filed more than 20 days but not more than 30 days after the applicable deadline, \$100.

(d) If the statement is filed more than 30 days but not more than 45 days after the applicable deadline, \$250.

(e) If the statement is not filed or is filed more than 45 days after the applicable deadline, \$2,000.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Make the record created pursuant to paragraph (a) available for public inspection.

Sec. 2.3. NRS 281.005 is hereby amended to read as follows:

281.005 As used in ~~this chapter~~, NRS 281.005 to 281.671, inclusive, and section 1.05 of this act, unless the context otherwise requires:

1. "Public officer" means a person elected or appointed to a position which:

(a) Is established by the Constitution or a statute of this State, or by a charter or ordinance of a political subdivision of this State; and

(b) Involves the continuous exercise, as part of the regular and permanent administration of the government, of a public power, trust or duty.

2. "Special use vehicle" means any vehicle designed or used for the transportation of persons or property off paved highways.

Sec. 2.35. NRS 281.221 is hereby amended to read as follows:

281.221 1. Except as otherwise provided in this section ~~1.1~~ and NRS 281A.430, it is unlawful for ~~any~~ a state officer who is not a member of the Legislature to:

(a) Become a contractor under any contract or order for supplies or other kind of contract authorized by or for the State or any of its departments, or the Legislature or either of its houses, or to be interested, directly or indirectly, as principal, in any kind of contract so authorized.

(b) Be interested in any contract made by the officer or to be a purchaser or interested in any purchase under a sale made by the officer in the discharge of the officer's official duties.

2. ~~Any~~ **1** member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by the board, commission or body may supply or contract to supply, in the ordinary course of ~~the member's~~ **his or her** business, goods, materials or services to any state or local agency, except the board ~~for commission of~~ **, commission or body on** which he or she is a member, if the member has not taken part in

developing the contract plans or specifications and the member will not be personally involved in opening, considering or accepting offers.

3. A full- or part-time faculty member in the Nevada System of Higher Education may bid on or enter into a contract with a governmental agency, or may benefit financially or otherwise from a contract between a governmental agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to NRS 396.255.

4. A state officer, other than an officer described in subsection 2 or 3, may bid on or enter into a contract with a governmental agency if the contracting process is controlled by rules of open competitive bidding, the sources of supply are limited, the officer has not taken part in developing the contract plans or specifications and the officer will not be personally involved in opening, considering or accepting offers.

5. ~~Any~~ In addition to any other penalties provided by law, any governmental contract made or other governmental action taken in violation of this section may be declared void ~~at the instance of the State or of any other person interested in the contract except an officer prohibited from making or being interested in the contract.~~

~~6. Any person violating~~ pursuant to section 1.05 of this act.

6. A person who violates this section is guilty of a gross misdemeanor and shall forfeit his or her office.

Sec. 2.4. NRS 281.230 is hereby amended to read as follows:

281.230 1. Except as otherwise provided in this section and NRS 218A.970, ~~[281A.530]~~ 281A.430 and 332.800, the following persons shall not, in any manner, directly or indirectly, receive any commission, personal profit or compensation of any kind resulting from any contract or other significant transaction in which the employing state, county, municipality, township, district or quasi-municipal corporation is in any way directly interested or affected:

(a) State, county, municipal, district and township officers of the State of Nevada;

(b) Deputies and employees of state, county, municipal, district and township officers; and

(c) Officers and employees of quasi-municipal corporations.

2. A member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by the board, commission or body may, in the ordinary course of his or her business, bid on or enter into a contract with any governmental agency, except the board ~~for~~ commission or body on which he or she is a member, if the member has not taken part in developing the contract plans or specifications and the member will not be personally involved in opening, considering or accepting offers.

3. A full- or part-time faculty member or employee of the Nevada System of Higher Education may bid on or enter into a contract with

a governmental agency, or may benefit financially or otherwise from a contract between a governmental agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to NRS 396.255.

4. A public officer or employee, other than an officer or employee described in subsection 2 or 3, may bid on or enter into a contract with a governmental agency if the contracting process is controlled by rules of open competitive bidding, the sources of supply are limited, the public officer or employee has not taken part in developing the contract plans or specifications and the public officer or employee will not be personally involved in opening, considering or accepting offers. If a public officer who is authorized to bid on or enter into a contract with a governmental agency pursuant to this subsection is a member of the governing body of the agency, the public officer, pursuant to the requirements of NRS 281A.420, shall disclose his or her interest in the contract and shall not vote on or advocate the approval of the contract.

5. A person who violates ~~any of the provisions of~~ this section shall be punished as provided in NRS 197.230 and:

(a) Where the commission, personal profit or compensation is \$250 or more, for a category D felony as provided in NRS 193.130.

(b) Where the commission, personal profit or compensation is less than \$250, for a misdemeanor.

6. **In addition to any other penalties provided by law:**

(a) A person who violates ~~the provisions of~~ this section shall pay any commission, personal profit or compensation resulting from the contract or transaction to the employing state, county, municipality, township, district or quasi-municipal corporation as restitution.

(b) Any governmental contract made or other governmental action taken in violation of this section may be declared void pursuant to section 1.05 of this act.

Sec. 2.45. Chapter 281A of NRS is hereby amended by adding thereto the provisions set forth as sections 2.5 to 7, inclusive, of this act.

Sec. 2.5. "Agency" means any state or local agency.

Sec. 3. "Commitment in a private capacity to the interests of ~~others~~" or "commitment in a private capacity to the interests of that ~~another~~ person" means a ~~personal or pecuniary~~ commitment, interest or relationship of a public officer or employee to a person:

1. Who is the spouse or domestic partner of the public officer or employee;

2. Who is a member of the household of the public officer or employee;

3. Who is related to the public officer or employee, or to the spouse or ~~registered~~ domestic partner of the public officer or employee, by blood, ~~or~~ adoption, marriage or domestic partnership within the third degree of ~~consanguinity,~~ relationship;

4. Who employs the public officer or employee, the spouse or domestic partner of the public officer or employee or a member of the household of the public officer or employee;

5. With whom the public officer or employee has a substantial and continuing business relationship; or

6. With whom the public officer or employee has any other commitment, interest or relationship that is substantially similar to a commitment, interest or relationship described in subsections 1 to 5, inclusive.

Sec. 3.3. "Domestic partner" means a person in a domestic partnership.

Sec. 3.5. "Domestic partnership" means:

1. A domestic partnership as defined in chapter 122A of NRS; or

2. A domestic partnership which was validly formed in another jurisdiction and which is substantially equivalent to a domestic partnership as defined in chapter 122A of NRS, regardless of whether it bears the name of a domestic partnership or is registered in this State.

Sec. 3.7. "Local agency" means any local legislative body, agency, bureau, board, commission, department, division, office or other unit of any county, city or other political subdivision.

Sec. 4. "Pecuniary interest" means any beneficial or detrimental interest in a matter that consists of or is measured in money or is otherwise related to money, including, without limitation:

1. Anything of economic value; and

2. Payments or other money which a person is owed or otherwise entitled to by virtue of any existing statute, regulation, code or ordinance ~~[of any agency]~~ or any contract or ~~[any]~~ other agreement.

Sec. 5. ~~["Personal interest" means any potential or actual private benefit or detriment to a person affected by a matter.] (Deleted by amendment.)~~

Sec. 5.3. "State agency" means any agency, bureau, board, commission, department, division, office or other unit of the Executive Department of the State Government.

Sec. 5.5. In computing any period of time prescribed or allowed by this chapter:

1. If the period begins to run on the occurrence of an act or event, the day of the act or event is excluded from the computation.

2. The last day of the period is included in the computation, except that if the last day falls on a Saturday, Sunday, legal holiday or holiday proclaimed by the Governor or on a day on which the office of the Commission is not open for the conduct of business, the period is extended to the close of business on the next business day.

Sec. 6. 1. Not later than January 15 of each year, ~~[any]~~ a State Legislator or public officer who has, within the preceding year, represented or counseled a private person for compensation before an agency shall

disclose for each occurrence of such representation or counseling during the previous calendar year:

- (a) The name of the private person;*
- (b) The nature of the representation or counseling; and*
- (c) The name of the agency.*

2. The disclosure required pursuant to subsection 1 must be made in writing and ~~be~~ timely filed with the Commission on a form prescribed by the Commission. For the purposes of this subsection, the disclosure is timely filed if, on or before the last day for filing, the disclosure is is ~~filed in one of the following ways:~~

(a) Delivered in person to the principal office of the Commission in Carson City.

(b) Mailed to the Commission by first-class mail, or other class of mail that is at least as expeditious, postage prepaid. Filing by mail is complete upon timely depositing the disclosure with the United States Postal Service.

(c) Dispatched to a third-party commercial carrier for delivery to the Commission within 3 calendar days , ~~of the due date.~~ Filing by third-party commercial carrier is complete upon timely depositing the disclosure with the third-party commercial carrier.

(d) Transmitted to the Commission by facsimile machine or other electronic means authorized by the Commission. Filing by facsimile machine or other electronic means is complete upon receipt of the transmission by the Commission.

3. The Commission shall retain a disclosure filed pursuant to this section for 6 years after the date on which the disclosure was filed.

Sec. 7. ~~[1. Subject to the provisions of subsection 2, the Commission, upon majority vote,~~ The Commission may apply for and accept grants, contributions, services or money for the purposes of carrying out the provisions of this chapter ~~and~~

~~2. The Commission may only apply for or accept such grants, contributions or services]~~ only if the action is approved by majority vote in an open public meeting of the Commission.

Sec. 8. NRS 281A.030 is hereby amended to read as follows:

*281A.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 281A.040 to 281A.170, inclusive, **and sections ~~[2 to 5.] 2.5 to 5.3, inclusive, of this act~~** have the meanings ascribed to them in those sections.*

Sec. 9. NRS 281A.100 is hereby amended to read as follows:

281A.100 "Household" means an association of persons who live in the same home or dwelling, sharing its expenses . ~~[, and includes, without limitation, persons who are related by blood, adoption or marriage] [.] for who are registered as domestic partners pursuant to chapter 122A of NRS or persons who are in a substantially similar relationship.]~~

Sec. 10. NRS 281A.125 is hereby amended to read as follows:

281A.125 "Member of a local legislative body" means a member of a board of county commissioners, a governing body of a city or a governing body of any other political subdivision who performs any function that involves introducing, voting upon or otherwise acting upon any matter of a permanent or general character which may reflect public policy . ~~{and which is not typically restricted to identifiable persons or groups.}~~

Sec. 11. NRS 281A.160 is hereby amended to read as follows:

281A.160 1. "Public officer" means a person elected or appointed to a position ~~f, or appointed or employed, to perform the duties of a position, with or without compensation,}~~ which:

(a) Is established ~~f, or created or authorized to be established, or created}~~ by the Constitution of the State of Nevada, a statute of this State or a charter or ordinance of any county, city or other political subdivision; and

(b) Involves the exercise of a public power, trust or duty. ~~{As used in this section, "the}~~

2. For the purposes of subsection 1:

(a) A position is established by the Constitution of the State of Nevada, a statute of this State or a charter or ordinance of any county, city or other political subdivision if the position is established or created directly by the source of authority or if the source of authority authorizes a public body or officer to establish or create the position.

(b) "The exercise of a public power, trust or duty" means:

(1) Actions taken in an official capacity which involve a substantial and material exercise of administrative discretion in the formulation of public policy;

(2) The expenditure of public money; and

(3) The administration of laws and rules of the State or any county, city or other political subdivision.

~~{2.}~~ **3. "Public officer" includes, without limitation, a person appointed or employed, with or without compensation, to perform the duties of a position which is a public office or to serve in such a position on a temporary, interim or acting basis.**

4. "Public officer" does not include:

(a) Any justice, judge or other officer of the court system;

(b) Any member of a board, commission or other body whose function is advisory;

(c) Any member of a special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district's money; or

(d) A county health officer appointed pursuant to NRS 439.290.

~~{3.}~~ **5.** "Public office" does not include an office held by:

(a) Any justice, judge or other officer of the court system;

(b) Any member of a board, commission or other body whose function is advisory;

(c) Any member of a special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district's money; or

(d) A county health officer appointed pursuant to NRS 439.290.

Sec. 12. NRS 281A.200 is hereby amended to read as follows:

281A.200 1. The Commission on Ethics, consisting of eight members, is hereby created.

2. The Legislative Commission shall appoint to the Commission four residents of the State, at least two of whom ~~are~~ must be former public officers ~~or former public employees~~, and at least one of whom must be an attorney licensed to practice law in this State.

3. The Governor shall appoint to the Commission four residents of the State, at least two of whom must be former public officers or ~~public~~ employees, and at least one of whom must be an attorney licensed to practice law in this State.

4. ~~Not [Subject to the provisions of NRS 281.057, not]~~ more than four members of the Commission may be members of the same political party. **The provisions of NRS 281.057 do not apply to this subsection.**

5. Not more than four members **of the Commission** may be residents of the same county.

~~5.1~~ **6.** None of the members of the Commission may, while the member is serving on the Commission:

(a) Hold another public office;

(b) Be actively involved in the work of any political party or political campaign; or

(c) Communicate directly with a State Legislator or a member of a local legislative body on behalf of someone other than himself or herself or the Commission, for compensation, to influence:

(1) The State Legislator with regard to introducing or voting upon any matter or taking other legislative action; or

(2) The member of the local legislative body with regard to introducing or voting upon any ordinance or resolution, taking other legislative action or voting upon:

(I) The appropriation of public money;

(II) The issuance of a license or permit; or

(III) Any proposed subdivision of land or special exception or variance from zoning regulations.

~~6.1~~ **7.** After the initial terms, the terms of the members are 4 years. Any vacancy in the membership must be filled by the appropriate appointing authority for the unexpired term. Each member may serve no more than two consecutive full terms.

Sec. 13. NRS 281A.240 is hereby amended to read as follows:

281A.240 1. In addition to any other duties imposed upon the Executive Director, the Executive Director shall:

(a) Maintain complete and accurate records of all transactions and proceedings of the Commission.

(b) Receive requests for opinions pursuant to NRS 281A.440.

(c) Gather information and conduct investigations regarding requests for opinions received by the Commission and submit recommendations to the investigatory panel appointed pursuant to NRS 281A.220 regarding whether there is just and sufficient cause to render an opinion in response to a particular request.

(d) Recommend to the Commission any regulations or legislation that the Executive Director considers desirable or necessary to improve the operation of the Commission and maintain high standards of ethical conduct in government.

(e) Upon the request of any public officer or the employer of a public employee, conduct training on the requirements of this chapter, the rules and regulations adopted by the Commission and previous opinions of the Commission. In any such training, the Executive Director shall emphasize that the Executive Director is not a member of the Commission and that only the Commission may issue opinions concerning the application of the statutory ethical standards to any given set of facts and circumstances. The Commission may charge a reasonable fee to cover the costs of training provided by the Executive Director pursuant to this subsection.

(f) Perform such other duties, not inconsistent with law, as may be required by the Commission.

2. The Executive Director shall, within the limits of legislative appropriation, employ such persons as are necessary to carry out any of the Executive Director's duties relating to:

(a) The administration of the affairs of the Commission; *and*

(b) ~~{The review of statements of financial disclosure; and~~

~~—(c)—~~ The investigation of matters under the jurisdiction of the Commission.

3. If the Executive Director is prohibited from acting on a particular matter or is otherwise unable to act on a particular matter, the Chair of the Commission shall designate a qualified person to perform the duties of the Executive Director with regard to that particular matter.

Sec. 14. NRS 281A.260 is hereby amended to read as follows:

281A.260 1. The Commission Counsel is the legal adviser to the Commission. For each opinion of the Commission, the Commission Counsel shall prepare, at the direction of the Commission, the appropriate findings of fact and conclusions as to relevant standards and the propriety of particular conduct. ~~{within the time set forth in subsection} [6] [7 of NRS 281A.440.]~~ The Commission Counsel shall not issue written opinions concerning the applicability of the statutory ethical standards to a given set of facts and circumstances except as directed by the Commission.

2. The Commission may rely upon the legal advice of the Commission Counsel in conducting its daily operations.

3. If the Commission Counsel is prohibited from acting on a particular matter or is otherwise unable to act on a particular matter, the Commission may:

- (a) Request that the Attorney General appoint a deputy to act in the place of the Commission Counsel; or
- (b) Employ outside legal counsel.

Sec. 15. NRS 281A.270 is hereby amended to read as follows:

281A.270 1. Each county whose population is more than 10,000 and each city whose population is more than 10,000 and that is located within such a county shall pay an assessment for the costs incurred by the Commission each biennium in carrying out its functions pursuant to this chapter. The total amount of money to be derived from assessments paid pursuant to this subsection for a biennium must be determined by the Legislature in the legislatively approved budget of the Commission for that biennium. The assessments must be apportioned among each such city and county based on the proportion that the total population of the city or the total population of the unincorporated area of the county bears to the total population of all such cities and the unincorporated areas of all such counties in this State.

2. On or before July 1 of each odd-numbered year, the Executive Director shall, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, determine for the next ensuing biennium the amount of the assessments due for each city and county that is required to pay an assessment pursuant to subsection 1. The assessments must be paid to the Commission in semiannual installments that are due on or before August 1 and February 1 of each year of the biennium. The Executive Director shall send out a billing statement to each such city or county which states the amount of the semiannual installment payment due from the city or county.

3. Any money that the Commission receives pursuant to subsection 2:

(a) Must be deposited in the State Treasury, accounted for separately in the State General Fund and credited to the budget account for the Commission;

(b) May only be used to carry out the provisions of this chapter and only to the extent authorized for expenditure by the Legislature; ~~and~~

(c) Does not revert to the State General Fund ~~[, or to any city or county that is required to pay an assessment pursuant to subsection 1.]~~ at the end of any fiscal year ~~[,]; and~~

(d) Does not revert to a city or county if:

(1) The actual expenditures by the Commission are less than the amount of the assessments approved by the Legislature pursuant to subsection 1 and the city or county has already remitted its semiannual installment to the Commission for the billing period; or

(2) The budget of the Commission is modified after the amount of the assessments has been approved by the Legislature pursuant to subsection 1 and the city or county has already remitted its semiannual installment to the Commission for the billing period.

4. If any installment payment is not paid on or before the date on which it is due, the Executive Director shall make reasonable efforts to collect the delinquent payment. If the Executive Director is not able to collect the arrearage, the Executive Director shall submit a claim for the amount of the unpaid installment payment to the Department of Taxation. If the Department of Taxation receives such a claim, the Department shall deduct the amount of the claim from money that would otherwise be allocated from the Local Government Tax Distribution Account to the city or county that owes the installment payment and shall transfer that amount to the Commission.

5. As used in this section, "population" means the current population estimate for that city or county as determined and published by the Department of Taxation and the demographer employed pursuant to NRS 360.283.

Sec. 16. NRS 281A.290 is hereby amended to read as follows:

281A.290 The Commission shall:

1. Adopt ~~{procedural}~~ regulations:
 - (a) To facilitate the receipt of inquiries by the Commission;
 - (b) For the filing of a request for an opinion with the Commission;
 - (c) For the withdrawal of a request for an opinion by the person who filed the request; ~~{and}~~
 - (d) To facilitate the prompt rendition of opinions by the Commission ~~{}~~ ;
- and**

(e) Which are proper or necessary to carry out the provisions of this chapter.

2. Prescribe, by regulation, ~~{forms for the submission of statements of financial disclosure and procedures for the submission of statements of financial disclosure filed pursuant to NRS 281A.600 and}~~ forms and procedures for the submission of statements of acknowledgment filed by public officers pursuant to NRS 281A.500, maintain files of such statements and make the statements available for public inspection.

3. Cause the making of such investigations as are reasonable and necessary for the rendition of its opinions pursuant to this chapter.

4. ~~{Except as otherwise provided in NRS 281A.600, inform}~~ **Inform** the Attorney General or district attorney of all cases of noncompliance with the requirements of this chapter.

5. Recommend to the Legislature such further legislation as the Commission considers desirable or necessary to promote and maintain high standards of ethical conduct in government.

6. Publish a manual for the use of public officers and employees that contains:

(a) Hypothetical opinions which are abstracted from opinions rendered pursuant to subsection 1 of NRS 281A.440, for the future guidance of all persons concerned with ethical standards in government;

(b) Abstracts of selected opinions rendered pursuant to subsection 2 of NRS 281A.440; and

(c) An abstract of the requirements of this chapter.

➤ The Legislative Counsel shall prepare annotations to this chapter for inclusion in the Nevada Revised Statutes based on the abstracts and published opinions of the Commission.

Sec. 17. NRS 281A.300 is hereby amended to read as follows:

281A.300 1. The Chair and Vice Chair of the Commission may administer oaths.

2. The Commission, upon majority vote, may issue a subpoena to compel the attendance of a witness and the production of books and papers. Upon the request of the Executive Director or the public officer or ~~public~~ employee who is the subject of a request for an opinion, the Chair or, in the Chair's absence, the Vice Chair, may issue a subpoena to compel the attendance of a witness and the production of books and papers. **A public officer or employee who requests the issuance of a subpoena pursuant to this subsection must serve the subpoena in the manner provided in the Nevada Rules of Civil Procedure for service of subpoenas in a civil action and must pay the costs of such service.**

3. Before issuing a subpoena to a public officer or ~~public~~ employee who is the subject of a request for an opinion ~~to~~ **to compel his or her attendance as a witness or his or her production of books or papers,** the Executive Director shall submit a written request to the public officer or ~~public~~ employee requesting:

(a) The appearance of the public officer or ~~public~~ employee as a witness; or

(b) The production by the public officer or ~~public~~ employee of any books and papers relating to the request for an opinion.

4. Each written request submitted by the Executive Director pursuant to subsection 3 must specify the time and place for the attendance of the public officer or ~~public~~ employee or the production of any books and papers, and designate with certainty the books and papers requested, if any. If the public officer or ~~public~~ employee fails or refuses to attend at the time and place specified or produce the books and papers requested by the Executive Director within 5 business days after receipt of the request, the Chair may issue the subpoena. Failure of the public officer or ~~public~~ employee to comply with the written request of the Executive Director shall be deemed a waiver by the public officer or ~~public~~ employee of the time set forth in subsections 4, 5 and **6** ~~7~~ of NRS 281A.440.

5. If any witness refuses to attend, testify or produce any books and papers as required by the subpoena, the Chair of the Commission may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the Commission pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Commission, or has refused to answer questions propounded to the witness, and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Commission.

6. Upon such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why the witness has not attended, testified or produced the books or papers before the Commission. A certified copy of the order must be served upon the witness.

7. If it appears to the court that the subpoena was regularly issued by the Commission, the court shall enter an order that the witness appear before the Commission, at the time and place fixed in the order, and testify or produce the required books and papers. Upon failure to obey the order, the witness must be dealt with as for contempt of court.

Sec. 18. NRS 281A.400 is hereby amended to read as follows:

281A.400 A code of ethical standards is hereby established to govern the conduct of public officers and employees:

1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend ~~to improperly~~ to influence a reasonable person in the public officer's or employee's position to depart from the faithful and impartial discharge of the public officer's or employee's public duties.

2. A public officer or employee shall not use the public officer's or employee's position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for [the] ~~which affect a significant personal interest or significant pecuniary interest of the]~~ :

(a) The public officer or employee ~~is any]~~ :

(b) Any business entity in which the public officer or employee has a significant pecuniary interest ~~is or any]~~ ; or

(c) Any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person. ~~[As used in this subsection:~~

—(a) "Commitment in a private capacity to the interests of that person" has the meaning ascribed to "commitment in a private capacity to the interests of others" in subsection 8 of NRS 281A.420.

—(b) "Unwarranted" means ~~without justification or adequate reason.]~~

3. A public officer or employee shall not participate as an agent of government in the negotiation, ~~for~~ execution or approval of a contract between the government and ~~any~~ :

(a) *The public officer or employee;*

(b) *Any* business entity in which the public officer or employee has a significant pecuniary interest ~~for a significant personal interest;~~ ; or

(c) *Any* ~~other person, if~~ person to whom the public officer or employee has a commitment in a private capacity to the interests of that person.

4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of the public officer's or employee's public duties ~~as a public officer or employee.~~

5. If a public officer or employee acquires, through the public officer's or employee's public duties or relationships, any information which by law or practice is not at the time available to people generally, the public officer or employee shall not use the information to further ~~the~~ a significant pecuniary ~~interests or significant personal interests of the~~ interest of:

(a) *The public officer or employee ; or* ~~any~~

(b) *Any* other person or business entity.

6. A public officer or employee shall not suppress any governmental report or other official document because it might tend to affect unfavorably ~~the public officer's or employee's~~ a significant pecuniary ~~interests~~ ~~for significant personal interests, or the interests of any other person, if~~ interest of:

(a) *The public officer or employee;*

(b) *Any business entity in which the public officer or employee has a significant pecuniary interest; or*

(c) *Any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person.*

7. Except for State Legislators who are subject to the restrictions set forth in subsection 8, a public officer or employee shall not use governmental time, property, equipment or other facility to benefit ~~the public officer's or employee's~~ a significant personal ~~for financial interest.~~ ~~interests or significant pecuniary interests, or to benefit any other person, if~~ or pecuniary interest of the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest, or any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person. This subsection does not prohibit:

(a) A limited use of governmental property, equipment or other facility for personal purposes if:

(1) The public officer *or employee* who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances;

(2) The use does not interfere with the performance of the public officer's or employee's public duties;

(3) The cost or value related to the use is nominal; and

(4) The use does not create the appearance of impropriety;

(b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(c) The use of telephones or other means of communication if there is not a special charge for that use.

➤ If a governmental agency incurs a cost as a result of a use that is authorized pursuant to this subsection or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.

8. A State Legislator shall not:

(a) Use governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of the State Legislator or any other person. This paragraph does not prohibit:

(1) A limited use of state property and resources for personal purposes if:

(I) The use does not interfere with the performance of the State Legislator's public duties;

(II) The cost or value related to the use is nominal; and

(III) The use does not create the appearance of impropriety;

(2) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(3) The use of telephones or other means of communication if there is not a special charge for that use.

(b) Require or authorize a legislative employee, while on duty, to perform personal services or assist in a private activity, except:

(1) In unusual and infrequent situations where the employee's service is reasonably necessary to permit the State Legislator or legislative employee to perform that person's official duties; or

(2) Where such service has otherwise been established as legislative policy.

9. A public officer or employee shall not **, through the influence of a subordinate,** attempt to benefit ~~through the use of a subordinate the public officer's or employee's~~ **a significant** personal ~~for financial interest through the influence of a subordinate.~~ ~~interests or significant pecuniary interests,~~ ~~or to benefit another person through the use of a subordinate if~~ **or pecuniary interest of:**

(a) The public officer or employee;

(b) Any business entity in which the public officer or employee has a significant pecuniary interest; or

(c) Any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person.

10. ~~[A]~~ Except as otherwise provided in this subsection, ~~[[1]]~~ a public officer or employee shall not use ~~his or her official~~ the public officer's or employee's position in government to seek other employment or contracts through the use of the public officer's or employee's official position. ~~[[for himself or herself or for any other person, if for:~~

(a) The public officer or employee;

(b) Any business entity in which the public officer or employee has a significant pecuniary interest; or

(c) Any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person.

~~→ [[1]]~~ A public officer or employee may state or affirm that he or she holds a position as a public officer or employee ~~[[~~ and may describe or discuss his or her functions, duties and experiences as a public officer or employee, including, without limitation, ~~stating his or her position as a public officer or employee,~~ providing such information on a resume or other application for future employment or appointment or election to a public office.

Sec. 19. NRS 281A.410 is hereby amended to read as follows:

281A.410 ~~[[In addition to the requirements of the code of ethical standards]] ~~[[and except as otherwise provided in this section:]]~~~~

1. ~~[[a]] ~~[[A]]~~ Except as otherwise provided in this section, a~~ public officer or employee ~~[[serves in a state agency of the Executive Department or an agency of any county, city or other political subdivision, the public officer or employee:~~

~~—(a) Shall]] shall not [[accept]] :~~

(a) Accept additional compensation from any private person to represent or counsel ~~the~~ a private person on any issue pending before the Legislature or any agency, ~~for legislative body,~~ including the agency ~~for legislative body~~ in which that public officer or employee serves; ~~[[if the agency or legislative body makes decisions;]] and~~

(b) If the public officer or employee leaves the service of ~~the~~ an agency ~~[[, shall not,]] ~~for legislative body,~~ , for 1 year after leaving the service of the agency, represent or counsel for the termination of his or her service, accept compensation to represent or counsel a private person ~~upon~~ on any issue which was under consideration by the agency ~~for legislative body~~ during the public officer's or employee's service.~~

~~[[→]]~~ As used in this paragraph, ~~subsection,~~ "issue" includes a case, proceeding, application, contract or determination, but does not include the proposal or consideration of legislative measures or administrative regulations.

2. A State Legislator or a member of a local legislative body, or a public officer or employee whose public service requires less than half of his or her time, may represent or counsel a private person before an agency in which he

or she does not serve. ~~[Any other public officer or employee shall not represent or counsel a private person for compensation before any state agency of the Executive or Legislative Department.~~

~~—3. Not later than January 15 of each year, any State Legislator or other public officer who has, within the preceding year, represented or counseled a private person for compensation before a state agency of the Executive Department shall disclose for each such representation or counseling during the previous calendar year:~~

- ~~—(a) The name of the client;~~
- ~~—(b) The nature of the representation; and~~
- ~~—(c) The name of the state agency.~~

~~—4. The disclosure required by subsection 3 must be made in writing and filed with the Commission on a form prescribed by the Commission. For the purposes of this subsection, the disclosure is timely filed if, on or before the last day for filing, the disclosure is filed in one of the following ways:~~

~~—(a) Delivered in person to the principal office of the Commission in Carson City.~~

~~—(b) Mailed to the Commission by first-class mail, or other class of mail that is at least as expeditious, postage prepaid. Filing by mail is complete upon timely depositing the disclosure with the United States Postal Service.~~

~~—(c) Dispatched to a third-party commercial carrier for delivery to the Commission within 3 calendar days. Filing by third-party commercial carrier is complete upon timely depositing the disclosure with the third-party commercial carrier.~~

~~—5. The Commission shall retain a disclosure filed pursuant to subsections 3 and 4 for 6 years after the date on which the disclosure was filed.]~~

3. A former member of the Public Utilities Commission of Nevada shall not:

(a) Be employed by a public utility or parent organization or subsidiary of a public utility; or

(b) Appear before the Public Utilities Commission of Nevada to testify on behalf of a public utility or parent organization or subsidiary of a public utility,

↪ for 1 year after the termination of the member's service on the Public Utilities Commission of Nevada.

4. A former member of the State Gaming Control Board or the Nevada Gaming Commission shall not:

(a) Appear before the State Gaming Control Board or the Nevada Gaming Commission on behalf of a person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the Nevada Gaming Commission pursuant to chapter 463 of NRS; or

(b) Be employed by such a person,

↪ for 1 year after the termination of the member's service on the State Gaming Control Board or the Nevada Gaming Commission.

5. In addition to the other prohibitions set forth in this section, and except as otherwise provided in subsection 6, a former public officer or employee of an agency, except a clerical employee, shall not solicit or accept employment from a business or industry whose activities are governed by regulations adopted by the agency for 1 year after the termination of the former public officer's or employee's service or period of employment if:

(a) The former public officer's or employee's principal duties included the formulation of policy contained in the regulations governing that business or industry;

(b) During the immediately preceding year, the former public officer or employee directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected that business or industry; or

(c) As a result of the former public officer's or employee's governmental service or employment, the former public officer or employee possesses knowledge of the trade secrets of a direct competitor in that business or industry.

6. The provisions of subsection 5 do not apply to a former public officer who was a member of the governing body of a state agency if:

(a) The former public officer is engaged in the profession, occupation or business regulated by the state agency;

(b) The former public officer holds a license issued by the state agency; and

(c) Holding a license issued by the state agency is a requirement for membership on the governing body of the state agency.

7. In addition to the other prohibitions set forth in this section, a former public officer or employee of an agency, except a clerical employee, shall not solicit or accept employment from a person to whom a contract for supplies, materials, equipment or services was awarded by the agency for 1 year after the termination of the public officer's or employee's service or period of employment, if:

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

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

(c) The position held by the former public officer or employee at the time the contract was awarded allowed the former public officer or employee to affect or influence the awarding of the contract.

8. The Commission may relieve a current or former public officer or employee from the strict application of the provisions of this section if:

(a) The current or former public officer or employee requests an opinion from the Commission pursuant to NRS 281A.440; and

(b) The Commission determines that such relief is not contrary to:

(1) The best interests of the public;

(2) The continued ethical integrity of the agency; and

(3) The provisions of this chapter.

9. As used in this section, "regulation" has the meaning ascribed to it in NRS 233B.038 and also includes regulations adopted by an agency that is not subject to the requirements of chapter 233B of NRS.

Sec. 20. NRS 281A.420 is hereby amended to read as follows:

281A.420 1. Except as otherwise provided in this section, a public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon a matter:

(a) Regarding which the public officer or employee has accepted a gift or loan;

(b) ~~In which the public officer or employee has a significant personal interest;~~

~~—(c)—~~ In which the public officer or employee has a **significant** pecuniary interest; or

(c) ~~—(d)—~~ Which would reasonably be affected by the public officer's or employee's commitment in a private capacity to the ~~interest of others;~~ **interests of another person,**

↳ without disclosing ~~sufficient~~ information concerning the gift ~~or~~ loan, **significant** ~~personal interest, significant~~ **pecuniary** interest or commitment **in a private capacity to the** ~~interest of others~~ **interests of the other person that is sufficient** to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the public officer's or employee's **significant** ~~personal interest or significant~~ pecuniary interest, or upon the ~~persons~~ **person** to whom the public officer or employee has a commitment in a private capacity. Such a disclosure must be made at the time the matter is considered. If the public officer or employee is a member of a body which makes decisions, the public officer or employee shall make the disclosure in public to the chair and other members of the body. If the public officer or employee is not a member of such a body and holds an appointive office, the public officer or employee shall make the disclosure to the supervisory head of the public officer's or employee's organization or, if the public officer holds an elective office, to the general public in the area from which the public officer is elected.

2. The provisions of subsection 1 do not require a public officer to disclose:

(a) Any campaign contributions that the public officer reported in a timely manner pursuant to NRS 294A.120 or 294A.125; or

(b) Any contributions to a legal defense fund that the public officer reported in a timely manner pursuant to NRS 294A.286.

3. Except as otherwise provided in this section, ~~subsection 4,~~ in addition to the requirements of subsection 1, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of

judgment of a reasonable person in the public officer's situation would be materially affected by:

- (a) The public officer's acceptance of a gift or loan;
- (b) ~~{The public officer's significant personal interest;~~
- ~~—(c)}~~ The public officer's **significant** pecuniary interest; or
- ~~(c) {(d)}~~ The public officer's commitment in a private capacity to the interests of ~~{others.}~~ **another person.**

4. In interpreting and applying the provisions of subsection 3:

(a) It must be presumed that the independence of judgment of a reasonable person in the public officer's situation would not be materially affected by the public officer's **acceptance of a gift or loan, significant** ~~{personal interest, significant}~~ pecuniary interest or ~~{the public officer's}~~ commitment in a private capacity to the interests of ~~{others.}~~ **another person** where the resulting benefit or detriment accruing to the public officer, or if the public officer has a commitment in a private capacity to the interests of ~~{others.}~~ **another person,** accruing to the other ~~{persons.}~~ **person,** is not greater than that accruing to any other member of ~~{the}~~ **any** general business, profession, occupation or group that is affected by the matter. The presumption set forth in this paragraph does not affect the applicability of the requirements set forth in subsection 1 relating to the disclosure of the **gift or loan, significant** ~~{personal interest, significant}~~ pecuniary interest or commitment in a private capacity to the interests of ~~{others.}~~ **another person.**

(b) The Commission must give appropriate weight and proper deference to the public policy of this State which ~~{favors}~~ :

(1) **Favors** the right of a public officer to perform the duties for which the public officer was elected or appointed and to vote or otherwise act upon a matter, provided the public officer has properly disclosed the public officer's acceptance of a gift or loan, ~~{the public officer's}~~ **significant** ~~{personal interest, significant}~~ pecuniary interest or ~~{the public officer's}~~ commitment in a private capacity to the interests of ~~{others.}~~ **another person** in the manner required by subsection 1 ~~{Because}~~ ; and

(2) **Acknowledges that** abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs . ~~{the provisions of this section are intended to require abstention only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the public officer's acceptance of a gift or loan, the public officer's pecuniary interest or the public officer's commitment in a private capacity to the interests of others.}~~

5. Except as otherwise provided in NRS 241.0355, if a public officer declares to the body or committee in which the vote is to be taken that the public officer will abstain from voting because of the requirements of this section, the necessary quorum to act upon and the number of votes necessary to act upon the matter, as fixed by any statute, ordinance or rule, is reduced

as though the member abstaining were not a member of the body or committee.

6. The provisions of this section do not, under any circumstances:

(a) Prohibit a member of a local legislative body from requesting or introducing a legislative measure; or

(b) Require a member of a local legislative body to take any particular action before or while requesting or introducing a legislative measure.

7. The provisions of this section do not, under any circumstances, apply to State Legislators or allow the Commission to exercise jurisdiction or authority over State Legislators. The responsibility of a State Legislator to make disclosures concerning gifts, loans, interests or commitments and the responsibility of a State Legislator to abstain from voting upon or advocating the passage or failure of a matter are governed by the Standing Rules of the Legislative Department of State Government which are adopted, administered and enforced exclusively by the appropriate bodies of the Legislative Department of State Government pursuant to Section 6 of Article 4 of the Nevada Constitution.

8. As used in this section §:

—(a) "Commitment in a private capacity to the interests of others" means a commitment to a person:

—(1) Who is a member of the public officer's or employee's household;

—(2) Who is related to the public officer or employee by blood, adoption or marriage within the third degree of consanguinity or affinity;

—(3) Who employs the public officer or employee or a member of the public officer's or employee's household;

—(4) With whom the public officer or employee has a substantial and continuing business relationship; or

—(5) Any other commitment or relationship that is substantially similar to a commitment or relationship described in subparagraphs (1) to (4), inclusive, of this paragraph.

—(b) "Public", "public officer" and "public employee" do not include a State Legislator.

Sec. 21. NRS 281A.430 is hereby amended to read as follows:

281A.430 1. ~~{Except}~~ ***Notwithstanding the provisions set forth in NRS 281.221 ~~{,}~~ and 281.230, and except*** as otherwise provided in this section and NRS ~~{281A.530}~~ ***218A.970*** and 332.800, a public officer or employee shall not , ***directly or through a third party, perform any existing contract ,*** ~~for~~ bid on or enter into ~~{a} any {of the following contracts:}~~ ***contract or modify or renew any contract if:***

(a) ~~{A}~~ ***The*** contract ***is*** between ~~{a governmental}~~ ***the*** agency ~~{for}~~ ***in*** which the public officer or employee serves and ~~{any}~~ :

(1) ***The public officer or employee; or***

(2) ***Any*** business entity in which the public officer or employee has a significant pecuniary interest ~~{,} for significant personal interest;}~~ ***; or***

~~[(3) Any person, if the public officer or employee has a commitment in a private capacity to the interests of that person, or]~~

(b) ~~[(4) The contract is between an agency that has any connection, relation or affiliation with the agency in which the public officer or employee serves [if the duties or services to be performed or provided for the agency pursuant to the contract are the same or similar duties performed by the public officer or employee for the agency he or she serves] and:~~

~~(1) The public officer or employee; or~~

~~(2) Any business entity in which the public officer or employee has a significant pecuniary interest, [for significant personal interest, or~~

~~— (3) Any person, if the public officer or employee has a commitment in a private capacity to the interests of that person.]~~

↪ if the duties or services to be performed or provided for the agency pursuant to the contract are the same or similar duties performed by the public officer or employee for the agency in which he or she serves.

2. ~~[A member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by such board, commission or body may, in the ordinary course of his or her business, bid on or enter into a contract with any governmental agency, except the board, commission or body on which he or she is a member, if the member has not taken part in developing the contract plans or specifications and the member will not be personally involved in opening, considering or accepting offers.]~~
A public officer or employee may perform an existing contract, [or] bid on or enter into a contract or modify or renew a contract with an agency [for] in which [he or she] the public officer or employee serves, or a related agency as described in paragraph (b) of subsection 1, if [for the type of contract].:

~~(a) [Which] The contract is subject to competitive selection [and] and, at the time the contract is bid on, entered into, modified or renewed:~~

~~(1) The contracting process is controlled by the rules of open competitive bidding or the rules of open competitive bidding are not used as a result of the applicability of NRS 332.112 or 332.148;~~

~~(2) The sources of supply are limited or no other person expresses an interest in the contract;~~

~~(3) The public officer or employee [does not take] has not taken part in developing the contract plans or specifications; and~~

~~(4) The public officer or employee is not personally involved in opening, considering or accepting offers.~~

~~(b) [Which] The contract, by its nature, is not adapted to be awarded by competitive selection [and] and, at the time the contract is bid on, entered into, modified or renewed:~~

~~(1) The public officer or employee [does not take] has not taken part in developing the contract plans or specifications and is not personally involved in opening, considering or accepting offers; and~~

~~(2) The contract:~~

(I) Has been approved by the agency through the application of internal procedures in which a public officer or employee may obtain approval to engage in such contracts; or

(II) Is not exclusive to the public officer or employee and is the type of contract that is available to all persons with the requisite qualifications.

3. A full- or part-time faculty member or employee of the Nevada System of Higher Education may **perform an existing contract**, ~~for~~ bid on or enter into a contract **or modify or renew a contract** with ~~{a governmental}~~ **an** agency, or may benefit financially or otherwise from a contract between ~~{a governmental}~~ **an** agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to NRS 396.255.

4. ~~{A public officer or employee, other than a public officer or employee described in subsection 2 or 3, may bid on or enter into a contract with a governmental agency if:~~

~~—(a) The contracting process is controlled by the rules of open competitive bidding or the rules of open competitive bidding are not employed as a result of the applicability of NRS 332.112 or 332.148;~~

~~—(b) The sources of supply are limited;~~

~~—(c) The public officer or employee has not taken part in developing the contract plans or specifications; and~~

~~—(d) The public officer or employee will not be personally involved in opening, considering or accepting offers.~~

~~➤~~ If a public officer who is authorized to **perform an existing contract**, ~~for~~ bid on or enter into a contract **or modify or renew a contract** with ~~{a governmental}~~ **an** agency pursuant to this ~~{subsection}~~ **section** is a member of the governing body of the agency, the public officer, pursuant to the requirements of NRS 281A.420, shall disclose the public officer's interest in the contract and shall not vote on or advocate the approval of the contract.

5. **The purchase of goods or services by any county, city or other political subdivision upon a two-thirds vote of its governing body from a member of the governing body who is the sole source of supply within the area served by the governing body is not unlawful or unethical if the public notice of the meeting specifically mentioned that such a purchase would be discussed.**

6. **The Commission may relieve a public officer or employee from the strict application of the provisions of this section if:**

(a) The ~~current or former~~ public officer or employee requests an opinion from the Commission ~~in accordance with the provisions set forth in~~ pursuant to NRS 281A.440; and

(b) The Commission determines that such relief ~~would~~ is not ~~be~~ contrary to:

(1) The best interests of the public;

(2) The continued ethical integrity of the agency; and

(3) The provisions of this chapter.

~~[6.]~~ 7. *As used in this section, "contract ~~[which]~~, by its nature, is not adapted to be awarded by competitive selection" includes, without limitation ~~[a contract for:]~~:*

(a) ~~[Services]~~ A contract for services which may only be contracted from a sole or limited source;

(b) ~~[Professional]~~ A contract for professional services, including, without limitation, a contract for the services of:

(1) *An expert witness;*

(2) *A professional engineer;*

(3) *A registered architect;*

(4) *An attorney;*

(5) *An accountant; or*

(6) *Any other professional, if the services of that professional are not adapted to competitive selection;*

(c) ~~[Services]~~ A contract for services necessitated by an emergency affecting the national, state or local defense or an emergency caused by a natural or human-caused disaster or any other unforeseeable circumstances; or

(d) Any other contract which is open or available to the public at large.

Sec. 22. NRS 281A.440 is hereby amended to read as follows:

281A.440 1. The Commission shall render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances within 45 days after receiving a request, on a form prescribed by the Commission, from a public officer or employee who is seeking guidance on questions which directly relate to the propriety of the requester's own past, present or future conduct as an officer or employee, unless the public officer or employee waives the time limit. ~~[The public officer or employee may also request the Commission to hold a public hearing regarding the requested opinion.]~~ If a requested opinion relates to the propriety of the requester's own present or future conduct, the opinion of the Commission is:

(a) Binding upon the requester as to the requester's future conduct; and

(b) Final and subject to judicial review pursuant to NRS 233B.130, except that a proceeding regarding this review must be held in closed court without admittance of persons other than those necessary to the proceeding, unless this right to confidential proceedings is waived by the requester.

2. The Commission may render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances:

(a) Upon request from a specialized or local ethics committee.

(b) Except as otherwise provided in this subsection, upon request from a person, if the requester submits:

(1) The request on a form prescribed by the Commission; and

(2) All related evidence deemed necessary by the Executive Director and the investigatory panel to make a determination of whether there is just and sufficient cause to render an opinion in the matter.

(c) Upon the Commission's own motion regarding the propriety of conduct by a public officer or employee. The Commission shall not initiate proceedings pursuant to this paragraph based solely upon an anonymous complaint.

↳ The Commission shall not render an opinion interpreting the statutory ethical standards or apply those standards to a given set of facts and circumstances if the request is submitted by a person who is incarcerated in a correctional facility in this State.

3. Upon receipt of a request for an opinion by the Commission or upon the motion of the Commission pursuant to subsection 2, the Executive Director shall investigate the facts and circumstances relating to the request to determine whether there is just and sufficient cause for the Commission to render an opinion in the matter. The Executive Director shall notify the public officer or employee who is the subject of the request and provide the public officer or employee an opportunity to submit to the Executive Director a response to the allegations against the public officer or employee within 30 days after the date on which the public officer or employee received the notice of the request. The purpose of the response is to provide the Executive Director with any information relevant to the request which the public officer or employee believes may assist the Executive Director and the investigatory panel in conducting the investigation. The public officer or employee is not required in the response or in any proceeding before the investigatory panel to assert, claim or raise any objection or defense, in law or fact, to the allegations against the public officer or employee and no objection or defense, in law or fact, is waived, abandoned or barred by the failure to assert, claim or raise it in the response or in any proceeding before the investigatory panel.

4. ~~The *Except as otherwise provided in subsection 6, the* Executive Director shall complete ~~the~~ *his or her* investigation and present a *written recommendation* relating to just and sufficient cause , *including, without limitation, the specific evidence or reasons that support the recommendation*, to the investigatory panel within 70 days after the receipt of or the motion of the Commission for the request, unless the public officer or employee waives this time limit. ~~If, after the investigation, the Executive Director determines that there is just and sufficient cause for the Commission to render an opinion in the matter, the Executive Director shall state such a recommendation in writing, including, without limitation, the specific evidence that supports the Executive Director's recommendation. If, after the investigation, the Executive Director determines that there is not just and sufficient cause for the Commission to render an opinion in the matter, the~~ Executive Director shall state such a recommendation in writing, including,~~

without limitation, the specific reasons for the Executive Director's recommendation.]

5. ~~Within~~ ~~[Except as otherwise provided in subsection 6, within]~~ 15 days after the Executive Director has provided the ~~[Executive Director's]~~ recommendation in the matter to the investigatory panel ~~[.]~~ **pursuant to subsection 4**, the investigatory panel shall **conclude the investigation and** make a final determination regarding whether there is just and sufficient cause for the Commission to render an opinion in the matter, unless the public officer or employee waives this time limit. The investigatory panel shall not determine that there is just and sufficient cause for the Commission to render an opinion in the matter unless the Executive Director has provided the public officer or employee an opportunity to respond to the allegations against the public officer or employee as required by subsection 3. The investigatory panel shall cause a record of its proceedings **to be made** in each matter. ~~[to be kept, and such a]~~ **The record of the investigatory panel must** ~~[remain]~~ **be kept** confidential ~~[until the investigatory panel determines whether there is just and sufficient cause for the Commission to render an opinion in the matter.]~~ **by the Commission in the manner and for the period prescribed by subsection 8.**

6. ~~[In the event of the disqualification or recusal of the Executive Director from a matter, the Chair of the Commission shall designate a person to fulfill the duties of the Executive Director which are prescribed in subsections 4 and 5 and which relate to the matter.]~~

~~—7.]~~ If the investigatory panel determines that there is just and sufficient cause for the Commission to render an opinion in the matter, the Commission shall hold a hearing and render an opinion in the matter within 60 days after the determination of just and sufficient cause by the investigatory panel, unless the public officer or employee waives this time limit.

7. ~~[8.]~~ Each request for an opinion that a public officer or employee submits to the Commission pursuant to subsection 1, each opinion rendered by the Commission in response to such a request and any motion, determination, evidence or record of a hearing relating to such a request are confidential unless the public officer or employee who requested the opinion:

(a) Acts in contravention of the opinion, in which case the Commission may disclose the request for the opinion, the contents of the opinion and any motion, evidence or record of a hearing related thereto;

(b) Discloses the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto; or

(c) Requests the Commission to disclose the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto.

8. ~~[9.]~~ Except as otherwise provided in this subsection, ~~[each document]~~ **all files, material and information** in the possession of the Commission or its staff that is related to a request for an opinion regarding a public officer or employee submitted to or initiated by the Commission pursuant to subsection

2, including, without limitation, the Commission's copy of the request, the record of the investigatory panel and all files, materials and information gathered in ~~and~~ the investigation of the request, ~~is~~ are confidential until the investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter. The public officer or employee who is the subject of a request for an opinion submitted or initiated pursuant to subsection 2 may in writing authorize the Commission to make its files, material and information which are related to the request publicly available.

9. ~~{Except as otherwise provided in paragraphs (a) and (b), the proceedings of the investigatory panel are confidential until the investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter. A person who:~~

— (a) Requests an opinion from the Commission pursuant to paragraph (b) of subsection 2 may:

— (1) At any time, reveal to a third party the alleged conduct of a public officer or employee underlying the request that the person filed with the Commission or the substance of testimony, if any, that the person gave before the Commission.

— (2) After the investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter, reveal to a third party the fact that the person requested an opinion from the Commission.

— (b) Gives testimony before the Commission may:

— (1) At any time, reveal to a third party the substance of testimony that the person gave before the Commission.

— (2) After the investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter, reveal to a third party the fact that the person gave testimony before the Commission.}

~~{10.}~~ Whenever the Commission holds a hearing pursuant to this section, the Commission shall:

(a) Notify the person about whom the opinion was requested of the place and time of the Commission's hearing on the matter;

(b) Allow the person to be represented by counsel; and

(c) Allow the person to hear the evidence presented to the Commission and to respond and present evidence on the person's own behalf.

➤ The Commission's hearing may be held no sooner than 10 days after the notice is given unless the person agrees to a shorter time.

~~{11.}~~ 10. If a person who is not a party to a hearing before the Commission, including, without limitation, a person who has requested an opinion pursuant to paragraph (a) or (b) of subsection 2, wishes to ask a question of a witness at the hearing, the person must submit the question to the Executive Director in writing. The Executive Director may submit the question to the Commission if the Executive Director deems the question relevant and appropriate. This subsection does not require the Commission to ask any question submitted by a person who is not a party to the proceeding.

~~11.2~~ **11.** If a person who requests an opinion pursuant to subsection 1 or 2 does not:

- (a) Submit all necessary information to the Commission; and
 - (b) Declare by oath or affirmation that the person will testify truthfully,
- the Commission may decline to render an opinion.

~~11.3~~ **12.** For good cause shown, the Commission may take testimony from a person by telephone or video conference.

~~11.4~~ **13.** For the purposes of NRS 41.032, the members of the Commission and its employees shall be deemed to be exercising or performing a discretionary function or duty when taking an action related to the rendering of an opinion pursuant to this section.

~~11.5~~ **14.** A meeting or hearing that the Commission or the investigatory panel holds to receive information or evidence concerning the propriety of the conduct of a public officer or employee pursuant to this section and the deliberations of the Commission and the investigatory panel on such information or evidence are not subject to the provisions of chapter 241 of NRS.

Sec. 23. NRS 281A.470 is hereby amended to read as follows:

281A.470 1. Any ~~{department, board, commission or other agency of the State}~~ state agency or the governing body of a county or an incorporated city may establish a specialized or local ethics committee to complement the functions of the Commission. A specialized or local ethics committee may:

(a) Establish a code of ethical standards suitable for the particular ethical problems encountered in its sphere of activity. The standards may not be less restrictive than the statutory ethical standards.

(b) Render an opinion upon the request of any public officer or employee of its own organization or level seeking an interpretation of its ethical standards on questions directly related to the propriety of the public officer's or employee's own future official conduct or refer the request to the Commission. Any public officer or employee subject to the jurisdiction of the committee shall direct the public officer's or employee's inquiry to that committee instead of the Commission.

(c) Require the filing of ~~{statements of}~~ financial disclosure statements by public officers on forms prescribed by the committee or the city clerk if the form has been:

(1) Submitted, at least 60 days before its anticipated distribution, to the ~~{Commission}~~ Secretary of State for review ~~and~~ pursuant to section 1.95 of this act; and

(2) Upon review, approved by the ~~{Commission}~~ Secretary of State ~~and~~ pursuant to that section.

2. A specialized or local ethics committee shall not attempt to interpret or render an opinion regarding the statutory ethical standards.

3. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an

opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:

- (a) The public officer or employee acts in contravention of the opinion; or
- (b) The requester discloses the content of the opinion.

Sec. 24. NRS 281A.500 is hereby amended to read as follows:

281A.500 1. *On or before the date on which a public officer takes ~~his or her oath of~~ office, the public officer must be informed of the statutory ethical standards and the duty to file an acknowledgment of the statutory ethical standards in accordance with this section by:*

(a) For an appointed public officer, the appointing authority of the public officer; and

(b) For an elected public officer of, as applicable:

(1) The county and the other ~~local governments~~ political subdivisions within the county ~~other than~~ except cities, the county clerk;

(2) The city, the city clerk;

(3) The Legislative Department ~~of~~ of the State Government, the Director of the Legislative Counsel Bureau; and

(4) The Executive Department ~~of~~ of the State Government, the Chief of the Budget Division of the Department of Administration.

2. Within 30 days ~~off~~ after becoming a public employee:

(a) The Director of the Department of Personnel, or his or her designee, shall ~~inform~~ provide each new public employee of ~~the State of the applicable provisions of this chapter~~ a state agency with the information prepared by the Commission concerning the statutory ethical standards; and

(b) The manager of each ~~county, city or town~~ local agency, or his or her designee, shall ~~inform~~ provide each new public employee of the local ~~government in his or her jurisdiction of the applicable provisions of this chapter~~ agency with the information prepared by the Commission concerning the statutory ethical standards.

3. Within 6 months after the date on which a public officer takes ~~his or her oath of~~ office or a public employee of a state agency begins employment, the public officer or employee shall complete a course on ~~ethics in government law that is~~ the statutory ethical standards conducted by the Executive Director pursuant to NRS 281A.240 or by a designee of the Executive Director.

4. Each public officer shall acknowledge that the public officer:

- (a) Has received, read and understands the statutory ethical standards; and*
- (b) Has a responsibility to inform himself or herself of any amendments to the statutory ethical standards as soon as reasonably practicable after each session of the Legislature.*

~~{2-}~~ **5.** The acknowledgment must be executed on a form prescribed by the Commission and must be filed with the Commission:

- (a) If the public officer is elected to office at the general election, on or before January 15 of the year following the public officer's election.*

(b) If the public officer is elected to office at an election other than the general election or is appointed to office, on or before the 30th day following the date on which the public officer takes office.

~~{3-}~~ 6. Except as otherwise provided in this subsection, a public officer shall execute and file the acknowledgment once for each term of office. If the public officer serves at the pleasure of the appointing authority and does not have a definite term of office, the public officer, in addition to executing and filing the acknowledgment after the public officer takes office in accordance with subsection ~~{2-}~~ 5, shall execute and file the acknowledgment on or before January 15 of each even-numbered year while the public officer holds that office.

~~{4-}~~ 7. For the purposes of this section, the acknowledgment is timely filed if, on or before the last day for filing, the acknowledgment is filed in one of the following ways:

(a) Delivered in person to the principal office of the Commission in Carson City.

(b) Mailed to the Commission by first-class mail, or other class of mail that is at least as expeditious, postage prepaid. Filing by mail is complete upon timely depositing the acknowledgment with the United States Postal Service.

(c) Dispatched to a third-party commercial carrier for delivery to the Commission within 3 calendar days. Filing by third-party commercial carrier is complete upon timely depositing the acknowledgment with the third-party commercial carrier.

~~{5-}~~ (d) Transmitted to the Commission by facsimile machine or other electronic means authorized by the Commission. Filing by facsimile machine or other electronic means is complete upon receipt of the transmission by the Commission.

8. The form for making the acknowledgment must contain:

(a) The address of the Internet website of the Commission where a public officer may view the statutory ethical standards and print a ~~hard~~ copy of the standards; and

(b) The telephone number and mailing address of the Commission where a public officer may make a request to obtain a ~~hard~~ printed copy of the statutory ethical standards from the Commission.

~~{6-}~~ 9. Whenever the Commission, or any public officer or employee as part of the public officer's or employee's official duties, provides a public officer with a ~~hard~~ printed copy of the form for making the acknowledgment, a ~~hard~~ printed copy of the statutory ethical standards must be included with the form.

~~{7-}~~ 10. The Commission shall retain each acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.

~~{8-}~~ 11. Willful refusal to execute and file the acknowledgment required by this section shall be deemed to be:

(a) A willful violation of this chapter for the purposes of NRS 281A.480; and

(b) Nonfeasance in office for the purposes of NRS 283.440 and, if the public officer is removable from office pursuant to NRS 283.440, the Commission may file a complaint in the appropriate court for removal of the public officer pursuant to that section. This paragraph grants an exclusive right to the Commission, and no other person may file a complaint against the public officer pursuant to NRS 283.440 based on any violation of this section.

~~¶9-1~~ **12.** As used in this section, "general election" has the meaning ascribed to it in NRS 293.060.

Sec. 24.5. NRS 281A.540 is hereby amended to read as follows:

281A.540 ~~¶1-1~~ In addition to any other penalties provided by law, ~~for~~ **any** governmental grant, contract or lease ~~entered into in violation of this chapter is voidable by the State, county, city or political subdivision. In a determination under this section of whether to void a grant, contract or lease, the interests of innocent third parties who could be damaged must be taken into account. The Attorney General, district attorney or city attorney must give notice of the intent to void a grant, contract or lease under this section no later than 30 days after the Commission has determined that there has been a related violation of this chapter.~~

~~— 2. In addition to any other penalties provided by law, a contract prohibited by NRS 281.230 which is knowingly entered into by a person designated in subsection 1 of NRS 281.230 is void.~~

~~— 3. Any action taken by the State in violation of this chapter is voidable, except that the interests of innocent third parties in the nature of the violation must be taken into account. The Attorney General may also pursue any other available legal or equitable remedies.~~

~~— 4. In addition to any other penalties provided by law, the Attorney General may recover any fee, compensation, gift or benefit received by a person as a result of a violation of this chapter by a public officer. An action to recover pursuant to this section must be brought within 2 years after the violation or reasonable discovery of the violation.~~ **made or other governmental action taken in violation of this chapter may be declared void pursuant to section 1.05 of this act.**

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. NRS 218H.210 is hereby amended to read as follows:

218H.210 The registration statement of a lobbyist must contain the following information:

1. The registrant's full name, permanent address, place of business and temporary address while lobbying.

2. The full name and complete address of each person, if any, by whom the registrant is retained or employed or on whose behalf the registrant appears.

3. A listing of any direct business associations or partnerships involving any current member of the Legislature and the registrant or any person by whom the registrant is retained or employed. The listing must include any such association or partnership constituting a source of income or involving a debt or interest in real estate required to be disclosed in a ~~statement of~~ financial disclosure statement made by a candidate ~~for public office or a~~ or public officer pursuant to ~~NRS 281A.620~~ sections 1.1 to 2.25, inclusive, of this act.

4. The name of any current member of the Legislature for whom:

(a) The registrant; or

(b) Any person by whom the registrant is retained or employed,

↳ has, in connection with a political campaign of the Legislator, provided consulting, advertising or other professional services since the beginning of the preceding regular legislative session.

5. A description of the principal areas of interest on which the registrant expects to lobby.

6. If the registrant lobbies or purports to lobby on behalf of members, a statement of the number of members.

7. A declaration under penalty of perjury that none of the registrant's compensation or reimbursement is contingent, in whole or in part, upon the production of any legislative action.

Sec. 34. NRS 245.075 is hereby amended to read as follows:

245.075 1. Except as otherwise provided in NRS 281.230, 281A.430, ~~281A.530~~ and 332.800, it is unlawful for any county officer, directly or indirectly, to be interested in any contract made by the county officer or to be a purchaser or ~~be~~ interested in any purchase of a sale made by the county officer in the discharge of his or her official duties.

2. Any contract made in violation of ~~subsection 1~~ this section may be declared void at the instance of the county interested or of any other person interested in the contract except the officer prohibited from making or being interested in the contract.

3. Any person ~~violating~~ who violates this section ~~directly or indirectly~~, is guilty of a gross misdemeanor and shall forfeit his or her office.

Sec. 35. NRS 268.384 is hereby amended to read as follows:

268.384 1. Except as otherwise provided in NRS 281.230, 281A.430, ~~281A.530~~ and 332.800, it is unlawful for any city officer, directly or indirectly, to be interested in any contract made by the city officer ~~or~~ or to be

a purchaser or interested ~~[, directly or indirectly,]~~ in any purchase of a sale made by the city officer in the discharge of *his or her* official duties.

2. Any person ~~[violating]~~ *who violates* this section is guilty of a gross misdemeanor and shall forfeit his or her office.

Sec. 36. NRS 268.386 is hereby amended to read as follows:

268.386 Any contract made in violation of NRS 268.384 may be declared void at the instance of the city interested or of any other person interested in the contract except ~~that~~ *the* officer prohibited from making or being interested in the contract.

Sec. 37. NRS 269.071 is hereby amended to read as follows:

269.071 1. ~~##~~ *Except as otherwise provided in NRS 281.230, 281A.430 and 332.800, it* is unlawful for any member of a town board or board of county commissioners acting for any town to become a contractor under any contract or order for supplies or any other kind of contract authorized by or for the board of which he or she is a member, or to be interested, directly or indirectly, as principal ~~##~~ in any kind of contract so authorized.

2. Any person ~~[violating subsection 1]~~ *who violates this section* is guilty of a gross misdemeanor and shall forfeit his or her office.

Sec. 38. NRS 269.072 is hereby amended to read as follows:

269.072 1. ~~##~~ *Except as otherwise provided in NRS 281.230, 281A.430 and 332.800, it* is unlawful for any town officer, directly or indirectly, to be interested in any contract made by the town officer ~~##~~ or *to* be a purchaser or ~~be~~ interested in any purchase under a sale made by the town officer in the discharge of *his or her* official duties.

2. Any person ~~[violating subsection 1]~~ *who violates this section* is guilty of a gross misdemeanor and shall forfeit his or her office.

Sec. 39. NRS 269.073 is hereby amended to read as follows:

269.073 Any contract made in violation of NRS 269.071 or 269.072 may be declared void at the instance of the town or any person interested in the contract except ~~that~~ *the* officer prohibited from making or being interested in the contract.

Sec. 40. Chapter 294A of NRS is hereby amended by adding thereto a new section to read as follows:

If a candidate is required to file a financial disclosure statement pursuant to sections 1.1 to 2.25, inclusive, of this act, the candidate shall file the statement with the Secretary of State in accordance with those provisions.

Sec. 41. NRS 332.800 is hereby amended to read as follows:

332.800 1. Except as otherwise provided in NRS 281.230 ~~##~~ *and* 281A.430, ~~and 281A.530,~~ a member of the governing body may not be interested, directly or indirectly, in any contract entered into by the governing body, but the governing body may purchase supplies, not to exceed \$1,500 in the aggregate in any 1 calendar month, from a member of such governing

body ~~if~~ when not to do so would be of great inconvenience due to a lack of any other local source.

2. An evaluator may not be interested, directly or indirectly, in any contract awarded by such governing body or its authorized representative.

3. A member of a governing body who furnishes supplies in the manner permitted by subsection 1 may not vote on the allowance of the claim for such supplies.

4. A ~~violation of~~ person who violates this section is guilty of a misdemeanor and, in the case of a member of a governing body, a violation is cause for removal from office.

~~{Sec. 33.}~~ **Sec. 42.** 1. Any administrative regulations adopted by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remain in force until amended by the officer, agency or other entity to which the responsibility for the adoption of the regulations has been transferred.

2. Any contracts or other agreements entered into by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity are binding upon the officer, agency or other entity to which the responsibility for the administration of the provisions of the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer, agency or other entity to which the responsibility for the enforcement of the provisions of the contract or other agreement has been transferred.

3. Any action taken by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remains in effect as if taken by the officer, agency or other entity to which the responsibility for the enforcement of such actions has been transferred.

~~{Sec. 34.}~~ **Sec. 43.** The Legislative Counsel shall, in preparing ~~the~~

~~1. The reprint and supplement to the Nevada Revised Statutes with respect to any section which is not amended by this act or adopted or amended by another act, appropriately change any references to an officer, agency or other entity whose name is changed or whose duties are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity. If any internal reference is made to a section repealed by this act, the Legislative Counsel shall delete the reference and replace it by reference to the superseding section, if any.~~

~~2. Supplements}~~ **supplements** to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name is changed or whose duties are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

~~{Sec. 35.}~~ Sec. 44. NRS ~~[281A.540 — is]~~ 281A.530, 281A.550, 281A.600, 281A.610, 281A.620, 281A.630, 281A.640, 281A.650 and 281A.660 are hereby repealed.

Sec. 45. 1. This section and sections 1 to 23, inclusive, and 24.5 to 44, inclusive, of this act become effective upon passage and approval.

2. Section 24 of this act becomes effective on January 1, 2012.

~~{TEXT}~~ LEADLINES OF REPEALED {SECTION} SECTIONS

281A.530 Purchase of goods or services by local government from member of governing body not unlawful or unethical; conditions.

~~[281A.540 Governmental grant, contract or lease and certain actions taken in violation of chapter are voidable; prohibited contract is void; recovery of benefit received as result of violation.~~

~~— 1. In addition to any other penalties provided by law, a governmental grant, contract or lease entered into in violation of this chapter is voidable by the State, county, city or political subdivision. In a determination under this section of whether to void a grant, contract or lease, the interests of innocent third parties who could be damaged must be taken into account. The Attorney General, district attorney or city attorney must give notice of the intent to void a grant, contract or lease under this section no later than 30 days after the Commission has determined that there has been a related violation of this chapter.~~

~~— 2. In addition to any other penalties provided by law, a contract prohibited by NRS 281.230 which is knowingly entered into by a person designated in subsection 1 of NRS 281.230 is void.~~

~~— 3. Any action taken by the State in violation of this chapter is voidable, except that the interests of innocent third parties in the nature of the violation must be taken into account. The Attorney General may also pursue any other available legal or equitable remedies.~~

~~— 4. In addition to any other penalties provided by law, the Attorney General may recover any fee, compensation, gift or benefit received by a person as a result of a violation of this chapter by a public officer. An action to recover pursuant to this section must be brought within 2 years after the violation or reasonable discovery of the violation.]~~

281A.550 Employment of certain former public officers and employees by regulated businesses prohibited; certain former public officers and employees prohibited from soliciting or accepting employment from certain persons contracting with State or local government; determination by Commission.

281A.600 Filing by certain appointed public officers with Commission; Commission to notify Secretary of State of public officers who fail to file or fail to file in timely manner; date on which statement deemed filed.

281A.610 Filing by certain candidates for public office and certain elected public officers with Secretary of State; date on which statement deemed filed; form; regulations.

281A.620 Contents; distribution of forms; costs related to production and distribution of forms.

281A.630 Retention by Commission or Secretary of State.

281A.640 Certain public officers required to submit electronically to Commission and Secretary of State list of public officers required to file statement and candidates for public office.

281A.650 Candidates for public office to receive form and instructions for completion of form.

281A.660 Civil penalty for failure to disclose: Procedure; amount; waiver.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Senate Bill No. 391 relates to ethics in government. Amendment No. 370 makes the following changes. Provisions prohibiting public officers and employees from being interested in or benefitting from governmental contracts are revised. Procedures for voiding governmental contracts or other actions which violate the ethics laws are clarified. "Personal interest" is deleted throughout the bill. "Domestic partnership" is defined among the private capacity interest of others. A computation for determining a period of time as used throughout statutes relating to ethics in government is provided. A public officer or employee who requests the issuance of a subpoena must serve it according to the Rules of Civil Procedure. Various changes to the duties of the Commission on Ethics and the Executive Director and Commission Counsel are made. Provisions of existing statutes relating to government contracts, employment of public officers and employees in regulated businesses, and financial disclosure statements are moved to other statutes.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 407.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 466.

"SUMMARY—Revises provisions relating to tow cars. (BDR 58-1031)"

"AN ACT relating to tow cars; ~~authorizing an insurance company to designate certain vehicle storage lots to which certain vehicles must be towed under certain circumstances; providing penalties;~~ **requiring the Nevada Transportation Authority to conduct a review of all tariffs and schedules filed for certain activities by operators of tow cars; requiring the Authority to submit a report of such review to the Legislative Commission; requiring the Authority to adopt regulations establishing a system of model tariffs for towing or moving certain vehicles, the storage of such vehicles and the processing of liens upon such vehicles;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 1 of this bill authorizes an insurance company to designate certain vehicle storage lots to which certain vehicles insured by the company must be towed under certain circumstances. Section 1 also makes it a misdemeanor for an operator of a tow car to fail to deliver such a vehicle to the designated vehicle storage lot under certain circumstances.]~~

Section 4 of this bill requires the Nevada Transportation Authority to: (1) conduct a review of all tariffs and schedules filed for certain activities by operators of tow cars; (2) determine whether those tariffs and schedules are appropriate and reasonable; (3) develop a system of model tariffs; and (4) submit a report to the Legislative Commission.

Section 1 of this bill requires the Authority to adopt regulations to establish a system of model tariffs for towing or moving a vehicle pursuant to a request by a law enforcement agency, the storage of such vehicles and the processing of liens upon such vehicles.

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[1. An insurance company may designate a vehicle storage lot to which all inoperable vehicles or stolen vehicles that have been recovered which are insured by the company must be towed by a tow car which responds to the scene of an accident or theft recovery pursuant to a summons by a law enforcement agency. Such a designation must be provided in writing by the insurance company or the operator of the vehicle storage lot to all:~~

~~— (a) Law enforcement agencies; and~~
~~— (b) Tow companies that have obtained certificates of public convenience and necessity;~~

~~→ located in the county in which the vehicle storage lot is situated.~~

~~— 2. A law enforcement officer shall advise an operator of a tow car of the identity of an insurance company that provides coverage for a vehicle and direct the operator of the tow car to deliver the vehicle directly to a designated vehicle storage lot if:~~

~~— (a) The vehicle:~~
~~— (1) Is inoperable because of an accident or was recovered after having been stolen;~~

~~— (2) Is not otherwise subject to impoundment; and~~

~~— (3) Is insured by an insurance company that has designated a vehicle storage lot pursuant to subsection 1;~~

~~— (b) The accident or recovery takes place in a county whose population is 100,000 or more; and~~

~~— (c) The registered or legal owner of the vehicle or a representative of the insurance company has not directed otherwise.~~

~~— 3. If, after having been advised and directed pursuant to subsection 2, an operator of a tow car fails to tow the vehicle to the vehicle storage lot designated by the insurance company, the operator:~~

- ~~—(a) Is guilty of a misdemeanor;~~
 - ~~—(b) Shall forfeit the charge for towing and storage; and~~
 - ~~—(c) Shall tow the vehicle, free of charge, to the vehicle storage lot designated by the insurance company not later than 72 hours after receiving a demand, in writing, from the insurance company;~~
 - ~~—4. A vehicle storage lot must:~~
 - ~~—(a) Include an area at least 10 acres in size with the capacity of storing not less than 1,300 vehicles;~~
 - ~~—(b) Be separated from other business activities by a wall composed of concrete blocks or similar building material at least 6 feet in height constructed around the perimeter of the vehicle storage lot;~~
 - ~~—(c) Comply with the requirements imposed pursuant to NRS 706.4485 on an operator of a tow car by the largest law enforcement agency in the county in which the operator is situated, including, without limitation, requirements related to:~~
 - ~~—(1) Towing;~~
 - ~~—(2) Storage of privately owned vehicles; and~~
 - ~~—(3) Other related services;~~
 - ~~—(d) Comply with all applicable local laws and ordinances, including, without limitation, local laws and ordinances relating to business licenses, zoning, building and fire codes, parking, paving, lighting and security;~~
 - ~~—5. The interior of a vehicle storage lot must:~~
 - ~~—(a) Be equipped with 24-hour video monitoring; and~~
 - ~~—(b) Include at least one enclosed building that is:~~
 - ~~—(1) Capable of being secured from entry by unauthorized persons; and~~
 - ~~—(2) Large enough to store not fewer than 10 vehicles;~~
 - ~~—6. As used in this section:~~
 - ~~—(a) "Boat" includes any vessel or other watercraft, other than a seaplane, used or capable of being used as a means of transportation on the water;~~
 - ~~—(b) "Vehicle" has the meaning ascribed to it in NRS 706.146 and also includes all terrain vehicles and boats.~~
- The Authority shall adopt regulations to establish a system of model tariffs for towing or moving a vehicle pursuant to a request by a law enforcement agency, the storage of such vehicles and the processing of liens upon such vehicles.**

Sec. 2. NRS 706.286 is hereby amended to read as follows:

706.286 1. When a complaint is made against any fully regulated carrier or operator of a tow car by any person, that:

(a) Any of the rates, tolls, charges or schedules, or any joint rate or rates assessed by any fully regulated carrier or by any operator of a tow car for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle are in any respect unreasonable or unjustly discriminatory;

(b) Any of the provisions of NRS 706.445 to 706.453, inclusive, **or section 1 of this act** have been violated;

(c) Any regulation, measurement, practice or act directly relating to the transportation of persons or property, including the handling and storage of that property, is, in any respect, unreasonable, insufficient or unjustly discriminatory; or

(d) Any service is inadequate,

↳ the Authority shall investigate the complaint. After receiving the complaint, the Authority shall give a copy of it to the carrier or operator of a tow car against whom the complaint is made. Within a reasonable time thereafter, the carrier or operator of a tow car shall provide the Authority with its written response to the complaint according to the regulations of the Authority.

2. If the Authority determines that probable cause exists for the complaint, it shall order a hearing thereof, give notice of the hearing and conduct the hearing as it would any other hearing.

3. No order affecting a rate, toll, charge, schedule, regulation, measurement, practice or act complained of may be entered without a formal hearing unless the hearing is dispensed with as provided in NRS 706.2865.

Sec. 3. NRS 706.453 is hereby amended to read as follows:

706.453 The provisions of NRS 706.445 to 706.451, inclusive, *and section 1 of this act* do not apply to automobile wreckers who are licensed pursuant to chapter 487 of NRS.

Sec. 4. 1. On or before December 31, 2011, the Nevada Transportation Authority shall conduct a review of all tariffs and schedules filed for towing or moving vehicles pursuant to requests by law enforcement agencies, storing those vehicles and processing liens upon those vehicles and:

(a) Determine whether those tariffs and schedules are appropriate and reasonable; and

(b) Develop a system of model tariffs for those tariffs and schedules pursuant to section 1 of this act.

2. In conducting the review pursuant to subsection 1, the Nevada Transportation Authority shall, insofar as practicable, consult with representatives of insurance companies, operators of tow cars, operators of vehicle storage lots and other interested parties.

3. On or before March 1, 2012, the Nevada Transportation Authority shall submit a report of the review conducted pursuant to subsection 1 to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission.

4. On or before October 1, 2012, the Nevada Transportation Authority shall adopt regulations to establish a system of model tariffs for towing or moving a vehicle pursuant to section 1 of this act.

Sec. 5. This act becomes effective upon passage and approval.

Senator Breeden moved the adoption of the amendment.

Remarks by Senators Breeden and Kieckhefer.

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

SENATOR BREEDEN:

Amendment No. 466 to Senate Bill No. 407 removes all sections of the bill and replaces it with new language requiring the Nevada Transportation Authority to conduct a review of certain activities by tow car operators. The amendment requires the Authority to review all the tariffs and schedules filed for certain activities, determine whether the tariffs and schedules are appropriate and reasonable, develop a system of model tariffs, and submit a report of the findings to the Legislative Commission. The Authority is also required to adopt regulations to establish model tariffs for towing or moving a vehicle at the request of law enforcement, the storage of such vehicles, and the processing of liens upon them.

SENATOR KIECKHEFER:

What is a model tariff?

SENATOR BREEDEN:

There are different fees when cars are towed whether or not it is a consensual tow. This was a concern, and it was a surprise. We asked for model fees so we could address the issue.

SENATOR KIECKHEFER:

Under what scenario would this be applied? Is this upon the call of law enforcement? When does a person have a consensual tow? Is it for an accident versus being arrested for a DUI and needing their car towed? Are those consensual versus non-consensual scenarios?

SENATOR BREEDEN:

I do not know. When law enforcement orders a tow, that is a non-consensual tow, because law enforcement calls the tow companies they are contracted with. If your car broke down, then you would call asking for a tow. There are different fees charged.

SENATOR KIECKHEFER:

What is the problem? How does this fix it?

SENATOR BREEDEN:

There are different fees charged and we want them to tell us why the fees are different, when a tow is a tow.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 436.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 505.

"SUMMARY — ~~{Transfers the responsibility to deposit certain money for the purpose of paying}~~ **Revises provisions concerning pension benefits {to} for justices of the Supreme Court {or} and district judges . {from the State of Nevada to the Court Administrator.}** (BDR 1-1177)"

"AN ACT relating to judicial retirement; transferring the responsibility to deposit certain money for the purpose of paying pension benefits to justices of the Supreme Court or district judges from the State of Nevada to the Court Administrator; **requiring the State of Nevada to make an appropriation for this purpose;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill transfers the responsibility to deposit certain money for the purpose of paying pension benefits to justices of the Supreme Court or district judges from the State of Nevada to the Court Administrator.

Section 1 of this bill also requires the State of Nevada to make an appropriation for this purpose.

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

Section 1. NRS 1A.180 is hereby amended to read as follows:

1A.180 1. ~~{Beginning July 1, 2003, the}~~ *The* Court Administrator shall submit to the System for deposit in the Judicial Retirement Fund on behalf of each justice of the Supreme Court or district judge who is a member of the System the percentage of compensation of the member that is determined by the actuary of the System to be required to pay the normal cost incurred in making payments for such members pursuant to subsection 5 of NRS 1A.160 and the administrative expenses of the System that are attributable to such members. Such payments must be:

(a) Accompanied by payroll reports that include information deemed necessary by the Board to carry out its duties; and

(b) Received by the System not later than 15 days after the calendar month for which the compensation and service credits of members of the System are reported and certified by the Court Administrator. The compensation must be reported separately for each month that it is paid.

2. ~~{Beginning July 1, 2003, the State of Nevada}~~ *The State of Nevada shall make an appropriation to the Court Administrator and the Court Administrator* shall pay to the System for deposit in the Judicial Retirement Fund from any fund created for the purpose of paying pension benefits to justices of the Supreme Court or district judges an amount as the contribution of the State of Nevada as employer which is actuarially determined to be sufficient to provide the System with enough money to pay the benefits for justices of the Supreme Court and district judges for which the System will be liable.

3. Upon the participation of a justice of the peace or municipal judge in the Judicial Retirement Plan pursuant to NRS 1A.285, the county or city shall submit to the System for deposit in the Judicial Retirement Fund on behalf of each justice of the peace or municipal judge who is a member of the System the percentage of compensation of the member that is determined by the actuary of the System to be required to pay the normal cost incurred in making payments for such members pursuant to subsection 5 of NRS 1A.160 and the administrative expenses of the System that are attributable to such members. Such payments must be:

(a) Accompanied by payroll reports that include information deemed necessary by the Board to carry out its duties; and

(b) Received by the System not later than 15 days after the calendar month for which the compensation and service credits of members of the System are

reported and certified by the county or city. The compensation must be reported separately for each month that it is paid.

4. Upon the participation of a justice of the peace or municipal judge in the Judicial Retirement Plan pursuant to NRS 1A.285, the county or city shall pay to the System for deposit in the Judicial Retirement Fund an amount as the contribution of the county or city as employer which is actuarially determined to be sufficient to provide the System with enough money to pay the benefits for justices of the peace and municipal judges for which the System will be liable.

5. Except as otherwise provided in this subsection, the total contribution rate that is actuarially determined for members of the Judicial Retirement Plan must be adjusted on the first monthly retirement reporting period commencing on or after July 1 of each odd-numbered year based on the actuarially determined contribution rate indicated in the biennial actuarial valuation and report. The adjusted rate must be rounded to the nearest one-quarter of 1 percent. The total contribution rate must not be adjusted pursuant to this subsection if the existing rate is within one-half of 1 percent of the actuarially determined rate.

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

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

The amendment requires the State of Nevada to make an appropriation as the Supreme Court.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 7:22 p.m.

SENATE IN SESSION

At 7:38 p.m.

President Krolicki presiding.

Quorum present.

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 26, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 177, 185.

MARK KRMPOTIC
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that for this legislative day, all necessary rules be suspended, that the reprinting of Senate Bills passed as amended on Second Reading be dispensed with and that the Secretary be authorized to

insert the Amendments adopted by the Senate, and the bills be declared emergency measures under the Constitution and immediately placed on the bottom of General File for third reading and final passage.

Motion Carried.

SECOND READING AND AMENDMENT

Senate Bill No. 496.

Bill read second time.

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

Amendment No. 539.

"SUMMARY—Makes various changes relating to renewable energy. (BDR 58-1280)"

"AN ACT relating to renewable energy; revising provisions governing the Solar Energy Systems Incentive Program; requiring the reallocation of certain capacity in the Solar Program under certain circumstances; revising provisions relating to net metering systems; ~~revising the definition of "biodiesel"; requiring under certain circumstances that all diesel fuel sold, offered for sale or delivered in this State contain a certain percentage of biodiesel; providing a penalty;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Solar Energy Systems Incentive Program and requires the Public Utilities Commission of Nevada to carry out the Solar Program. (NRS 701B.010-701B.290) **Section 6** of this bill provides that the Solar Program is created to carry out the intent of the Legislature to promote the installation of at least 250 megawatts of solar energy systems in this State by 2020. **Sections 1, 2, 4 and 6** of this bill revise provisions concerning the categories of participants in the Solar Program. **Section 5** of this bill requires the Commission to adopt regulations to carry out the Solar Program, including regulations which: (1) provide that the amount of the incentive paid to a participant in the Solar Program must be paid over a period of 10 years and be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system; and (2) require a utility to allocate incentives to each category of participants in an amount that is proportionate to the revenue derived by the utility from customers within each category. **Section 7** of this bill revises certain provisions governing allocation of capacity and incentives among the different categories of participants in the Solar Program and specifically provides that the Commission is prohibited from requiring a utility to pay an incentive if, for any program year, the payment of the incentive would cause the total amount of incentives paid by a utility for the installation of solar energy systems and distributed generation systems to exceed 1 percent of the combined total revenue of all utilities in this State during the immediately preceding program year. **Section 19** of this bill provides that current applicants for

participation in the Solar Program who do not complete the installation of their solar energy systems within a certain period forfeit eligibility for the incentives for which they were originally determined to be eligible and that any forfeited incentives must be made available to applicants who apply for participation in the Solar Program on or after July 1, 2011.

Section 8 of this bill revises the maximum generating capacity of a net metering system, and **section 9** of this bill revises certain provisions governing the method of calculating the net energy measurement for the purpose of billing for a net metering system.

~~Existing law defines "biodiesel" for purposes of the tax on special fuel. (NRS 366.022) Section 10 of this bill revises the definition of "biodiesel" to make it consistent with federal law and the laws of other states.~~

~~Existing law provides for the regulation of petroleum products in this State. (NRS 590.010-590.150) Section 11 of this bill requires that all diesel fuel sold, offered for sale or delivered in this State must contain not less than 5 percent biodiesel by volume, but this requirement does not become effective unless certain conditions set forth in section 20 of this bill concerning the production of biodiesel in this State are satisfied. Section 17 of this bill amends section 11 to increase the amount of required biodiesel to 10 percent by volume, but similarly does not become effective unless certain other conditions set forth in section 20 are satisfied. Section 14 of this bill requires the State Board of Agriculture to enforce the provisions of section 11 and authorizes the Board to impose fines for violations of that section, while sections 15 and 16 of this bill make such violations punishable as misdemeanors.~~

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

Section 1. NRS 701B.040 is hereby amended to read as follows:

701B.040 "Category" means one of the categories of participation in the Solar Program as set forth in NRS 701B.240 ~~{} or the regulations adopted by the Commission.~~

Sec. 2. NRS 701B.110 is hereby amended to read as follows:

701B.110 1. "Public ~~land other~~ property" means any real property, building or facilities which are owned, leased or occupied by {}:

- ~~—(a) A public entity . {};~~
- ~~—(b) A nonprofit organization that is recognized as exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), as amended; or~~
- ~~—(c) A corporation for public benefit as defined in NRS 82.021.~~
- ~~2. The term includes, without limitation, any real property, building or facilities which are owned, leased or occupied by:~~
 - ~~—(a) A church; or~~
 - ~~—(b) A benevolent, fraternal or charitable lodge, society or association.~~
- ~~3. The term does not include school property.~~

Sec. 3. NRS 701B.200 is hereby amended to read as follows:

701B.200 The Commission shall adopt regulations necessary to carry out the provisions of NRS 701B.010 to 701B.290, inclusive, including, without limitation, regulations that:

1. ~~{Establish the type of incentives available to participants in the Solar Program and the level or amount of those incentives, except that the level or amount of an incentive available in a particular program year must not be based upon whether the incentive is for unused capacity reallocated from a past program year pursuant to paragraph (b) of subsection 2 of NRS 701B.260. The regulations must provide that the level or amount of the incentives must decline over time as the cost of solar energy systems and distributed generation systems decline.~~

—2.} Establish the requirements for a utility's annual plan for carrying out and administering the Solar Program. A utility's annual plan must include, without limitation:

(a) A detailed plan for advertising the Solar Program;

(b) A detailed budget and schedule for carrying out and administering the Solar Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Solar Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Solar Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's solar energy system and compliance with the Solar Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Solar Program; and

(f) Any other information required by the Commission.

~~{3.} 2.~~ Authorize a utility to recover the reasonable costs incurred in carrying out and administering the installation of distributed generation systems. ~~{pursuant to paragraph (b) of subsection 1 of NRS 701B.260.}~~

Sec. 4. NRS 701B.210 is hereby amended to read as follows:

701B.210 The Commission shall adopt regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in ~~each applicable category of:~~

—(a) School property;

—(b) Public and other property; and

—(c) Private residential property and small business property;} ***the Solar Program;*** and

2. The form and content of the master application.

Sec. 5. NRS 701B.220 is hereby amended to read as follows:

701B.220 In adopting regulations for the Solar Program, the Commission shall adopt regulations establishing an incentive for participation in the Solar Program. ***The regulations must:***

1. Provide that the amount of the incentive be paid over a period of 10 years and be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system.

2. Require a utility to allocate incentives to each category in an amount that is proportionate to the revenue derived by the utility from customers within each category.

Sec. 6. NRS 701B.240 is hereby amended to read as follows:

701B.240 1. The Solar Energy Systems Incentive Program is hereby created ~~to~~ *to carry out the intent of the Legislature to promote the installation of at least 250 megawatts of solar energy systems throughout this State by 2020.*

2. The Solar Program must have ~~three~~ *two* categories as follows:

- (a) ~~School property;~~
- ~~(b) Public and other property; and~~
- ~~(c) Private residential property and small business property.~~ *Residential property; and*
- (b) Nonresidential property.*

➤ The Commission may create additional categories for school property and public property if the Commission determines that the creation of such additional categories is in the public interest.

3. To be eligible to participate in the Solar Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.210;

(b) Submit an application to a utility and be selected by the Commission for inclusion in the Solar Program pursuant to NRS 701B.250 and 701B.255; *and*

(c) When installing the solar energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board. ~~;~~ *and*

~~(d) If the person will be participating in the Solar Program in the category of school property or public and other property, provide for the public display of the solar energy system, including, without limitation, providing for public demonstrations of the solar energy system and for hands-on experience of the solar energy system by the public.~~

Sec. 7. NRS 701B.260 is hereby amended to read as follows:

701B.260 1. ~~Except as otherwise provided in this section, the Commission may approve, for:~~

- ~~(a) The program year beginning July 1, 2009, solar energy systems:~~
 - ~~(1) Totaling 2,000 kilowatts of capacity for school property;~~
 - ~~(2) Totaling 760 kilowatts of capacity for public and other property; and~~
 - ~~(3) Totaling 1,000 kilowatts of capacity for private residential property and small business property; and~~
- ~~(b) Each program year for the period beginning July 1, 2010, and ending on June 30, 2021, an additional 9 percent of the sum of the total allocated~~

capacities of all the categories described in paragraph (a)] *The Commission shall adopt regulations which establish for each category:*

(a) *The cumulative amount of capacity for which incentives are authorized pursuant to the Solar Program;*

(b) *Periodic intervals over which the cumulative amount of capacity for which incentives are authorized pursuant to the Solar Program is incrementally increased as the cost of the installation of solar energy systems decreases;*

(c) *The minimum and maximum capacity of an individual solar energy system that is eligible for participation in the Solar Program, except that the maximum capacity of an individual solar energy system that is eligible for participation in the Solar Program must not exceed 500 kilowatts;*

(d) *Whether the owner or operator of a solar energy system is required to display publicly the solar energy system, provide for public demonstrations of the solar energy system or provide training to the public regarding the operation of the solar energy system; and*

(e) *For each program year, the amount of any additional capacity which must be approved for distributed generation systems.*

2. ~~If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the Commission may, in any combination it deems appropriate:~~

—(a) ~~Reallocate any of the unused capacity in that category to any of the other categories; or~~

—(b) ~~Reallocate any of the unused capacity in that category to future program years within the same category.~~

—3. ~~To promote the installation of solar energy systems on as many school properties as possible, the Commission may not approve for use in the Solar Program a solar energy system having a generating capacity of more than 50 kilowatts if the solar energy system is or will be installed on school property on or after July 1, 2007, unless the Commission determines that approval of a solar energy system with a greater generating capacity is more practicable for a particular school property.~~

—4.] ~~The Commission shall not authorize the payment of an incentive for the installation of a solar energy system or distributed generation system if:~~

—(a) ~~For the period beginning July 1, 2010, and ending June 30, 2013, inclusive,], for any program year, the payment of the incentive would cause the total amount of incentives paid by a utility for the installation of solar energy systems and distributed generation systems to exceed \$78,260,000; and~~

—(b) ~~For the period beginning July 1, 2010, and ending June 30, 2021, the payment of the incentive would cause the total amount of incentives paid by a utility for the installation of solar energy systems and distributed generation systems to exceed \$255,270,000.] 1 percent of the combined total revenue of all utilities in this State during the immediately preceding program year.~~

Sec. 8. NRS 704.771 is hereby amended to read as follows:

704.771 1. "Net metering system" means a facility or energy system for the generation of electricity that:

(a) Uses renewable energy as its primary source of energy to generate electricity;

(b) Has a generating capacity ~~{of not more than 1 megawatt;}~~ ***that does not exceed 120 percent of the average annual consumption of electricity by the customer-generator at the premises on which the system is located;***

(c) Is located on the customer-generator's premises;

(d) Operates in parallel with the utility's transmission and distribution facilities; and

(e) Is intended primarily to offset part or all of the customer-generator's requirements for electricity.

2. The term does not include a facility or energy system for the generation of electricity which has a generating capacity that exceeds the greater of:

(a) The limit on the demand that the class of customer of the customer-generator may place on the system of the utility; or

(b) One hundred fifty percent of the peak demand of the customer.

Sec. 9. NRS 704.775 is hereby amended to read as follows:

704.775 1. The billing period for net metering must be a monthly period.

2. The net energy measurement must be calculated in the following manner:

(a) The utility shall measure, in kilowatt-hours, the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(b) If the electricity supplied by the utility exceeds the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net electricity supplied by the utility.

(c) If the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period:

(1) Neither the utility nor the customer-generator is entitled to compensation for the electricity provided to the other during the billing period.

(2) The excess electricity which is fed back to the utility during the billing period is carried forward to the next billing period as an addition to the kilowatt-hours generated by the customer-generator in that billing period. ~~{If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods.}~~

(3) Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if:

(I) The net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities;

(II) The customer-generator ceases to be a customer of the utility at the premises served by the net metering system; or

(III) The customer-generator transfers the net metering system to another person.

(4) The value of the excess electricity must not be used to reduce any other fee or charge imposed by the utility.

3. If the cost of purchasing and installing a net metering system was paid for:

(a) In whole or in part by a utility, the electricity generated by the net metering system shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.

(b) Entirely by a customer-generator, the Commission shall issue to the customer-generator portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 and 704.78213 equal to the electricity generated by the net metering system.

4. A bill for electrical service is due at the time established pursuant to the terms of the contract between the utility and the customer-generator.

Sec. 10. ~~[NRS 366.022 is hereby amended to read as follows:~~

~~—366.022 "Biodiesel" means a fuel composed of mono-alkyl esters of long-chain fatty acids [or any other fuel sold or labeled as biodiesel which is suitable for use as a fuel in a motor vehicle.] derived from vegetable oils or animal fats which conform to ASTM D6751 specifications for use in diesel engines.]~~ **(Deleted by amendment.)**

Sec. 11. ~~[Chapter 590 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~—1. All diesel fuel sold, offered for sale or delivered in this State must contain not less than 5 percent biodiesel by volume.~~

~~—2. As used in this section, "biodiesel" means a fuel composed of mono-alkyl esters of long-chain fatty acids derived from vegetable oils or animal fats which conform to ASTM D6751 specifications for use in diesel engines.]~~ **(Deleted by amendment.)**

Sec. 12. ~~[NRS 590.020 is hereby amended to read as follows:~~

~~—590.020 As used in NRS 590.010 to 590.330, inclusive, and section 11 of this act, unless the context otherwise requires:~~

~~—1. "Additives" means a substance to be added to a motor oil or lubricating oil to impart or improve desirable properties or to suppress undesirable properties.~~

~~2. "Advertising medium" means any sign, printed or written matter, or device for oral or visual communication.~~

~~3. "Alternative fuel" includes, without limitation, premium diesel fuel, B-5 diesel fuel, B-10 diesel fuel, B-20 diesel fuel, B-100 diesel fuel, M-85, M-100, E-85, E-100, liquefied petroleum gas, natural gas, reformulated gasoline, gasohol and oxygenated fuel.~~

~~4. "Brand name" means a name or logo that is used to identify a business or company.~~

~~5. "Grade" means:~~

~~(a) "Regular," "midgrade," "plus," "super," "premium" or words of similar meaning when describing a grade designation for gasoline.~~

~~(b) "Diesel" or words of similar meaning, including, without limitation, any specific type of diesel, when describing a grade designation for diesel motor fuel.~~

~~(c) "M-85," "M-100," "E-85," "E-100" or words of similar meaning when describing a grade designation for alternative fuel.~~

~~(d) "Propane," "liquefied petroleum gas," "compressed natural gas," "liquefied natural gas" or words of similar meaning when describing pressurized gases.~~

~~6. "Motor vehicle fuel" means a petroleum product or alternative fuel used for internal combustion engines in motor vehicles.~~

~~7. "Performance rating" means the system adopted by the American Petroleum Institute for the classification of uses for which an oil is designed.~~

~~8. "Petroleum products" means gasoline, diesel fuel, burner fuel kerosene, lubricating oil, motor oil or any product represented as motor oil or lubricating oil. The term does not include liquefied petroleum gas, natural gas or motor oil additives.~~

~~9. "Recycled oil" means a petroleum product which is prepared from used motor oil or used lubricating oil. The term includes rerefined oil.~~

~~10. "Rerefined oil" means used oil which is refined after its previous use to remove from the oil any contaminants acquired during the previous use.~~

~~11. "Used oil" means any oil which has been refined from crude or synthetic oil and, as a result of use, has become unsuitable for its original purpose because of a loss of its original properties or the presence of impurities, but which may be suitable for another use or economically recycled.~~

~~12. "Viscosity grade classification" means the measure of an oil's resistance to flow at a given temperature according to the grade classification system of [the Society of Automotive Engineers] *SAE International* or other grade classification.] **(Deleted by amendment.)**~~

Sec. 13. ~~[NRS 590.070 is hereby amended to read as follows:~~

~~590.070 1. The State Board of Agriculture shall adopt by regulation specifications for motor vehicle fuel:~~

~~—(a) Based upon scientific evidence which demonstrates that any motor vehicle fuel which is produced in accordance with the specifications is of sufficient quality to ensure appropriate performance when used in a motor vehicle in this State; or~~

~~—(b) Proposed by an air pollution control agency to attain or maintain national ambient air quality standards in any area of this State. As used in this paragraph, "air pollution control agency" means any federal air pollution control agency or any state, regional or local agency that has the authority pursuant to chapter 445B of NRS to regulate or control air pollution or air quality in any area of this State.~~

~~—2. The State Board of Agriculture shall adopt by regulation procedures for allowing variances from the specifications for motor vehicle fuel adopted pursuant to this section.~~

~~—3. It is unlawful for any person, or any officer, agent or employee thereof, to sell, offer for sale, assist in the sale of, deliver or permit to be sold or offered for sale, any petroleum or petroleum product as, or purporting to be, motor vehicle fuel, unless [it]:~~

~~—(a) It conforms with the regulations adopted by the State Board of Agriculture pursuant to this section [.] ; and~~

~~—(b) If it is any type of diesel fuel, it conforms with the requirements set forth in section 11 of this act.~~

~~—4. This section does not apply to aviation fuel.~~

~~—5. In addition to any criminal penalty that is imposed pursuant to the provisions of NRS 590.150, any person who violates any provision of this section may be further punished as provided in NRS 590.071.] **(Deleted by amendment.)**~~

Sec. 14. ~~[NRS 590.071 is hereby amended to read as follows:~~

~~—590.071 1. The State Board of Agriculture shall:~~

~~—(a) Enforce [the]:~~

~~—(1) The specifications for motor vehicle fuel adopted by regulation pursuant to NRS 590.070 [.] ; and~~

~~—(2) The requirements set forth in section 11 of this act.~~

~~—(b) Adopt regulations specifying a schedule of fines that it may impose, upon notice and hearing, for each violation of the provisions of NRS 590.070 [.] or section 11 of this act. The maximum fine that may be imposed by the Board for each violation must not exceed \$5,000 per day. All fines collected by the Board pursuant to the regulations adopted pursuant to this subsection must be deposited with the State Treasurer for credit to the State General Fund.~~

~~—2. The State Board of Agriculture may:~~

~~—(a) In addition to imposing a fine pursuant to subsection 1, issue an order requiring a violator to take appropriate action to correct the violation.~~

~~—(b) Request the district attorney of the appropriate county to investigate or file a criminal complaint against any person that the Board suspects may~~

~~have violated any provision of NRS 590.070 [.] or section 11 of this act.]~~
(Deleted by amendment.)

Sec. 15. ~~[NRS 590.120 is hereby amended to read as follows:]~~

~~— 590.120 1. Every person, or any officer, agent or employee thereof, shipping or transporting any motor vehicle fuel or lubricating oil into this State for sale or consignment, or with intent to sell or consign the same, shall pay to the Department of Motor Vehicles an inspection fee of 0.055 of a cent per gallon for every gallon of motor vehicle fuel or lubricating oil so shipped or transported into the State, or that is held for sale within this State. This section does not require the payment of an inspection fee on any shipment or consignment of motor vehicle fuel or lubricating oil when the inspection fee has been paid.~~

~~— 2. The inspection fees collected pursuant to the provisions of subsection 1, together with any penalties and interest collected thereon, must be transferred quarterly to the account in the State General Fund created pursuant to NRS 561.412 for the use of the State Department of Agriculture.~~

~~— 3. On or before the last day of each calendar month, every person, or any officer, agent or employee thereof, required to pay the inspection fee described in subsection 1 shall send to the Department of Motor Vehicles a correct report of the motor vehicle fuel or oil volumes for the preceding month. The report must include a list of distributors or retailers distributing or selling the products and must be accompanied by the required fees.~~

~~— 4. Failure to send the report and remittance as specified in subsections 1 and 3 is a violation of NRS 590.010 to 590.150, inclusive, and section 11 of this act, and is punishable as provided in NRS 590.150.~~

~~— 5. The provisions of this section must be carried out in the manner prescribed in chapters 360A and 365 of NRS.~~

~~— 6. All expenses incurred by the Department of Motor Vehicles in carrying out the provisions of this section are a charge against the account created pursuant to NRS 561.412.~~

~~— 7. For the purposes of this section, "motor vehicle fuel" does not include diesel fuel, burner fuel or kerosene.]~~ **(Deleted by amendment.)**

Sec. 16. ~~[NRS 590.150 is hereby amended to read as follows:]~~

~~— 590.150 1. Any person, or any officer, agent or employee thereof, who violates any of the provisions of NRS 590.010 to 590.140, inclusive, and section 11 of this act is guilty of a misdemeanor.~~

~~— 2. Each such person, or any officer, agent or employee thereof, is guilty of a separate offense for each day during any portion of which any violation of any provision of NRS 590.010 to 590.140, inclusive, and section 11 of this act is committed, continued or permitted by such person, or any officer, agent or employee thereof, and shall be punished as provided in this section.~~

~~— 3. The selling and delivery of any petroleum product or motor vehicle fuel mentioned in NRS 590.010 to 590.140, inclusive, and section 11 of this act is prima facie evidence of the representation on the part of the vendor that~~

~~the quality sold and delivered was the quality bought by the vendee.]~~
(Deleted by amendment.)

Sec. 17. ~~[Section 11 of this act is hereby amended to read as follows:~~

~~— Sec. 11. Chapter 590 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~— 1. All diesel fuel sold, offered for sale or delivered in this State must contain not less than [5] 10 percent biodiesel by volume.~~

~~— 2. As used in this section, "biodiesel" means a fuel composed of mono-alkyl esters of long-chain fatty acids derived from vegetable oils or animal fats which conform to ASTM D6751 specifications for use in diesel engines.]~~ **(Deleted by amendment.)**

Sec. 18. NRS 701B.140 is hereby repealed.

Sec. 19. Any applicant for participation in the Solar Energy Systems Incentive Program created by NRS 701B.240 who is approved by a utility and selected by the Public Utilities Commission of Nevada for participation in the Solar Program before July 1, 2011, and who does not complete the installation of his or her solar energy system within 12 months after the date on which the applicant is selected for participation in the Solar Program forfeits eligibility for the incentive for which the applicant was originally determined to be eligible. Any incentives forfeited pursuant to this section must be made available to applicants who apply for participation in the Solar Program on or after July 1, 2011, in accordance with the amendatory provisions of this act.

Sec. 20. 1. This section becomes effective upon passage and approval.

2. Section 7 of this act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.

3. Section 10 of this act becomes effective on October 1, 2011.

4. Sections 1 to 6, inclusive, 8, 9, 18 and 19 of this act become effective on January 1, 2012.

5. Sections 11 to 16, inclusive, of this act become effective 1 year after the date on which the Governor declares by public proclamation that the production of biodiesel in Nevada:

(a) Has reached a volume of 30 million gallons; and

(b) Has equaled or exceeded a rate of 2.5 million gallons per month for 3 consecutive months.

6. Section 17 of this act becomes effective 1 year after the date on which the Governor declares by public proclamation that:

(a) The production of biodiesel in Nevada has reached a volume of 60 million gallons;

(b) The production of biodiesel in Nevada has equaled or exceeded a rate of 5 million gallons per month for 3 consecutive months; and

(c) Each of the three largest manufacturers of diesel-powered motor vehicles doing business in Nevada, as determined based on the total sales of such motor vehicles in Nevada during the immediately preceding calendar

year, has certified in writing that the use of biodiesel blends of 10 percent or more in the engines of the diesel-powered motor vehicles produced by the manufacturer will not adversely affect the warranty provided by the manufacturer with respect to those motor vehicles.

TEXT OF REPEALED SECTION

701B.140 "Small business" defined. "Small business" means a business conducted for profit which employs 500 or fewer full-time or part-time employees.

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. 539 to Senate Bill No. 496 deletes the provisions requiring that all diesel sold, offered for sale or delivered in Nevada contain a certain percentage of biodiesel.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 52.

Bill read second time.

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

Amendment No. 85.

"SUMMARY—Revises provisions relating to vital statistics. (BDR 40-446)"

"AN ACT relating to vital statistics; revising provisions governing vital statistics and the maintenance of vital records; creating the Office of Vital Statistics within the Health Division of the Department of Health and Human Services; making various changes concerning the use and release of certain information relating to vital records; revising the authority of persons authorized to register certificates of vital records; revising the duties and authority of the State Registrar of Vital Statistics; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill revises provisions governing vital statistics and provides for the electronic registration, storage and administration of vital records in this State. **Section 8** of this bill creates the Office of Vital Statistics within the Health Division of the Department of Health and Human Services and provides that the Office is responsible for storing and maintaining vital records in this State. **Section 26** of this bill requires the Administrator of the Division, in his or her capacity as the State Registrar of Vital Statistics, to direct and supervise the Office and prescribes other administrative duties of the Administrator. **Section 27** of this bill requires the State Board of Health to provide for a statewide system for the registration of vital records and to adopt regulations relating to the system.

This bill also requires the Board to adopt forms for registration and issuance of certificates of vital records. **Section 10** of this bill requires the Board to prescribe by regulation certain security measures for certificates of birth which may be issued for persons who are deceased. **Section 11** of this bill provides for the creation of a form for certificates of foreign birth. **Sections 12, 13 and 68** of this bill require the State Registrar to provide for the registration of altered, amended and delayed certificates of certain vital records. **Section 28** of this bill requires the State Registrar to establish by regulation fees for blank certificates provided by the State Registrar to health authorities in this State.

Section 14 of this bill requires the State Registrar to take certain actions if he or she receives information that a vital record may be fraudulent or based on a misrepresentation of facts.

Section 41 of this bill requires the collection of certain supporting documents when a certificate of birth is registered and establishes provisions for entering the name of the domestic partner of the mother of a child on the child's birth certificate. **Sections 50 and 53** of this bill set forth the persons who are required to register a certificate of ~~birth resulting in stillbirth~~ **fetal death** and revise provisions for the medical certification of the facts concerning a ~~stillbirth~~ **fetal death**. **Section 52** of this bill sets forth the persons who are required to submit medical certifications for deceased persons. **Section 57** of this bill authorizes a coroner to make a pronouncement of death in certain cases referred to the coroner by the health officer of a county.

Sections 75-83 of this bill prescribe ~~the~~ civil ~~penalty of not more than \$10,000~~ **and criminal penalties** for certain unlawful acts relating to vital records and provide criminal penalties for other related unlawful acts.

Section 83.5 of this bill provides that if a woman conceives a child through in vitro fertilization using a donated egg, under the supervision of a physician, the woman who conceives the child, not the donor of the egg, is considered the mother of the child.

Section 85 of this bill repeals NRS **440.070**, 440.350, 440.580 and 440.670.

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

Section 1. Chapter 440 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 440.010 to 440.080, inclusive, and sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Evidence of life" ~~includes, without limitation:~~ means:*

- 1. Breathing, but does not include fleeting respiratory efforts or gasps;*
- 2. Beating of the heart, but does not include transient cardiac contractions;*

3. *Pulsation of the umbilical cord; or*
4. *Definitive movement of a voluntary muscle.*

Sec. 3.5. "Fetal death" means the death of the product of human conception which occurs before the complete expulsion or extraction of the product from a pregnant woman as shown by the lack of any evidence of life, regardless of the duration of pregnancy. The term does not include an induced termination of pregnancy.

Sec. 4. "Health authority" means the district health officer of a health district created pursuant to chapter 439 of NRS, or the district health officer's designee, or, if none, the State Health Officer, or the State Health Officer's designee.

Sec. 5. "Health officer" means the:

1. *District health officer of a health district created pursuant to chapter 439 of NRS, or the district health officer's designee; or*
2. *County health officer in a county in which a health district has not been created, or the county health officer's designee,*
↪ or, if none, the State Health Officer, or the State Health Officer's designee.

Sec. 6. "Pronouncement of death" means a declaration of the time and date when the cessation of the cardiovascular and respiratory functions of a patient occurs that is recorded in the patient's medical record or other record in accordance with the provisions of this chapter and the regulations adopted pursuant thereto.

Sec. 7. "Vital statistics" means statistical and other data derived from vital records and related reports.

Sec. 8. 1. There is hereby created within the Health Division of the Department of Health and Human Services the Office of Vital Statistics.

2. The Office of Vital Statistics shall store and maintain the vital records of this State and carry out such other duties as required by the State Registrar and the Board.

Sec. 9. 1. Except as otherwise provided in this section and NRS 440.170, 440.175 and 440.650, a health authority may not release or permit the inspection of a vital record or any certificate, report or data relating to a vital record.

2. In accordance with the regulations adopted by the Board, the State Registrar shall ensure the security and confidentiality of vital records maintained by the Office of Vital Statistics.

3. Information relating to vital records may be released:

(a) Pursuant to requests for information for research purposes if the State Registrar or health authority executes an agreement to protect the confidentiality of the information provided.

(b) In a format which does not disclose the identity of any person who is the subject of a vital record.

(c) If the vital record is a certificate of birth, 125 years after the date of the birth.

(d) If the vital record is a certificate of death, 50 years after the date of the death.

(e) To the agency of the Federal Government that is responsible for maintaining vital statistics for the United States if the State Registrar or health authority executes an agreement to protect the confidentiality of the information.

(f) To an agency of another state which is responsible for maintaining vital statistics for that state if the State Registrar or health authority executes an agreement to protect the confidentiality of the information.

4. The decision of a health authority may be appealed to the State Registrar, and a decision of the State Registrar is final as to all requests for disclosure of information pursuant to this section.

Sec. 10. The Board shall prescribe by regulation the form for certificates of birth issued for persons who are deceased. The regulations must require that such a certificate of birth clearly identify that the person is deceased and ensure that the certificate of birth is not usable for fraudulent purposes. The State Registrar may coordinate vital records of births and deaths to carry out the regulations adopted pursuant to this section and may require such a certificate to be marked "Deceased."

Sec. 11. The Board shall prescribe by regulation the form for certificates of foreign birth. The regulations must require such a certificate to be marked "Certificate of Foreign Birth," to indicate the actual place of birth and to state that the certificate is not proof of United States citizenship for ~~an adopted~~ a child ~~who was adopted in a country other than the United States or for a person whose birth certificate or other evidence of birth is written in a language other than English.~~

Sec. 12. 1. A person who determines that an error exists in a certificate of birth or death may apply to the State Registrar to alter the vital record to correct the error.

2. A certificate of birth or death which has been altered after being filed with the State Registrar must:

(a) Contain the date of the alteration;

(b) Be marked distinctly "Altered"; and

(c) Include a summary statement of the evidence submitted in support of the alteration.

3. An application for the registration of an altered certificate may be approved by the State Registrar if:

(a) The applicant has submitted an application prescribed by the Board;

(b) All documentation which is required in support of the altered certificate has been received by the State Registrar; and

(c) The State Registrar has verified the validity and adequacy of the documentation.

4. The evidence affecting the alteration of a certificate, after it has been filed with the State Registrar, must be kept in a special permanent file.

5. *The State Registrar shall dismiss an application for the registration of an altered certificate if the documentation submitted by the applicant does not comply with the requirements prescribed by the Board or if the State Registrar has cause to question the validity or adequacy of the documentation submitted by the applicant.*

6. *If the State Registrar dismisses an application for the registration of an altered certificate, the State Registrar shall inform the applicant of his or her right to seek a court order for the registration.*

Sec. 13. 1. *A person who determines that a certificate of birth or death is inaccurate because of a change in fact after the registration of the vital record may apply to the State Registrar for an amendment to the vital record.*

2. *A certificate of birth or death which has been amended after being filed with the State Registrar must:*

- (a) Contain the date of the amendment;*
- (b) Be marked distinctly "Amended"; and*
- (c) Include a summary statement of the evidence submitted in support of the amendment.*

3. *An application for the registration of an amended certificate:*

(a) Must be approved by the State Registrar if the applicant submits to the State Registrar a certified copy of an order of a court of competent jurisdiction relating to the underlying facts of the change, including, without limitation, an order indicating that the sex of the person who is the subject of the vital record has been changed by surgical procedure or the name of the person has changed.

(b) May be approved by the State Registrar if:

(1) The applicant has submitted an application prescribed by the Board;

(2) All documentation which is required in support of the amended certificate has been received by the State Registrar; and

(3) The State Registrar has verified the validity and adequacy of the documentation.

4. *The evidence affecting the amendment of a certificate, after it has been filed with the State Registrar, must be kept in a special permanent file.*

5. *The State Registrar shall dismiss an application for the registration of an amended certificate if the documentation submitted by the applicant does not comply with the requirements prescribed by the Board or if the State Registrar has cause to question the validity or adequacy of the documentation submitted by the applicant.*

6. *If the State Registrar dismisses an application for the registration of an amended certificate, the State Registrar shall inform the applicant of his or her right to seek a court order for the registration.*

Sec. 14. 1. *If the State Registrar receives information or otherwise believes that a vital record may have been registered through fraud or misrepresentation, the State Registrar shall withhold issuance of a copy of*

the record pending an administrative hearing to determine the validity of the record.

2. The State Registrar shall notify the person who is the subject of the record or the authorized representative of the person of the administrative hearing and provide an opportunity for that person to attend and present testimony on the alleged fraud or misrepresentation.

3. If the State Registrar finds that the record is valid, the State Registrar may issue certified copies of the record.

4. If the State Registrar finds fraud or misrepresentation occurred and the record is not valid, the State Registrar shall remove the certificate from the records of vital statistics and retain in a separate place the certificate and the evidence of fraud or misrepresentation. The certificate must not be open to inspection or copying except upon order of a court of competent jurisdiction or by the State Registrar for administrative purposes.

Sec. 15. NRS 440.010 is hereby amended to read as follows:

440.010 ~~{As used in this chapter,}~~ "Board" means the State Board of Health.

Sec. 16. NRS 440.020 is hereby amended to read as follows:

440.020 ~~{As used in this chapter, "dead}~~ **"Dead** body" means a lifeless human body, or such severed parts of the human body or the bones thereof, from the state of which it reasonably may be concluded that death had recently occurred, and where the circumstances under which such dead body was found indicate that the death has not been recorded.

Sec. 17. NRS 440.025 is hereby amended to read as follows:

440.025 ~~{As used in this chapter "human}~~ **"Human** remains" or "remains" means the body of a deceased person, and includes the body in any state of decomposition and the cremated remains of a body.

Sec. 18. NRS 440.030 is hereby amended to read as follows:

440.030 ~~{As used in this chapter, "live}~~ **"Live** birth" means ~~{a birth in which the child}~~ **the complete expulsion or extraction from a mother pregnant woman in which the product of human conception** shows evidence of life ~~{after complete birth. A birth is complete when the child is entirely outside the mother,}~~ **without regard to the duration of the pregnancy,** even if the **umbilical** cord is uncut and the placenta still attached. ~~{The words "evidence of life" include heart action, breathing or coordinated movement of voluntary muscle.}~~

Sec. 19. NRS 440.040 is hereby amended to read as follows:

440.040 ~~{As used in this chapter, "person}~~ **"Person** in charge of interment" means any person who places, or causes to be placed, ~~{a deceased stillborn child,}~~ ~~{or}~~ ~~{dead body},}~~ ~~{or, after cremation, the ashes thereof,}~~ **human remains** in the earth, a grave, tomb, vault, urn or other receptacle, either in a cemetery or at any other place, or otherwise disposes thereof.

Sec. 20. NRS 440.050 is hereby amended to read as follows:

440.050 ~~{As used in this chapter, "physician" is limited to}~~ **"Physician"** means a person authorized under the laws of this State to practice ~~{as such,}~~

medicine, including, without limitation, a person licensed to engage in the practice of medicine pursuant to chapter 630, 630A, 633, 634 or 635 of NRS.

Sec. 21. NRS 440.060 is hereby amended to read as follows:

440.060 ~~{As used in this chapter,}~~ "State Registrar" means the State Registrar of Vital Statistics.

Sec. 22. ~~NRS 440.070 is hereby amended to read as follows:~~

~~440.070 {As used in this chapter, "stillbirth"} "Stillbirth" means {a birth} the complete expulsion or extraction from a mother after at least 20 weeks of gestation [,] in which the [child] product of human conception shows no evidence of life. [after complete birth.]} **(Deleted by amendment.)**~~

Sec. 23. NRS 440.080 is hereby amended to read as follows:

440.080 ~~{As used in this chapter, "vital statistics"} "Vital records"~~ means records of birth, legitimation of birth, death, fetal death, marriage, annulment of marriage, divorce and data incidental thereto.

Sec. 24. NRS 440.090 is hereby amended to read as follows:

440.090 All certificates, ~~{either of}~~ ***including, without limitation, certificates of birth, death or {birth resulting in stillbirth,} fetal death,*** shall be ~~{written}~~ :

1. ***Written*** legibly, in unfading black ink ~~{, or typewritten,}~~ ;

2. ***Typewritten; or***

3. ***Produced electronically in accordance with the regulations adopted by the Board pursuant to this chapter,***

➔ and no certificate shall be held to be complete and correct that does not supply all of the items of information called for, or satisfactorily account for their omission.

Sec. 25. NRS 440.100 is hereby amended to read as follows:

440.100 All physicians, registered nurses, midwives, informants or funeral directors, and all other persons having knowledge of the facts, shall furnish such information as they may possess regarding any birth or death upon demand of the State Registrar, in person, by mail, or through the ~~{health officer}~~ ***health authority.***

Sec. 26. NRS 440.110 is hereby amended to read as follows:

440.110 1. The Administrator of the Health Division of the Department of Health and Human Services is the State Registrar of Vital Statistics ~~{,}~~ ***and is the custodian of records stored and maintained by the Office of Vital Statistics.***

2. ***The State Registrar may designate a person to carry out the duties of the State Registrar pursuant to this chapter and the regulations adopted pursuant thereto.***

3. ***The State Registrar shall:***

(a) ***Direct the Office of Vital Statistics and supervise the activities of persons performing duties relating to the operation of the statewide system for the registration of vital records;***

(b) Administer and enforce the provisions of this chapter and the regulations adopted pursuant thereto;

(c) Prepare and publish reports of vital statistics and such other reports as deemed necessary; and

(d) Provide copies of certificates of vital records and reports of vital statistics as necessary for the function and information of local, state and federal agencies, including, without limitation, the release of copies of records.

4. The State Registrar may designate offices throughout this State to assist in the efficient administration of the statewide system for the registration of vital records.

Sec. 27. NRS 440.120 is hereby amended to read as follows:

440.120 1. The Board shall provide ~~an adequate~~ **a statewide** system for the registration of ~~births and deaths~~ **vital records** by adopting ~~and enforcing~~ regulations prescribing the method and form of making such registration.

2. The regulations adopted by the Board pursuant to this section must, without limitation:

(a) Provide for the efficient administration of vital records and vital statistics in this State;

(b) Provide for the submission and maintenance of vital records, including, without limitation, electronic records;

(c) Prescribe uniform standards for the administration of vital records in this State, which must promote and maintain national standards relating to vital records and vital statistics;

(d) Require vital records to include, at a minimum, the information recommended by the agency of the Federal Government responsible for national vital statistics and the date on which the vital record was filed;

(e) Provide the manner in which vital records, forms, reports and other information relating to vital records may be filed, verified, registered and stored, including, without limitation, by electronic or photographic means; and

(f) Set forth standards for the reproduction and disposal of original vital records.

2. The State Registrar shall carry into effect the regulations and orders of the Board.

Sec. 28. NRS 440.130 is hereby amended to read as follows:

440.130 1. The Board shall **prescribe and the State Registrar shall** prepare, print and supply to all ~~local~~ health ~~officers all blanks and~~ **authorities the** forms used in registering, recording and preserving the returns, or in otherwise carrying out the purposes of this chapter.

2. The State Registrar shall ~~charge~~ **establish by regulation a fee** for each blank certificate of birth, death or ~~birth resulting in stillbirth~~ **fetal death**. ~~[a fee of \$1.]~~

Sec. 29. NRS 440.140 is hereby amended to read as follows:

440.140 The ~~{Board}~~ **State Registrar** shall ~~{prepare}~~ :

1. **Prepare** and issue such detailed instructions as may be required to procure the uniform observance of this chapter and the maintenance of ~~{a perfect}~~ **the statewide** system ~~{of}~~ **for the** registration ~~{of}~~ **of vital records**, and no forms or blanks other than those so prepared shall be used.

2. **Conduct training programs to promote the uniform application of procedures adopted by the Board and the enforcement of this chapter.**

Sec. 30. NRS 440.150 is hereby amended to read as follows:

440.150 1. The State Registrar shall carefully examine the certificates received from ~~{the local}~~ **a health {officers,} authority**, and if they are incomplete or unsatisfactory the State Registrar shall require such further information to be furnished as may be necessary to make the record complete and satisfactory.

2. **The State Registrar may require an informant, next of kin or parent to provide documentation to support the identity or relationship of the person before registering, altering or amending a vital record.**

3. **The State Registrar shall identify the documentation which must be provided in support of a certificate of birth if further information is required pursuant to this section for a birth which occurred outside of a hospital or institution.**

Sec. 31. NRS 440.160 is hereby amended to read as follows:

440.160 The State Registrar shall:

1. Arrange and permanently preserve the certificates in a systematic manner.

2. Prepare and maintain a comprehensive and continuous ~~{card}~~ index of all births and deaths registered. The ~~{cards}~~ **index** must show the name of the child or the deceased, the place and date of birth or death and the number of the certificate. When a certificate of birth indicates that a person has changed his or her name, the ~~{card}~~ index must contain ~~{a card}~~ **an entry** for each name.

3. **Make a complete and accurate copy of each vital record, including, without limitation, using typewritten, photographic, electronic or other means of reproduction approved by the Board. Such a copy, when verified and approved by the State Registrar, may be deemed to be the original record, and the original record may be disposed of in accordance with regulations adopted pursuant to NRS 440.120.**

Sec. 32. NRS 440.170 is hereby amended to read as follows:

440.170 1. All certificates in the custody of the State Registrar are ~~{open to inspection subject to the provisions of this chapter.}~~ **confidential and may only be released pursuant to NRS 440.175 and 440.650 and section 9 of this act.** It is unlawful for any employee of the State to disclose data contained in vital ~~{statistics,}~~ **records**, except as authorized by this chapter or by the Board.

2. Information in vital ~~{statistics}~~ **records** indicating that a birth occurred out of wedlock must not be disclosed except upon order of a court of competent jurisdiction.

3. The ~~{Board}~~ **State Registrar**:

(a) Shall allow the use of data contained in vital ~~{statistics}~~ **records** to carry out the provisions of NRS 442.300 to 442.330, inclusive;

(b) Shall allow the use of certificates of death by a multidisciplinary team to review the death of a child established pursuant to NRS 432B.405 and 432B.406; and

(c) May allow the use of data contained in vital ~~{statistics}~~ **records** for other research purposes, but without identifying the persons to whom the records relate.

Sec. 33. NRS 440.190 is hereby amended to read as follows:

440.190 The ~~{county}~~ health ~~{officer}~~ **authority** shall act as ~~{a}~~ **the** collector of vital ~~{statistics}~~ **records** for his or her county.

Sec. 34. NRS 440.200 is hereby amended to read as follows:

440.200 The ~~{local}~~ health ~~{officer}~~ **authority** shall furnish blank forms ~~{of certificates}~~ **for vital records** to such persons as require them.

Sec. 35. NRS 440.210 is hereby amended to read as follows:

440.210 ~~{Each local}~~ **The** health ~~{officer}~~ **authority** shall carefully examine each certificate of birth or death when presented for record to see that it has been made out in accordance with the provisions of this chapter and the instructions of the ~~{Board}~~ **State Registrar**.

Sec. 36. NRS 440.220 is hereby amended to read as follows:

440.220 1. If any certificate of death is incomplete or unsatisfactory, the ~~{local}~~ health ~~{officer}~~ **authority** shall call attention to the defects in the return and **the health officer shall** withhold issuing the burial or removal permit until the defects are corrected.

2. If any certificate of birth is incomplete, the ~~{local}~~ health ~~{officer}~~ **authority** shall immediately notify the ~~{informant,}~~ **person who certified the birth pursuant to NRS 440.280 or the person who attended the birth** and require him or her to supply the missing items if they can be obtained.

Sec. 37. NRS 440.230 is hereby amended to read as follows:

440.230 The ~~{local}~~ health ~~{officer}~~ **authority** shall number consecutively the certificates of birth and death, in two separate series, beginning with the number 1 for the first birth and the first death occurring in each calendar year, and sign his or her name as health ~~{officer}~~ **authority** in attest of the date of filing in his or her office.

Sec. 38. NRS 440.240 is hereby amended to read as follows:

440.240 The ~~{local}~~ health ~~{officer}~~ **authority** shall make a complete and accurate copy of each birth and death certificate registered by him or her in ~~{a record book supplied}~~ **the format prescribed** by the State Registrar. ~~{Record books}~~ **The copies** shall be preserved permanently in his or her office as the local record in such manner as directed by the Board.

Sec. 39. NRS 440.250 is hereby amended to read as follows:

440.250 ~~1. Not later than the fifth day of each month, deputy county health officers shall file with the county health officer all original birth and death certificates executed by them.~~

~~—2.1~~ Within 5 days after receipt of the original death certificates, the ~~{county} health {officer}~~ **authority** shall file with the public administrator a written list of the names and social security numbers of all deceased persons and the names of their ~~{next-of-kin}~~ **informants** as those names appear on the certificates.

Sec. 40. NRS 440.260 is hereby amended to read as follows:

440.260 On the 10th day of each month the ~~{local} health {officer}~~ **authority** shall transmit to the State Registrar all original certificates registered by him or her during the preceding month. If no births or deaths occurred in any month, the ~~{local} health {officer}~~ **authority** shall report that fact to the State Registrar, on the 10th day of the following month, ~~{on a card provided}~~ **in the format prescribed by the State Registrar** for that purpose.

Sec. 41. NRS 440.280 is hereby amended to read as follows:

440.280 1. If a birth occurs in a hospital or the mother and child are immediately transported to a hospital, the person in charge of the hospital or his or her designated representative shall obtain the necessary information, prepare a birth certificate, secure the signatures required by the certificate and file it within 10 days with the health ~~{officer}~~ **authority** of the registration district where the birth occurred. The physician in attendance shall provide the medical information required by the certificate and certify to the fact of birth within 72 hours after the birth. If the physician does not certify to the fact of birth within the required 72 hours, the person in charge of the hospital or the designated representative shall complete and sign the certification.

2. If a birth occurs outside a hospital and the mother and child are not immediately transported to a hospital, the birth certificate **and any supporting documentation** must be prepared and filed by one of the following persons in the following order of priority:

(a) The physician in attendance at or immediately after the birth.

(b) Any other person in attendance at or immediately after the birth.

(c) The father, mother or, if the father is absent and the mother is incapacitated, the person in charge of the premises where the birth occurred.

3. If a birth occurs in a moving conveyance, the place of birth is the place where the child is removed from the conveyance.

4. ~~In cities, the certificate of birth must be filed sooner than 10 days after the birth if so required by municipal ordinance or regulation.~~

~~—5.1~~ If the mother was:

(a) Married at the time of birth, the name of her husband must be entered on the certificate as the father of the child unless:

(1) A court has issued an order establishing that a person other than the mother's husband is the father of the child; or

(2) The mother and a person other than the mother's husband have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283.

(b) Widowed at the time of birth but married at the time of conception, the name of her husband at the time of conception must be entered on the certificate as the father of the child unless:

(1) A court has issued an order establishing that a person other than the mother's husband at the time of conception is the father of the child; or

(2) The mother and a person other than the mother's husband at the time of conception have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283.

~~{6-}~~ (c) *Registered as a domestic partner pursuant to chapter 122A of NRS at the time of the birth, the name of her partner must be entered on the certificate as the parent of the child unless:*

(1) A court has issued an order establishing that a person other than the mother's partner is the parent of the child; or

(2) The mother and a person other than the mother's partner have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283.

(d) Registered as a domestic partner pursuant to chapter 122A of NRS at the time of conception and her domestic partner dies before the birth of the child, the name of her partner must be entered on the certificate as the parent of the child unless:

(1) A court has issued an order establishing that a person other than the mother's partner is the parent of the child; or

(2) The mother and a person other than the mother's partner have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283.

5. If the mother was unmarried at the time of birth, the name of the father *or other parent* may be entered on the original certificate of birth only if:

(a) The provisions of paragraph (b) , (c) *or* (d) of subsection ~~{5}~~ 4 are applicable;

(b) A court has issued an order establishing that the person is the ~~{father}~~ *parent* of the child; or

(c) The mother and father of the child have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283. If both the father and mother execute a declaration consenting to the use of the surname of the father as the surname of the child, the name of the father must be entered on the original certificate of birth and the surname of the father must be entered thereon as the surname of the child.

~~{7-}~~ 6. An order entered or a declaration executed pursuant to subsection ~~{6}~~ 5 must be submitted to the ~~{local}~~ health ~~{officer, the local health officer's authorized representative,}~~ *authority* or the attending physician or midwife before a proper certificate of birth is forwarded to the State Registrar. The order or declaration must then be delivered to the State

Registrar for filing. The State Registrar's file of orders and declarations must be sealed and the contents of the file may be examined only upon order of a court of competent jurisdiction or at the request of the ~~{father or mother}~~ **parent** or the Division of Welfare and Supportive Services of the Department of Health and Human Services as necessary to carry out the provisions of 42 U.S.C. § 654a. The ~~{local}~~ health ~~{officer}~~ **authority** shall complete the original certificate of birth in accordance with subsection ~~{6}~~ **5** and other provisions of this chapter.

7. A certificate of birth filed more than 10 days after the birth of the child, but not more than 1 year after the birth of the child, must be registered on the standard certificate of live birth. The Board may prescribe by regulation the documentation which must be provided in support of a certificate of birth pursuant to this subsection. Such a certificate must not be marked "Delayed" pursuant to NRS 440.630.

8. As used in this section, "court" has the meaning ascribed to it in NRS 125B.004.

Sec. 42. NRS 440.290 is hereby amended to read as follows:

440.290 The form of the birth certificate to be used under this chapter shall include as a minimum the items required by the standard certificate of live birth ~~{as recommended by the United States Public Health Service,}~~ **prescribed by the Board**, but no certificate to be used under this chapter shall include any notation of legitimacy or illegitimacy. The entry of the name of the father of a child or of the surname of the father as the surname of the child on the certificate of birth pursuant to NRS 440.280 shall not be considered a notation of legitimacy or illegitimacy within the meaning of this section.

Sec. 43. NRS 440.300 is hereby amended to read as follows:

440.300 1. When any certificate of birth of a living child is presented without the statement of the given name, ~~{the local health officer, the local registrar or}~~ the State Registrar shall ~~{make out and deliver}~~ **provide** to the parents of the child a special blank **form approved by the Board** for the supplemental report of the given name of the child, which shall be filled out as directed and returned to the State Registrar as soon as the child shall have been named.

2. The Board shall prescribe by regulation the time within which a supplementary report furnishing information omitted on the original certificate may be returned for the purpose of completing the original certificate.

3. Certificates of birth completed by a supplementary report shall not be considered as "delayed ~~{,}~~", "**amended**" or "altered."

Sec. 44. NRS 440.303 is hereby amended to read as follows:

440.303 1. A person whose birth certificate or other evidence of birth is written in a language other than English, or the parent or guardian of the person, may apply to the State Registrar for a birth certificate in the English language.

2. Application for a birth certificate pursuant to this section must be made in writing on a form supplied by the State Registrar and be accompanied by:

- (a) The document for which a replacement is sought.
- (b) A translation of the document.
- (c) An affidavit executed by the translator before a person who is authorized to administer oaths, attesting to the accuracy of the translation.
- (d) A certificate from the United States Citizenship and Immigration Services of the Department of Homeland Security which establishes that the person who is the subject of the document has entered the United States legally.
- (e) The fee required by *regulations adopted pursuant to* this chapter for the making and certification of the record of any birth by the State Registrar.

3. When the State Registrar receives an application and the documents required by this section, the State Registrar shall prepare a birth certificate and clearly mark it on its face: "ISSUED TO REPLACE A BIRTH RECORD FROM IN THE LANGUAGE."

Sec. 45. NRS 440.305 is hereby amended to read as follows:

440.305 Upon request of a person or his or her parent, guardian or legal representative, and after receipt of a certified copy of an order of the court changing the name of such person, whether such order was entered ~~prior or subsequent to~~ *before, on or after* July 1, 1960, the State Registrar shall indicate the change of name on the certificate of birth of such person. *If the order of the court required the State Registrar to issue a new certificate of birth, the certificate of birth must not be marked "Altered" or "Amended."*

Sec. 46. NRS 440.310 is hereby amended to read as follows:

440.310 1. Whenever the State Registrar receives a certified report of adoption or amendment of adoption filed in accordance with the provisions of NRS 127.157 or the laws of another state or foreign country, or a certified copy of the adoption decree, concerning a person born in Nevada, the State Registrar shall prepare and file a supplementary certificate of birth in the new name of the adopted person which shows the adoptive parents as the parents and seal and file the report or decree and the original certificate of birth.

2. Whenever the State Registrar receives a certified report of adoption, amendment or annulment of an order or decree of adoption from a court concerning a person born in another state, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, or Canada, the report must be forwarded to the office responsible for vital ~~statistics~~ *records* in the person's place of birth.

3. Whenever the State Registrar receives a certified report of adoption or amendment of adoption filed in accordance with the provisions of NRS 127.157 concerning a person born in a foreign country other than Canada, the State Registrar shall, if the State Registrar receives evidence that:

- (a) The person being adopted is a citizen of the United States; and

(b) The adoptive parents are residents of Nevada,
➤ prepare and file a supplementary certificate of birth as described in subsection 1 and seal and file the report.

4. Sealed documents may be opened only upon an order of the court issuing the adoption decree, expressly so permitting, pursuant to a petition setting forth the reasons therefor.

5. Except as otherwise provided in subsection 2, upon the receipt of a certified copy of a court order of annulment of adoption, the State Registrar shall seal and file the order and supplementary certificate of birth and, if the person was born in Nevada, restore the original certificate to its original place in the files.

Sec. 47. NRS 440.315 is hereby amended to read as follows:

440.315 Any person, or any parent or guardian, of a child with respect to whom a certificate of birth has been issued by this state indicating the illegitimacy of the person or child may apply to the State Registrar for a new certificate which does not contain any notation of illegitimacy, and upon such application the State Registrar shall issue such a certificate. ***If the State Registrar issues a new certificate of birth pursuant to this section, the certificate of birth must not be marked "Altered" or "Amended."***

Sec. 48. NRS 440.325 is hereby amended to read as follows:

440.325 1. In the case of the paternity of a child being established by the:

(a) Mother and father acknowledging paternity of a child by signing a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283; or

(b) Order of a district court,
➤ the State Registrar, upon the receipt of the declaration or court order, shall prepare a new certificate of birth in the name of the child as shown in the declaration or order with no reference to the fact of legitimation. ***If the declaration or court order required the State Registrar to issue a new certificate of birth, the certificate of birth must not be marked "Altered" or "Amended."***

2. The new certificate must be identical with the certificate registered for the birth of a child born in wedlock.

3. Except as otherwise provided in subsection 4, the evidence upon which the new certificate was made and the original certificate must be sealed and filed and may be opened only upon the order of a court of competent jurisdiction.

4. The State Registrar shall, upon the request of the Division of Welfare and Supportive Services of the Department of Health and Human Services, open a file that has been sealed pursuant to subsection 3 to allow the Division to compare the information contained in the declaration or order upon which the new certificate was made with the information maintained pursuant to 42 U.S.C. § 654a.

Sec. 49. NRS 440.330 is hereby amended to read as follows:

440.330 1. Whoever assumes the custody of a living child of unknown parentage shall immediately report, on a form to be approved by the Board, to the ~~local registrar~~ **health authority** of the registration district in which such custody is assumed, the following:

- (a) Date of finding or assumption of custody.
- (b) Place of finding or assumption of custody.
- (c) Sex.
- (d) Color or race.
- (e) Approximate age.
- (f) Name and address of the person or institution with whom the child has been placed for care, if any.
- (g) Name given to the child by the finder or custodian.

2. The place where the child was found or where custody has been assumed shall be known as the place of birth, and the date of birth shall be determined by approximation.

3. The foundling report shall constitute the certificate of birth for such foundling child, and the provisions of this chapter relating to certificates of birth shall apply in the same manner and with the same effect to such report.

4. If a foundling child shall later be identified and a regular certificate of birth be found or obtained, the report constituting the certificate of birth shall be sealed and filed and may be opened only upon the order of a court of competent jurisdiction.

Sec. 50. NRS 440.340 is hereby amended to read as follows:

440.340 1. ~~{Stillborn children or those dead at birth shall be registered as a stillbirth and a certificate of birth resulting in stillbirth shall be filed with the {local} {health} {officer} {authority} in the usual form and manner.}~~ **A report of fetal death must be prepared and filed for each fetal death of a fetus that weighs 350 grams or more. If the weight of a fetus is unknown, a report of fetal death must be prepared and filed if the fetal death occurred at 20 weeks or more of gestation, calculated from the first day of the last normal menstrual period of the pregnant woman to the date of delivery.**

2. ~~The {medical certificate of the cause of death shall be signed by the attending physician, if any.}~~ **report of a fetal death must be prepared and filed:**

(a) For a {birth} fetal death which occurred in a hospital or institution, within 48 hours after the {birth} delivery by the person in charge of the hospital or institution, or his or her designee;

(b) For a {birth} fetal death which occurred outside a hospital or institution, within 48 hours after the {birth} delivery by the physician in attendance at or immediately after the {birth} delivery; or

(c) If an investigation is required pursuant to {this chapter} NRS 440.420 or for a {birth} fetal death which occurred without medical attendance at or immediately after the {birth} delivery, within 5 days after the {birth} completion of the investigation by the medical examiner or coroner who investigates the cause of fetal death.

3. Midwives shall not sign certificates of ~~[birth resulting in stillbirth for stillborn children]~~ **fetal death**, ~~[; but such cases,]~~ and ~~[stillbirths]~~ **fetal deaths** occurring without attendance of either physician or midwife, shall be treated as deaths without medical attention as provided for in this chapter.

4. *If a fetal death occurs in a moving conveyance and the fetus is removed from the conveyance in this State or if a fetus is found in this State and the place of fetal death is unknown, the fetal death must be reported in accordance with this section. The place where the fetus was first removed from the conveyance or was found shall be considered the place of fetal death for purposes of filing the report of fetal death.*

Sec. 51. NRS 440.360 is hereby amended to read as follows:

440.360 The personal and statistical particulars of the death ~~[or stillbirth]~~ certificate **or certificate of [birth resulting in stillbirth] fetal death** shall be authenticated by the name of the informant, who may be any competent person acquainted with the facts.

Sec. 52. NRS 440.380 is hereby amended to read as follows:

440.380 1. ~~[The]~~ **Except as otherwise provided in this section, within 48 hours after receiving a death certificate, the medical [certificate of death] certification must be signed by the physician [;]** **who was in charge of the patient's medical care relating to the illness or condition which resulted in death,** if any, ~~[ast in attendance on the deceased,]~~ or ~~[pursuant to regulations adopted by the Board,]~~ it may be signed by the ~~[attending]~~ physician's associate physician, the chief medical officer of the hospital or institution in which the death occurred, or the ~~[pathologist]~~ **physician** who performed an autopsy upon the ~~[deceased.]~~ **decedent, if such physician has access to the medical history of the decedent and the death is due to natural causes.**

2. **Except as otherwise provided in this section, if an inquiry into the cause of death is required, the medical examiner or coroner in the jurisdiction where the death occurred or the body was found shall determine the cause of death and shall complete and sign the medical certification [required pursuant to subsection 1 within 48 hours after taking charge of the case.] within 5 days after the completion of the investigation by the medical examiner or coroner who investigates the cause of death.**

3. ~~[The Board shall prescribe by regulation the process for medical certification for cases in which the cause of death cannot be determined within 48 hours after receipt of a death certificate. The person responsible for completing the medical certification shall give notice of the reason for the delay to the funeral director and the health authority. The final disposition of the body of the decedent must not be made until authorized by the person responsible for completing the medical certification.]~~

~~—4.]~~ The person who signs the medical ~~[certificate of death]~~ **certification** shall specify:

- (a) The ~~[social security number of the deceased.]~~
- ~~—(b) The]~~ hour and day on which the death occurred.

~~{(e)}~~ **(b)** The cause of death, so as to show the cause of disease or sequence of causes resulting in death, giving first the primary cause of death or the name of the disease causing death, and the contributory or secondary cause, if any, and the duration of each.

~~{2.}~~ ~~{5.}~~ **4.** In deaths in hospitals or institutions, or of nonresidents, the physician shall furnish the information required under this section, and may state where, in the physician's opinion, the disease was contracted.

~~{6.}~~ **5.** *The person who signs the medical certification may use his or her signature or use an electronic process approved by the Board.*

~~{7.}~~ **6.** *If the result of an autopsy or other information is discovered which causes the person responsible for completing a medical certification to change his or her determination as to the cause of death, the person shall immediately file an affidavit of correction with the Office of Vital Statistics to alter the vital record.*

~~{8.}~~ **7.** *If the body of a decedent who is believed to have died in this State cannot be located, a death certificate may be prepared by the State Registrar only upon the order of a court of competent jurisdiction, which must include the findings of facts required to complete the death certificate. A death certificate issued pursuant to this section must be marked "Presumptive" and show on its face the date of death as determined by the court and the date of registration, and must identify the court that issued the order and the date of the order.*

Sec. 53. NRS 440.390 is hereby amended to read as follows:

440.390 **1.** The certificate ~~{medical certification}~~ of ~~{birth resulting in stillbirth}~~ **fetal death** must be presented ~~{by the funeral director or person acting as undertaker}~~ to the physician in attendance at the ~~{stillbirth}~~ **delivery**, for the ~~{certificate}~~ **certification** of the fact of ~~{stillbirth}~~ **fetal death** and the medical data pertaining to ~~{stillbirth}~~ **fetal death** as the physician can furnish them in his or her professional capacity.

2. *Except as otherwise provided in this section, within 48 hours after receiving a certificate of ~~{birth resulting in stillbirth}~~ **fetal death**, the medical certification must be signed by the attending physician, if any, or it may be signed by the attending physician's associate physician, the chief medical officer of the hospital or institution in which the ~~{stillbirth}~~ **fetal death** occurred, or the physician who performed an autopsy upon the decedent, if such physician has access to the medical history of the ~~{mother}~~ **pregnant woman and {child} fetus** and the death is due to natural causes.*

3. *Except as otherwise provided in this section, if an inquiry into the cause of ~~{stillbirth}~~ **fetal death** is required, the medical examiner or coroner in the jurisdiction where the ~~{stillbirth}~~ **fetal death** occurred or the body was found shall determine the cause of ~~{stillbirth}~~ **fetal death** and shall complete and sign the medical certification required pursuant to subsection 1 within 5 days after ~~{taking charge of the case}~~ **the completion***

of the investigation by the medical examiner or coroner who investigates the cause of fetal death.

~~4. [The Board shall prescribe by regulation the process for medical certification for cases in which the cause of stillbirth cannot be determined within the period prescribed in subsection 2 or 3. The person responsible for completing the medical certification shall give notice of the reason for the delay to the funeral director and the health authority. The final disposition of the body of the decedent must not be made until authorized by the person responsible for completing the medical certification.]~~

~~—5.7~~ **The person who signs the medical certification may use his or her signature or use an electronic process approved by the Board.**

~~[6.7]~~ **5. If the result of an autopsy or other information is discovered which causes the person responsible for completing a medical certification to change his or her determination as to the cause of ~~[stillbirth.] fetal death,~~ the person shall immediately file an affidavit of correction with the Office of Vital Statistics to amend the record.**

Sec. 54. NRS 440.410 is hereby amended to read as follows:

440.410 Causes of death, which may be the result of either disease or violence, shall be carefully defined ~~[;]~~ and if from violence, the means of injury shall be stated, and whether ~~[(probably)]~~ **the death was most probably** accidental, suicidal or homicidal.

Sec. 55. NRS 440.415 is hereby amended to read as follows:

440.415 1. A physician who anticipates the death of a patient because of an illness, infirmity or disease may authorize a specific registered nurse or physician assistant or the registered nurses or physician assistants employed by a medical facility or program for hospice care to make a pronouncement of death if they attend the death of the patient.

2. Such an authorization is valid for 120 days. Except as otherwise provided in subsection 3, the authorization must:

- (a) Be a written order entered on the chart of the patient;
- (b) State the name of the registered nurse or nurses or physician assistant or assistants authorized to make the pronouncement of death; and
- (c) Be signed and dated by the physician.

3. If the patient is in a medical facility or under the care of a program for hospice care, the physician may authorize the registered nurses or physician assistants employed by the facility or program to make pronouncements of death without specifying the name of each nurse or physician assistant, as applicable.

4. If a pronouncement of death is made by a registered nurse or physician assistant, the physician who authorized that action shall sign the medical ~~[certificate of death]~~ **certification** within 24 hours after being presented with the certificate.

5. If a patient in a medical facility is pronounced dead by a registered nurse or physician assistant employed by the facility, the registered nurse or physician assistant may release the body of the patient to a licensed

funeral director pending the completion of the medical ~~{certificate of death}~~ **certification** by the attending physician if the physician or the medical director or chief of the medical staff of the facility has authorized the release in writing.

6. The Board may adopt regulations concerning the authorization of a registered nurse or physician assistant to make pronouncements of death.

7. As used in this section:

(a) "Medical facility" means:

(1) A facility for skilled nursing as defined in NRS 449.0039;

(2) A facility for hospice care as defined in NRS 449.0033;

(3) A hospital as defined in NRS 449.012;

(4) An agency to provide nursing in the home as defined in NRS 449.0015; or

(5) A facility for intermediate care as defined in NRS 449.0038.

(b) "Physician assistant" means a person who holds a license as a physician assistant pursuant to chapter 630 or 633 of NRS.

(c) "Program for hospice care" means a program for hospice care licensed pursuant to chapter 449 of NRS.

~~{(d) "Pronouncement of death" means a declaration of the time and date when the cessation of the cardiovascular and respiratory functions of a patient occurs as recorded in the patient's medical record by the attending provider of health care in accordance with the provisions of this chapter.}~~

Sec. 56. NRS 440.420 is hereby amended to read as follows:

440.420 1. In case of any death occurring without medical attendance, the funeral director shall ~~{notify the local health officer of such death and}~~ refer the case to the ~~{local health officer}~~ **coroner** for immediate investigation and certification.

2. Where there is no qualified physician in attendance, and in such cases only, the ~~{local}~~ health officer is authorized to make the certificate and return from the statements of relatives or other persons having adequate knowledge of the facts.

3. If the death was caused by unlawful or suspicious means, the ~~{local}~~ health officer shall then refer the case to the coroner for investigation and certification.

4. In counties which have adopted an ordinance authorizing a coroner's examination in cases of sudden infant death syndrome, the funeral director shall notify the ~~{local}~~ health officer whenever the cause or suspected cause of death is sudden infant death syndrome. The ~~{local}~~ health officer shall then refer the case to the coroner for investigation and certification.

5. The coroner or the coroner's deputy may certify the cause of death in any case which is referred to the coroner by the ~~{local}~~ health officer or pursuant to a local ordinance.

Sec. 57. NRS 440.430 is hereby amended to read as follows:

440.430 1. Any coroner whose duty it is to hold an inquest on the body of any deceased person, and to make the certificate of death required for a

burial permit, shall state in the coroner's certificate the name of the disease causing death, or, if from external causes:

(a) The means of death; and

(b) Whether ~~if (probably)~~ **the death was most probably** accidental, suicidal or homicidal.

2. ~~In either case, the~~ **The** coroner shall furnish such information as may be required by the Board in order to classify the death properly.

3. ***The coroner or his or her designee may make a pronouncement of death in any case which is referred to the coroner by the health officer. The Board shall prescribe regulations governing the records of and procedures for a coroner or his or her designee who makes a pronouncement of death.***

Sec. 58. NRS 440.450 is hereby amended to read as follows:

440.450 The funeral director or person acting as undertaker is responsible for obtaining and filing the certificate of death with the ~~health~~ health officer, or his or her deputy, in the registration district in which the death occurred, and for securing a burial or removal permit prior to any disposition of the body.

Sec. 59. NRS 440.490 is hereby amended to read as follows:

440.490 The funeral director or person acting as undertaker shall present the completed certificate of death to the ~~local registrar~~ **health authority** within 72 hours after the occurrence or discovery of the death. If a case is referred to the coroner, he or she shall present a completed certificate to the ~~local registrar~~ **health authority** upon disposition of the investigation.

Sec. 60. NRS 440.495 is hereby amended to read as follows:

440.495 Upon presentation of a completed certificate of death, the ~~county~~ health officer shall send a certified copy of the certificate of death or a certified list of any person who, at the time of death was 17 years of age or older, to the county clerk or registrar of voters of the county where the deceased person resided. Each certified list must contain the social security numbers of the persons whose names are included on the list.

Sec. 61. NRS 440.500 is hereby amended to read as follows:

440.500 1. Except as provided in subsections 2 and 3, if a certificate of death is properly executed and complete, the ~~health~~ health officer shall then issue a burial or removal permit to the funeral director. The permit must indicate the name of the cemetery, mausoleum, columbarium or other place of burial where the human remains will be interred, inurned or buried.

2. In case the death occurred from some disease that is held by the Board to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body may be granted by the ~~health~~ health officer except under such conditions as may be prescribed by the Board.

3. The Board may by regulation provide for the issuance of the burial transit permit prior to the filing of the completed death certificate if that requirement would result in undue hardship.

Sec. 62. NRS 440.510 is hereby amended to read as follows:

440.510 If the interment or other disposition of the body is to be made within the State, the wording of the burial permit may be limited to a statement by the ~~health~~ health officer and over his or her signature that a satisfactory certificate of death having been filed with him or her as required by law, permission is granted to inter, remove or otherwise dispose of the body of the deceased. The permit must include the name, age, sex, social security number and cause of death of the decedent, the name of the place where the human remains will be interred, inurned or buried, and any other details required on the form prescribed by the Board.

Sec. 63. NRS 440.540 is hereby amended to read as follows:

440.540 1. Except as provided in subsection 2, the body of any person whose death occurs in this state shall not be interred, deposited in a vault or tomb, cremated or otherwise disposed of, removed from or into any registration district, or be held temporarily pending a further disposition more than 72 hours after death, until a permit for burial or removal or other disposition thereof has been properly issued by the ~~health~~ health officer of the registration district in which the death occurred.

2. If the person who is to certify the cause of death consents, a body may be moved from the place of death into another registration district to be prepared for final disposition.

Sec. 64. NRS 440.550 is hereby amended to read as follows:

440.550 When a dead body is transported by a common carrier into a local health district in Nevada for burial, the transit and removal permit, issued in accordance with the law and health regulations of the place where the death occurred, ~~shall~~ **may** be accepted by the ~~health~~ health ~~officer~~ **authority** of the district into which the body has been transported for burial or other disposition as a basis upon which ~~he or she shall~~ **the health officer shall** issue a local burial permit in the same way as if the death occurred in his or her district. The ~~health~~ health officer shall plainly enter upon the face of the burial permit the fact that it was a body shipped in for interment, and give the actual place of death.

Sec. 65. NRS 440.570 is hereby amended to read as follows:

440.570 A burial permit shall not be required from the ~~health~~ health officer of the district in which interment is made when a body is removed from one district in Nevada to another in this state for the purpose of burial or other disposition, either by common carrier, hearse or other conveyance.

Sec. 66. NRS 440.600 is hereby amended to read as follows:

440.600 On or before January 10 and July 10 of each year the county ~~clerks of the several counties~~ **clerk of each county** shall transmit to the State Registrar the number of marriage licenses issued by ~~them~~ **the county clerk** during the preceding 6 months.

Sec. 67. NRS 440.620 is hereby amended to read as follows:

440.620 The acceptance for filing of any certificate by the State Registrar more than ~~4 years~~ **1 year** after the time prescribed for its filing

shall be subject to regulations in which the Board shall prescribe in detail the proofs to be submitted by any applicant for delayed filing of a certificate.

Sec. 68. NRS 440.630 is hereby amended to read as follows:

440.630 1. Certificates *of birth* accepted subsequent to ~~{4 years}~~ *1 year* after the time prescribed for filing ~~{and certificates which have been altered after being filed}~~ with the State Registrar shall contain the date of the delayed filing ~~{and the date of the alteration}~~ and be marked distinctly ~~{"Delayed" or "Altered."}~~ *"Delayed."*

2. After a certificate *of birth* has been accepted for delayed filing , ~~{or after the Board has permitted an alteration of a certificate on file,}~~ the alteration shall be noted by the State Registrar on the ~~{reverse side of the}~~ certificate, together with a summary statement of the evidence submitted in support of the alteration.

3. *An application for the registration of a delayed certificate of birth may be approved by the State Registrar if:*

- (a) The applicant has submitted an application prescribed by the Board;*
- (b) All documentation which is required in support of the delayed certificate has been received by the State Registrar; and*
- (c) The State Registrar has verified the validity and adequacy of the documentation.*

4. All the evidence affecting the ~~{alteration}~~ *registration* of a *delayed* certificate ~~{, after it has been filed with the State Registrar,}~~ shall be kept in a special permanent file.

5. *A delayed certificate of birth may not be registered for a deceased person.*

6. *The State Registrar shall dismiss an application for the registration of a delayed certificate if the documentation submitted by the applicant does not comply with the requirements prescribed by the Board or if the State Registrar has cause to question the validity or adequacy of the documentation submitted by the applicant.*

7. *If the State Registrar dismisses an application for the registration of a delayed certificate, the State Registrar shall inform the applicant of his or her right to seek a court order for the registration.*

Sec. 69. NRS 440.640 is hereby amended to read as follows:

440.640 The admissibility in evidence of a "delayed ~~{}~~," *"amended"* or "altered" certificate shall be subject to the discretion of the court, judicial or administrative body or official to whom any such certificate is offered as evidence.

Sec. 70. NRS 440.650 is hereby amended to read as follows:

440.650 1. ~~{Upon}~~ *Except as otherwise provided in NRS 440.327,* upon request, the State Registrar *or health authority having custody of a record* shall furnish ~~{any applicant}~~ a certified copy of the record *or part thereof* of any birth or death registered under the provisions of this chapter ~~{}~~ *to:*

- (a) The person who is the subject of the record;*

(b) The spouse, domestic partner, child, parent or legal guardian, or authorized representative of the person who is the subject of the record; and

(c) Any other person who demonstrates that the record is necessary to determine or protect a legal right or claim of that person or of the person who is the subject of the record.

2. The State Registrar *or health authority* shall not issue a certified copy of a certificate or parts thereof unless the State Registrar *or health authority* is satisfied that the applicant ~~{therefor has a direct and tangible interest in the matter recorded, subject, however, to review by the Board or a court of competent jurisdiction under the limitations of NRS 440.170.}~~ *meets the requirements of subsection 1 and any regulation adopted by the Board concerning the issuance of a certified copy of a record.*

3. *The Board shall prescribe by regulation uniform forms and procedures for obtaining a certified copy of a record registered pursuant to this chapter from the State Registrar or health authority having custody of a record in this State. The regulations must ensure that each certified copy is marked on its face with any designation required by this chapter.*

4. ~~{A certificate of death must not include the specific cause of death except that the specific cause of death may be included upon the request of:~~

~~— (a) The spouse, domestic partner, child, parent or other authorized representative of the person who is the subject of the record;~~

~~— (b) A person who demonstrates that the information is necessary to determine or protect a legal right or claim of that person or of the person who is the subject of the record;~~

~~— (c) A person who provides benefits to a survivor or beneficiary of the person who is the subject of the record;~~

~~— (d) A local, state or federal agency for research or administrative purposes approved by the State Registrar;~~

~~— (e) A person for research purposes approved by the State Registrar; or~~

~~— (f) A court of competent jurisdiction.~~

~~5.7~~ *The Board shall adopt regulations to ensure that certified copies issued pursuant to this chapter have security features which deter the document from being altered, counterfeited, duplicated or simulated without ready detection.*

~~{6.}~~ 5. *The release of a record pursuant to this section does not authorize the release of information contained in the record which is identified as information for medical and public health use only. Such information is not subject to subpoena or court order and may only be released if authorized by the State Registrar for statistical and research purposes.*

~~{7.}~~ 6. *The Board shall prescribe the documentation which must be submitted by a person requesting a certified copy pursuant to this section, and a record may not be released unless the applicant has submitted the required documentation.*

Sec. 71. NRS 440.690 is hereby amended to read as follows:

440.690 1. The State Registrar shall keep a true and correct account of all fees received under this chapter.

2. The money collected pursuant to subsection 2 of NRS 440.700 must be remitted by the State Registrar to the State Treasurer for credit to the Children's Trust Account created by NRS 432.131. The money collected pursuant to subsection 3 of NRS 440.700 must be remitted by the State Registrar to the State Treasurer for credit to the Review of Death of Children Account created by NRS 432B.409. Any money collected pursuant to subsection 5 of NRS 440.700 must be remitted by the State Registrar to the county treasurers of the various participating counties for credit to their accounts for the support of the offices of the county coroners created pursuant to NRS 259.025. Any other proceeds accruing to the State of Nevada under the provisions of this chapter must be forwarded to the State Treasurer for deposit in the State General Fund.

3. Upon the approval of the State Board of Examiners and pursuant to its regulations, the Health Division of the Department of Health and Human Services may maintain an account in a bank or credit union for the purpose of refunding overpayments of fees for vital ~~statistics.~~ **records.**

Sec. 72. NRS 440.700 is hereby amended to read as follows:

440.700 1. Except as otherwise provided in this section, the State Registrar shall charge and collect a fee in an amount established by the State Registrar by regulation:

- (a) For searching the files for one name, if no copy is made.
- (b) For verifying a vital record.
- (c) For establishing and filing a record of paternity, other than a hospital-based paternity, and providing a certified copy of the new record.
- (d) For a certified copy of a record of birth.
- (e) For a certified copy of a record of death originating in a county in which the board of county commissioners has not created an account for the support of the office of the county coroner pursuant to NRS 259.025.
- (f) For a certified copy of a record of death originating in a county in which the board of county commissioners has created an account for the support of the office of the county coroner pursuant to NRS 259.025.
- (g) For correcting a record on file with the State Registrar and providing a certified copy of the corrected record.
- (h) For replacing a record on file with the State Registrar and providing a certified copy of the new record.
- (i) For filing a delayed certificate of birth and providing a certified copy of the certificate.
- (j) For the services of a notary public, provided by the State Registrar.
- (k) For an index of records of marriage provided on microfiche to a person other than a county clerk or a county recorder of a county of this State.
- (l) For an index of records of divorce provided on microfiche to a person other than a county clerk or a county recorder of a county in this State.

(m) For compiling data files which require specific changes in computer programming.

2. The fee collected for furnishing a copy of a certificate of birth or death must include the sum of \$3 for credit to the Children's Trust Account created by NRS 432.131.

3. The fee collected for furnishing a copy of a certificate of death must include the sum of \$1 for credit to the Review of Death of Children Account created by NRS 432B.409.

4. The State Registrar shall not charge a fee for furnishing a certified copy of a record of birth to a homeless person who submits a signed affidavit on a form prescribed by the State Registrar stating that the person is homeless.

5. The fee collected for furnishing a copy of a certificate of death originating in a county in which the board of county commissioners has created an account for the support of the office of the county coroner pursuant to NRS 259.025 must include the sum of \$1 for credit to the account for the support of the office of the county coroner of the county in which the certificate originates.

6. ~~{Upon the request of any parent or guardian, the State Registrar shall supply, without the payment of a fee, a certificate limited to a statement as to the date of birth of any child as disclosed by the record of such birth when the certificate is necessary for admission to school or for securing employment.~~

~~—7.}~~ The United States Bureau of the Census may obtain, without expense to the State, transcripts or certified copies of births and deaths without payment of a fee.

Sec. 73. NRS 440.710 is hereby amended to read as follows:

440.710 1. In counties where deputy registrars are appointed, the board of county commissioners shall allow them a monthly salary or the sum of \$1 for each birth and death certificate executed by them.

2. No ~~{local}~~ health officer may require from funeral directors or persons acting as undertakers any fee for the issuance of burial or removal permits under this chapter.

Sec. 74. NRS 440.715 is hereby amended to read as follows:

440.715 1. If a board of county commissioners creates an account for the support of the county coroner pursuant to NRS 259.025, a ~~{district}~~ health ~~{officer}~~ **authority** who provides a certified copy of a record of death originating in that county shall charge and collect, in addition to any other fee therefor, the sum of \$1 for the support of the office of the county coroner created pursuant to NRS 244.163.

2. The ~~{district}~~ health ~~{officer}~~ **authority** shall remit any money collected pursuant to this section to the county treasurer of the county in which the certificate originates for credit to the account for the support of the office of the county coroner created pursuant to NRS 259.025.

Sec. 75. NRS 440.720 is hereby amended to read as follows:

440.720 Any physician who was in medical attendance upon any deceased person at the time of death who **willfully** neglects or refuses to make out and deliver to the funeral director, sexton or other person in charge of ~~the~~ interment, removal or other disposition of the body, upon request, the medical ~~certificate~~ **certification** of the cause of death ~~shall be punished by a fine of not more than \$250.~~ **is liable for a civil penalty of not more than \$10,000, to be recovered by the Attorney General or by the district attorney of the county in which the health officer is located.**

Sec. 76. NRS 440.730 is hereby amended to read as follows:

440.730 If any physician knowingly makes a false certification of the cause of death in any case, the physician ~~shall be punished by a fine of not more than \$250.~~ **is liable for a civil penalty of not more than \$10,000, to be recovered by the Attorney General or by the district attorney of the county in which the health officer is located.**

Sec. 77. NRS 440.740 is hereby amended to read as follows:

440.740 Any physician or midwife in attendance upon a case of confinement or any person charged with responsibility for reporting births who neglects or refuses to file a proper certificate of birth with the ~~health officer~~ **health authority** within the time required by law ~~shall be punished by a fine of not more than \$250.~~ **is liable for a civil penalty of not more than \$10,000, to be recovered by the Attorney General or by the district attorney of the county in which the health officer is located.**

Sec. 78. NRS 440.750 is hereby amended to read as follows:

440.750 **1.** Any funeral director, sexton or other person in charge of the disposal who interrs, removes or otherwise disposes of the body of any deceased person without having received a burial or removal permit ~~shall be punished by a fine of not more than \$250.~~ **is liable for a civil penalty of not more than \$10,000, to be recovered by the Attorney General or by the district attorney of the county in which the health officer is located.**

2. **Any person who willingly and knowingly transports and accepts for transportation, interment or other disposition a body of any deceased person without having received the appropriate permit is liable for a civil penalty of not more than \$10,000, to be recovered by the Attorney General or by the district attorney of the county in which the health officer is located.**

Sec. 79. NRS 440.760 is hereby amended to read as follows:

440.760 Any person who ~~shall willfully alter~~ **with the intent to deceive and without authority pursuant to this chapter, alters, creates, counterfeits, amends or defaces** any certificate of birth or death, or the copy of any certificate of birth or death, on file in the office of the ~~health officer~~ **health officer** or State Board of Health, ~~shall be~~ **is** guilty of a misdemeanor.

Sec. 80. NRS 440.765 is hereby amended to read as follows:

440.765 **1.** ~~It is unlawful for any~~ **A person** ~~to obtain or possess the birth certificate of another for the purpose of establishing a false identity for himself or herself or any other person.~~ **who obtains, possesses, uses, sells**

~~or furnishes, or attempts to obtain, possess, use, sell or furnish to another person any certificate of a vital record, or a copy thereof, that has been falsified, counterfeited, altered, amended or defaced, in whole or in part, or which relates to the birth or death of another person, is guilty of a misdemeanor.~~

~~—2.~~ A person who **obtains or** has in his or her possession the birth certificate of another person without lawful reason for being in possession of the birth certificate or who uses the birth certificate of another in the commission of a misdemeanor, is guilty of a misdemeanor.

~~3.~~ 2. A person who has in his or her possession two or more birth certificates of other persons without lawful reason for being in possession of the birth certificates or who uses the birth certificate of another person in the commission of a gross misdemeanor is guilty of a gross misdemeanor.

~~4.~~ 3. A person who uses the birth certificate of another person to aid in the commission of a felony is guilty of a category D felony and shall be punished as provided in NRS 193.130.

~~5.~~ 4. *A person who possesses any certificate, vital record or report, or a copy thereof, who knows that the certificate, record or report was stolen or otherwise obtained through unlawful means is guilty of a gross misdemeanor.*

~~6.~~ 5. *An employee of a health authority who willfully and knowingly registers or issues a certificate of birth or a certified copy of a certificate of birth, with the knowledge or intention that the certificate be used for purposes of deception is guilty of a gross misdemeanor.*

~~7.~~ 6. The offenses described in this section are separate from the primary offense if any, and the unlawful possession of a birth certificate is a separate offense from its unlawful use.

Sec. 81. NRS 440.770 is hereby amended to read as follows:

440.770 **1.** Any person who furnishes false information to a physician, funeral director, midwife or informant for the purpose of making incorrect certification of births or deaths ~~{shall be punished by a fine of not more than \$250.}~~ *is liable for a civil penalty of not more than \$10,000, to be recovered by the Attorney General or by the district attorney of the county in which the health officer is located.*

2. *Any person who willingly and knowingly furnishes false information in an application for registration, alteration or issuance of a certificate of a vital record or a certified copy of a vital record pursuant to this chapter with the intent that the false information be used in the registration, alteration, amendment or issuance of the record is liable for a civil penalty of not more than \$10,000, to be recovered by the Attorney General or by the district attorney of the county in which the health officer is located.*

Sec. 82. NRS 440.775 is hereby amended to read as follows:

440.775 **1.** Any person who violates or proposes to violate the provisions of ~~{NRS 440.773}~~ **this chapter** may be enjoined by any court of competent jurisdiction.

2. Actions for injunction under this section may be prosecuted:

(a) By the Attorney General , ~~for~~ any district attorney in this State ~~or~~ ***the attorney for a health authority;*** or

(b) Upon the complaint of the State Registrar . ~~for any county recorder or any county clerk that is authorized to file certificates of marriage.~~

Sec. 83. NRS 440.780 is hereby amended to read as follows:

440.780 ~~{Every}~~

1. Unless a greater penalty is provided in NRS 440.720 to 440.780, inclusive, a person ~~{violating}~~ who willingly and knowingly violates any ~~of the provisions}~~ provision of this chapter or ~~{refusing or neglecting}~~ refuses or neglects to obey any lawful order, rule or regulation of the Board ~~{shall be}~~ is guilty of a misdemeanor.

2. The State Registrar shall notify the appropriate professional licensing board if a person licensed pursuant to chapter 449 of NRS or title 54 of NRS violates any provision of this chapter or refuses or neglects to obey any lawful order, rule or regulation of the Board.

Sec. 83.5. NRS 126.061 is hereby amended to read as follows:

126.061 1. If, under the supervision of a licensed physician and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if the husband were the natural father of a child thereby conceived. The husband's consent must be in writing and signed by the husband and his wife. The physician shall certify their signatures and the date of the insemination, and file the husband's consent with the Health Division of the Department of Health and Human Services, where, except as otherwise provided in NRS 239.0115, it must be kept confidential and in a sealed file. The physician's failure to do so does not affect the father and child relationship. All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physician or elsewhere, are subject to inspection only upon an order of the court for good cause shown.

2. The donor of semen provided to a licensed physician for use in artificial insemination of a married woman other than the donor's wife is treated in law as if the donor were not the natural father of a child thereby conceived.

3. If, under the supervision of a licensed physician, a woman conceives a child through in vitro fertilization using a donated egg, the woman is treated in law as if she were the natural mother of the child.

4. The donor of the egg provided to a licensed physician for in vitro fertilization of another woman is treated in law as if the donor were not the natural mother of a child thereby conceived.

Sec. 84. NRS 432.038 is hereby amended to read as follows:

432.038 1. Subject to the approval and regulations of the State Board of Examiners, the Division may maintain an account in a bank or credit union for the purchase of birth certificates, death certificates and other ***vital*** records

~~{of vital statistics}~~ necessary to perform eligibility and other case-work functions of the Division in a county whose population is less than 100,000 pursuant to NRS 432.010 to 432.085, inclusive.

2. Subject to the approval of the board of county commissioners of the county, an agency which provides child welfare services in a county whose population is 100,000 or more may maintain an account in a bank or credit union for the purchase of birth certificates, death certificates and other *vital* records ~~{of vital statistics}~~ necessary to perform eligibility and other case-work functions of the agency pursuant to NRS 432.010 to 432.085, inclusive.

Sec. 85. NRS 440.070, 440.350, 440.580 and 440.670 are hereby repealed.

Sec. 86. This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2011, for all other purposes.

TEXT OF REPEALED SECTIONS

440.070 "Stillbirth" defined. As used in this chapter, "stillbirth" means a birth after at least 20 weeks of gestation, in which the child shows no evidence of life after complete birth.

440.350 Form and contents of certificate of death or stillbirth. The certificate of death or of stillbirth that shall be used is the standard form approved by the United States Public Health Service.

440.580 Signature, endorsement and return of permit. Each sexton or person in charge of any burial ground shall endorse upon the permit the date of interment, over his or her signature, and shall return all permits so endorsed to the local health officer of his or her district within 10 days from the date of interment or within the time fixed by the local health officer or by the Board.

440.670 Abstracted birth certificate: Issuance; contents; form; use as evidence.

1. Upon request, the State Registrar shall supply to any applicant a certificate reciting the birth date, sex, race and birthplace of any person whose birth is registered under the provisions of this chapter. The certificate must show that the data therein contained is as disclosed by the record of the birth.

2. The Board may, by regulation, authorize county health officers to issue such certificates. The Board shall determine the standard form for the abstracted certificates.

3. Every such certificate is prima facie evidence in all courts and places of the facts therein stated.

Senator Copening moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 7:42 p.m.

SENATE IN SESSION

At 7:46 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Copenig moved that the action whereby Amendment No. 85 to Senate Bill No. 52 was adopted be rescinded.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 52.

Bill read second time.

The following amendment was proposed by Senator Copenig:

Amendment No. 546.

"SUMMARY—Revises provisions relating to vital statistics. (BDR 40-446)"

"AN ACT relating to vital statistics; revising provisions governing vital statistics and the maintenance of vital records; creating the Office of Vital Statistics within the Health Division of the Department of Health and Human Services; making various changes concerning the use and release of certain information relating to vital records; revising the authority of persons authorized to register certificates of vital records; revising the duties and authority of the State Registrar of Vital Statistics; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill revises provisions governing vital statistics and provides for the electronic registration, storage and administration of vital records in this State. **Section 8** of this bill creates the Office of Vital Statistics within the Health Division of the Department of Health and Human Services and provides that the Office is responsible for storing and maintaining vital records in this State. **Section 26** of this bill requires the Administrator of the Division, in his or her capacity as the State Registrar of Vital Statistics, to direct and supervise the Office and prescribes other administrative duties of the Administrator. **Section 27** of this bill requires the State Board of Health to provide for a statewide system for the registration of vital records and to adopt regulations relating to the system.

This bill also requires the Board to adopt forms for registration and issuance of certificates of vital records. **Section 10** of this bill requires the Board to prescribe by regulation certain security measures for certificates of birth which may be issued for persons who are deceased. **Section 11** of this bill provides for the creation of a form for certificates of foreign birth.

Sections 12, 13 and 68 of this bill require the State Registrar to provide for the registration of altered, amended and delayed certificates of certain vital records. ~~Section 28 of this bill requires the State Registrar to establish by regulation fees for blank certificates provided by the State Registrar to health authorities in this State.~~

Section 14 of this bill requires the State Registrar to take certain actions if he or she receives information that a vital record may be fraudulent or based on a misrepresentation of facts.

Section 41 of this bill requires the collection of certain supporting documents when a certificate of birth is registered and establishes provisions for entering the name of the domestic partner of the mother of a child on the child's birth certificate. **Sections 50 and 53** of this bill set forth the persons who are required to register a certificate of ~~birth resulting in stillbirth~~ **fetal death** and revise provisions for the medical certification of the facts concerning a ~~stillbirth~~ **fetal death**. **Section 52** of this bill sets forth the persons who are required to submit medical certifications for deceased persons. **Section 57** of this bill authorizes a coroner to make a pronouncement of death in certain cases referred to the coroner by the health officer of a county.

Sections 75-83 of this bill prescribe ~~the~~ civil ~~penalty of not more than \$10,000~~ **and criminal penalties** for certain unlawful acts relating to vital records and provide criminal penalties for other related unlawful acts.

Section 83.5 of this bill provides that if a woman conceives a child through in vitro fertilization using a donated egg, under the supervision of a physician, the woman who conceives the child, not the donor of the egg, is considered the mother of the child.

Section 85 of this bill repeals NRS **440.070**, 440.350, 440.580 and 440.670.

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

Section 1. Chapter 440 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 440.010 to 440.080, inclusive, and sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Evidence of life" ~~[includes, without limitation,]~~ means:*

- 1. Breathing, but does not include fleeting respiratory efforts or gasps;*
- 2. Beating of the heart, but does not include transient cardiac contractions;*
- 3. Pulsation of the umbilical cord; or*
- 4. Definitive movement of a voluntary muscle.*

Sec. 3.5. *"Fetal death" means the death of the product of human conception which occurs before the complete expulsion or extraction of the product from a pregnant woman as shown by the lack of any evidence of*

life, regardless of the duration of pregnancy. The term does not include an induced termination of pregnancy.

Sec. 4. "Health authority" means the district health officer of a health district created pursuant to chapter 439 of NRS, or the district health officer's designee, or, if none, the State Health Officer, or the State Health Officer's designee.

Sec. 5. "Health officer" means the:

1. District health officer of a health district created pursuant to chapter 439 of NRS, or the district health officer's designee; or

2. County health officer in a county in which a health district has not been created, or the county health officer's designee,

↪ or, if none, the State Health Officer, or the State Health Officer's designee.

Sec. 6. "Pronouncement of death" means a declaration of the time and date when the cessation of the cardiovascular and respiratory functions of a patient occurs that is recorded in the patient's medical record or other record in accordance with the provisions of this chapter and the regulations adopted pursuant thereto.

Sec. 7. "Vital statistics" means statistical and other data derived from vital records and related reports.

Sec. 8. 1. There is hereby created within the Health Division of the Department of Health and Human Services the Office of Vital Statistics.

2. The Office of Vital Statistics shall store and maintain the vital records of this State and carry out such other duties as required by the State Registrar and the Board.

Sec. 9. 1. Except as otherwise provided in this section and NRS 440.170, 440.175 and 440.650, a health authority may not release or permit the inspection of a vital record or any certificate, report or data relating to a vital record.

2. In accordance with the regulations adopted by the Board, the State Registrar shall ensure the security and confidentiality of vital records maintained by the Office of Vital Statistics.

3. Information relating to vital records may be released:

(a) Pursuant to requests for information for research purposes if the State Registrar or health authority executes an agreement to protect the confidentiality of the information provided.

(b) In a format which does not disclose the identity of any person who is the subject of a vital record.

(c) If the vital record is a certificate of birth, 125 years after the date of the birth.

(d) If the vital record is a certificate of death, 50 years after the date of the death.

(e) To the agency of the Federal Government that is responsible for maintaining vital statistics for the United States if the State Registrar or

health authority executes an agreement to protect the confidentiality of the information.

(f) To an agency of another state which is responsible for maintaining vital statistics for that state if the State Registrar or health authority executes an agreement to protect the confidentiality of the information.

4. The decision of a health authority may be appealed to the State Registrar, and a decision of the State Registrar is final as to all requests for disclosure of information pursuant to this section.

Sec. 10. The Board shall prescribe by regulation the form for certificates of birth issued for persons who are deceased. The regulations must require that such a certificate of birth clearly identify that the person is deceased and ensure that the certificate of birth is not usable for fraudulent purposes. The State Registrar may coordinate vital records of births and deaths to carry out the regulations adopted pursuant to this section and may require such a certificate to be marked "Deceased."

Sec. 11. The Board shall prescribe by regulation the form for certificates of foreign birth. The regulations must require such a certificate to be marked "Certificate of Foreign Birth," to indicate the actual place of birth and to state that the certificate is not proof of United States citizenship for ~~an adopted~~ a child ~~+~~ who was adopted in a country other than the United States or for a person whose birth certificate or other evidence of birth is written in a language other than English.

Sec. 12. 1. A person who determines that an error exists in a certificate of birth or death may apply to the State Registrar to alter the vital record to correct the error.

2. A certificate of birth or death which has been altered after being filed with the State Registrar must:

- (a) Contain the date of the alteration;*
- (b) Be marked distinctly "Altered"; and*
- (c) Include a summary statement of the evidence submitted in support of the alteration.*

3. An application for the registration of an altered certificate may be approved by the State Registrar if:

- (a) The applicant has submitted an application prescribed by the Board;*
- (b) All documentation which is required in support of the altered certificate has been received by the State Registrar; and*
- (c) The State Registrar has verified the validity and adequacy of the documentation.*

4. The evidence affecting the alteration of a certificate, after it has been filed with the State Registrar, must be kept in a special permanent file.

5. The State Registrar shall dismiss an application for the registration of an altered certificate if the documentation submitted by the applicant does not comply with the requirements prescribed by the Board or if the State Registrar has cause to question the validity or adequacy of the documentation submitted by the applicant.

6. *If the State Registrar dismisses an application for the registration of an altered certificate, the State Registrar shall inform the applicant of his or her right to seek a court order for the registration.*

Sec. 13. 1. *A person who determines that a certificate of birth or death is inaccurate because of a change in fact after the registration of the vital record may apply to the State Registrar for an amendment to the vital record.*

2. *A certificate of birth or death which has been amended after being filed with the State Registrar must:*

- (a) Contain the date of the amendment;*
- (b) Be marked distinctly "Amended"; and*
- (c) Include a summary statement of the evidence submitted in support of the amendment.*

3. *An application for the registration of an amended certificate:*

(a) Must be approved by the State Registrar if the applicant submits to the State Registrar a certified copy of an order of a court of competent jurisdiction relating to the underlying facts of the change, including, without limitation, an order indicating that the sex of the person who is the subject of the vital record has been changed by surgical procedure or the name of the person has changed.

(b) May be approved by the State Registrar if:

(1) The applicant has submitted an application prescribed by the Board;

(2) All documentation which is required in support of the amended certificate has been received by the State Registrar; and

(3) The State Registrar has verified the validity and adequacy of the documentation.

4. *The evidence affecting the amendment of a certificate, after it has been filed with the State Registrar, must be kept in a special permanent file.*

5. *The State Registrar shall dismiss an application for the registration of an amended certificate if the documentation submitted by the applicant does not comply with the requirements prescribed by the Board or if the State Registrar has cause to question the validity or adequacy of the documentation submitted by the applicant.*

6. *If the State Registrar dismisses an application for the registration of an amended certificate, the State Registrar shall inform the applicant of his or her right to seek a court order for the registration.*

Sec. 14. 1. *If the State Registrar receives information or otherwise believes that a vital record may have been registered through fraud or misrepresentation, the State Registrar shall withhold issuance of a copy of the record pending an administrative hearing to determine the validity of the record.*

2. *The State Registrar shall notify the person who is the subject of the record or the authorized representative of the person of the administrative*

hearing and provide an opportunity for that person to attend and present testimony on the alleged fraud or misrepresentation.

3. If the State Registrar finds that the record is valid, the State Registrar may issue certified copies of the record.

4. If the State Registrar finds fraud or misrepresentation occurred and the record is not valid, the State Registrar shall remove the certificate from the records of vital statistics and retain in a separate place the certificate and the evidence of fraud or misrepresentation. The certificate must not be open to inspection or copying except upon order of a court of competent jurisdiction or by the State Registrar for administrative purposes.

Sec. 15. NRS 440.010 is hereby amended to read as follows:

440.010 ~~{As used in this chapter,}~~ "Board" means the State Board of Health.

Sec. 16. NRS 440.020 is hereby amended to read as follows:

440.020 ~~{As used in this chapter, "dead}~~ **"Dead** body" means a lifeless human body, or such severed parts of the human body or the bones thereof, from the state of which it reasonably may be concluded that death had recently occurred, and where the circumstances under which such dead body was found indicate that the death has not been recorded.

Sec. 17. NRS 440.025 is hereby amended to read as follows:

440.025 ~~{As used in this chapter "human}~~ **"Human** remains" or "remains" means the body of a deceased person, and includes the body in any state of decomposition and the cremated remains of a body.

Sec. 18. NRS 440.030 is hereby amended to read as follows:

440.030 ~~{As used in this chapter, "live}~~ **"Live** birth" means ~~{a birth in which the child}~~ ***the complete expulsion or extraction from a {mother} pregnant woman in which the product of human conception*** shows evidence of life ~~{after complete birth. A birth is complete when the child is entirely outside the mother,}~~ ***without regard to the duration of the pregnancy,*** even if the ***umbilical*** cord is uncut and the placenta still attached. ~~{The words "evidence of life" include heart action, breathing or coordinated movement of voluntary muscle.}~~

Sec. 19. NRS 440.040 is hereby amended to read as follows:

440.040 ~~{As used in this chapter, "person}~~ **"Person** in charge of interment" means any person who places, or causes to be placed, ~~{a deceased stillborn child,}~~ ~~{or}~~ ~~{dead body}~~ ~~{,}~~ ~~{or, after cremation, the ashes thereof,}~~ ***human remains*** in the earth, a grave, tomb, vault, urn or other receptacle, either in a cemetery or at any other place, or otherwise disposes thereof.

Sec. 20. NRS 440.050 is hereby amended to read as follows:

440.050 ~~{As used in this chapter, "physician" is limited to}~~ **"Physician"** means a person authorized under the laws of this State to practice ~~{as such}~~ ***medicine, including, without limitation, a person licensed to engage in the practice of medicine pursuant to chapter 630, 630A, 633, 634 or 635 of NRS.***

Sec. 21. NRS 440.060 is hereby amended to read as follows:

440.060 ~~{As used in this chapter,}~~ "State Registrar" means the State Registrar of Vital Statistics.

Sec. 22. ~~{NRS 440.070 is hereby amended to read as follows:~~

~~440.070 {As used in this chapter, "stillbirth"} "*Stillbirth*" means {a birth} *the complete expulsion or extraction from a mother after at least 20 weeks of gestation* ~~{,} in which the {child} product of human conception shows no evidence of life {after complete birth.}}~~ **(Deleted by amendment.)**~~

Sec. 23. NRS 440.080 is hereby amended to read as follows:

440.080 ~~{As used in this chapter, "vital statistics"} "*Vital records*"~~ means records of birth, legitimation of birth, death, fetal death, marriage, annulment of marriage, divorce and data incidental thereto.

Sec. 24. NRS 440.090 is hereby amended to read as follows:

440.090 All certificates, ~~{either of}~~ ***including, without limitation, certificates of birth, death or {birth resulting in stillbirth,} fetal death,*** shall be ~~{written}~~ :

1. ***Written legibly, in unfading black ink {, or typewritten,} ;***
2. ***Typewritten; or***
3. ***Produced electronically in accordance with the regulations adopted by the Board pursuant to this chapter,***

➔ and no certificate shall be held to be complete and correct that does not supply all of the items of information called for, or satisfactorily account for their omission.

Sec. 25. NRS 440.100 is hereby amended to read as follows:

440.100 All physicians, registered nurses, midwives, informants or funeral directors, and all other persons having knowledge of the facts, shall furnish such information as they may possess regarding any birth or death upon demand of the State Registrar, in person, by mail, or through the ~~{health officer.}~~ ***health authority.***

Sec. 26. NRS 440.110 is hereby amended to read as follows:

440.110 ***1. The Administrator of the Health Division of the Department of Health and Human Services is the State Registrar of Vital Statistics {,} and is the custodian of records stored and maintained by the Office of Vital Statistics.***

2. The State Registrar may designate a person to carry out the duties of the State Registrar pursuant to this chapter and the regulations adopted pursuant thereto.

3. The State Registrar shall:

(a) Direct the Office of Vital Statistics and supervise the activities of persons performing duties relating to the operation of the statewide system for the registration of vital records;

(b) Administer and enforce the provisions of this chapter and the regulations adopted pursuant thereto;

(c) Prepare and publish reports of vital statistics and such other reports as deemed necessary; and

(d) Provide copies of certificates of vital records and reports of vital statistics as necessary for the function and information of local, state and federal agencies, including, without limitation, the release of copies of records.

4. The State Registrar may designate offices throughout this State to assist in the efficient administration of the statewide system for the registration of vital records.

Sec. 27. NRS 440.120 is hereby amended to read as follows:

440.120 1. The Board shall provide ~~{an adequate}~~ *a statewide* system for the registration of ~~{births and deaths}~~ *vital records* by adopting ~~{and enforcing}~~ regulations prescribing the method and form of making such registration.

2. The regulations adopted by the Board pursuant to this section must, without limitation:

(a) Provide for the efficient administration of vital records and vital statistics in this State;

(b) Provide for the submission and maintenance of vital records, including, without limitation, electronic records;

(c) Prescribe uniform standards for the administration of vital records in this State, which must promote and maintain national standards relating to vital records and vital statistics;

(d) Require vital records to include, at a minimum, the information recommended by the agency of the Federal Government responsible for national vital statistics and the date on which the vital record was filed;

(e) Provide the manner in which vital records, forms, reports and other information relating to vital records may be filed, verified, registered and stored, including, without limitation, by electronic or photographic means; and

(f) Set forth standards for the reproduction and disposal of original vital records.

2. The State Registrar shall carry into effect the regulations and orders of the Board.

Sec. 28. ~~{NRS 440.130 is hereby amended to read as follows:~~

~~—440.130 1. The Board shall prescribe and the State Registrar shall prepare, print and supply to all {local} health {officers all blanks and} authorities the forms used in registering, recording and preserving the returns, or in otherwise carrying out the purposes of this chapter.~~

~~—2. The State Registrar shall {charge} establish by regulation a fee for each blank certificate of birth, death or birth resulting in stillbirth. {a fee of \$1.}~~ **(Deleted by amendment.)**

Sec. 29. NRS 440.140 is hereby amended to read as follows:

440.140 The ~~{Board}~~ *State Registrar* shall ~~{prepare}~~ :

1. Prepare and issue such detailed instructions as may be required to procure the uniform observance of this chapter and the maintenance of

~~{a perfect}~~ *the statewide* system ~~{of}~~ *for the* registration ~~{}~~ *of vital records*, and no forms or blanks other than those so prepared shall be used.

2. Conduct training programs to promote the uniform application of procedures adopted by the Board and the enforcement of this chapter.

Sec. 30. NRS 440.150 is hereby amended to read as follows:

440.150 1. The State Registrar shall carefully examine the certificates received from ~~{the local}~~ *a* health ~~{officers,}~~ *authority*, and if they are incomplete or unsatisfactory the State Registrar shall require such further information to be furnished as may be necessary to make the record complete and satisfactory.

2. The State Registrar may require an informant, next of kin or parent to provide documentation to support the identity or relationship of the person before registering, altering or amending a vital record.

3. The State Registrar shall identify the documentation which must be provided in support of a certificate of birth if further information is required pursuant to this section for a birth which occurred outside of a hospital or institution.

Sec. 31. NRS 440.160 is hereby amended to read as follows:

440.160 The State Registrar shall:

1. Arrange and permanently preserve the certificates in a systematic manner.

2. Prepare and maintain a comprehensive and continuous ~~{card}~~ index of all births and deaths registered. The ~~{cards}~~ *index* must show the name of the child or the deceased, the place and date of birth or death and the number of the certificate. When a certificate of birth indicates that a person has changed his or her name, the ~~{card}~~ index must contain ~~{a card}~~ *an entry* for each name.

3. Make a complete and accurate copy of each vital record, including, without limitation, using typewritten, photographic, electronic or other means of reproduction approved by the Board. Such a copy, when verified and approved by the State Registrar, may be deemed to be the original record, and the original record may be disposed of in accordance with regulations adopted pursuant to NRS 440.120.

Sec. 32. NRS 440.170 is hereby amended to read as follows:

440.170 1. All certificates in the custody of the State Registrar are ~~{open to inspection subject to the provisions of this chapter.}~~ *confidential and may only be released pursuant to NRS 440.175 and 440.650 and section 9 of this act.* It is unlawful for any employee of the State to disclose data contained in vital ~~{statistics,}~~ *records*, except as authorized by this chapter or by the Board.

2. Information in vital ~~{statistics}~~ *records* indicating that a birth occurred out of wedlock must not be disclosed except upon order of a court of competent jurisdiction.

3. The ~~{Board,}~~ *State Registrar*:

(a) Shall allow the use of data contained in vital ~~{statistics}~~ **records** to carry out the provisions of NRS 442.300 to 442.330, inclusive;

(b) Shall allow the use of certificates of death by a multidisciplinary team to review the death of a child established pursuant to NRS 432B.405 and 432B.406; and

(c) May allow the use of data contained in vital ~~{statistics}~~ **records** for other research purposes, but without identifying the persons to whom the records relate.

Sec. 33. NRS 440.190 is hereby amended to read as follows:

440.190 The ~~{county}~~ health ~~{officer}~~ **authority** shall act as ~~{a}~~ **the** collector of vital ~~{statistics}~~ **records** for his or her county.

Sec. 34. NRS 440.200 is hereby amended to read as follows:

440.200 The ~~{local}~~ health ~~{officer}~~ **authority** shall furnish blank forms ~~{of certificates}~~ **for vital records** to such persons as require them.

Sec. 35. NRS 440.210 is hereby amended to read as follows:

440.210 ~~{Each local}~~ **The** health ~~{officer}~~ **authority** shall carefully examine each certificate of birth or death when presented for record to see that it has been made out in accordance with the provisions of this chapter and the instructions of the ~~{Board}~~ **State Registrar**.

Sec. 36. NRS 440.220 is hereby amended to read as follows:

440.220 1. If any certificate of death is incomplete or unsatisfactory, the ~~{local}~~ health ~~{officer}~~ **authority** shall call attention to the defects in the return and **the health officer shall** withhold issuing the burial or removal permit until the defects are corrected.

2. If any certificate of birth is incomplete, the ~~{local}~~ health ~~{officer}~~ **authority** shall immediately notify the ~~{informant}~~ **person who certified the birth pursuant to NRS 440.280 or the person who attended the birth** and require him or her to supply the missing items if they can be obtained.

Sec. 37. NRS 440.230 is hereby amended to read as follows:

440.230 The ~~{local}~~ health ~~{officer}~~ **authority** shall number consecutively the certificates of birth and death, in two separate series, beginning with the number 1 for the first birth and the first death occurring in each calendar year, and sign his or her name as health ~~{officer}~~ **authority** in attest of the date of filing in his or her office.

Sec. 38. NRS 440.240 is hereby amended to read as follows:

440.240 The ~~{local}~~ health ~~{officer}~~ **authority** shall make a complete and accurate copy of each birth and death certificate registered by him or her in ~~{a record book supplied}~~ **the format prescribed** by the State Registrar. ~~{Record books}~~ **The copies** shall be preserved permanently in his or her office as the local record in such manner as directed by the Board.

Sec. 39. NRS 440.250 is hereby amended to read as follows:

440.250 ~~{1. Not later than the fifth day of each month, deputy county health officers shall file with the county health officer all original birth and death certificates executed by them.}~~

—2. Within 5 days after receipt of the original death certificates, the ~~county~~ health ~~officer~~ **authority** shall file with the public administrator a written list of the names and social security numbers of all deceased persons and the names of their ~~next of kin~~ **informants** as those names appear on the certificates.

Sec. 40. NRS 440.260 is hereby amended to read as follows:

440.260 On the 10th day of each month the ~~local~~ health ~~officer~~ **authority** shall transmit to the State Registrar all original certificates registered by him or her during the preceding month. If no births or deaths occurred in any month, the ~~local~~ health ~~officer~~ **authority** shall report that fact to the State Registrar, on the 10th day of the following month, ~~on a card provided~~ **in the format prescribed by the State Registrar** for that purpose.

Sec. 41. NRS 440.280 is hereby amended to read as follows:

440.280 1. If a birth occurs in a hospital or the mother and child are immediately transported to a hospital, the person in charge of the hospital or his or her designated representative shall obtain the necessary information, prepare a birth certificate, secure the signatures required by the certificate and file it within 10 days with the health ~~officer~~ **authority** of the registration district where the birth occurred. The physician in attendance shall provide the medical information required by the certificate and certify to the fact of birth within 72 hours after the birth. If the physician does not certify to the fact of birth within the required 72 hours, the person in charge of the hospital or the designated representative shall complete and sign the certification.

2. If a birth occurs outside a hospital and the mother and child are not immediately transported to a hospital, the birth certificate **and any supporting documentation** must be prepared and filed by one of the following persons in the following order of priority:

- (a) The physician in attendance at or immediately after the birth.
- (b) Any other person in attendance at or immediately after the birth.
- (c) The father, mother or, if the father is absent and the mother is incapacitated, the person in charge of the premises where the birth occurred.

3. If a birth occurs in a moving conveyance, the place of birth is the place where the child is removed from the conveyance.

4. ~~In cities, the certificate of birth must be filed sooner than 10 days after the birth if so required by municipal ordinance or regulation.~~

—5. If the mother was:

(a) Married at the time of birth, the name of her husband must be entered on the certificate as the father of the child unless:

(1) A court has issued an order establishing that a person other than the mother's husband is the father of the child; or

(2) The mother and a person other than the mother's husband have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283.

(b) Widowed at the time of birth but married at the time of conception, the name of her husband at the time of conception must be entered on the certificate as the father of the child unless:

(1) A court has issued an order establishing that a person other than the mother's husband at the time of conception is the father of the child; or

(2) The mother and a person other than the mother's husband at the time of conception have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283.

~~{6-}~~ (c) *Registered as a domestic partner pursuant to chapter 122A of NRS at the time of the birth, the name of her partner must be entered on the certificate as the parent of the child unless:*

(1) A court has issued an order establishing that a person other than the mother's partner is the parent of the child; or

(2) The mother and a person other than the mother's partner have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283.

(d) Registered as a domestic partner pursuant to chapter 122A of NRS at the time of conception and her domestic partner dies before the birth of the child, the name of her partner must be entered on the certificate as the parent of the child unless:

(1) A court has issued an order establishing that a person other than the mother's partner is the parent of the child; or

(2) The mother and a person other than the mother's partner have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283.

5. If the mother was unmarried at the time of birth, the name of the father **or other parent** may be entered on the original certificate of birth only if:

(a) The provisions of paragraph (b) , (c) **or** (d) of subsection ~~{5}~~ **4** are applicable;

(b) A court has issued an order establishing that the person is the ~~{father}~~ **parent** of the child; or

(c) The mother and father of the child have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283. If both the father and mother execute a declaration consenting to the use of the surname of the father as the surname of the child, the name of the father must be entered on the original certificate of birth and the surname of the father must be entered thereon as the surname of the child.

~~{7-}~~ 6. An order entered or a declaration executed pursuant to subsection ~~{6}~~ **5** must be submitted to the ~~{local}~~ health ~~{officer, the local health officer's authorized representative,}~~ **authority** or the attending physician or midwife before a proper certificate of birth is forwarded to the State Registrar. The order or declaration must then be delivered to the State Registrar for filing. The State Registrar's file of orders and declarations must be sealed and the contents of the file may be examined only upon order of a court of competent jurisdiction or at the request of the ~~{father or mother}~~

parent or the Division of Welfare and Supportive Services of the Department of Health and Human Services as necessary to carry out the provisions of 42 U.S.C. § 654a. The ~~local~~ health ~~officer~~ **authority** shall complete the original certificate of birth in accordance with subsection ~~6~~ 5 and other provisions of this chapter.

7. *A certificate of birth filed more than 10 days after the birth of the child, but not more than 1 year after the birth of the child, must be registered on the standard certificate of live birth. The Board may prescribe by regulation the documentation which must be provided in support of a certificate of birth pursuant to this subsection. Such a certificate must not be marked "Delayed" pursuant to NRS 440.630.*

8. As used in this section, "court" has the meaning ascribed to it in NRS 125B.004.

Sec. 42. NRS 440.290 is hereby amended to read as follows:

440.290 The form of the birth certificate to be used under this chapter shall include as a minimum the items required by the standard certificate of live birth ~~as recommended by the United States Public Health Service,~~ **prescribed by the Board**, but no certificate to be used under this chapter shall include any notation of legitimacy or illegitimacy. The entry of the name of the father of a child or of the surname of the father as the surname of the child on the certificate of birth pursuant to NRS 440.280 shall not be considered a notation of legitimacy or illegitimacy within the meaning of this section.

Sec. 43. NRS 440.300 is hereby amended to read as follows:

440.300 1. When any certificate of birth of a living child is presented without the statement of the given name, ~~the local health officer, the local registrar or~~ the State Registrar shall ~~make out and deliver~~ **provide** to the parents of the child a special blank **form approved by the Board** for the supplemental report of the given name of the child, which shall be filled out as directed and returned to the State Registrar as soon as the child shall have been named.

2. The Board shall prescribe by regulation the time within which a supplementary report furnishing information omitted on the original certificate may be returned for the purpose of completing the original certificate.

3. Certificates of birth completed by a supplementary report shall not be considered as "delayed [~~l~~]", "**amended**" or "altered."

Sec. 44. NRS 440.303 is hereby amended to read as follows:

440.303 1. A person whose birth certificate or other evidence of birth is written in a language other than English, or the parent or guardian of the person, may apply to the State Registrar for a birth certificate in the English language.

2. Application for a birth certificate pursuant to this section must be made in writing on a form supplied by the State Registrar and be accompanied by:

- (a) The document for which a replacement is sought.
- (b) A translation of the document.
- (c) An affidavit executed by the translator before a person who is authorized to administer oaths, attesting to the accuracy of the translation.
- (d) A certificate from the United States Citizenship and Immigration Services of the Department of Homeland Security which establishes that the person who is the subject of the document has entered the United States legally.
- (e) The fee required by *regulations adopted pursuant to* this chapter for the making and certification of the record of any birth by the State Registrar.

3. When the State Registrar receives an application and the documents required by this section, the State Registrar shall prepare a birth certificate and clearly mark it on its face: "ISSUED TO REPLACE A BIRTH RECORD FROM IN THE LANGUAGE."

Sec. 45. NRS 440.305 is hereby amended to read as follows:

440.305 Upon request of a person or his or her parent, guardian or legal representative, and after receipt of a certified copy of an order of the court changing the name of such person, whether such order was entered ~~prior or subsequent to~~ *before, on or after* July 1, 1960, the State Registrar shall indicate the change of name on the certificate of birth of such person. ***If the order of the court required the State Registrar to issue a new certificate of birth, the certificate of birth must not be marked "Altered" or "Amended."***

Sec. 46. NRS 440.310 is hereby amended to read as follows:

440.310 1. Whenever the State Registrar receives a certified report of adoption or amendment of adoption filed in accordance with the provisions of NRS 127.157 or the laws of another state or foreign country, or a certified copy of the adoption decree, concerning a person born in Nevada, the State Registrar shall prepare and file a supplementary certificate of birth in the new name of the adopted person which shows the adoptive parents as the parents and seal and file the report or decree and the original certificate of birth.

2. Whenever the State Registrar receives a certified report of adoption, amendment or annulment of an order or decree of adoption from a court concerning a person born in another state, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, or Canada, the report must be forwarded to the office responsible for vital ~~statistics~~ ***records*** in the person's place of birth.

3. Whenever the State Registrar receives a certified report of adoption or amendment of adoption filed in accordance with the provisions of NRS 127.157 concerning a person born in a foreign country other than Canada, the State Registrar shall, if the State Registrar receives evidence that:

- (a) The person being adopted is a citizen of the United States; and
- (b) The adoptive parents are residents of Nevada,

↪ prepare and file a supplementary certificate of birth as described in subsection 1 and seal and file the report.

4. Sealed documents may be opened only upon an order of the court issuing the adoption decree, expressly so permitting, pursuant to a petition setting forth the reasons therefor.

5. Except as otherwise provided in subsection 2, upon the receipt of a certified copy of a court order of annulment of adoption, the State Registrar shall seal and file the order and supplementary certificate of birth and, if the person was born in Nevada, restore the original certificate to its original place in the files.

Sec. 47. NRS 440.315 is hereby amended to read as follows:

440.315 Any person, or any parent or guardian, of a child with respect to whom a certificate of birth has been issued by this state indicating the illegitimacy of the person or child may apply to the State Registrar for a new certificate which does not contain any notation of illegitimacy, and upon such application the State Registrar shall issue such a certificate. ***If the State Registrar issues a new certificate of birth pursuant to this section, the certificate of birth must not be marked "Altered" or "Amended."***

Sec. 48. NRS 440.325 is hereby amended to read as follows:

440.325 1. In the case of the paternity of a child being established by the:

(a) Mother and father acknowledging paternity of a child by signing a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283; or

(b) Order of a district court,

↪ the State Registrar, upon the receipt of the declaration or court order, shall prepare a new certificate of birth in the name of the child as shown in the declaration or order with no reference to the fact of legitimation. ***If the declaration or court order required the State Registrar to issue a new certificate of birth, the certificate of birth must not be marked "Altered" or "Amended."***

2. The new certificate must be identical with the certificate registered for the birth of a child born in wedlock.

3. Except as otherwise provided in subsection 4, the evidence upon which the new certificate was made and the original certificate must be sealed and filed and may be opened only upon the order of a court of competent jurisdiction.

4. The State Registrar shall, upon the request of the Division of Welfare and Supportive Services of the Department of Health and Human Services, open a file that has been sealed pursuant to subsection 3 to allow the Division to compare the information contained in the declaration or order upon which the new certificate was made with the information maintained pursuant to 42 U.S.C. § 654a.

Sec. 49. NRS 440.330 is hereby amended to read as follows:

440.330 1. Whoever assumes the custody of a living child of unknown parentage shall immediately report, on a form to be approved by the Board, to the ~~local registrar~~ **health authority** of the registration district in which such custody is assumed, the following:

- (a) Date of finding or assumption of custody.
- (b) Place of finding or assumption of custody.
- (c) Sex.
- (d) Color or race.
- (e) Approximate age.
- (f) Name and address of the person or institution with whom the child has been placed for care, if any.
- (g) Name given to the child by the finder or custodian.

2. The place where the child was found or where custody has been assumed shall be known as the place of birth, and the date of birth shall be determined by approximation.

3. The foundling report shall constitute the certificate of birth for such foundling child, and the provisions of this chapter relating to certificates of birth shall apply in the same manner and with the same effect to such report.

4. If a foundling child shall later be identified and a regular certificate of birth be found or obtained, the report constituting the certificate of birth shall be sealed and filed and may be opened only upon the order of a court of competent jurisdiction.

Sec. 50. NRS 440.340 is hereby amended to read as follows:

440.340 1. ~~{Stillborn children or those dead at birth shall be registered as a stillbirth and a certificate of birth resulting in stillbirth shall be filed with the {local} {health} {officer} {authority} in the usual form and manner.}~~ **A report of fetal death must be prepared and filed for each fetal death of a fetus that weighs 350 grams or more. If the weight of a fetus is unknown, a report of fetal death must be prepared and filed if the fetal death occurred at 20 weeks or more of gestation, calculated from the first day of the last normal menstrual period of the pregnant woman to the date of delivery.**

2. ~~The {medical certificate of the cause of death shall be signed by the attending physician, if any.}~~ **report of a fetal death must be prepared and filed:**

(a) For a {birth} fetal death which occurred in a hospital or institution, within 48 hours after the {birth} delivery by the person in charge of the hospital or institution, or his or her designee;

(b) For a {birth} fetal death which occurred outside a hospital or institution, within 48 hours after the {birth} delivery by the physician in attendance at or immediately after the {birth} delivery; or

(c) If an investigation is required pursuant to {this chapter} NRS 440.420 or for a {birth} fetal death which occurred without medical attendance at or immediately after the {birth} delivery, within 5 days after the {birth} completion of the investigation by the medical examiner or coroner who investigates the cause of fetal death.

3. Midwives shall not sign certificates of ~~[birth resulting in stillbirth for stillborn children]~~ **fetal death**, ~~[but such cases,]~~ and ~~[stillbirths]~~ **fetal deaths** occurring without attendance of either physician or midwife, shall be treated as deaths without medical attention as provided for in this chapter.

4. *If a fetal death occurs in a moving conveyance and the fetus is removed from the conveyance in this State or if a fetus is found in this State and the place of fetal death is unknown, the fetal death must be reported in accordance with this section. The place where the fetus was first removed from the conveyance or was found shall be considered the place of fetal death for purposes of filing the report of fetal death.*

Sec. 51. NRS 440.360 is hereby amended to read as follows:

440.360 The personal and statistical particulars of the death ~~[or stillbirth]~~ certificate *or certificate of ~~[birth resulting in stillbirth]~~ **fetal death*** shall be authenticated by the name of the informant, who may be any competent person acquainted with the facts.

Sec. 52. NRS 440.380 is hereby amended to read as follows:

440.380 1. ~~[The]~~ *Except as otherwise provided in this section, within 48 hours after receiving a death certificate, the medical ~~[certificate of death]~~ certification* must be signed by the physician ~~[,]~~ *who was in charge of the patient's medical care relating to the illness or condition which resulted in death,* if any, ~~[ast in attendance on the deceased,]~~ or ~~[pursuant to regulations adopted by the Board,]~~ it may be signed by the ~~[attending]~~ physician's associate physician, the chief medical officer of the hospital or institution in which the death occurred, or the ~~[pathologist]~~ **physician** who performed an autopsy upon the ~~[deceased.]~~ **decedent, if such physician has access to the medical history of the decedent and the death is due to natural causes.**

2. *Except as otherwise provided in this section, if an inquiry into the cause of death is required, the medical examiner or coroner in the jurisdiction where the death occurred or the body was found shall determine the cause of death and shall complete and sign the medical certification ~~[required pursuant to subsection 1 within 48 hours after taking charge of the case.]~~ **within 5 days after the completion of the investigation by the medical examiner or coroner who investigates the cause of death.***

3. ~~[The Board shall prescribe by regulation the process for medical certification for cases in which the cause of death cannot be determined within 48 hours after receipt of a death certificate. The person responsible for completing the medical certification shall give notice of the reason for the delay to the funeral director and the health authority. The final disposition of the body of the decedent must not be made until authorized by the person responsible for completing the medical certification.]~~

~~—4.]~~ The person who signs the medical ~~[certificate of death]~~ **certification** shall specify:

- (a) The ~~[social security number of the deceased.]~~
- ~~—(b) The]~~ hour and day on which the death occurred.

~~{(e)}~~ **(b)** The cause of death, so as to show the cause of disease or sequence of causes resulting in death, giving first the primary cause of death or the name of the disease causing death, and the contributory or secondary cause, if any, and the duration of each.

~~{2.}~~ ~~{5.}~~ **4.** In deaths in hospitals or institutions, or of nonresidents, the physician shall furnish the information required under this section, and may state where, in the physician's opinion, the disease was contracted.

~~{6.}~~ **5.** *The person who signs the medical certification may use his or her signature or use an electronic process approved by the Board.*

~~{7.}~~ **6.** *If the result of an autopsy or other information is discovered which causes the person responsible for completing a medical certification to change his or her determination as to the cause of death, the person shall immediately file an affidavit of correction with the Office of Vital Statistics to alter the vital record.*

~~{8.}~~ **7.** *If the body of a decedent who is believed to have died in this State cannot be located, a death certificate may be prepared by the State Registrar only upon the order of a court of competent jurisdiction, which must include the findings of facts required to complete the death certificate. A death certificate issued pursuant to this section must be marked "Presumptive" and show on its face the date of death as determined by the court and the date of registration, and must identify the court that issued the order and the date of the order.*

Sec. 53. NRS 440.390 is hereby amended to read as follows:

440.390 **1.** The certificate ~~{medical certification}~~ of ~~{birth resulting in stillbirth}~~ fetal death must be presented ~~{by the funeral director or person acting as undertaker}~~ to the physician in attendance at the ~~{stillbirth}~~ delivery, for the ~~{certificate}~~ certification of the fact of ~~{stillbirth}~~ fetal death and the medical data pertaining to ~~{stillbirth}~~ fetal death as the physician can furnish them in his or her professional capacity.

2. *Except as otherwise provided in this section, within 48 hours after receiving a certificate of ~~{birth resulting in stillbirth}~~ fetal death, the medical certification must be signed by the attending physician, if any, or it may be signed by the attending physician's associate physician, the chief medical officer of the hospital or institution in which the ~~{stillbirth}~~ fetal death occurred, or the physician who performed an autopsy upon the decedent, if such physician has access to the medical history of the ~~{mother}~~ pregnant woman and {child} fetus and the death is due to natural causes.*

3. *Except as otherwise provided in this section, if an inquiry into the cause of ~~{stillbirth}~~ fetal death is required, the medical examiner or coroner in the jurisdiction where the ~~{stillbirth}~~ fetal death occurred or the body was found shall determine the cause of ~~{stillbirth}~~ fetal death and shall complete and sign the medical certification required pursuant to subsection 1 within 5 days after ~~{taking charge of the case}~~ the completion*

of the investigation by the medical examiner or coroner who investigates the cause of fetal death.

~~4. [The Board shall prescribe by regulation the process for medical certification for cases in which the cause of stillbirth cannot be determined within the period prescribed in subsection 2 or 3. The person responsible for completing the medical certification shall give notice of the reason for the delay to the funeral director and the health authority. The final disposition of the body of the decedent must not be made until authorized by the person responsible for completing the medical certification.]~~

~~—5.7~~ **The person who signs the medical certification may use his or her signature or use an electronic process approved by the Board.**

~~[6.7]~~ **5. If the result of an autopsy or other information is discovered which causes the person responsible for completing a medical certification to change his or her determination as to the cause of ~~stillbirth~~ fetal death, the person shall immediately file an affidavit of correction with the Office of Vital Statistics to amend the record.**

Sec. 54. NRS 440.410 is hereby amended to read as follows:

440.410 Causes of death, which may be the result of either disease or violence, shall be carefully defined ~~[;]~~ and if from violence, the means of injury shall be stated, and whether ~~[(probably)]~~ **the death was most probably** accidental, suicidal or homicidal.

Sec. 55. NRS 440.415 is hereby amended to read as follows:

440.415 1. A physician who anticipates the death of a patient because of an illness, infirmity or disease may authorize a specific registered nurse or physician assistant or the registered nurses or physician assistants employed by a medical facility or program for hospice care to make a pronouncement of death if they attend the death of the patient.

2. Such an authorization is valid for 120 days. Except as otherwise provided in subsection 3, the authorization must:

- (a) Be a written order entered on the chart of the patient;
- (b) State the name of the registered nurse or nurses or physician assistant or assistants authorized to make the pronouncement of death; and
- (c) Be signed and dated by the physician.

3. If the patient is in a medical facility or under the care of a program for hospice care, the physician may authorize the registered nurses or physician assistants employed by the facility or program to make pronouncements of death without specifying the name of each nurse or physician assistant, as applicable.

4. If a pronouncement of death is made by a registered nurse or physician assistant, the physician who authorized that action shall sign the medical ~~[certificate of death]~~ **certification** within 24 hours after being presented with the certificate.

5. If a patient in a medical facility is pronounced dead by a registered nurse or physician assistant employed by the facility, the registered nurse or physician assistant may release the body of the patient to a licensed funeral

director pending the completion of the medical ~~{certificate of death}~~ **certification** by the attending physician if the physician or the medical director or chief of the medical staff of the facility has authorized the release in writing.

6. The Board may adopt regulations concerning the authorization of a registered nurse or physician assistant to make pronouncements of death.

7. As used in this section:

(a) "Medical facility" means:

(1) A facility for skilled nursing as defined in NRS 449.0039;

(2) A facility for hospice care as defined in NRS 449.0033;

(3) A hospital as defined in NRS 449.012;

(4) An agency to provide nursing in the home as defined in NRS 449.0015; or

(5) A facility for intermediate care as defined in NRS 449.0038.

(b) "Physician assistant" means a person who holds a license as a physician assistant pursuant to chapter 630 or 633 of NRS.

(c) "Program for hospice care" means a program for hospice care licensed pursuant to chapter 449 of NRS.

~~{(d) "Pronouncement of death" means a declaration of the time and date when the cessation of the cardiovascular and respiratory functions of a patient occurs as recorded in the patient's medical record by the attending provider of health care in accordance with the provisions of this chapter.}~~

Sec. 56. NRS 440.420 is hereby amended to read as follows:

440.420 1. In case of any death occurring without medical attendance, the funeral director shall ~~{notify the local health officer of such death and}~~ refer the case to the ~~{local health officer}~~ **coroner** for immediate investigation and certification.

2. Where there is no qualified physician in attendance, and in such cases only, the ~~{local}~~ health officer is authorized to make the certificate and return from the statements of relatives or other persons having adequate knowledge of the facts.

3. If the death was caused by unlawful or suspicious means, the ~~{local}~~ health officer shall then refer the case to the coroner for investigation and certification.

4. In counties which have adopted an ordinance authorizing a coroner's examination in cases of sudden infant death syndrome, the funeral director shall notify the ~~{local}~~ health officer whenever the cause or suspected cause of death is sudden infant death syndrome. The ~~{local}~~ health officer shall then refer the case to the coroner for investigation and certification.

5. The coroner or the coroner's deputy may certify the cause of death in any case which is referred to the coroner by the ~~{local}~~ health officer or pursuant to a local ordinance.

Sec. 57. NRS 440.430 is hereby amended to read as follows:

440.430 1. Any coroner whose duty it is to hold an inquest on the body of any deceased person, and to make the certificate of death required for a

burial permit, shall state in the coroner's certificate the name of the disease causing death, or, if from external causes:

(a) The means of death; and

(b) Whether ~~if (probably)~~ **the death was most probably** accidental, suicidal or homicidal.

2. ~~In either case, the~~ **The** coroner shall furnish such information as may be required by the Board in order to classify the death properly.

3. ***The coroner or his or her designee may make a pronouncement of death in any case which is referred to the coroner by the health officer. The Board shall prescribe regulations governing the records of and procedures for a coroner or his or her designee who makes a pronouncement of death.***

Sec. 58. NRS 440.450 is hereby amended to read as follows:

440.450 The funeral director or person acting as undertaker is responsible for obtaining and filing the certificate of death with the ~~health~~ health officer, or his or her deputy, in the registration district in which the death occurred, and for securing a burial or removal permit prior to any disposition of the body.

Sec. 59. NRS 440.490 is hereby amended to read as follows:

440.490 The funeral director or person acting as undertaker shall present the completed certificate of death to the ~~local registrar~~ **health authority** within 72 hours after the occurrence or discovery of the death. If a case is referred to the coroner, he or she shall present a completed certificate to the ~~local registrar~~ **health authority** upon disposition of the investigation.

Sec. 60. NRS 440.495 is hereby amended to read as follows:

440.495 Upon presentation of a completed certificate of death, the ~~county~~ health officer shall send a certified copy of the certificate of death or a certified list of any person who, at the time of death was 17 years of age or older, to the county clerk or registrar of voters of the county where the deceased person resided. Each certified list must contain the social security numbers of the persons whose names are included on the list.

Sec. 61. NRS 440.500 is hereby amended to read as follows:

440.500 1. Except as provided in subsections 2 and 3, if a certificate of death is properly executed and complete, the ~~health~~ health officer shall then issue a burial or removal permit to the funeral director. The permit must indicate the name of the cemetery, mausoleum, columbarium or other place of burial where the human remains will be interred, inurned or buried.

2. In case the death occurred from some disease that is held by the Board to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body may be granted by the ~~health~~ health officer except under such conditions as may be prescribed by the Board.

3. The Board may by regulation provide for the issuance of the burial transit permit prior to the filing of the completed death certificate if that requirement would result in undue hardship.

Sec. 62. NRS 440.510 is hereby amended to read as follows:

440.510 If the interment or other disposition of the body is to be made within the State, the wording of the burial permit may be limited to a statement by the ~~health~~ health officer and over his or her signature that a satisfactory certificate of death having been filed with him or her as required by law, permission is granted to inter, remove or otherwise dispose of the body of the deceased. The permit must include the name, age, sex, social security number and cause of death of the decedent, the name of the place where the human remains will be interred, inurned or buried, and any other details required on the form prescribed by the Board.

Sec. 63. NRS 440.540 is hereby amended to read as follows:

440.540 1. Except as provided in subsection 2, the body of any person whose death occurs in this state shall not be interred, deposited in a vault or tomb, cremated or otherwise disposed of, removed from or into any registration district, or be held temporarily pending a further disposition more than 72 hours after death, until a permit for burial or removal or other disposition thereof has been properly issued by the ~~health~~ health officer of the registration district in which the death occurred.

2. If the person who is to certify the cause of death consents, a body may be moved from the place of death into another registration district to be prepared for final disposition.

Sec. 64. NRS 440.550 is hereby amended to read as follows:

440.550 When a dead body is transported by a common carrier into a local health district in Nevada for burial, the transit and removal permit, issued in accordance with the law and health regulations of the place where the death occurred, ~~shall~~ **may** be accepted by the ~~health~~ health ~~officer~~ **authority** of the district into which the body has been transported for burial or other disposition as a basis upon which ~~he or she shall~~ **the health officer shall** issue a local burial permit in the same way as if the death occurred in his or her district. The ~~health~~ health officer shall plainly enter upon the face of the burial permit the fact that it was a body shipped in for interment, and give the actual place of death.

Sec. 65. NRS 440.570 is hereby amended to read as follows:

440.570 A burial permit shall not be required from the ~~health~~ health officer of the district in which interment is made when a body is removed from one district in Nevada to another in this state for the purpose of burial or other disposition, either by common carrier, hearse or other conveyance.

Sec. 66. NRS 440.600 is hereby amended to read as follows:

440.600 On or before January 10 and July 10 of each year the county ~~clerks of the several counties~~ **clerk of each county** shall transmit to the State Registrar the number of marriage licenses issued by ~~them~~ **the county clerk** during the preceding 6 months.

Sec. 67. NRS 440.620 is hereby amended to read as follows:

440.620 The acceptance for filing of any certificate by the State Registrar more than ~~4 years~~ **1 year** after the time prescribed for its filing

shall be subject to regulations in which the Board shall prescribe in detail the proofs to be submitted by any applicant for delayed filing of a certificate.

Sec. 68. NRS 440.630 is hereby amended to read as follows:

440.630 1. Certificates *of birth* accepted subsequent to ~~{4 years}~~ *1 year* after the time prescribed for filing ~~{and certificates which have been altered after being filed}~~ with the State Registrar shall contain the date of the delayed filing ~~{and the date of the alteration}~~ and be marked distinctly ~~{"Delayed" or "Altered."}~~ *"Delayed."*

2. After a certificate *of birth* has been accepted for delayed filing , ~~{or after the Board has permitted an alteration of a certificate on file,}~~ the alteration shall be noted by the State Registrar on the ~~{reverse side of the}~~ certificate, together with a summary statement of the evidence submitted in support of the alteration.

3. *An application for the registration of a delayed certificate of birth may be approved by the State Registrar if:*

- (a) The applicant has submitted an application prescribed by the Board;*
- (b) All documentation which is required in support of the delayed certificate has been received by the State Registrar; and*
- (c) The State Registrar has verified the validity and adequacy of the documentation.*

4. All the evidence affecting the ~~{alteration}~~ *registration* of a *delayed* certificate ~~{, after it has been filed with the State Registrar,}~~ shall be kept in a special permanent file.

5. *A delayed certificate of birth may not be registered for a deceased person.*

6. *The State Registrar shall dismiss an application for the registration of a delayed certificate if the documentation submitted by the applicant does not comply with the requirements prescribed by the Board or if the State Registrar has cause to question the validity or adequacy of the documentation submitted by the applicant.*

7. *If the State Registrar dismisses an application for the registration of a delayed certificate, the State Registrar shall inform the applicant of his or her right to seek a court order for the registration.*

Sec. 69. NRS 440.640 is hereby amended to read as follows:

440.640 The admissibility in evidence of a "delayed ~~{ }~~," *"amended"* or "altered" certificate shall be subject to the discretion of the court, judicial or administrative body or official to whom any such certificate is offered as evidence.

Sec. 70. NRS 440.650 is hereby amended to read as follows:

440.650 1. ~~{Upon}~~ *Except as otherwise provided in NRS 440.327,* upon request, the State Registrar *or health authority having custody of a record* shall furnish ~~{any applicant}~~ a certified copy of the record *or part thereof* of any birth or death registered under the provisions of this chapter ~~{ }~~ to:

- (a) The person who is the subject of the record;*

(b) The spouse, domestic partner, child, parent or legal guardian, or authorized representative of the person who is the subject of the record; and

(c) Any other person who demonstrates that the record is necessary to determine or protect a legal right or claim of that person or of the person who is the subject of the record.

2. The State Registrar *or health authority* shall not issue a certified copy of a certificate or parts thereof unless the State Registrar *or health authority* is satisfied that the applicant ~~{therefor has a direct and tangible interest in the matter recorded, subject, however, to review by the Board or a court of competent jurisdiction under the limitations of NRS 440.170.}~~ *meets the requirements of subsection 1 and any regulation adopted by the Board concerning the issuance of a certified copy of a record.*

3. *The Board shall prescribe by regulation uniform forms and procedures for obtaining a certified copy of a record registered pursuant to this chapter from the State Registrar or health authority having custody of a record in this State. The regulations must ensure that each certified copy is marked on its face with any designation required by this chapter.*

4. ~~{A certificate of death must not include the specific cause of death except that the specific cause of death may be included upon the request of:~~

~~— (a) The spouse, domestic partner, child, parent or other authorized representative of the person who is the subject of the record;~~

~~— (b) A person who demonstrates that the information is necessary to determine or protect a legal right or claim of that person or of the person who is the subject of the record;~~

~~— (c) A person who provides benefits to a survivor or beneficiary of the person who is the subject of the record;~~

~~— (d) A local, state or federal agency for research or administrative purposes approved by the State Registrar;~~

~~— (e) A person for research purposes approved by the State Registrar; or~~

~~— (f) A court of competent jurisdiction.~~

~~5.7~~ *The Board shall adopt regulations to ensure that certified copies issued pursuant to this chapter have security features which deter the document from being altered, counterfeited, duplicated or simulated without ready detection.*

~~{6.}~~ 5. *The release of a record pursuant to this section does not authorize the release of information contained in the record which is identified as information for medical and public health use only. Such information is not subject to subpoena or court order and may only be released if authorized by the State Registrar for statistical and research purposes.*

~~{7.}~~ 6. *The Board shall prescribe the documentation which must be submitted by a person requesting a certified copy pursuant to this section, and a record may not be released unless the applicant has submitted the required documentation.*

Sec. 71. NRS 440.690 is hereby amended to read as follows:

440.690 1. The State Registrar shall keep a true and correct account of all fees received under this chapter.

2. The money collected pursuant to subsection 2 of NRS 440.700 must be remitted by the State Registrar to the State Treasurer for credit to the Children's Trust Account created by NRS 432.131. The money collected pursuant to subsection 3 of NRS 440.700 must be remitted by the State Registrar to the State Treasurer for credit to the Review of Death of Children Account created by NRS 432B.409. Any money collected pursuant to subsection 5 of NRS 440.700 must be remitted by the State Registrar to the county treasurers of the various participating counties for credit to their accounts for the support of the offices of the county coroners created pursuant to NRS 259.025. Any other proceeds accruing to the State of Nevada under the provisions of this chapter must be forwarded to the State Treasurer for deposit in the State General Fund.

3. Upon the approval of the State Board of Examiners and pursuant to its regulations, the Health Division of the Department of Health and Human Services may maintain an account in a bank or credit union for the purpose of refunding overpayments of fees for vital ~~statistics.~~ **records.**

Sec. 72. NRS 440.700 is hereby amended to read as follows:

440.700 1. Except as otherwise provided in this section, the State Registrar shall charge and collect a fee in an amount established by the State Registrar by regulation:

- (a) For searching the files for one name, if no copy is made.
- (b) For verifying a vital record.
- (c) For establishing and filing a record of paternity, other than a hospital-based paternity, and providing a certified copy of the new record.
- (d) For a certified copy of a record of birth.
- (e) For a certified copy of a record of death originating in a county in which the board of county commissioners has not created an account for the support of the office of the county coroner pursuant to NRS 259.025.
- (f) For a certified copy of a record of death originating in a county in which the board of county commissioners has created an account for the support of the office of the county coroner pursuant to NRS 259.025.
- (g) For correcting a record on file with the State Registrar and providing a certified copy of the corrected record.
- (h) For replacing a record on file with the State Registrar and providing a certified copy of the new record.
- (i) For filing a delayed certificate of birth and providing a certified copy of the certificate.
- (j) For the services of a notary public, provided by the State Registrar.
- (k) For an index of records of marriage provided on microfiche to a person other than a county clerk or a county recorder of a county of this State.
- (l) For an index of records of divorce provided on microfiche to a person other than a county clerk or a county recorder of a county in this State.

(m) For compiling data files which require specific changes in computer programming.

2. The fee collected for furnishing a copy of a certificate of birth or death must include the sum of \$3 for credit to the Children's Trust Account created by NRS 432.131.

3. The fee collected for furnishing a copy of a certificate of death must include the sum of \$1 for credit to the Review of Death of Children Account created by NRS 432B.409.

4. The State Registrar shall not charge a fee for furnishing a certified copy of a record of birth to a homeless person who submits a signed affidavit on a form prescribed by the State Registrar stating that the person is homeless.

5. The fee collected for furnishing a copy of a certificate of death originating in a county in which the board of county commissioners has created an account for the support of the office of the county coroner pursuant to NRS 259.025 must include the sum of \$1 for credit to the account for the support of the office of the county coroner of the county in which the certificate originates.

6. ~~{Upon the request of any parent or guardian, the State Registrar shall supply, without the payment of a fee, a certificate limited to a statement as to the date of birth of any child as disclosed by the record of such birth when the certificate is necessary for admission to school or for securing employment.~~

~~—7.} The United States Bureau of the Census may obtain, without expense to the State, transcripts or certified copies of births and deaths without payment of a fee.~~

Sec. 73. NRS 440.710 is hereby amended to read as follows:

440.710 1. In counties where deputy registrars are appointed, the board of county commissioners shall allow them a monthly salary or the sum of \$1 for each birth and death certificate executed by them.

2. No ~~{local}~~ health officer may require from funeral directors or persons acting as undertakers any fee for the issuance of burial or removal permits under this chapter.

Sec. 74. NRS 440.715 is hereby amended to read as follows:

440.715 1. If a board of county commissioners creates an account for the support of the county coroner pursuant to NRS 259.025, a ~~{district}~~ health ~~{officer}~~ **authority** who provides a certified copy of a record of death originating in that county shall charge and collect, in addition to any other fee therefor, the sum of \$1 for the support of the office of the county coroner created pursuant to NRS 244.163.

2. The ~~{district}~~ health ~~{officer}~~ **authority** shall remit any money collected pursuant to this section to the county treasurer of the county in which the certificate originates for credit to the account for the support of the office of the county coroner created pursuant to NRS 259.025.

Sec. 75. NRS 440.720 is hereby amended to read as follows:

440.720 Any physician who was in medical attendance upon any deceased person at the time of death who ***willfully*** neglects or refuses to make out and deliver to the funeral director, sexton or other person in charge of ~~the~~ interment, removal or other disposition of the body, upon request, the medical ~~certificate~~ ***certification*** of the cause of death ~~shall be punished by a fine of not more than \$250.~~ ***is liable for a civil penalty of not more than \$10,000, to be recovered by the Attorney General or by the district attorney of the county in which the health officer is located.***

Sec. 76. NRS 440.730 is hereby amended to read as follows:

440.730 If any physician knowingly makes a false certification of the cause of death in any case, the physician ~~shall be punished by a fine of not more than \$250.~~ ***is liable for a civil penalty of not more than \$10,000, to be recovered by the Attorney General or by the district attorney of the county in which the health officer is located.***

Sec. 77. NRS 440.740 is hereby amended to read as follows:

440.740 Any physician or midwife in attendance upon a case of confinement or any person charged with responsibility for reporting births who neglects or refuses to file a proper certificate of birth with the ~~health officer~~ ***health authority*** within the time required by law ~~shall be punished by a fine of not more than \$250.~~ ***is liable for a civil penalty of not more than \$10,000, to be recovered by the Attorney General or by the district attorney of the county in which the health officer is located.***

Sec. 78. NRS 440.750 is hereby amended to read as follows:

440.750 ***1.*** Any funeral director, sexton or other person in charge of the disposal who interrs, removes or otherwise disposes of the body of any deceased person without having received a burial or removal permit ~~shall be punished by a fine of not more than \$250.~~ ***is liable for a civil penalty of not more than \$10,000, to be recovered by the Attorney General or by the district attorney of the county in which the health officer is located.***

2. Any person who willingly and knowingly transports and accepts for transportation, interment or other disposition a body of any deceased person without having received the appropriate permit is liable for a civil penalty of not more than \$10,000, to be recovered by the Attorney General or by the district attorney of the county in which the health officer is located.

Sec. 79. NRS 440.760 is hereby amended to read as follows:

440.760 Any person who ~~shall willfully alter~~ ***with the intent to deceive and without authority pursuant to this chapter, alters, creates, counterfeits, amends or defaces*** any certificate of birth or death, or the copy of any certificate of birth or death, on file in the office of the ~~health officer~~ ***health officer*** or State Board of Health, ~~shall be~~ ***is*** guilty of a misdemeanor.

Sec. 80. NRS 440.765 is hereby amended to read as follows:

440.765 ***1.*** ~~It is unlawful for any~~ ***no person*** ~~to obtain or possess the birth certificate of another for the purpose of establishing a false identity for himself or herself or any other person.~~ ***who obtains, possesses, uses, sells***

~~or furnishes, or attempts to obtain, possess, use, sell or furnish to another person any certificate of a vital record, or a copy thereof, that has been falsified, counterfeited, altered, amended or defaced, in whole or in part, or which relates to the birth or death of another person, is guilty of a misdemeanor.~~

~~—2.†~~ A person who **obtains or** has in his or her possession the birth certificate of another person without lawful reason for being in possession of the birth certificate or who uses the birth certificate of another in the commission of a misdemeanor, is guilty of a misdemeanor.

~~†3.†~~ 2. A person who has in his or her possession two or more birth certificates of other persons without lawful reason for being in possession of the birth certificates or who uses the birth certificate of another person in the commission of a gross misdemeanor is guilty of a gross misdemeanor.

~~†4.†~~ 3. A person who uses the birth certificate of another person to aid in the commission of a felony is guilty of a category D felony and shall be punished as provided in NRS 193.130.

~~†5.†~~ 4. *A person who possesses any certificate, vital record or report, or a copy thereof, who knows that the certificate, record or report was stolen or otherwise obtained through unlawful means is guilty of a gross misdemeanor.*

~~†6.†~~ 5. *An employee of a health authority who willfully and knowingly registers or issues a certificate of birth or a certified copy of a certificate of birth, with the knowledge or intention that the certificate be used for purposes of deception is guilty of a gross misdemeanor.*

~~†7.†~~ 6. The offenses described in this section are separate from the primary offense if any, and the unlawful possession of a birth certificate is a separate offense from its unlawful use.

Sec. 81. NRS 440.770 is hereby amended to read as follows:

440.770 1. Any person who furnishes false information to a physician, funeral director, midwife or informant for the purpose of making incorrect certification of births or deaths ~~{shall be punished by a fine of not more than \$250.}~~ **is liable for a civil penalty of not more than \$10,000, to be recovered by the Attorney General or by the district attorney of the county in which the health officer is located.**

2. *Any person who willingly and knowingly furnishes false information in an application for registration, alteration or issuance of a certificate of a vital record or a certified copy of a vital record pursuant to this chapter with the intent that the false information be used in the registration, alteration, amendment or issuance of the record is liable for a civil penalty of not more than \$10,000, to be recovered by the Attorney General or by the district attorney of the county in which the health officer is located.*

Sec. 82. NRS 440.775 is hereby amended to read as follows:

440.775 1. Any person who violates or proposes to violate the provisions of ~~{NRS 440.773}~~ **this chapter** may be enjoined by any court of competent jurisdiction.

2. Actions for injunction under this section may be prosecuted:

(a) By the Attorney General , ~~for~~ any district attorney in this State ~~or~~ ***the attorney for a health authority;*** or

(b) Upon the complaint of the State Registrar . ~~for any county recorder or any county clerk that is authorized to file certificates of marriage.~~

Sec. 83. NRS 440.780 is hereby amended to read as follows:

440.780 ~~Every~~

1. Unless a greater penalty is provided in NRS 440.720 to 440.780, inclusive, a person ~~violating~~ who willingly and knowingly violates any ~~of the provisions~~ provision of this chapter or ~~refusing or neglecting~~ refuses or neglects to obey any lawful order, rule or regulation of the Board ~~shall be~~ is guilty of a misdemeanor.

2. The State Registrar shall notify the appropriate professional licensing board if a person licensed pursuant to chapter 449 of NRS or title 54 of NRS violates any provision of this chapter or refuses or neglects to obey any lawful order, rule or regulation of the Board.

Sec. 83.5. NRS 126.061 is hereby amended to read as follows:

126.061 1. If, under the supervision of a licensed physician and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if the husband were the natural father of a child thereby conceived. The husband's consent must be in writing and signed by the husband and his wife. The physician shall certify their signatures and the date of the insemination, and file the husband's consent with the Health Division of the Department of Health and Human Services, where, except as otherwise provided in NRS 239.0115, it must be kept confidential and in a sealed file. The physician's failure to do so does not affect the father and child relationship. All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physician or elsewhere, are subject to inspection only upon an order of the court for good cause shown.

2. The donor of semen provided to a licensed physician for use in artificial insemination of a married woman other than the donor's wife is treated in law as if the donor were not the natural father of a child thereby conceived.

3. If, under the supervision of a licensed physician, a woman conceives a child through in vitro fertilization using a donated egg, the woman is treated in law as if she were the natural mother of the child.

4. The donor of the egg provided to a licensed physician for in vitro fertilization of another woman is treated in law as if the donor were not the natural mother of a child thereby conceived.

Sec. 84. NRS 432.038 is hereby amended to read as follows:

432.038 1. Subject to the approval and regulations of the State Board of Examiners, the Division may maintain an account in a bank or credit union for the purchase of birth certificates, death certificates and other ***vital*** records

~~{of vital statistics}~~ necessary to perform eligibility and other case-work functions of the Division in a county whose population is less than 100,000 pursuant to NRS 432.010 to 432.085, inclusive.

2. Subject to the approval of the board of county commissioners of the county, an agency which provides child welfare services in a county whose population is 100,000 or more may maintain an account in a bank or credit union for the purchase of birth certificates, death certificates and other *vital* records ~~{of vital statistics}~~ necessary to perform eligibility and other case-work functions of the agency pursuant to NRS 432.010 to 432.085, inclusive.

Sec. 85. NRS 440.070, 440.350, 440.580 and 440.670 are hereby repealed.

Sec. 86. This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2011, for all other purposes.

TEXT OF REPEALED SECTIONS

440.070 "Stillbirth" defined. As used in this chapter, "stillbirth" means a birth after at least 20 weeks of gestation, in which the child shows no evidence of life after complete birth.

440.350 Form and contents of certificate of death or stillbirth. The certificate of death or of stillbirth that shall be used is the standard form approved by the United States Public Health Service.

440.580 Signature, endorsement and return of permit. Each sexton or person in charge of any burial ground shall endorse upon the permit the date of interment, over his or her signature, and shall return all permits so endorsed to the local health officer of his or her district within 10 days from the date of interment or within the time fixed by the local health officer or by the Board.

440.670 Abstracted birth certificate: Issuance; contents; form; use as evidence.

1. Upon request, the State Registrar shall supply to any applicant a certificate reciting the birth date, sex, race and birthplace of any person whose birth is registered under the provisions of this chapter. The certificate must show that the data therein contained is as disclosed by the record of the birth.

2. The Board may, by regulation, authorize county health officers to issue such certificates. The Board shall determine the standard form for the abstracted certificates.

3. Every such certificate is prima facie evidence in all courts and places of the facts therein stated.

Senator Copening moved the adoption of the amendment.
Remarks by Senator Copening.

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

This amendment deletes provisions of the bill requiring the State Registrar to establish by regulations fees for blank certificates provided by the State Registrar to health authorities in this State.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 48.

Bill read third time.

Remarks by Senator Settlemeyer.

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

I will be supporting this bill today. There are some problems I have just noticed. I do not serve on the Committee on Transportation and some of the discussion stating that a piece of farm equipment or implement of husbandry can acquire a permit, does not address some of the concerns I have with the bill. I move farm machinery from ranch to ranch. I do it on a trailer because my community has grown and people are not happy when you drive through the community at 12 miles per hour. I bought the trailer with the idea I would be able to drive it through town. The Highway Patrol had suggested that I do this. Therefore, I did. This bill will now make that trailer illegal. I purchased this trailer at a farm supply business in Fallon. We will try to fix this bill on the other side because no one wants to stay around tonight for an amendment. I will support the bill with the hope of fixing it in the Assembly. The intent of the bill according to Mr. Richter from the Department of Public Safety is that we will try to create, through regulation, an annual permit for individuals to acquire that will be non-time specified because the best time to move equipment is about 2:00 a.m., not at rush hour. The concept saying you cannot do it during the daytime only does not work. I am trying to clarify the legislative intent according to the Department of Public Safety.

Roll call on Senate Bill No. 48:

YEAS—14.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Rhoads, Roberson—7.

Senate Bill No. 48 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 51.

Bill read third time.

Roll call on Senate Bill No. 51:

YEAS—21.

NAYS—None.

Senate Bill No. 51 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 73.

Bill read third time.

Roll call on Senate Bill No. 73:

YEAS—21.

NAYS—None.

Senate Bill No. 73 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 98.

Bill read third time.

Roll call on Senate Bill No. 98:

YEAS—21.

NAYS—None.

Senate Bill No. 98 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 133.

Bill read third time.

Roll call on Senate Bill No. 133:

YEAS—21.

NAYS—None.

Senate Bill No. 133 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 137.

Bill read third time.

Roll call on Senate Bill No. 137:

YEAS—21.

NAYS—None.

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

Bill ordered transmitted to the Assembly.

Senate Bill No. 151.

Bill read third time.

Roll call on Senate Bill No. 151:

YEAS—21.

NAYS—None.

Senate Bill No. 151 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 170.

Bill read third time.

Roll call on Senate Bill No. 170:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Senate Bill No. 170 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 214.

Bill read third time.

Remarks by Senators Schneider and Hardy.

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

SENATOR SCHNEIDER:

I have always been opposed to toll roads in Nevada. We have suffered from poor planning having run the State like a homeowners association. We have not planned for the future. We knew they were building a bridge by the dam near Boulder City. We knew it was coming, but we did not adjust our gas tax to prepare for that. Depending who you listen to, we are \$6 billion to \$9 billion in the hole on our highway funds. We do not prepare for the future. Now we are going to let a private company build our roads and invest. They are going to make a profit. I do not have anything against private companies making a profit, but it costs our taxpayers money. We have not increased our gas tax in 20 years. If you add 5 cents to your gas tax, with inflation over the past 20 years, you are getting 1.5 cents. We do not keep up. We are fiscally irresponsible, not fiscally conservative. We have created a problem, but we are going to Wall Street and saying to them, "Build this highway for us. Make a profit. Use our land." It is irresponsible the way we have planned. I have been here during this time and am as guilty as others, but we have not planned for the future. Now we are stuck and are giving our State away to Wall Street.

SENATOR HARDY:

Thank you, Mr. President. I appreciate the hearty support from my colleague from Clark County District No. 11.

Roll call on Senate Bill No. 214:

YEAS—19.

NAYS—Leslie, Schneider—2.

Senate Bill No. 214 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 233.

Bill read third time.

Roll call on Senate Bill No. 233:

YEAS—21.

NAYS—None.

Senate Bill No. 233 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 269.

Bill read third time.

Roll call on Senate Bill No. 269:

YEAS—1.

NAYS—Breedon, Brower, Cegavske, Copenig, Denis, Gustavson, Halseth, Horsford, Kieckhefer, Kihuen, Lee, Leslie, Manendo, McGinness, Parks, Rhoads, Roberson, Schneider, Settelmeyer, Wiener—20.

Senate Bill No. 269 having failed to receive a constitutional majority, Mr. President declared it lost.

Senate Bill No. 286.

Bill read third time.

Roll call on Senate Bill No. 286:

YEAS—21.

NAYS—None.

Senate Bill No. 286 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 302.

Bill read third time.

Roll call on Senate Bill No. 302:

YEAS—21.

NAYS—None.

Senate Bill No. 302 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 321.

Bill read third time.

Roll call on Senate Bill No. 321:

YEAS—21.

NAYS—None.

Senate Bill No. 321 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 322.

Bill read third time.

Roll call on Senate Bill No. 322:

YEAS—21.

NAYS—None.

Senate Bill No. 322 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 323.

Bill read third time.

Roll call on Senate Bill No. 323:

YEAS—21.

NAYS—None.

Senate Bill No. 323 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 362.

Bill read third time.

Roll call on Senate Bill No. 362:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, Leslie, McGinness, Rhoads, Roberson, Settlemeyer—10.

Senate Bill No. 362 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 365.

Bill read third time.

Roll call on Senate Bill No. 365:

YEAS—21.

NAYS—None.

Senate Bill No. 365 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 390.

Bill read third time.

Roll call on Senate Bill No. 390:

YEAS—21.

NAYS—None.

Senate Bill No. 390 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 391.

Bill read third time.

Remarks by Senator Kieckhefer.

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

Thank you, Mr. President. It is clear there are some problems in our ethics and disclosure laws in this State. I would like to try to address those, but I am not going to support this bill.

If the members of this body would please look at page 21. The bill creates a cooling-off period for members of certain bodies. It also includes certain regular Executive Branch State employees. This will create a scenario where a person who was working for the Bureau of Health Care Quality Compliance doing investigations or licensing in nursing homes and was laid off due to a reduction in force from the State, or they left for any other reason, would not be able to work in a nursing home industry for a year. That does not make sense.

I do not think it is the intent of the bill to prevent people from working honestly. The intent is to try to prohibit people from taking advantage of their positions. This bill does not address that issue.

Roll call on Senate Bill No. 391:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Senate Bill No. 391 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 8:11 p.m.

SENATE IN SESSION

At 8:19 p.m.

President Krolicki presiding.

Quorum present.

Senate Bill No. 407.

Bill read third time.

Remarks by Senator Kieckhefer.

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

Thank you, Mr. President. I wanted to thank the Chair of Transportation for answering the questions I had on this bill. I will be supporting it.

Roll call on Senate Bill No. 407:

YEAS—21.

NAYS—None.

Senate Bill No. 407 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 436.

Bill read third time.

Roll call on Senate Bill No. 436:

YEAS—21.

NAYS—None.

Senate Bill No. 436 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 496.

Bill read third time.

Remarks by Senators Schneider, Settelmeyer and Horsford.

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

SENATOR SCHNEIDER:

Senate Bill No. 496 revises the Solar Energy Systems Incentive Program. The bill specifies that the legislative intent is to promote the installation of at least 250 megawatts of solar energy systems by 2020. Program incentives must be paid over a period of ten years and must be based on the performance of a solar energy system.

Senate Bill 496 establishes cumulative capacity limits for the Program as a whole and establishes minimum and maximum capacity limits for individual systems. The bill also establishes limits on the amount of incentives that may be paid under the Program.

Senate Bill No. 496 makes certain changes to the requirements for net metering systems.

There has been concern that this will interfere with other systems. There is no way that distributive generation (DG) with a capacity of 25 percent will interfere with the non-solar Renewable Energy Portfolio Standard (RPS). This is a good, solid system. We amended out the bio-diesel component an hour ago. I would appreciate your support. There are solar bills coming from the Assembly. This is our bill going to them. I am certain there will be some further negotiation.

SENATOR SETTELMAYER:

We had the Consumer Advocate testify on this bill. Current law allows for \$255 million over ten years. At the end of 2012, we will spend \$140 million leaving \$115 million for 2013-2014. That is about \$14 million per year. With this bill, according to the Consumer Advocate, if you take the 1 percent within the bill of the current funds that Nevada Power has, that will come to \$30 million per year, almost doubling the amount of incentives the customers must fund. I feel this is too strong of a hit to the ratepayers. I will oppose the bill.

SENATOR HORSFORD:

I rise in support of Senate Bill No. 496. I want to thank the Chair and the Committee on Commerce, Labor & Energy. We worked very hard in the 75th Legislative Session to try to position Nevada for the new green economy that is continuing to emerge in our State with the abundance of solar, wind and geothermal power. As my colleague from the Capital Senate District indicated, existing law does provide for a level of investment into the solar program, however the implementation of that program has resulted in a case where by certain projects that receive incentives are never developed. They are held and that does not benefit the consumer, it does not benefit those employees who work in this industry or businesses that provide these services.

This is one of many bills on renewable resources moving through this Legislative Session including some by the Governor's Office as well as the Assembly. As the Chair indicated, I imagine there will be ongoing discussions and negotiations about how this will all end up. I believe this bill provides for a number of important provisions, mainly the issue of having the incentives over a ten-year period. This allows for some sustainability of projects so that we do not issue all of the incentives within a year or two allowing for nothing in the third or fourth year for the consumers, the workers in this industry or the private sector. I have heard from a number of companies who have utilized these incentives and have put hundreds of people to work in the last two years since the last legislation adopted in 2009. They are now struggling to keep certain workers in place because the next four to six years of incentives are not available.

This bill will extend them over a ten-year period so that investments can be made over a longer term. I hope the body will support the measure as I do.

Roll call on Senate Bill No. 496:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Senate Bill No. 496 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 52.

Remarks by Senators Hardy and Roberson.

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

SENATOR HARDY:

As a physician, we have tried to figure out what life is, what is the evidence of life, and when is life. Here, with this bill, we are deciding on that tonight, with the evidence of life meaning; breathing, which does not include fleeting respirations or gasps; beating of the heart; pulsation of the umbilical cord; definitive movement of voluntary muscles.

In the delivery of a child, the physician or nurse will assign Appearance, Pulse, Grimace, Activity, Respiration (APGAR) scores based on breathing, heartbeat, skin color, involuntary motions. A baby is supposed to score a 10 to be a normal baby. The APGAR is conducted at one minute and five minutes. If the mother needs an emergency C-section because the heartbeat is gone, when the baby is taken out it is not uncommon for a baby to be born with an APGAR score of zero. By this definition, zero APGAR, that baby is not alive. Not uncommonly, those babies are resuscitated and grow up to be normal people. This definition is problematic.

In Section 3.5, "fetal death means the death of the product of human conception which occurs before the complete expulsion or extraction of the product from the pregnant woman is shown by the lack of any evidence of life regardless of the duration of pregnancy," that goes back to the first paragraph. You can say that the baby was dead. That is not the case because we can resuscitate those children and they live.

We presume too much when we say we define fetal death, and then in the next sentence the bill states this term does not include an induced termination of pregnancy. I will not be supporting this bill.

SENATOR ROBERSON:

Thank you, Mr. President. I whole heartily support the words of my colleague from Boulder City. I am extremely glad he said what he said.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bill No. 52 be taken from the General File and placed on the Secretary's desk.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Assembly Bill No. 144; Assembly Joint Resolution No. 9; Assembly Concurrent Resolution No. 8.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to the following students and chaperones from Hidden Valley Elementary School: Michael Acosta, Symantha Adkisson, Marcus Avalos, Rylie Black, Hailey Brooks, Chase Bump, Jared Carmack, Gabriel Castro Lopez, Dakota Christy, Jacob Clark, Kiyla Dick, Peyton Dillard, Cassandra Esquivel Ramirez, Argelia Feliz-Lopez, Graciela Gonzalez Valles, Kira Hallerbach, Trevor Izzarelli, Nick McVicker, Nicholas

Myers, Shovante Shaw-Thomas, Ana Swaim, Jessica Torres Ramirez, Lorenzo Vega Rivera, Joanna Velazquez-Pena, Levi Williams, Bryan Banuelos, Kenzie Barainca, Joseph Bolinger, Keiley Byrge, Jacqueline Del Real, Lily Domes, Cecelia Eben, Shailyn Fitzgerald, Rudy Garcia, Cielo Garcia, Lindsey Gardner, Joni Meredith, Denise Allen, Michael Holt, Colton Jacobson, Liliana Ocegueda, Chandon Pierre, Jessamyn Powers-Pidlypchal, Brayan Rivera, Sophie Schler, Merit Schmid, Jesse Steele, Cole Williams, James Yocum, Greg West, Brigid Butler, Nicholas Chapman, Alaina Cronick, Raymond Dube, Loren Elder, Adrian Esquivel, Monique Galindo, Alan Gallegos, Logan Gribas, Larsa Guzman, John Keeley, Abigayle Lokey, Julieta Martinez, Disha Patel, Osvin Ponce, Esteban Resa, Isaiah Rios, William Romero-Medina, Madelyn Ruiz, Joseph Sarratea, Lauren Van Dorn, Alec Wong and Brenden Wood.

Senator Horsford moved that the Senate adjourn until Wednesday, April 27, 2011, at 2 p.m.

Motion carried.

Senate adjourned at 8:36 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE EIGHTIETH DAY

CARSON CITY (Wednesday), April 27, 2011

Senate called to order at 2:12 p.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Bruce Henderson.

Lord, in just a moment we will all make a statement that continues to move me, even after all these years.

We will recite that we are "One Nation, Under God." May that statement be more than a tradition.

May it always be that as a Nation and as individuals, we acknowledge our complete and utter dependence on You.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 97, 166, 168, 174, 262, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JOHN J. LEE, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 111, 125, 261, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

VALERIE WIENER, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 26, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 1, 23, 63, 76, 78, 80, 117, 132, 199, 212, 242, 248, 277, 282, 299, 337, 350, 351, 360, 374, 376, 420, 474, 508; Assembly Joint Resolution No. 1.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, April 27, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 77, 81, 115, 122, 136, 161, 182, 204, 223, 240, 257, 265, 301, 304, 365, 373, 379, 382, 388, 412, 422, 448, 452, 471, 473, 549.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 31, Amendment No. 121, and respectfully requests your honorable body to concur in said amendment.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that for this legislative day, the Secretary of the Senate dispense with the reading of the histories of all bills and resolutions.

Motion carried.

Senator Wiener moved to have the Secretary of the Senate read through all Assembly Bills for introduction, noting the appropriate committee referrals as listed. Senator Wiener will move to refer all bills in one motion as indicated. If anyone has an objection to a referral, that can be noted and changed if necessary.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 1.

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

Motion carried.

Assembly Bill No. 6.

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

Motion carried.

Assembly Bill No. 13.

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

Motion carried.

Assembly Bill No. 23.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 29.

Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Assembly Bill No. 31.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 37.

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

Motion carried.

Assembly Bill No. 42.

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

Motion carried.

Assembly Bill No. 45.

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

Motion carried.

Assembly Bill No. 46.

Senator Wiener moved that the bill be referred to the Committee on Revenue.

Motion carried.

Assembly Bill No. 56.

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

Motion carried.

Assembly Bill No. 57.

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

Motion carried.

Assembly Bill No. 59.

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

Motion carried.

Assembly Bill No. 61.

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

Motion carried.

Assembly Bill No. 63.

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

Motion carried.

Assembly Bill No. 68.

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

Motion carried.

Assembly Bill No. 72.

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

Motion carried.

Assembly Bill No. 73.

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

Motion carried.

Assembly Bill No. 76.

Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 77.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 78.

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

Motion carried.

Assembly Bill No. 80.

Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 81.

Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 107.

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

Motion carried.

Assembly Bill No. 110.

Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Assembly Bill No. 115.

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

Motion carried.

Assembly Bill No. 117.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 122.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 130.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 132.

Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 135.

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

Motion carried.

Assembly Bill No. 136.

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

Motion carried.

Assembly Bill No. 141.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 145.

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

Motion carried.

Assembly Bill No. 146.

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

Motion carried.

Assembly Bill No. 149.

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

Motion carried.

Assembly Bill No. 154.

Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Assembly Bill No. 161.

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

Motion carried.

Assembly Bill No. 179.

Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 182.

Senator Wiener moved that the bill be referred to the Select Committee on Economic Growth and Employment.

Motion carried.

Assembly Bill No. 192.

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

Motion carried.

Assembly Bill No. 196.

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

Motion carried.

Assembly Bill No. 198.

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

Motion carried.

Assembly Bill No. 199.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 204.

Senator Wiener moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 212.

Senator Wiener moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 213.

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

Motion carried.

Assembly Bill No. 223.

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

Motion carried.

Assembly Bill No. 226.

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

Motion carried.

Assembly Bill No. 228.

Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 237.

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

Motion carried.

Assembly Bill No. 238.

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

Motion carried.

Assembly Bill No. 240.

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

Motion carried.

Assembly Bill No. 242.

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

Motion carried.

Assembly Bill No. 244.

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

Motion carried.

Assembly Bill No. 246.

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

Motion carried.

Assembly Bill No. 248.

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

Motion carried.

Assembly Bill No. 249.

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

Motion carried.

Assembly Bill No. 253.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 254.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 257.

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

Motion carried.

Assembly Bill No. 260.

Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 265.

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

Motion carried.

Assembly Bill No. 273.

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

Motion carried.

Assembly Bill No. 276.

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

Motion carried.

Assembly Bill No. 277.

Senator Wiener moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 282.

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

Motion carried.

Assembly Bill No. 283.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 284.

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

Motion carried.

Assembly Bill No. 289.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 290.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 291.

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

Motion carried.

Assembly Bill No. 294.

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

Motion carried.

Assembly Bill No. 299.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 301.

Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 304.

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

Motion carried.

Assembly Bill No. 308.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 317.

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

Motion carried.

Assembly Bill No. 321.

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

Motion carried.

Assembly Bill No. 328.

Senator Wiener moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 337.

Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 346.

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

Motion carried.

Assembly Bill No. 350.

Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Assembly Bill No. 351.

Senator Wiener moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 352.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 360.

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

Motion carried.

Assembly Bill No. 362.

Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Assembly Bill No. 365.

Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 368.

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

Motion carried.

Assembly Bill No. 373.

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

Motion carried.

Assembly Bill No. 374.

Senator Wiener moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 376.

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

Motion carried.

Assembly Bill No. 379.

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

Motion carried.

Assembly Bill No. 382.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 384.

Senator Wiener moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 388.

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

Motion carried.

Assembly Bill No. 389.

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

Motion carried.

Assembly Bill No. 396.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 400.

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

Motion carried.

Assembly Bill No. 408.

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

Motion carried.

Assembly Bill No. 410.

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

Motion carried.

Assembly Bill No. 412.

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

Motion carried.

Assembly Bill No. 413.

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

Motion carried.

Assembly Bill No. 420.

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

Motion carried.

Assembly Bill No. 422.

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

Motion carried.

Assembly Bill No. 433.

Senator Wiener moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 441.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 448.

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

Motion carried.

Assembly Bill No. 452.

Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 454.

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

Motion carried.

Assembly Bill No. 463.

Senator Wiener moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 471.

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

Motion carried.

Assembly Bill No. 472.

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

Motion carried.

Assembly Bill No. 473.

Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 474.

Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 501.

Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 508.

Senator Wiener moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 538.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 544.

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

Motion carried.

Assembly Bill No. 545.

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

Motion carried.

Assembly Bill No. 549.

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

Motion carried.

Assembly Bill No. 564.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Joint Resolution No. 1.

Senator Wiener moved that the resolution be referred to the Committee on Revenue.

Motion carried.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 3:15 p.m.

SENATE IN SESSION

At 3:27 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bills Nos. 12, 18, 83, 142, 147, 156, 217, 250, 348, 464 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 86.

The following Assembly amendment was read:

Amendment No. 109.

"SUMMARY—Revises provisions governing eminent domain. (BDR 3-132)"

"AN ACT relating to eminent domain; removing the authorization of a person who is not a public agency to exercise the power of eminent domain to acquire real property for mining, smelting and related activities; eliminating the use of the power of eminent domain to acquire real property for pipelines of the beet sugar industry; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the use of eminent domain to acquire real property for certain public uses, including mining, smelting and related activities and pipelines of the beet sugar industry. (NRS 37.010) This bill removes the authorization of a person who is not a public agency to exercise the power of eminent domain for the purposes of mining, smelting and related activities. This bill also eliminates an obsolete provision that authorized the use of the power of eminent domain to acquire real property for pipelines of the beet sugar industry.

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

Section 1. NRS 37.0095 is hereby amended to read as follows:

37.0095 1. Except as otherwise provided in subsection 2, only a public agency may exercise the power of eminent domain pursuant to the provisions of this chapter.

2. Except as otherwise provided in NRS 37.0097, the power of eminent domain may be exercised by a person who is not a public agency pursuant to NRS 37.230 and paragraphs ~~{(f), (h), (j), (m)}~~ **(g), (i), (k)** and ~~{(p)}~~ **(n)** of subsection 1 of NRS 37.010.

3. As used in this section, "public agency" means an agency or political subdivision of this State or the United States.

Sec. 2. NRS 37.010 is hereby amended to read as follows:

37.010 1. Subject to the provisions of this chapter and the limitations in subsections 2 and 3, the right of eminent domain may be exercised in behalf of the following public uses:

(a) Federal activities. All public purposes authorized by the Government of the United States.

(b) State activities. Public buildings and grounds for the use of the State, the Nevada System of Higher Education and all other public purposes authorized by the Legislature.

(c) County, city, town and school district activities. Public buildings and grounds for the use of any county, incorporated city or town, or school district, reservoirs, water rights, canals, aqueducts, flumes, ditches or pipes for conducting water for the use of the inhabitants of any county, incorporated city or town, for draining any county, incorporated city or town, for raising the banks of streams, removing obstructions therefrom, and widening, deepening or straightening their channels, for roads, streets and alleys, and all other public purposes for the benefit of any county, incorporated city or town, or the inhabitants thereof.

(d) Bridges, toll roads, railroads, street railways and similar uses. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation.

(e) Ditches, canals, aqueducts for smelting, domestic uses, irrigation and reclamation. Reservoirs, dams, water gates, canals, ditches, flumes, tunnels, aqueducts and pipes for supplying persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic and other uses, for irrigating purposes, for draining and reclaiming lands, or for floating logs and lumber on streams not navigable.

(f) ~~{Mining, smelting and related activities. Mining, smelting and related activities as follows:~~

— (1) ~~Mining and related activities, which are recognized as the paramount interest of this State.~~

— (2) ~~Roads, railroads, tramways, tunnels, ditches, flumes, pipes, reservoirs, dams, water gates, canals, aqueducts and dumping places to facilitate the milling, smelting or other reduction of ores, the working, reclamation or dewatering of mines, and for all mining purposes, outlets, natural or otherwise, for the deposit or conduct of tailings, refuse, or water from mills, smelters, or other work for the reduction of ores from mines, mill dams, pipelines, tanks or reservoirs for natural gas or oil, an occupancy in common by the owners or possessors of different mines, mills, smelters or other places for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter and the necessary land upon which to erect smelters and to operate them successfully, including the deposit of fine flue dust, fumes and smoke.~~

— (g) ~~{Byroads. Byroads leading from highways to residences and farms.~~

~~{(h)}~~ **(g)** Public utilities. Lines for telegraph, telephone, electric light and electric power and sites for plants for electric light and power.

~~{(i)}~~ **(h)** Sewerage. Sewerage of any city, town, settlement of not less than 10 families or any public building belonging to the State or college or university.

~~{(j)}~~ **(i)** Water for generation and transmission of electricity. Canals, reservoirs, dams, ditches, flumes, aqueducts and pipes for supplying and storing water for the operation of machinery to generate and transmit electricity for power, light or heat.

~~{(k)}~~ **(j)** Cemeteries, public parks. Cemeteries or public parks.

~~{(l)}~~ Pipelines of beet sugar industry. Pipelines to conduct any liquids connected with the manufacture of beet sugar.

~~—(m)~~ **(k)** Pipelines for petroleum products, natural gas. Pipelines for the transportation of crude petroleum, petroleum products or natural gas, whether interstate or intrastate.

~~{(n)}~~ **(l)** Aviation. Airports, facilities for air navigation and aerial rights-of-way.

~~{(o)}~~ **(m)** Monorails. Monorails and any other overhead or underground system used for public transportation.

~~{(p)}~~ **(n)** Video service providers. Video service providers that are authorized pursuant to chapter 711 of NRS to operate a video service network. The exercise of the power of eminent domain may include the right to use the wires, conduits, cables or poles of any public utility if:

(1) It creates no substantial detriment to the service provided by the utility;

(2) It causes no irreparable injury to the utility; and

(3) The Public Utilities Commission of Nevada, after giving notice and affording a hearing to all persons affected by the proposed use of the wires, conduits, cables or poles, has found that it is in the public interest.

~~{(q)}~~ **(o)** Redevelopment. The acquisition of property pursuant to NRS 279.382 to 279.685, inclusive.

2. Notwithstanding any other provision of law and except as otherwise provided in this subsection, the public uses for which private property may be taken by the exercise of eminent domain do not include the direct or indirect transfer of any interest in the property to another private person or entity. Property taken by the exercise of eminent domain may be transferred to another private person or entity in the following circumstances:

(a) The entity that took the property transfers the property to a private person or entity and the private person or entity uses the property primarily to benefit a public service, including, without limitation, a utility, railroad, public transportation project, pipeline, road, bridge, airport or facility that is owned by a governmental entity.

(b) The entity that took the property leases the property to a private person or entity that occupies an incidental part of an airport or a facility that is owned by a governmental entity and, before leasing the property:

(1) Uses its best efforts to notify the person from whom the property was taken that the property will be leased to a private person or entity that will occupy an incidental part of an airport or facility that is owned by a governmental entity; and

(2) Provides the person from whom the property was taken with an opportunity to bid or propose on any such lease.

(c) The entity that took the property:

(1) Took the property in order to acquire property that was abandoned by the owner, abate an immediate threat to the safety of the public or remediate hazardous waste; and

(2) Grants a right of first refusal to the person from whom the property was taken that allows that person to reacquire the property on the same terms and conditions that are offered to the other private person or entity.

(d) The entity that took the property exchanges it for other property acquired or being acquired by eminent domain or under the threat of eminent domain for roadway or highway purposes, to relocate public or private structures or to avoid payment of excessive compensation or damages.

(e) The person from whom the property is taken consents to the taking.

3. The entity that is taking property by the exercise of eminent domain has the burden of proving that the taking is for a public use.

4. For the purposes of this section, an airport authority or any public airport is not a private person or entity.

Sec. 3. NRS 279.471 is hereby amended to read as follows:

279.471 1. Except as otherwise provided in this subsection, an agency may exercise the power of eminent domain to acquire property for a redevelopment project only if the agency adopts a resolution that includes a written finding by the agency that a condition of blight exists for each individual parcel of property to be acquired by eminent domain. An agency may exercise the power of eminent domain to acquire a parcel of property that is not blighted for a redevelopment project if the agency adopts a resolution that includes a written finding by the agency that a condition of blight exists for at least two-thirds of the property within the redevelopment area at the time the redevelopment area was created.

2. In addition to the requirement set forth in subsection 1, an agency may exercise the power of eminent domain to acquire property for a redevelopment project only if:

(a) The property sought to be acquired is necessary to carry out the redevelopment plan;

(b) The agency has adopted a resolution of necessity that complies with the requirements set forth in subsection 3; and

(c) The agency has complied with the provisions of NRS 279.4712.

3. A resolution of necessity required pursuant to paragraph (b) of subsection 2 must set forth:

(a) A statement that the property will be acquired for purposes of redevelopment as authorized pursuant to paragraph ~~[(a)]~~ (o) of subsection 1 of NRS 37.010 and subsection 2 of NRS 279.470;

(b) A reasonably detailed description of the property to be acquired;

(c) A finding by the agency that the public interest and necessity require the acquisition of the property;

(d) A finding by the agency that acquisition of the property will be the option for redevelopment that is most compatible with the greatest public good and the least private injury; and

(e) A finding by the agency that acquisition of the property is necessary for purposes of redevelopment.

4. After an agency adopts a resolution pursuant to subsection 1 or 2, the resolution so adopted and the findings set forth in the resolution are final and conclusive and are not subject to judicial review unless credible evidence is adduced to suggest that the resolution or the findings set forth therein were procured through bribery or fraud.

Sec. 4. This act becomes effective upon passage and approval.

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 86.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senator Horsford moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering the Governor's Department of Health and Human Services Budget, with Senator Horsford as Chair and Senator Leslie as Vice Chair.

Motion carried.

Mr. President announced that if there were no objections, the Senate would convene into a Committee of the Whole.

IN COMMITTEE OF THE WHOLE

At 3:35 p.m.

Senator Horsford presiding.

Consider Governor's Department of Health and Human Services Budget.

The Committee of the Whole was addressed by Senator Horsford; Mark Krmpotic, Senate Fiscal Analyst; Michael J. Chapman, Principal Deputy Fiscal Analyst; Rex Goodman, Principal Deputy Fiscal Analyst; Senator Lee; Senator Leslie; Senator Kieckhefer; Senator Schneider; Heidi Gansert, Chief of Staff, Office of the Governor; Michael J. Willden, Director, Department of Health and Human Services; Senator Cegavske; Frances Doherty, District Court Judge, Second Judicial District Court, Washoe County; Fritz L. Reese, Director, Clark County Department of Juvenile Justice Services; Sabra Smith Newby, Clark County; Lisa Ruiz-Lee, Assistant Director, Clark County Department of Family Services; Bonnie Sorenson, Director, Clinic and

Nursing Services, Southern Nevada Health District; Carey Stewart, Director, Washoe County Juvenile Services; Peter I. Breen, Senior District Court Judge, Adult Specialty Courts; Kevin Schiller, Director, Department of Social Services, Washoe County and Bill M. Welch, President/CEO, Nevada Hospital Association.

SENATOR HORSFORD:

All members should have received the Work Session Document provided by our Staff from the Fiscal Analysis Division titled "Senate Committee of the Whole Work Session on Governor's Budget Proposal for Health and Human Services" dated April 27, 2011, otherwise known as the Work Session Document. The plan this afternoon is to have our fiscal team walk through the document and answer any questions from the Committee, to hear from the representatives from the Department of Health and Human Services (DHHS) regarding clarifying questions, to hear from judges on a couple of the program areas and to conclude with input from the counties. At this time, I will invite our fiscal team to the podium.

MARK KRMPOTIC (Senate Fiscal Analyst):

Staff will walk the Committee through the Work Session Document as referenced by the Chair. This document is also available on the Nevada Electronic Legislative Information System (NELIS). It is divided by the different divisions and key program areas. It reflects a number of the Governor's recommendations for reductions to key program in DHHS. I will note the Work Session Document marginally reflects the Governor's recommendations as originally recommended with updated information regarding caseloads and the Federal Medical Assistance Percentage (FMAP) percentages used to determine the allocation of federal and State funding of the Medicaid Program and portions of the Division of Child and Family Services (DCFS) and the Division of Mental Health and Developmental Services (MHDS) budgets.

Let's start with Page 1 of the Work Session Document. The first item is in the Director's Office budget for the Family to Family (F2F) Program. This Program is recommended to be reduced by the Governor and to have their General Fund appropriation eliminated for a total of approximately \$2.5 million over the biennium. Approximately \$471,000 of that savings is redirected to restore funding for the Differential Response Program and Family Resource Centers.

The F2F Program provides support to families with infants and toddlers. It provides parenting classes and information on child safety, health and nutrition and infant cardiopulmonary resuscitation. There are currently 20 F2F Programs throughout the State. Based on the Governor's recommendation, the two stand-alone facilities would close and the Program operated in Pershing County would close as well. Additionally, three F2F Programs collocated with Family Resource Centers (FRCs) would no longer provide any F2F services. Thirteen FRCs would attempt to continue to provide those services. The Senate Committee on Finance and the Assembly Committee on Ways and Means, also known as the money committees, heard this budget account and closed it as recommended by the Governor with the addition of the restoration to the F2F Program and placed it on an add-back list for consideration at a later time, if additional funding becomes available.

The next program within the Director's Office is the Indigent Supplement Account. This is a program supported by property tax proceeds. The Governor recommends approximately \$20 million each year to be redirected to the State General Fund to offset revenue shortfalls instead of reimbursing Nevada counties for indigent hospital care. Claims are funded through property tax revenues equivalent to \$.01 per \$100 of assessed value and a property tax levy of \$.015 cents on each \$100 of assessed valuation as well. Under this program, funding is used to reimburse hospitals for expenses related to the treatment of indigent persons involved in automobile accidents and to assist the counties with catastrophic indigent hospital bills once the county has exhausted funds from its indigent account.

The next topic area involves the Division of Aging and Disability Services. The *Executive Budget* recommends eliminating the Senior Citizens' Property Tax Assistance Program generating General Fund savings of \$5.7 million in each year of the upcoming biennium. As

many members may know, this Program offers refunds to qualifying senior home owners and renters.

The Governor recommends billing the counties for the State's costs for performing Elder Protective Services (EPS) assistance which would generate a General Fund savings of \$1 million in fiscal year (FY) 2011-2012 and \$1.2 million in FY 2012-2013. The counties would be billed annually based on the average percentage of EPS cases in each county. I would note for the members, the last page of the Work Session Document contains a spreadsheet that summarizes those programs for which the Governor recommends the State seeks reimbursements from the counties or that the program responsibility be transferred to the counties. The estimates are listed by county were provided primarily from DHHS with the exception of the Indigent Accident Account listed toward the bottom of the page. That account funding was estimated by Fiscal Division Staff.

Page 2 of the Work Session Document discusses the Governor's recommendation for the use of tobacco settlement funds in place of General Fund monies by redirecting a portion of the tobacco settlement funds to the Traumatic Brain Injury and Autism Programs. This would generate General Fund savings of \$2.7 million. Tobacco settlement funds would cover \$1.5 million in Traumatic Brain Injury costs and \$1.18 million in autism program costs. The tobacco settlement funds would be redirected from the April 2012 payment made to the Trust Fund for Public Health which receives 10 percent of each year's tobacco settlement payments.

The Governor recommends a number of rate reductions in the Division of Health Care Financing and Policy (HCF&P), specifically in the Medicaid and Check Up Programs. The rate reductions are listed in the table on page 2 of the Work Session Document. The total in rate reductions generates \$25.2 million in General Fund savings for FY 2011-2012 and \$24.4 million in FY 2012-2013. Those include reductions of 25 percent in dental services, durable medical equipment and disposable medical supplies; 15 percent reduction in outpatient hospitals; 15 percent in ambulatory surgical centers, ambulance services and end-stage renal disease services; 15 percent in non-primary care physicians, physician assistants, nurse midwives and nurse practitioners; 15 percent in home and community-based services for the frail and elderly, adult group care and disability waivers; 15 percent in non-pediatric beds within intermediate care facilities for the mentally retarded and developmentally disabled; 15 percent in laboratory clinical and radiology services; 5 percent for inpatient hospitals, inpatient psychiatric facilities and specialty inpatient hospitals; and a \$20 per bed day reduction in skilled nursing facilities (SNF) and hospice services provided by SNF. The funding amounts for each of those percentages are listed on the right side of the table.

Additionally, within the Medicaid program, the Governor recommends the elimination of non-medical vision services for adults ages 21 years and older, resulting in General Fund savings of \$1.8 million over the biennium.

The Governor also recommends a funding shift to local governments associated with the transfer of financial responsibility for a portion of medical aid for the aged, blind and disabled institutional waiver population to the county match program resulting in General Fund savings of \$37.2 million over the biennium. The Health Insurance Flexibility and Accountability (HIFA) waiver expires November 30, 2011. The elimination of the HIFA waiver generates smaller General Fund savings of \$141,097 in FY 2011-2012 and \$223,400 in FY 2013.

Page 3 of the Work Session Document contains information regarding some of the recommendations that added General Funds to Medicaid and Check Up Programs. The Governor recommends General Fund support in the amount of \$3.6 million in FY 2011-2012 and \$5.7 million in FY 2012-2013 for mandatory rate increases for the freestanding hospice services provided through the Medicaid and Nevada Check Up Programs.

The Governor recommends General Fund support in the amount of \$102.5 million in FY 2011-2012 and approximately \$121 million in FY 2012-2013 for Medicaid caseload increases over the 2011-2013 biennium.

The Governor recommends General Fund support of approximately \$261,000 in FY 2011-2012 and \$655,000 FY 2012-2013 for the Nevada Check up Program caseload growth.

The Governor also recommends the replacement of expiring increases in the FMAP rate with General Fund increases of approximately \$100 million in FY 2011-2012 and approximately \$66 million in FY 2012-2013 as a result of the expiration of the enhanced FMAP rate. The

FMAP rate was enhanced through use of American Recovery and Reinvestment Act of 2009 (ARRA) funds. Also, there are revised caseload projections and FMAP projections. These are typically rerun by the Agency in March leading up to the closure of its budgets. This information is used by the money committees when they close these budget accounts. Based on the result of the projection model reruns from March 2011, the Agency projects decreases in caseloads and increases in the cost per eligible (CPE) category resulting in a net decrease in the amounts included in the *Executive Budget*. The table at the bottom of page 3 of the Work Session Document reflects the changes in the caseloads between the Governor's recommended budget and the revised caseload projections. The columns of the table labeled "Amendment" specify the revised caseload projections. There is one correction to the table for the Medicaid caseload projections under the "FY 2012 (Amendment)" column. That column currently reads 279,464 cases. It should read 295,300 cases.

Page 4 of the Work Session Document notes the FMAP for the second year of the biennium is traditionally revised based on information provided through the *Federal Funds Information for States* subscription. According to the brief published on March 25, 2011, the FMAP rate for Nevada was projected to increase to 60.28 percent resulting in a blended FMAP rate. A blended rate consists of application of the federal fiscal year rate to the State fiscal year rate. In this case, it results in a blended FMAP rate of 59.26 percent. Overall, between caseload changes, the CPE calculations, and the FMAP rate changes, General Fund reductions of approximately \$53 million over the biennium are realized.

The Governor recommends county payments for Health Division programs and services. Those include replacing General Funds of approximately \$500,000 in each year of the biennium with county reimbursements for inspection and permitting of food establishments, billing the counties for emergency medical services licensure and training generating approximately \$800,000 in General Fund savings and finally, the recommendation for the elimination of \$625,184 in each fiscal year for the State Tuberculosis and Sexually Transmitted Disease Programs spending. Currently, the Health Division reimburses the county health districts and the Community Health Nursing Program for treatment of persons with tuberculosis in the counties.

One of the increases in funding recommended by the Governor is \$1 million in FY 2011-2012 and approximately \$14 million in FY 2012-2013 for the Division of Welfare and Supportive Services (DWSS) for installation of the Eligibility Engine System. That system will determine eligibility for the publicly subsidized health care programs. The entire first year cost of \$1 million is funded by federal funds and the \$13.9 million in the second year is funded with General Funds of approximately \$500,000.

The Temporary Assistance for Needy Families Program (TANF) related expenditures which include cash assistance eligibility and administration are projected to exceed available resources over the biennium resulting in a negative \$2.5 million reserve by the end of 2013. The Agency received recent notification from the federal government that there may be some TANF Contingency Fund grant funds available which would reduce the negative reserve in FY 2012-2013. Those funds are estimated to be received in the amount of \$2.5 million. Otherwise, this program would have a negative reserve at the end of the biennium of \$2.5 million.

There has been pressure on TANF reserves to provide cash assistance to indigent families due to caseload increases. Those increased expenditures have added pressure for use of the TANF funds and due to the declining TANF reserve. The Governor makes five recommendations in the *Executive Budget* reductions for TANF expenditures that reduce or eliminate funding for existing programs and transfers from the TANF budget. Those include a rate reduction for the Kinship Care Program from the current average rate of \$894 to the average non-needy caretaker rate of \$427. This collectively reduces TANF expenditures by about \$1.7 million in each year of the biennium.

The Governor also recommends elimination of the TANF Loan Program that provides a monthly financial assistance payment to families for needs such as food, shelter and clothing until an anticipated future source of income is received. This is typically provided to work-eligible recipients awaiting a Supplemental Social Security Income payment. This recommendation reduces TANF expenditures by approximately \$2 million in each year of the biennium.

The next recommendation is a reduction in social services subcontractor payments by 50 percent, representing a \$700,000 savings in each year of the biennium.

The Governor also recommends elimination of transfers to other State programs within DHHS including DCFS and MHDS representing reductions of about \$7 million in each year of the biennium.

The last Governor's recommendation is the elimination of TANF fund transfers to Clark and Washoe Counties for child protective programs in each of those counties. That represents reductions of \$817,498 in each year of the biennium.

Some of the members have probably heard of a new program recommended by the Governor called Silver State Works (SSW). In the original *Executive Budget*, the Governor recommends an appropriation of \$6 million in FY 2011-2012 and \$4 million in FY 2012-2013 to increase employment outcomes for TANF recipients. One of the requirements of the TANF Program is that the recipients either attempt to find work or seek employment as part of their personal responsibility plan. The SSW Program was recommended to enhance that effort and was intended to provide employment incentives, on-the-job training and community work experience for employees. It would enable TANF recipients to obtain work. The Governor recommends the entire biennial cost of \$10 million be used to reimburse employers for the costs of employment of TANF and TANF-at-risk clients, for the costs of on-the-job training equipment and fees.

The Governor recommends the elimination of funding for the Employment Assistance Program. There are employment programs within the TANF Program, the Child Support Enforcement Program (CSEP) the Food Stamp program operated by the Division to attempt to improve employment outcomes for these individuals. The CSEP portion is an attempt to enhance employment for non-custodial parents to improve the chances of child support payments for the custodial parent, especially those who may be receiving TANF benefits.

The Governor also recommends the elimination of ten State positions collocated with the Clark County CSEP office in Las Vegas. This recommendation reduces State-funded child support expenditures and federal matching funds. As projected, this action would increase caseloads for the existing staff who support the child support enforcement caseloads in Clark County.

Under the child care reductions, the Child Assistance and Development account funds child care assistance for TANF recipients and partial assistance for those who are at risk or who closely qualify for public assistance benefits. The recommendation for this program reduces General Funds used to match federal funds. In return, DWSS would use a certified match or non-State dollars already being spent in the program as matching funds for the federal funds received. It is a method to continue to receive federal funds while General Funds are removed from this program which would otherwise provide child assistance benefits.

The next section discusses MHDS. I will now call on the Fiscal Division subject matter expert, Mr. Michael Chapman, to cover the Governor's proposals for these budgets.

MICHAEL J. CHAPMAN (Principal Deputy Fiscal Analyst):

I will brief the members on the Governor's recommendations for the MHDS programs. There is a table at the bottom of page 6 of the Work Session Document that specifies what funding was approved during the 2009 75th Legislative Session. It does not incorporate any of the changes approved during the Twenty-sixth Special Session.

The Governor's recommendation over a number of accounts within the Division reduces staff by approximately 175 full-time equivalent (FTE) positions over the course of the biennium.

The first reduction I will discuss is the elimination of the State's one-third funding for community triage centers. These are the locations in Clark and Washoe Counties that individuals may access or be taken to when they are experiencing mental health or substance abuse episodes. The intent is a diversion from local emergency rooms for these occurrences. The local governments in Clark and Washoe Counties and the local hospitals provide the other two-thirds of funding support.

There have been discussions during the Joint Subcommittee on Health and Human Services and Capital Improvements budget hearings about restoring this service by utilization of money the Governor recommended to support a non-emergency transport contract service to move

individuals from the local emergency rooms to other facilities in southern Nevada. If that Joint Subcommittee discussion is approved, it would restore the State's one-third funding support.

The next consideration is the reduction of outpatient counseling services. The Governor recommends reducing General Fund appropriations by approximately \$1 million each year. This would effectively eliminate 12.5 FTE positions. Seven positions would be eliminated in southern Nevada, five in northern Nevada and one for the rural clinics. This would affect outpatient counseling services consisting of group therapy and individual counseling sessions. It assists people with managing their emotions and is usually held in conjunction with medication counseling services. This reduction would affect 875 individuals in southern Nevada, 456 individuals in northern Nevada and approximately 130 individuals in the rural portions of the State.

The Governor recommends reducing General Fund appropriations by approximately \$3.5 million in each year of the biennium by eliminating 272 clients in the Supported Living Arrangements statewide. Those eliminations would impact 201 clients in southern Nevada, 35 in northern Nevada and 36 placements in rural clinics. Supported living arrangements provide financial assistance for rent and utilities in a variety of settings. These include group homes, individual placements and provide training to develop individual living skills as an alternative to institutional placement.

The Governor recommends reductions in General Funds of \$3 million each year with corresponding reimbursements from the counties. That would be approximately \$1.7 million each year for Clark County, \$1.2 million for Washoe County and approximately \$113,000 for the Carson City mental health courts. A number of FTE positions are involved with these reductions.

The mental health courts provide an alternative for individuals who have habitual arrests and convictions resulting from mental illness and substance abuse issues related to mental illness. This is an alternative to incarceration in local or State facilities.

Senate Bill No. 469 has been introduced that would effectuate the ability of the Division to bill the counties for this service.

The reduction of inpatient beds primarily affects southern Nevada. The Governor recommends the continued closure of 22 beds approved in the Twenty-sixth Special Session at the Southern Nevada Adult Mental Health Services campus, Building No. 3. The Governor has included an additional 22-bed closure in Building No. 3a. A total of 50.35 FTE positions are recommended for elimination and those actions reduce the inpatient capacity from 234 beds to 190 beds at the Rawson-Neal Hospital. The Governor also recommends eliminating 12 FTE positions at the Lake's Crossing Center in Sparks. This is the forensic facility where the very seriously mentally ill are directed by the courts to determine whether they are competent to stand trial. In addition to the 12 FTE positions held vacant as a result of the Twenty-sixth Special Session, an additional 9.5 FTE positions are recommended for elimination. This in effect, causes a 4-bed reduction from 70 beds down to 66 beds at the facility.

The developmental services are those provided to individuals with mental retardation or related conditions. The first topic is assessing the counties for services provided to children under the age of 18. The costs for services would be shifted to the counties. The table in the middle of page 8 of the Work Session Document shows an impact of approximately \$5.8 million in each year of the biennium across the three regions. It would affect approximately 1,500 children across the State and would involve approximately 35 developmental specialist positions. These are the staff that provides service coordination for placement of the children for either community supported living arrangements, or job and day training. The Governor's recommendation would remove funding through the General Fund and seek reimbursement from the counties for the services.

The Governor recommends elimination of the self-directed autism services. Considerable discussion occurred during the first part of the Session on this subject. There are three programs at DHHS with responsibilities surrounding autism services. The program in MHDS provides monthly allotments to families who have children with a dual diagnosis of both mental retardation and the autism spectrum disorders. The Governor's recommendation eliminates 174 families from the program.

Of the 174 families, 113 families are currently supported through transfers of TANF funding from DWSS. The Governor recommends discontinuation of those transfers due to other priorities within DWSS. The other 61 families are currently served through General Fund support that is recommended for elimination by the Governor at a General Fund cost of about \$829,000 each year.

The Family Preservation Program provides monthly cash assistance to low income families of approximately \$374 monthly. These are families that care for children and adults with severe mental retardation in their homes. The intent is an attempt to keep these individuals in their homes and to avoid institutional care. The Governor recommends replacing \$1.2 million of the \$2.8 million recommended in FY 2012-2013 for this program with tobacco settlement funds.

The Substance Abuse Prevention and Treatment Agency (SAPTA) was formerly known as the BADA Program. One recommendation by the Governor in this budget is reduction of the General Fund support for the co-occurring disorders program. This program was established by the 2007 74th Legislature as a pilot program concerning treatment services for individuals with both mental illness and substance abuse issues. The Governor's recommendation would essentially remove about two-thirds of the funding support for this program. However, during budget hearings the Agency has testified that they would attempt to shift a number of the clients currently supported by State General Funds to the federal SAPTA block grant program. That would cause problems by possibly displacing people receiving services under the block grant.

The Governor recommends reductions of approximately \$1.6 million each year in treatment services affecting the equivalent of 273 individuals. This is another program that received General Fund support approved by the 2007 74th Legislature. This has been commonly referred to as the "Wait List Addition." The Governor's recommendation would eliminate that support.

REX GOODMAN (Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

I will lead the members through the issues in the budgets of DCFS. The DCFS includes reductions to limit responsibility for mental health room and board expenses. The Division submitted Senate Bill 476 and the Governor has included reductions in his budget to limit the Division's responsibility for mental health room and board expenses of children that are in the custody of the counties or their parents rather than in the Division's custody. Funding is recommended for elimination totaling \$2.8 million in each year of the biennium. In addition \$1 million in FY 2011-2012 and \$1.4 million in FY 2012-2013 for caseload increases are eliminated. The Division has indicated it is not their responsibility to provide mental health room and board for these children that are not in their custody. They would rather provide care only for delinquent youth in State facilities. The Governor has included funding for basic expenditures and approximately half of the anticipated growth in this service on his list of priorities for restoration with the General Fund savings that have been identified through the revised FMAP and Medicaid caseload projections.

The second item is a new form of budgeting for Clark and Washoe County integration accounts. The *Executive Budget* recommends providing the State's portion of funding to Clark and Washoe Counties in the form of a capped annual block grant, instead of the historic model of line item expense budgets. The new funding method includes a performance improvement plan and performance targets to improve the safety, permanency and well-being outcomes of children in county custody.

A fiscal incentive program outside of the block grant is also proposed to stimulate and support improvement in defined areas. Under the block grant proposal, General Fund appropriations would total \$50 million in each year of the 2011-2013 biennium for the two counties; \$12.5 million for Washoe County and \$37.5 million for Clark County. An additional \$7 million outside of the block grant would support the fiscal incentive program with \$1.75 million and \$5.25 million for Clark County. The Division initially estimated that the recommended changes would result in reductions in General Fund appropriations for the two counties of approximately 3.6 percent over the biennium. However, based upon recent reprojections of their foster care caseloads, Medicaid reimbursements and the FY 2012-2013 FMAP rate, the Division indicates the Governor's recommendation will not result in reductions in the counties' funding.

Additionally, the State's cost for the provision of Child Protective Services (CPS) in the rural counties is recommended to be allocated to the counties receiving those services. General Fund appropriations totaling approximately \$2.4 million annually would be reduced from the Division's budget and replaced with reimbursements from the rural counties. Clark and Washoe Counties have historically funded CPS services in their jurisdictions.

Concerning juvenile justice budget reductions, a number of closures are recommended at the Nevada Youth Training Center (NYTC) in Elko including the closure of three detention housing units with a loss of 60 beds. However, an increase is proposed in one unit from 20 to 30 beds and a change to one unit as an intensive supervision unit. The result would be a net reduction of 50 beds at NYTC. This would also include the elimination of 18 FTE positions and reduce the total number of beds available at NYTC from 160 to 110.

Among other juvenile justice reductions, the Governor recommends eliminating \$1.4 million each year provided to the local jurisdictions for youth community programs, outpatient treatment and evaluation of sexual offenders. The Governor also recommends eliminating \$1.4 million each year provided to Clark and Douglas Counties for youth camps that provide residential treatment programs for children that have been adjudicated delinquent by Nevada courts.

Finally, the Governor recommends replacing General Funds of \$6 million each year with county funds for the support of supervising post-incarcerated youth and facilitating re-integration processes for those youth as they are released from juvenile facilities.

In addressing these impacts on the counties, the money committees requested that the juvenile justice stakeholders provide an alternative plan to the Governor's proposal. The Nevada Association of Juvenile Justice Administrators (NAJJA) presented that plan. They recommended instead, eliminating 110 juvenile correctional beds and reinvesting those savings in other programs including the youth camps and the continuation of the mental health room and board payments. Unlike the Governor's recommendation, the NAJJA plan did not recommend that youth parole services become the responsibility of the counties. Additionally, DHHS has included several of these items on their add-back list to be funded with the savings from FMAP and caseload reprojections.

MR. KRMPOTIC:

That concludes Staff's presentation.

SENATOR HORSFORD:

Thank you. Are there any questions for our fiscal team?

SENATOR LEE:

I understand we are talking about some drastic cuts here today. I understand some programs have grown over the years, but we are not funding some programs it is not possible to fund at this time.

If we push the funding down to the cities and counties as shown in the Work Session Document, are they able to pick and choose the programs they feel their counties want to support or are they mandated to fund the full cost of all these programs? I am not sure if even the local governments understand what their responsibility is to this budget.

MR. KRMPOTIC:

The way the budget is constructed, it assumes the counties would support these programs either through reimbursement to the State or directly. The committees have held lengthy discussions about how the State would enforce or seek reimbursement from the counties if the counties decided not to pay. Enabling legislation has been introduced to accompany some of the budgetary measures requiring the counties to pay. Some of the committee discussions have concerned references to the Department of Taxation or the State Controller "swiping" the money from distributions that go back to the counties to reimburse the State. That would be a drastic and firm measure. That is the extent of such discussions as I recall the hearings.

SENATOR HORSFORD:

We will be covering some of the impact to local governments later this afternoon as well as tomorrow. The Senate Committee on Revenue and Assembly Committee on Taxation will hold a hearing tomorrow that will seek direct testimony from the counties about their financial situations and their ability to fund some of these services. There are certain services where there is the ability, through streamlining for local governments, to meet some of the areas, but in others there is not. If the State is going to stop the services on June 30, 2011, and local governments are expected to pick up the services, are they really in a position to do so? Those discussions are ongoing.

SENATOR LESLIE:

There are three members who serve on this Joint Budget Subcommittee. I am the Senate Chair, the Majority Leader serves as does the Assistant Minority Leader. There have been many concerns voiced in the Joint Subcommittee similar to what my colleague from southern Nevada just raised. The Joint Subcommittee has considered eliminating some programs in order to fund other programs we think are more important. The Joint Subcommittee has worked very hard on these budgets and I would encourage the members to ask any questions you feel necessary. It is difficult to understand without hearing some of the testimony in the Joint Subcommittee.

Some of the most difficult areas are in mental health, juvenile justice and the health care fields with all the rate reductions to the Medicaid Program.

The members need to understand that the figures in the presentation today do not only address General Fund revenue we are losing. There are many matching federal funds that will also be affected. We typically keep a running total as we work through this process and we can see what we have lost in General Fund appropriations and what that means in federal matching funds. Nevada is often criticized for being last in the country in terms of accessing federal tax dollars. One example is the Medicaid program where Nevada is fifty-first in the country in terms of per capita funding provided by the State. Naturally, that means we will receive far less in federal matching funds.

Would it be fair to say the Governor's budget would result in millions of dollars in lost federal funding at this point?

MR. KRMPOTIC:

That would be accurate. The prime example is in the table on page 2 of the Work Session Document. It lists solely the General Fund rate reduction amounts. In addition, there would be loss of federal Title XIX, of the Social Security Act or Medicaid dollars, associated with those reductions. The loss will be in the millions of dollars. I could pick the amount from the *Executive Budget*, but that has changed, as have the FMAP percentages.

SENATOR KIECKHEFER:

Having worked in DHHS for a couple of years, what I found was that creating the budget for the Department is about balancing the federal mandates for which the State is obligated to provide and prioritize services. It is a matter of who we are going to serve with limited resources. It is an exercise the Governor's Office and the Legislature also go through when they are building a budget. Some of the efforts made in the Governor's recommended budget try to protect our most vulnerable citizens in many cases. At the same time, some reductions were made in the support for those who are most vulnerable. I appreciate Staff providing this presentation. We received the Work Session Document yesterday.

The Governor's Office also sent over a budget amendment that addresses many of the issues in the Work Session Document. The budget amendment will be processed, as we have historically, by prioritizing and appropriating funding. There are many items within the presentation that are not appealing, but as a matter of prioritization, I think the Governor's budget tries to preserve funding in many of those areas. Hopefully, some of the cuts will be able to be restored through some of the additional funding that has already been identified and upon the information from the meeting of the Economic Forum.

SENATOR SCHNEIDER:

In looking under child support reductions, the federal matching fund is approximately \$334,000 and the State provides approximately \$172,000. That is approximately a 2:1 match. Under State funded child support expenditures, matching from federal funds is approximately \$960,000 and the State funds approximately \$495,000. The CSEP reduction of State funds is approximately \$120,000 and would eliminate an additional \$234,000 in federal matching funds. It seems if we cut \$1, we lose \$2. At the same time, I am on committees where we are processing a bill to fund grant writers to help access possible grant funds. Is this not a conflict? We are trying to get grant writers to get 2:1 match money and then on the other hand we are throwing away matching funds.

Are we wasting our time processing these other bills for grant writers when we are eliminating funds in the budget?

SENATOR HORSFORD:

It is always interesting how concerned people are about why Nevada does not receive more money back from Washington, D.C., as a result of the taxpayer resources we send there. What we have learned from the Vision Stakeholder Group and from the budget process is, we do not get our fair share of dollars back because we do not provide the required State or local government matching funds. In every one of these budget areas, there are federal dollars that we are leaving on the table otherwise due to the citizens of Nevada, because we have undercut our match funds.

The issue of the grant office and the grant coordinator is, we also do a poor job of submitting competitive grants in some cases. There are some dollars that are formula-based, that if the State provides its required funds, the federal match will be made available. Other grants, in increasing numbers, have become a competitive process among the states. Those states that make the effort to fund a comprehensive grants process have greater success at receiving federal funds than Nevada has historically achieved.

It is a two-fold consideration. We need to prioritize, as noted by Senator Kieckhefer, so we can maximize federal funding Nevada should receive for these services that help the people we represent. At the same time, in the long term, we need to build capacity in our grants management efforts.

I agree with the Governor, and Chair Parks' legislation. They all work together. It is an "and also" not an "either/or" situation. We need to provide our State match to access federal resources and we need to have better coordinated grant activity to access Nevada's fair share.

We will next hear from Director Michael Willden of DHHS and Mrs. Heidi Gansert from the Governor's Office.

I want to explain about the Governor's restoration proposals which have received considerable attention recently. Once the Governor has submitted his budget, the process has been in the purview of the Legislature to decide how allocations are made and to approve the final budget accordingly. There are recommendations that are now being received from the Governor through budget amendments based on identified General Fund savings. This is good because it means we can restore some of the worst of the worst reductions originally proposed.

Let me be clear. The recommendations by the Governor and his office are just that. They are simply recommendations. It is the Legislature, particularly the money committees, which will decide what gets restored in a prioritized manner. I have seen statements indicating certain items will be restored. I would not rely on that premise. It is the Legislature's prerogative to decide which of those items are of priority.

We are in agreement on some areas. It is great that we agree in certain areas. However, to somehow suggest all those recommendations will be approved would be overstating the situation. I want this body and the public to be aware those decisions have not yet been made. They are recommendations. We will continue to work with the Governor, the Budget Office and our Staff, as well as this body to decide which of those recommendations are prioritized and restored and which will not be restored. At this time, there will not be adequate resources to fund all recommendations.

HEIDI GANSERT (Chief of Staff, Office of the Governor):

Health and human services are very important to Nevadans and we recognize that. When the original budget was created, Governor Sandoval wanted to ensure it was sound and reasonable. He also wanted to ensure the most vulnerable citizens of Nevada received assistance. We evaluated the budget line-by-line and it took months to complete. We wanted to ensure we did the best we could with limited resources. Before the original budget was introduced, we added back approximately \$118 million that was originally cut from the budget. Some of those restored funds include personal care services, funding for two of the three autism programs, adult day care, the traumatic brain injury program and early intervention and independent living programs.

Yesterday, because of adjustments to the budget regarding Medicaid caseloads and FMAP funds, we were able to offer an amendment adding approximately \$49 million to the budget. Once again, it was a long process. It took two or three weeks while we gathered information from stakeholders, from staff and from Legislators to determine priorities, given that additional resources had become available. Many of the resources have been directed to mental health and adolescent services. We also reviewed elder care and took another look at autism programs. We have been able to streamline the process for autism and provide one program to assist autistic individuals. We also considered the TANF loan and Kinship Care Programs that we recognized were important to many families. We considered the northern and southern triage centers. We wanted to prioritize based on the input we received.

It has been suggested that many of the proposed restorations are rural-heavy. In fact, they are not. With the addbacks for autism, 80 percent of the funds are directed to Clark and Washoe Counties. It is the same with the elder protective services. When one reviews the TANF Loan and Kinship Care Programs and the SAPTA Program, 87 percent to 90 percent of those funds are directed to Clark and Washoe Counties. Other funding is directed solely to Clark and Washoe Counties. Examples of those are the northern and southern triage centers. Some restorations were specifically directed to the rural counties only. One of those was a budget amendment recommending \$191,000 to keep the family resource centers open. We know these are critical facilities.

We recognize that the budget cuts are difficult and that these proposed restorations will help soften the impacts on individuals and the counties. I want to thank Director Willden and his staff because they have spent hours over the last several weeks prioritizing these addbacks as well as the time they spent on the initial budget.

I recognize we submit these proposals to the Legislature and appreciate your assistance.

SENATOR HORSFORD:

The budget amendment was received at 9:30 this morning. Therefore, our staff is just beginning to review its contents. As we do that, there will be further discussions and clarification with the Budget Office and the Director of DHHS.

MICHAEL WILLDEN (Director, Department of Health and Human Services):

I want to spend a few minutes discussing the add-back impact to the Work Session Document and stand for any questions.

I would like to provide an update. On page 1 of the Work Session Document, there is discussion about the F2F program under the Director's Office. The F2F program is on a potential add-back list. There was discussion in the budget closing hearing and that is not being added to the list of addbacks the Agency has transmitted today.

The Governor's budget amendment adds back approximately \$95,000 or \$96,000 annually to support the rural family resource centers. Approximately one-third of the rural resource centers are located in rural Clark County, so of that funding, approximately greater than \$30,000 annually is directed to other rural resource centers.

The EPS program information on page 1 of the Work Session Document indicates costs for the program would be shifted to the counties. If the budget amendment is approved, the EPS program would be fully funded, without a need to shift the costs to the counties. Funding would be derived from the General Fund.

The chart on page 2 of the Work Session Document, as prepared by the Fiscal Division Staff, lists some of the rate reductions in the Medicaid and Nevada Check Up budgets. The last one listed concerns Skilled Nursing Facilities (SNF's.) We were proposing to reduce their rates by

\$20 per bed-day. With the budget amendment, that reduction would be less severe at \$15 per bed-day, or a \$5 per day restoration.

The Health Division programs, on page 4 of the Work Session Document, discuss three issues including consumer health protection which consists primarily of food inspections, emergency medical services and the tuberculosis and sexually transmitted disease programs. The Governor is recommending an addback of the entire amount for the emergency medical services; therefore, that would not become a county responsibility. It would remain funded by the State General Fund.

There has been considerable feedback from the counties in various areas of these budgets as to their priorities. From a county perspective, all of these are a priority.

The emergency medical system is the statewide system that licenses and regulates all the ambulance drivers and attendants. Several individuals came forward indicating the system would collapse. Therefore, this program became a priority for restoration to the DHHS budget.

Three areas of the TANF budget have been discussed at great length. The Kinship Care Program provides payments primarily to grandparents who care for their children or grandchildren. We were reducing that payment nearly 50 percent. The recommended restoration to this Program would adjust the recommended reduction to 25 percent. There are approximately 350 to 360 families impacted by that decision.

SENATOR HORSFORD:

The average rate would go from a rate of \$894 to what rate?

MR. WILLDEN:

The rate would be reduced to 75 percent or approximately \$650 to \$700.

The next item is the TANF Loan Payment Program. The Governor's recommended budget implemented elimination of the TANF Loan Payment Program. There are a number of families impacted by that action. The Department is recommending a restoration to 75 percent for this Program. Administrator Romaine Gilliland and I will need to work to find economies in that Program. If it is not a full addback, payment amounts would not be reduced but we would look at eligibility requirements for families.

The Silver State Works Program is discussed at the bottom of page 5 of the Work Session Document. Various presentations have been made concerning implementation of this Program. This was a proposal to repackage funds of approximately \$9 million annually in the Department of Employment, Training and Rehabilitation (DETR) to fund the Program. The *Executive Budget* recommended \$10 million annually to support the TANF and the TANF at-risk families in an effort to get families back to work. We are suggesting we reduce the TANF portion from \$10 million to \$2 million. Between the DETR repackage of \$9 million and the General Fund for TANF and TANF at risk clients, an \$11 million effort would be made to get Nevada families back to work at a savings of \$8 million.

Page 7 of the Work Session Document discusses the community triage centers to be eliminated in the Governor's budget. It is the Department's recommendation that we add back full funding for the triage centers. The budget amendment indicates this is largely being funded by the elimination of the emergency room transportation program that was suggested in the *Executive Budget*. Approximately \$3 million was placed in the Governor's recommended budget to support the Clark County emergency room transportation program. We heard loud and clear from many sources that they prefer to fund the triage centers over the transportation program. Therefore, the triage centers' funding has been restored. Also on page 7 are supported living arrangements. This is the program offering residential support for mental health consumers. The Department recommends adding back the supported living arrangements for the north, south and rural budget accounts where reductions were made.

Page 8 of the Work Session Document explains the elimination of the self-directed autism program. There have been three different pieces of legislation including Assembly Bill Nos. 315, 316, 345 all proposing methods of delivery for autism services and proposals to consolidate programs. The Department recommends accommodation of a primary program for the autism concept through enhancement of the Autism Treatment Assistance Program (ATAP) within the Aging and Disability Services Division. The budget for ATAP was funded in the *Executive Budget* at approximately \$1.2 million annually.

The Department recommendation in the restoration process is that the General Fund allocation that was reduced in the MHDS budget accounts be added back to the ATAP budget account. That funding would be approximately \$828,000 annually. We also recommend transfer of approximately \$300,000 from the Health Division's Early Intervention Services budget. Those funds have historically been spent to support autism services. Our recommendation is that those funds also be transferred into the ATAP budget. If the ATAP budget were approved with the outlined recommendations, the Program would be funded at \$2.4 million which is an increase from the current \$1.2 million. The Department would refer families to the primary ATAP Program. That is not to say, if a family wants to be served through the Early Intervention Services Program, the statutes would require DHHS to serve clients through that service.

Considerable discussion occurred in the budget hearings concerning the 174 children who are currently being served in the MHDS programs. The Work Session Document indicates they will be redirected to general use funding rather than funding for the autism program.

Page 9 of the Work Session Document includes information about substance abuse treatment services. The Governor's recommended restorations include \$1.7 million annually for substance abuse treatment. At one point, \$1.6 million of those funds for wait list treatment and approximately \$112,000 annually were prevention services funding that was being reduced.

Much has been discussed about mental health room and board. This is specifically room and board payments for non-custodial youth. The Department recommends a restoration of the base amount of the room and board payment. We are not recommending it be placed in the DCFS budget, but that it be put in budgets with more local control and accountability. There would be a restoration for the juvenile justice youth and also for non-custodial children in the mental health and child welfare budgets.

SENATOR HORSFORD:

Are the addbacks you are proposing full-funding restorations?

MR. WILLDEN:

Those are not full restoration levels. My estimate is restorations would be made between 85 percent and 90 percent.

SENATOR HORSFORD:

The details for the proposed addbacks are contained in the budget amendment our Staff received this morning.

MR. WILLDEN:

The bottom of page 10 of the Work Session Document contains other juvenile justice budget reductions. Many items have been combined. We are recommending adding back most of the funding for the youth camps in Douglas County at China Springs and the Aurora Pines Complex. Current funding is approximately one-third State funding and two-thirds local funding. This proposal would add back most of the State's funding to this budget, or approximately 90 percent.

SENATOR HORSFORD:

Does that also include the Spring Mountain Youth Camp (SMYC)?

MR. WILLDEN:

Yes, Spring Mountain is the other youth camp. State funding there is approximately a 5 percent increase over the *Executive Budget* funding. The addback would restore those funds. The idea is to make the three youth camps nearly whole.

That is a summary of the proposed restoration in the latest budget amendment.

I will explain how the additional funding was derived. If you have an opportunity, review the add-back spreadsheet, and details provided to your Staff. This is a 13-page spreadsheet format.

SENATOR HORSFORD:

The spreadsheet is also posted in NELIS for the public.

MR. WILLDEN:

That is correct. The first five pages describe identified General Fund savings. I will not describe all of them. We have reviewed caseloads, cost-per-eligibles and received recent FMAP funding information. We have run those changes through the Medicaid and Check Up caseloads for a savings of \$53 million.

We have reviewed the intergovernmental transfer account reserves. In FY 2011-2012, we can offset \$14 million of General Funds from that funding source.

The Agency recommends implementation of a care management project in FY 2012-2013 for the aged, blind and disabled programs. Other smaller budget accounts are impacted by FMAP as shown on pages 3 and 4 of the spreadsheet. The total on page 6 of the spreadsheet indicates approximately \$87 million worth of savings have been identified through this budget review. Of that, \$25.7 million has already been recommended for use as a restoration in a transmittal dated March 28, 2011. That leaves approximately \$67 million of potential add-back funding.

The end of the spreadsheet indicates the Agency is recommending addbacks of approximately \$49.5 million. Of the \$49.5 million, approximately \$46 million are DHHS restorations. The other funds are related to the conservation camps and other issues. That is a summary of the approach and recommendations of DHHS.

SENATOR HORSFORD:

What is the current FMAP percentage?

MR. WILLDEN:

The Governor's budget was built as shown in the Work Session Document. The new FMAP numbers changed nothing in FY 2011-2012. The FMAP change occurs in FY 2012-2013. Page 4 of the Work Session Document indicates the budget was built on a percentage of 57.66 percent. The new blended FMAP percentage is 59.26 percent.

SENATOR HORSFORD:

Why did the FMAP percentage increase?

MR. WILLDEN:

The FMAP formula is complex. It is computed on Nevada's share of the national population and weighted by the three-year rolling average of Nevada's per capita income. As Nevada's per capita income has declined over the last three years, the federal government increased their share of the Medicaid percentage.

SENATOR HORSFORD:

Is it fair to say that because of the per capita income and population adjustments, in large part due to the fact so many Nevadans are struggling and out of work, that we qualified for a higher rate of federal funds?

MR. WILLDEN:

That is generally correct. As our per capita income declines, we qualify for a higher percentage of reimbursements. Wealthy states such as Connecticut have a low FMAP rate because of their per-capita income. Typically, the southern states and Utah have low per capita incomes as well, and qualify for a higher federal reimbursement.

SENATOR HORSFORD:

There are so many Nevadans who are out of work and at low-income levels. Therefore, in part, because of our population and its needs, we are qualifying for a higher level of federal assistance.

MR. WILLDEN:

That is correct.

SENATOR HORSFORD:

The position with these recommendations is to take funds, some of which was General Fund support, and shift it to the federal level. That is what freed up a portion of these State General Fund monies to support other programs. Is that correct?

MR. WILLDEN:

In general, that is correct. When the ARRA federal legislation was passed, Nevada went from a 50/50 federal matching percentage in health care reimbursements to nearly a 64 percent reimbursement rate. The high ARRA match ended on December 31, 2011, and we are now in a step-down process. Nevada would have dropped to a level where the federal government would pay between 55 percent and 57 percent. However, an increased rate for Nevada was announced in March 2011. The new federal rate would be approximately 59 percent. More State General Funds were necessary because of fewer federal dollars known as the "ARRA cliff." The new federal rate is larger; therefore, more General Fund money is available.

SENATOR HORSFORD:

From a policy standpoint, we are shifting more of the responsibility to provide, what I would call general welfare services including mental health care, child welfare, juvenile justice and health programs for seniors and children, to the federal government at a higher rate than in the past. That excludes ARRA one-time funding. It is a policy decision. We are making the decision to place more of the burden on the federal assistance programs rather than providing that funding through the State General Fund.

MS. GANSERT:

Once these readjustments were identified, we wanted to reinvest those additional funds in health and human services. The administration utilized the funding saved by lower caseload growth and increased federal matching funds to reinvest in health and human services.

SENATOR HORSFORD:

I agree. While caseload reductions have been identified from what was projected, we still have waiting lists in certain programs where people will not have accessibility based on the capped services. It does not apply to Medicaid. The waiting lists are in the State Children's Health Insurance Program (SCHIP). Is that correct?

MR. WILLDEN:

There are waiting lists in some programs. The SCHIP is not one of those. It has more of a waiting time. When an application is received, it takes time to approve the case. Wait lists indicate a person cannot access certain programs.

In some of the mental health programs and others there are wait lists. Some of the waiver programs utilize wait lists. At this time, most wait lists are less than the 90-day wait time standard.

SENATOR KIECKHEFER:

Nevada has never been renowned for having a robust safety net. We have a very limited eligibility for Medicaid and we do not fund many of the optional programs other states provide. Nevada has historically adopted the policy that these services should be a last resort. With the Governor's recommended budget and the budget amendment received today, what is the overall assessment of the State's safety net? Does the Agency feel people will have the ability to access services when they are in their moment of greatest need?

MR. WILLDEN:

That is a difficult question. You are correct to say Nevada's safety net is not great. I have worked many years for this Agency and we have never had a robust safety net for the poor. We rank in the bottom 10 percentile in nearly every category. However, that said, I think we continue to do a good job when individuals make applications for DHHS services. We attempt to provide services relatively quickly. There are many Nevadans who, if they lived in another state, could have a higher income level and access safety net programs. Nevada provides the bare minimum eligibility standards. We are one of only 14 or 15 states that do not have a medically needy program or spend-down program. That would increase our costs approximately 20 percent to 25 percent. We are not going to be a robust safety net State, but we do a good job with the resources we have to provide services to the needy through those services.

SENATOR CEGAUSKE:

I have concerns with switching out from the emergency services and placing them in the DHHS budgets. Do we have the safety net or the proper facilities to care for those with substance abuse issues?

What were the emergency services listed on page 1 of the Work Session Document and what amount of funding was directed to those services? There are no after-care programs in southern Nevada of which I am aware. I am concerned about the performance indicators. The existing performance indicators are not appropriate. What can we do to provide better services in working with these entities? The Agency has indicated there has been an outpouring of support to keep treatment centers open, rather than emergency services. I thought the Committee members wanted the emergency services. Many of the churches in our community also have Alcoholics Anonymous services. I do not know if we are utilizing those statewide or countywide. Why would we switch the services back to treatment centers?

MR. WILLDEN:

Page 3 of the Spreadsheet indicates restorations of more than \$3 million over the biennium for MHDS to issue a request for proposal to find a transportation or vendor contract process that would, after patients have been medically cleared, in the Clark County emergency rooms, provide rapid transport to the Rawson-Neal Psychiatric facility. That has been under discussion for years in Clark County. The Agency felt this to be an area that needs to be resolved, but not at the expense of the community triage centers, residential programs or others.

Given the county's and hospitals' input, the recommendation was made to switch back to the priority of keeping the community triage centers open.

I see no performance indicators for the triage centers that report who they see and what their outcomes are. That is not to say those performance measures do not exist. I can work on that to determine what data can be evaluated. The Agency takes the State funds and pays bills. We do not receive numerous performance data. We use our State allocation to make our one-third funding for the triage centers.

SENATOR LESLIE:

Thank you for that explanation. I see many of the Joint Subcommittee recommendations reflected in the restoration list. The Assistant Minority Leader and I have had the chance to meet privately a number of times and I see our discussions are also reflected in the add-back list. I appreciate your efforts.

Page 2 of the Spreadsheet indicates a shift of \$37.2 million to the counties. The proposed restoration I see is \$2.6 million or 6.9 percent. Why is that?

MR. WILLDEN:

The Governor's recommended budget would shift 12 or 13 items to the counties as reflected on the last page of the Work Session Document. That represents approximately \$37 million in county match program dollars. The counties would be expected to provide \$37 million more than they do currently for the county match Long-Term Care Program. The addback suggests that several rural counties advised DHHS they were willing to take their share of that transfer. They stated the match would need to be capped at the 8-cent ad valorem tax rate. The addback is \$2.6 million capping each county's responsibility at the 8-cent statutory rate.

SENATOR LESLIE:

Is this those four counties that banded together?

MR. WILLDEN:

It benefits six counties including Carson City, Lyon, Mineral and others. It does not benefit Clark or Washoe Counties.

SENATOR LESLIE:

The restoration list appears to leave the counties off the hook for the EPS program, but DHHS is still requiring a reimbursement from the counties for the mental health court treatment services. I want to clarify for the body that it is about mental health treatments, not the court

costs. It also appears counties are required to fund youth parole. Is that correct? If that is correct, why was the EPS program chosen over the other two programs for funding?

MR. WILLDEN:

You are correct. There are three significant concerns of the counties. I do not presume to speak for the counties, however, I talk with them daily. They include the county match program of approximately \$37 million; the developmental services issue for the children under the requirements of *Nevada Revised Statutes* (NRS) Chapter 435 of approximately \$6 million annually; and the parole and probation issue at a cost of approximately \$6 million annually. The DHHS recommended restoring funding for EPS and CPS more than the other two programs. The other two programs are more statewide systems. Almost all the county representatives came to me and stated they could not take over the CPS costs similar to what is being done in Clark and Washoe Counties. The decision was made partially on the amount of funds available.

SENATOR LESLIE:

I am still very troubled by the mental health court reductions because funding is not for court costs, it is for treatment. If the mental health courts go away, the State would still be responsible for care of those individuals. Neither the *Executive Budget* nor the restoration list addresses that issue.

MR. WILLDEN:

The add-back list does not address the mental health courts.

SENATOR LESLIE:

The State staff does an incredible job. The forensic workers in the facility at Lake's Crossing are wonderful people. The Nevada social safety net has gaping holes and they are getting bigger with this budget. We are turning our backs on some of the most vulnerable populations we have. Nevada has the highest senior suicide rate in the country. Yet, this budget eliminates the Senior Mental Health Outreach Program that specifically serves those individuals. I appreciate all the hard work, especially of Mr. Willden, and I appreciate Mrs. Gansert for listening to our concerns. However, there is still a lot of work to be done.

SENATOR HORSFORD:

There are still many concerns surrounding mental health services as noted by other members. I am particularly concerned about Nevada Check Up. I have worked with Senator Hardy over many years to increase the number of children enrolled in this program. Many of the families who have lost their jobs may not be eligible for Nevada Check Up. But, as the economy begins to recover, they will be eligible and we should be helping those children receive quality health care. The HIFA Waiver program that directly impacts pregnant women is a concern. Nevada is fifty-first in State funding for substance abuse treatment, and support continues to be scaled back. When I look at these lists of areas that are still not addressed in the recommendations, I am concerned there needs to be further prioritization based on whatever identified savings are available to the General Fund.

There are a couple of recommendations in the addbacks from the Governor's Office of which I have not completed my review, but I do not understand how the conservation camps are a greater priority than mental health care or senior citizen support and assistance; particularly the Wells Conservation Camp. Ultimately, the Legislature will have to make these decisions, but we want to make them in coordination with the Governor's Office and the Agency.

I agree with the comments of my colleagues in commending Director Willden and his staff. We know you stay up at night worrying about these decisions and how they impact the lives of the people we all represent.

We will now open the hearing to public comment both in Carson City and in Las Vegas. Because of time constraints, we will limit testimony to approximately five minutes.

FRANCES DOHERTY (District Court Judge, Second Judicial District Court, Washoe County):

I have held my position by public election for a period of eight years. I have served as the presiding judge in juvenile court for that time. I also served in the juvenile court for an additional

five years as Juvenile Master. I preside over Washoe County's Juvenile Department of Probation and am the lead judge in the area.

I am present to make comments on the entire budget reduction that is assigned to the juvenile justice arena. The juvenile justice courts appreciate the restorations that the Governor has identified for board and care as well as the youth camps. While the overall reductions to the juvenile justice programs are approximately \$25 million, approximately \$8.5 million is being restored to the juvenile justice budgets.

There remains approximately \$15 million to \$16 million in budget reductions for the juvenile justice system. Let me be very clear about juvenile justice. We have evolved over a period of 100 years in Nevada with much of that evolution originating in Chicago, Ohio. That evolution in this State has involved the Nevada State Legislature every step of the way. You have created, with us, a system of delivery and oversight that addresses the two most critical needs of our area of work; community safety and healthy development of children into adults who can be contributing members of our community.

Those priorities were created by a system the Legislature helped establish. The counties in that system were to, and have, ensured that children who are identified as engaging in behavior that is unacceptable or unsafe enter the juvenile justice system; receive services that hopefully keep them at the low end of the system; and rehabilitate them in our counties. This work continues day-in-and day-out and year-in and year-out. Some children, as they proceed through our system do not have the same level of rehabilitative receptiveness. Some children have greater challenges by virtue of an array of circumstances, including poverty, economic deprivation, inaccessibility to services, inaccessibility to basic needs, absence of parents in the household, absence of employment income, child abuse, domestic violence, substance abuse and mental health issues. Those are the children that greet us at the doors of our detention centers and whom we work with in a myriad of ways. Some children's behavior becomes so significantly concerning that our system determines those children will be placed in out-of-home State commitments where they will hear about consequences, rehabilitative services and healthy growth.

In the time I have been a judge in the juvenile justice system, those placements have been in Caliente, Elko and they have been in the various youth camps. We appreciate that the youth camps have been funded. However, when we talk about transferring our children or those more challenging offenders to the State, we recognize the State has expertise and the ability to work with those children.

The new budget reductions take that expertise after the children have been committed to the facilities and say to us, we are going to reassign those children back to the counties in various ways.

First, we will tell the counties they will pay for the delivery of parole services. You are familiar with parole in both juvenile and adult justice. Parole assists children in reentering our society, stabilizing and becoming healthy. Now the system will change and counties will become responsible for that part of the system, even though the Legislature, over 100 years, has determined that this transition is most expertly held by those who are deep-end providers of criminal justice, security and healthy growth for children.

The counties are further being told that mental health is not really a part of the work to be done at the State level and that mental health provision needs to stay with the counties. Mental health for juvenile justice stays with the counties. Fifty percent to seventy percent of the children in the system are diagnosable with at least one mental health condition. Twenty percent of the children in the juvenile detention centers suffer from serious emotional disturbance that should not result in their being in those facilities. However, they end up in those facilities because of the nature of their conduct.

When children are told they will not receive the mental health services they need, we are telling deep-end offending children, not to knock on the State's door. If they are not going to knock on the State's door they will be sent back to the counties for services with the absence of resources to help them.

Senate Bill No. 476 dismantles the very system we have created, hand in glove, to ensure our communities are safe, our deep-end children are appropriately consequented and our severely offending, but severely challenged mentally ill children, are appropriately treated. The goal is

that, when they return from State care, they will have the potential to be safe, healthy, appropriate adults growing safe and healthy children. The counties do not have the resources, expertise or ability to address the seriously deep-end children. However, Senate Bill No. 476, which supports these budget reductions, suggests that we do just that. The Director of Juvenile Probations will address other areas of concern.

As a judge, it is my job under the Social Security Act of 1935, under the statute by which the State has given me authority to enter orders to find, before I place a child anywhere, that the child will be placed in the most suitable environment for them, to ensure they will be rehabilitated and that they are in the most reasonable and least restrictive environment. If I do not do so, I am in violation of *Nevada Revised Statutes* (NRS) Chapter 62. I am also in violation of Title IV(e) of the Social Security Act from which we receive federal funding through Medicaid to treat many of these children in the juvenile justice and other CPS Programs.

If I am not placing those children in suitable mental health placements and if I am committing more and more children because of our shrinking juvenile justice budget, we will be filling institutions like Caliente and Elko with children who should not be placed there. There will be unsuitable placements and orders. I will need to enter an order suggesting we are not placing this child in the least restrictive environment. We will have backup in our facilities at the detention centers because of the provision in the legislation that specifies the State does not accept children into those facilities unless they deem it appropriate. The detention centers in Clark and Washoe Counties and the centers in rural counties will still have the challenge of filling child beds with children who would not be there if the budget cuts did not exist.

We are talking about reductions to an entire system when we reallocate services or the responsibility for services and we dismantle the very structure we put in place to ensure protection for community safety, economic efficiencies, access to federal funds and in treatment of children. We cannot do that in a vacuum. The juvenile justice administrators, the courts and the judges in Ely have approached the Legislature with proposals on this budget in different ways. We will continue to do so. I ask you to seriously consider opposition to Senate Bill No. 476 as it is written because it dismantles our system. Do not surmise these addbacks are a sufficient method of sustaining a system that will collapse if an additional \$17 million is reduced over the next biennium.

We are here to work with you and we ask that you continue the dialogues and not accept these addbacks as the only solution.

SENATOR HORSFORD:

We appreciate your real-life perspective in how these reductions actually materialize in the every day lives of the juveniles you work with. We will now hear from the representatives present in Clark County.

FRITZ L. REESE (Director, Juvenile Justice Services, Clark County):

I want to reiterate the comments made by the Judge Doherty. Chief Stewart will represent the concerns of the NAJJA.

We support the add-backs. The Medicaid placements are a key component for the juvenile justice needs of children for southern Nevada. That represents approximately \$3.6 million over the biennium. We appreciate the costs of the reimbursements to the county camps. SMYC had 353 youth in attendance in 2010. That enabled us to reduce our commitment rate to State correctional care by 36 percent over the past four years.

It is important for the State to maintain the costs of youth parole. The facilities will remain open; therefore, the parole piece needs to remain in place. The cost for youth parole in Clark County is \$4 million each year. That would mean a \$4 million reduction in local services provided to youth to keep them out of supervision, on probation, out of SMYC and out of correctional care. There seems to be a misconception throughout the State that juvenile justice is "resource heavy." That is not the case. In Clark County, our Department has experienced a 14.5 percent reduction in the past two and one-half years. At this time, we are being asked to take another 9 percent reduction by our county manager and commissioners. In addition, \$4.5 million that was included in the *Executive Budget* restorations. To ask the counties to reimburse the cost of parole in which we would have no input, seems to be unfair. I respectfully ask your consideration in those matters.

SABRA SMITH NEWBY (Clark County):

Clark County has submitted a document to NELIS that details the impacts to the county with specific *Executive Budget* reductions that are proposed.

The DHHS budget impacts Clark County in many different departments. Those areas include social services, juvenile justice services and family services. The document lists those impacts as best we can. Where impacts are spread across the county, we have tried to estimate how many of those would result in a reduction in FTE positions. I will not discuss the document line-by-line due to time constraints. However, Clark County does not have the resources to handle these kinds of additional needs for services and for funding.

The Clark County budget hearings begin this evening to discuss the Department's 9 percent reduction plans which will eliminate approximately 250 jobs. Ultimately, if additional services and costs are pushed down to the county, it simply means additional savings in personnel and/or programs will be necessary. That is very concerning to us.

Mr. Willden mentioned the Long-Term Care Program. The reductions, as proposed, will mean approximately a \$24 million reduction in funding to Clark County in the upcoming biennium. Ultimately, that means closure of our financial assistance program and the closure of our satellite offices. Burials will no longer be a choice for indigent persons and cremations will be the only choice. The Clark County Financial Assistance Program assists 8,000 individuals and employs approximately 80 FTE individuals. That program would need to be closed and whatever funding was dedicated to it would perhaps need to be directed to nonprofit organizations in our area to manage this population. That program has already taken huge reductions because it is primarily property tax-based. The county receives the same property tax distributions as always and has the same reductions in the amount of property tax available. The program also benefits from the operating rate of 4 cents of which is proposed for redirection.

LISA RUIZ-LEE (Assistant Director, Clark County Department of Family Services):

I want to take this opportunity to indicate how much we appreciated the opportunity to work with DHHS over the last four or five weeks to provide input on budget development. While we will not say the revised budget may or may not reduce child welfare services in Clark County, that collaboration opportunity did reduce the overall immediate impact on core child welfare services in the county. We are generally in support of the block grant concept and believe it provides us the flexibility in funding going forward that is currently lacking.

The initially proposed child welfare budget included a base allocation for Clark County of \$37.5 million and an incentive program allocation of up to \$5.25 million. While the total award of \$42.75 million was only slightly less than the \$43 million we were projecting to spend in State General Funds this year, the overall implementation costs of the incentive program was largely unknown. The risks associated with expending the funds and not being reimbursed for them, based on the performance improvement plans and the performance measurement component, was concerning to the county.

Because the incentive funds are fluid, the county's position regarding the incentive funds, then and now, is that they cannot be utilized for core operating expenses. This is the budget item that drove the county's outcry regarding the fact we were facing a fairly significant budget reduction.

The block grant concept was presented, and amended, in Senate Bill No. 447. However, based upon conversations with DHHS, the block grant will allow us to evaluate child welfare expenses over the next two years. It includes a phased-in component of the incentive program, which we appreciate. That extra time allows the county to be thoughtful about how we implement the incentive program and how we utilize those funds.

We are also, as indicated by Mr. Willden, reevaluating the caseload projections and the projected federal revenues. As our budget is finalized, we will be able to better determine if there are any reductions that will be needed in child welfare services. We are going to take the opportunity, over the course of the next two years, to fully strategize about what form of program improvement we may be able to implement to utilize the incentive funding.

Most important to Clark County, are the meetings and the discussions we had with DHHS have helped us to better understand and see their commitment to our successful utilization of those funds.

BONNIE SORENSON (Director, Nursing and Clinical Services, Southern Nevada Health District):

I am here to speak in opposition to portions of Senate Bill No. 471.

SENATOR HORSFORD:

We are not specifically conducting a hearing on that bill at this time. It would be more appropriate for you to highlight the budget implications in that bill.

MS. SORENSON:

That is my intention. Our concern is found in Section 11 of the bill regarding tuberculosis control. This section shifts the financial responsibility of contracting with healthcare providers for diagnostic examinations to include laboratory testing, inpatient and outpatient care for tuberculosis to local health authorities. Based on cost estimates provided by the Nevada Hospital Association, from July 2009 to July 2010, with indigent funds as a pay source, the health district would be responsible for approximately \$850,000 in costs. That is in addition to the \$439,000 that we would lose from elimination of the State tuberculosis control funds. This new mandate could have a significant impact on the Health District and a loss of federal funds.

The shift to the county would be approximately \$1.4 million.

This section of the bill also requires us to assure that we would be responsible for any related conditions when treating tuberculosis. Those costs are unknown at this time, but could be astronomical.

CAREY STEWART (Director, Washoe County Juvenile Services):

Director Reese did an excellent job summarizing the concerns on the behalf of NAJJA. When we started this process, the recommendation was for statewide budget reductions to juvenile justice of approximately \$26 million. Over the course of the last several months, the juvenile justice administrators have presented alternatives to those reductions, developed priority lists and we are pleased and appreciative to see that funds are being restored for the camps and for room and board for children who stay in parental custody.

There is concern on behalf of the counties as it pertains to the county assessments for the youth parole function. As we worked with the State in analyzing and understanding this recommendation, a rumor surfaced that the county jurisdictions could absorb this cost because they had excess funds to do so. In my county and, according to my colleagues in the other jurisdictions, that rumor is totally false. In Washoe County, as we enter into the next fiscal year, juvenile services will have absorbed approximately \$4 million in reductions, or approximately 25 percent of our budget.

To push the youth parole costs further onto the counties, in Washoe County, we will have to eliminate further programming. That programming is designed to keep children out of State custody and care and even deeper penetration into our own county systems. We recommend that youth parole be placed back into the budget. Funding for the camps, the room and board and parole are key to juvenile justice moving forward. If we can retain funding for those three elements, we can move forward and absorb reductions in other areas.

SENATOR HORSFORD:

Judge Dougherty spoke about many of these issues. Please keep your comments focused on the mental health courts.

PETER I. BREEN (Senior District Court Judge, Adult Specialty Courts):

On any particular day, we hear between 1,200 and 1,500 individual cases. Today I am here to speak about the mental health court. These are non-violent criminals who, through their mental illness, find themselves in the criminal justice system. This is a never-ending highway where they go from their homes where no one can assist them; to the streets, where there is no mercy; to the jails, where there is no tolerance from the inmates; to the courts, to the jails and prisons, where again there is no mercy and no tolerance. This is a never-ending highway that is spiraling downward.

The mental health court began in 1999 with an enabling act from the Legislature without funding. We met as a volunteer group in the Reno and Washoe County area. We started a mental health court of approximately 20 to 30 individuals. We came back in 2001, after proving

ourselves, and with that testimony, we were generously funded by the Legislature and this body has been very generous since that time. Judge Jackie Glass from Clark County, Judge John Tatro and I, on behalf of the mental health courts, have testified that we are a truly integrated court. We take individuals from nearly every county into our three courts. We have also testified that we are a success story. We are as successful as any specialty court in Nevada. That means that we have a retention rate of nearly 90 percent and a low recidivism rate of approximately 25 percent. People come through our courts and they are successful. Testimony also indicated the amount of funds that were saved through these courts. That has been proved beyond a reasonable doubt. For every dollar the Legislature spends, it gets back approximately \$2 to \$11 in return directed to the government, the community, and the district courts in which we preside. We have testified that the State has a direct benefit from our courts. We provided a study that indicated there were 204 individuals in the Washoe County sent to the mental health court that did not follow through with attendance. Those individuals spent minimum sentences of more than 313 years in Nevada State Prisons.

Finally, we told the Legislature that if these funds are removed, either by shifting to the counties or by elimination, it will be the death of the mental health courts, approximately ten years after they began. There is no doubt in my mind about that. To shift this responsibility is illusionary. The counties clearly have no funds to replace funding of perhaps \$1.4 million for this program. They are engaged in large budget reductions themselves with the conditions that now exist. I have been to those meetings. It is only through some drastic measures that we are able to keep the specialty courts functioning. The counties already pay for the operation of the courts, including salaries for the bailiffs, the clerks, and our necessary staff. Without the drastic measures that have already been taken, we probably would have already had to close the courts.

We have also been successful because we can deliver. The people know that we can help them with employment, counseling and medications. That is one of the things that make the specialty courts particularly successful. We are in a unique position of making everyone accountable and if we cannot have this reliable source of funds, we cannot continue because clients will drop out. One reason they are before the courts is because they cannot maintain a steady, consistent effort to help themselves.

SENATOR HORSFORD:

I want to thank Judge Breen and your colleagues for the tremendous work that has been done. The Nevada specialty courts have become a national model. I was at a conference and the Nevada mental health courts were recognized for their work including saving dollars, not to mention saving lives. I hope, from an economic standpoint, we find a way to do this. If we do not pay the costs at the front end, we are going to pay for it through incarceration and in placing these individuals in institutional care, costing us far more.

JUDGE BREEN:

The repercussions of loss from these funds will be immediate. The people who are in mental health court today, were in jail last year. They will be in prison tomorrow, not ten years from now. Some day, someone will want to restart a mental health court. If it is five or six years down the line, the staff will be gone.

KEVIN SHILLER (Director, Department of Social Services, Washoe County):

My department has a budget of approximately \$71 million. Every topic that has been presented before you is touched by our services at some level. Working with DHHS, Director Willden and Legislators, I want to commend the work on the block grant and efforts toward serving all these populations. We, in serving these populations, are serving individuals who cannot speak or advocate for themselves.

All the reinstatements of funds have a direct or indirect impact on how we provide those services to areas. We are expecting an approximate county budget reduction of \$25 million to \$30 million. We will continue to work and seek compromise on the nursing home match program and services to the developmentally delayed youth. We recognize, as a county, the need to compromise and to look at this from a budget standpoint. We must keep in mind that we are serving human beings and we want to do that as well as possible.

BILL WELCH (President/CEO, Nevada Hospital Association):

Our Association has concerns with the proposed budget. A question I heard asked earlier today concerned the safety network system. I challenge you to consider that the hospitals are a part of that safety net provider system. We treat more than 205,000 admissions each year. We treat over one million emergencies each year. The proposed budget reductions will be compounded on top of the budget reductions we experienced during the last biennium. Budget reductions over the last biennium caused more than 20 services to be closed during the last 12 to 18 months. Those services center on women and children and those with chronic illnesses. We have had outpatient dialysis services, outpatient cancer services and obstetrical services closed as a result of the ongoing budget reductions and the growth in the uninsured population.

The proposed reductions discussed today will affect hospitals that are willing to be on record regarding specific hospital and specific services. They are concerned about the more than 20 additional services that will have to close. The total of these services, while it saves the State approximately \$17 million over the 2011-2013 biennium has an impact of more than \$65 million on payment of services to the providers.

I would leave you with two questions. Are hospitals, and the availability of emergency services offered 24 hours a day, 365 days, a year essential services? Are having hospital services available in this community essential to the economy of this State?

We are the fifth largest employer in the State and over the last 18 months, 1,300 employees have been eliminated as the result of closure of services. There is a closing of hospital services and a loss of jobs, and that will only worsen with this proposed budget. We ask you to consider these very carefully.

SENATOR HORSFORD:

From an operational standpoint, how do the member hospitals account for the need to continue to provide care? Is this not simply a tax on your members?

MR. WELCH:

The proposed budget has a direct impact on our bottom lines. We have more than \$45 million in direct payments that have been eliminated. I suppose that could be called a tax. With this budget, we have approximately \$65 million in payments that are currently paid to these hospitals that will become lost revenues. We account for that by reduction of services, by becoming more efficient and ultimately some costs will be shifted. It is a downward spiral.

SENATOR HORSFORD:

The intent of this hearing was to provide this budget information to the body. We ask that the members digest this information and develop their questions. We will bring it back for discussion.

I want to end by saying, when we look at these budgets on mental health, family services, child welfare, juvenile justice and substance abuse, they impact real people. Those real people are children, their families and those who are struggling as all of us are. We talk about the pain in this economy in the private sector. That is true. I hope we can also appreciate the real pain that is being experienced by those we also represent; the children, the families, the working poor and those who are served by these programs.

I am still personally trying to see where the shared sacrifice called for, is in this budget. The only sacrifice I see in the budgets we have just covered is the sacrifice on the poor and most vulnerable Nevadans. I do not call that shared sacrifice.

I hope as we continue this discussion, we can find ways to have a more balanced approach. I appreciate the recommendations from the Governor and DHHS on some of those areas. Clearly, there is more work to be done.

I would now accept a motion to rise and report back to the Senate at 5:54 p.m.

On the motion of Senator Weiner and second by Senator Schneider, the Committee did rise, and report back to the Senate.

Motion carried.

SENATE IN SESSION

At 5:56 p.m.

President Krolicki presiding.

Quorum present.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Cegavske, the privilege of the Floor of the Senate Chamber for this day was extended to Brent Husson.

On request of Senator Hardy, the privilege of the Floor of the Senate Chamber for this day was extended to Monte Miller.

On request of Senator Kihuen, the privilege of the Floor of the Senate Chamber for this day was extended to the Latino Student Advisory Board of the University of Nevada, Reno.

On request of Senator Roberson, the privilege of the Floor of the Senate Chamber for this day was extended to Dan Tuntland.

On request of President Krolicki, the privilege of the Floor of the Senate Chamber for this day was extended to Caroline Krolicki.

Senator Horsford moved that the Senate adjourn until Thursday, April 28, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 5:57 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE EIGHTY-FIRST DAY

CARSON CITY (Thursday), April 28, 2011

Senate called to order at 11:16 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Bruce Henderson.

Our Father,

We often begin a task with joy, enthusiasm and a great sense of purpose. But then the effort gets to some of us. Our emotions become raw and our patience wears thin. So, today I pray the words of King David. "Restore to me the joy of Your salvation and grant me a willing spirit, to sustain me."

Please hear our prayer for joy, a willing spirit and strength to sustain.

Thank You.

AMEN.

Pledge of Allegiance to the Flag.

Senator Wiener 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, Labor and Energy, to which were referred Assembly Bills Nos. 33, 55, 211, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 121, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

VALERIE WIENER, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

By Senators Brower, Breeden, Cegavske, Copenning, Denis, Gustavson, Halseth, Hardy, Horsford, Kieckhefer, Kihuen, Lee, Leslie, Manendo, McGinness, Parks, Rhoads, Roberson, Schneider, Settlemeyer, Wiener; Assemblymen Hickey, Aizley, Anderson, Atkinson, Benitez-Thompson, Bobzien, Brooks, Bustamante Adams, Carlton, Carrillo, Conklin, Daly, Diaz, Dondero Loop, Ellison, Flores, Frierson, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hogan, Horne, Kirkpatrick, Kirner, Kite, Livermore, Mastroluca, McArthur, Munford, Neal, Ocegueda, Ohrenschall, Pierce, Segerblom, Sherwood, Smith, Stewart and Woodbury:

Senate Concurrent Resolution No. 8—Memorializing Enos LeRoy Arrascada, respected attorney and community leader.

WHEREAS, The members of the Nevada Legislature note with sorrow the passing of Enos LeRoy Arrascada, a third generation Basque Nevadan, on December 15, 2009; and

WHEREAS, Born in Elko on August 19, 1936, to Ignacio "Enos" Arrascada and Maxine Cook, LeRoy graduated from Elko High School, was always involved in campus life and student government; and

WHEREAS, He attended the University of Nevada, Reno, where he successfully ran for the Student Senate, defeating classmate Richard Bryan, who went on to serve as Nevada Governor and United States Senator; and

WHEREAS, After graduating from college in 1959, LeRoy enlisted in the United States Navy and, upon discharge, entered the American University Washington College of Law in Washington, D.C., to pursue his lifelong love of the law; and

WHEREAS, While attending law school, LeRoy worked in a patronage position operating an elevator in the United States Capitol, and as fate would have it, it was in that elevator that he met the love of his life and best friend, Ellen Sullivan Arrascada, a congressional secretary, whereupon they married and moved to Reno in 1964; and

WHEREAS, Leroy loved this State with its deserts and mountains, and one of his great joys in life was going hunting and fishing in northern Nevada; and

WHEREAS, Never one to retire from his passion for the law, LeRoy worked until the day before he passed, was considered one of the true gentlemen of the legal profession and was a law partner with his son John and daughter Christine, fulfilling a dream that few fathers attain; and

WHEREAS, Very civic-minded, Leroy was extremely active in the community and was a founder and first President of the Reno Zazpiak Bat Basque Club, a former President of the Washoe County Bar Association, the Reno Host Lions Club and the Reno Aquatic Club, a former Chairman of the Democratic Party of Washoe County, a founding member of the Nevada Trial Lawyers Association and a member of the Humboldt Hunting Club, the Prospectors' Club, the Nevada Woodchucks and the Gold and Silver coffee group, and his dedication to his many causes will be sorely missed by all; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the members of the 76th Nevada Legislature offer their deepest condolences to LeRoy's beloved wife of 45 years, Ellen, and their children and spouses Mary Ellen Arrascada and Matt Zier, John and Betsabeth Arrascada, Joseph Arrascada and Christine and John Aramini and their grandchildren Sabrina Arrascada and Elena, Amaya and Angelo Aramini, as well as his mother Maxine Cook; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to LeRoy's wife Ellen.

Senator Brower moved the adoption of the resolution.

Remarks by Senator Brower.

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

I am pleased to speak to this resolution today. The resolution cannot do LeRoy justice, nor can I, but I will try. LeRoy Arrascada was a real Nevadan. Those of us who knew him knew that fact about him. He took much pride in our State. He was a pillar of the Reno community, involved in more charitable and civic efforts than most of us could hope to be involved with. He was a devoted family man. It is so good to see the family here with us today.

I came to know LeRoy as a lawyer. He was a lawyer's lawyer. It gave him much pride to see two of his children follow him into the law and to practice with him. He was the kind of lawyer that young lawyers, like myself in Washoe County looked up to and aspired to be like. If you knew LeRoy, you wanted to know everything that he knew about the law. You hoped that, someday, you could practice in the way he did. He is and will be missed by everyone. I am pleased to see so many of his friends and family here today.

I cannot do justice with my remarks here, today, to what LeRoy meant to his family, to the Reno community, the legal profession and to the State of Nevada. I am privileged to be able to speak to this resolution. I urge our unanimous support. Thank you, Mr. President.

Resolution adopted.

Senator Brower moved that all necessary rules be suspended and that Senate Concurrent Resolution No. 8 be immediately transmitted to the Assembly.

Motion carried unanimously.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 11:30 a.m.

SENATE IN SESSION

At 11:35 p.m.

President Krolicki presiding.

Quorum present.

SECOND READING AND AMENDMENT

Assembly Bill No. 97.

Bill read second time and ordered to third reading.

Assembly Bill No. 111.

Bill read second time and ordered to third reading.

Assembly Bill No. 125.

Bill read second time and ordered to third reading.

Assembly Bill No. 166.

Bill read second time and ordered to third reading.

Assembly Bill No. 168.

Bill read second time and ordered to third reading.

Assembly Bill No. 174.

Bill read second time and ordered to third reading.

Assembly Bill No. 261.

Bill read second time and ordered to third reading.

Assembly Bill No. 262.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bills Nos. 12, 18, 83, 142, 147, 156, 217, 250, 348, 464, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Horsford moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering decennial redistricting, with Senator Parks as Chair and Senator Denis as Vice Chair of the Committee of the Whole.

Motion carried.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Motion carried.

Senate in recess at 12:20 p.m.

IN COMMITTEE OF THE WHOLE

At 5:47 p.m.

Senator Parks presiding.

Decennial redistricting considered.

The Committee of the Whole was addressed by Senator Parks; Michael Stewart, Research Division, Legislative Counsel Bureau; Kathy Steinle, Geographic Information Systems Manager, Legislative Counsel Bureau Information Technology Services Unit.

SENATOR PARKS:

This Committee of the Whole was called for the purpose of presenting redistricting proposals to the entire body. We have not anticipated any debate on the redistricting maps today, rather the purpose of today's Committee of the Whole, which we anticipate to be a brief presentation, is to ensure that all Senators are informed of the redistricting plans. Our non-partisan staff will be presenting the core facts about each proposal. The proposals will be formally introduced and referred to the Senate and Assembly Legislative Operations and Elections Committees for a joint meeting currently scheduled for next Thursday, May 5. As the Legislative Counsel Bureau (LCB) staff is non-partisan, they will not be taking questions today on specific aspects of the maps unless necessary for clarification. Additionally, we will make certain that all maps are fully available to the public and the membership with the opportunity to give comment next week when proposals are heard in committee. Members will subsequently be able to provide comments when the committee forwards a proposal to the Floor. All redistricting proposals will be loaded on public workstations in Carson City and Las Vegas as well as displayed in various map rooms. Proposals will be uploaded onto the Nevada Electronic Legislative Information System (NELIS) and on the Legislative website homepage under redistricting and reapportionment.

If there are any questions or comments from members of this body at this time, I ask that they be referred to our Committee on Legislative Operations and Elections for discussion at the appropriate time. At this time I will ask Kathy Steinle and Michael Stewart to guide us through the main information regarding each of these proposals. Staff will not be taking specific questions on the proposals being presented today.

MICHAEL STEWART (Research Division, Legislative Counsel Bureau):

We have been asked, today, to present factual information regarding various reapportionment and redistricting plans that have been compiled by both major political parties of the Nevada State Legislature. Before we begin, I must remind you it is our standard LCB disclosure that as central, non-partisan staff we cannot advocate for the passage or defeat of any legislation or in this case any reapportionment or redistricting plan.

We are here, today, to present only the basic information about two redistricting plans impacting the Nevada State Senate and one redistricting plan proposed by the Republican Caucus regarding Nevada's Congressional districts.

With each plan, Kathy will start with an explanation of the key geographic components and features of the overall plan and some district-specific information. I will follow that with a brief summary of some statistical information, specifically population, deviation from the ideal population, and information regarding race and ethnic minority concentrations in some legislative districts. With that introduction, I will turn this discussion over to Kathy who will begin with the redistricting plan prepared by the Senate Democrats.

KATHY STEINLE (Geographic Information Systems Manager, Legislative Counsel Bureau Information Technology Services Unit):

The maps of the redistricting portray a statewide view, a western view and a southern, Las Vegas, Clark County area view.

The Democratic plan for the Senate districts shows the 15, wholly contained, districts within Clark County. There is one that is partially contained within Clark County.

There are three districts wholly contained within Washoe County and another partial district in Washoe County.

The statewide view map shows district 19 encompassing all of Carson City, part of Douglas County, part of Lyon County, part of Storey County and part of Washoe County. District 20 consists of all of Churchill County, part of Douglas County, all of Esmeralda County, all of Humboldt County, all of Lander County, part of Lyon County, all of Mineral County, part of Nye County, all of Pershing County and part of Storey County.

In the Reno-Sparks Area view, and in the inset map at the bottom of the map, details districts, 16, 17 and 18. They are wholly contained within Washoe County. The other districts surround it.

In the Las Vegas-Clark County area view, districts 1-15 are wholly contained within Clark County. Part of district 21 is in the northern and western edges of the map.

MR. STEWART:

When we redistrict, the goal is to achieve as equal population as possible. Chart number 1 for the Senate redistricting cycle, shows the ideal population at 128,598. The largest positive deviation is 470 persons at 0.37 percent, listed in district number 18. The largest negative deviation is -580 persons and -0.45 percent in district number 20. That means that positive and negative overall deviation is 0.82 percent.

Chart number 2 details the racial and ethnic data. This is an important component of redistricting. The highest Hispanic or Latino population is in district number 2 at 63.22 percent followed by district number 10 at 57.83 percent, district number 4 at 37.37 percent and district number 3 at 35.3 percent. Other notable Hispanic populations are 40.31 percent in district number 14 and a district in Washoe County, number 17 at 33.07 percent. Statewide, the total Hispanic population by the 2010 census was 716,501 equaling 26.53 percent of the State population.

The Black, or African-American, population has the highest population in district number 4 at 28.57 percent, followed by district number 1 at 21.10 percent.

There is a notable Asian population in district number 9 at 22.32 percent.

On NELIS there is information on the voting age population as well. We will not discuss that at this time.

Ms. Steinle will now discuss the Republican Plan.

MS. STEINLE:

The Republican plan has 15 Clark County Senate Districts wholly contained within Clark County. There are two wholly contained Washoe County districts.

District number 16 is the northern district has part of Clark County, part of Churchill County, all of Elko County, Eureka County, Humboldt County, Lander County, Lincoln County, Pershing County and White Pine County.

District number 17 is the district below that with all of Nye County, part of Churchill County, all of Esmeralda County, part of Lyon County, part of Mineral County, all of Nye County, all of Storey County and part of Washoe County.

District number 18 contains part of Carson City, all of Douglas County, part of Lyon County and part of Mineral County.

Districts number 19 and 20 are in Washoe County. District number 20 has part of Carson City in it.

In Las Vegas, the Republican plan shows the 15 wholly contained districts within Clark County. District number 16 is on the northern boundary coming into Clark County.

MR. STEWART:

The ideal population to achieve is 128,598 as indicated in chart number 5. There are several districts with a total Hispanic population of over 50 percent. District number 1 has 57.9 percent,

number 5 has 57.3 percent, number 3 has 56.8 percent and number 4 with 50.5 percent. The Hispanic voting age population, except for in district number 4, are all over 50 percent.

In district number 2, the Black and African-American voting age population is the highest at 25.3 percent.

The largest positive deviation of this plan is 0.09 percent in district number 3 and the largest negative deviation is -0.07 percent in district number 18 with an overall range of deviation of 0.16 percent.

MS. STEINLE:

Congressional districts 2 and 3 in the Republican Plan consist of the northern part of the State. Districts number 1 and 4 are wholly contained within Clark County. District 2 contains all of Carson City, all of Churchill County, part of Douglas County, all of Elko County, Eureka County, Humboldt County, Lander County, part of Lyon County, all of Pershing County, Storey County, Washoe County and White Pine County. District number 3 has part of Clark County, part of Douglas County, all of Esmeralda County, Lincoln County, part of Lyon County, all of Mineral County and all of Nye County.

Lyon County and Douglas County are split. In Las Vegas, district number 1 and district number 4 are completely surrounded by district number 3. It comes up from the north.

MR. STEWART:

The statistical layout of this plan shows the largest positive deviation is zero. The largest negative deviation is -1. The ideal population for these congressional districts is 675,138.

Looking at the total Hispanic population in Congressional District No. 4 reaches a majority at 50.7 percent. The voting age population is 44.3 percent Hispanic. The Black, African-American voting age population is 14.2 percent.

MS. STEINLE:

The maps and tables for all plans will be in room 3161. Those will be available for the public to view. On the public workstations, the Democratic plan will be available.

SENATOR PARKS:

Thank you. Are there any questions from the members of the Committee of the Whole?

The maps submitted by various interested parties during the time we held hearings in Carson City, Fallon, Reno, and in Las Vegas were placed on NELIS for the dates of those hearings. Will the maps and related information be brought forward to the main web page including these maps presented today?

MS. STEINLE:

Yes, we can do that. All the maps available on redistricting can be on the redistricting web page including the ones presented by the public.

SENATOR PARKS:

Thank you that will be appreciated.

On the motion of Senator Lee and second by Senator Gustavson, the Committee of the Whole did rise, and report back to the Senate.

SENATE IN SESSION

At 6:07 p.m.

President Krolicki presiding.

Quorum present.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bill No. 86.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Breeden, the privilege of the Floor of the Senate Chamber for this day was extended to Bobbie McCollum and Pat Devereux.

On request of Senator Brower, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator William Raggio, Dale Raggio, Joel Taylor, Ellen Arrascada, John Arrascada, Mary Ellen Arrascada, Christine Aramini, Joseph Arrascada, Betsabeth Arrascada, Matt Zier, John Aramini, Maxine Cook, Sabrina Arrascada, Elena Aramini, Angelo Aramini, Amaya Aramini, Robert Loose, Sandy Sell, Natalia Beltz, Susan Gaither and Barbara Green

On request of Senator Cegavske, the privilege of the Floor of the Senate Chamber for this day was extended to Terri Miller.

On request of Senator Copenig, the privilege of the Floor of the Senate Chamber for this day was extended to Jodene Poley.

On request of Senator Denis, the privilege of the Floor of the Senate Chamber for this day was extended to Dee John.

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to Jerry Stacy.

On request of Senator Halseth, the privilege of the Floor of the Senate Chamber for this day was extended to Mollie Miller.

On request of Senator Hardy, the privilege of the Floor of the Senate Chamber for this day was extended to Katie Bowen, Yvonne Hardy and Adriane Zaniewski.

On request of Senator Horsford, the privilege of the Floor of the Senate Chamber for this day was extended to Sheri Carlsen, Trish O'Flinn and Rowan Dashner.

On request of Senator Kieckhefer, the privilege of the Floor of the Senate Chamber for this day was extended to April West-Kieckhefer and the following students from the Brookfield Elementary School: Rahul Bagchi, Asa Bizar, Clay Bollesen, Jacob Colombo, Noah Conkey, Justin Demirtas, Justin Friedlander, Jackson Fyda, Matthew Goecker, Dylan Gosal, Natasha Hallerbach, Kevin Jin, Knight Karadanis, Zoa Katok, Emilee Keppelmann, Michael Kerr, Griffin Kutler Dodd, Jack Landree, Rachel Lillaney, Flynn Lundeen, Kaetochi Okpukpara, Harrison Paas, Dalton Plummer, Michael Rowley, Madison Tayler, Bianca Valdespin and Adelane Weinert.

On request of Senator Kihuen, the privilege of the Floor of the Senate Chamber for this day was extended to Emily Rhodenbaugh, Leslie Sexton and Debra Carmichael.

On request of Senator Lee, the privilege of the Floor of the Senate Chamber for this day was extended to Kaitlynn Plummer, Gena Plummer, James Newcomb and Julie Newman.

On request of Senator Leslie, the privilege of the Floor of the Senate Chamber for this day was extended to Judge Peter Breen and Bonnie Borda Hoffecker.

On request of Senator Manendo, the privilege of the Floor of the Senate Chamber for this day was extended to Judy Toscano, Sandra Hudgens, Charity Fowler, Michelle Van Geel and Linda Fehr.

On request of Senator McGinness, the privilege of the Floor of the Senate Chamber for this day was extended to Charles Welsh, Jane Welsh, Ricka Benum and the following students, teachers and chaperones from the West End Elementary School: Damarius Allen, Macie Anderson, Brady Blundell, Danyelle Braden, Lisette Camacho, Jacob Cates, Darby Cecil, Kyler Christensen, Megan Crosby, Hannah Evans, Leelah Friberg, Dawson Frost, Shelby Hickox, Joshua Housel, Thomas Jamieson, Clark Johnson, Blake Malkovich, Sean McCormick, Nesly Robles, Kamryn Rutledge, Leila San Agustin, Guy Schortgen, Cody Sponsler, Gustavo Torres, Julia Wideman, Skyler Word, Mary Grace Young, Jordan Beyer, Leighton Beyer, Sharon Caffero, Britney Davis, Christopher DenBleyker, Emily Evett, Skye Farmer, Hayden Fulk, Myles Getto, Wynter Gilbert, Jared Harmon, Maddilyn Hill, Giuliana Hofheins, Kaitlyn Hunter, Sterling Lee, Luis Leef, Austin Lunderstadt, Devin Lyons, Allison Marrujo, Morgan McAlexander, Garrett McKnight, Mark Moyle, Leilani Otuaifi, Chloe Overlie, Carmen Trinidad, Brylynn Vallejos, Tyler Word, Aya Armbruster, Dalton Boice, Ashley Briggs, Trevor Brown, Chelsea Clevenger, Destinee DePaulis, John Michael Frandsen, Ellie Gehman, Sierra Hickox, Dylan Holmes, Nate Hutchings, Jacob Jones, Fearghus Keitz, Tylor Logue, Trent Marker, Becca McKnight, Jordan Medrano, Josh Mikulak, Julian Plasencio, Samantha Portillo, Brynlee Shults, Nathan Thompson, Maycee Wadsworth, Kurtis Ward, Lizzie Williams, Sean Wood, AJ Wood; teachers: Julie Stockard, Shannon Matheson and Natalie Lane; chaperones: Kelly Frost, Shanta Sponsler, Yolanda Kaster, Shannon Davis, Kristi Lunderstadt, Teresa Gehman, Chris Medrano, Denise Marker, Molly Collins and Taylor Collins.

On request of Senator Parks, the privilege of the Floor of the Senate Chamber for this day was extended to Stella Blood.

On request of Senator Rhoads, the privilege of the Floor of the Senate Chamber for this day was extended to Billie Brinkman.

On request of Senator Roberson, the privilege of the Floor of the Senate Chamber for this day was extended to Maudie Long.

On request of Senator Settlemeyer, the privilege of the Floor of the Senate Chamber for this day was extended to Maureen Brower.

On request of Senator Wiener, the privilege of the Floor of the Senate Chamber for this day was extended to Justice Ron Parraguirre, Jeanne Baret and Assemblywoman Mastroluca.

Senator Horsford moved that the Senate adjourn until Monday, May 2, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 6:10 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate