

THE SEVENTY-THIRD DAY

CARSON CITY (Wednesday), April 20, 2011

Assembly called to order at 11:41 a.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Gary Gryte.

Our Heavenly Father, we ask Your presence with us as we represent the people of the great state of Nevada.

May we respect each other as much as we respect ourselves. May we care for those we stand for as much as You do. May we honor the seat we warm with fairness, with caring, justice, and compassion.

Care for our families today wherever they are. Care for them so we can be content at heart and do our jobs in peace.

We look with anticipation to the wonderful ways You are going to answer our prayer today, for it is in the name of Jesus we ask.

AMEN.

Pledge of allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 253, 254, 255, 289, 300, 433, 538, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chair*

Mr. Speaker:

Your Committee on Education, to which was referred Assembly Bill No. 290, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID P. BOBZIEN, *Chair*

Mr. Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 61, 114, 466, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

Mr. Speaker:

Your Committee on Health and Human Services, to which was referred Assembly Bill No. 154, 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 Health and Human Services, to which was referred Assembly Bill No. 350, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

APRIL MASTROLUCA, *Chair*

Mr. Speaker:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 6, 56, 196, 213, 259, 279, 291, 321, 346, 389, 396, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, Your Committee on Judiciary, to which was referred Assembly Bill No. 72, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which were referred Assembly Bills Nos. 78, 401, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which was referred Assembly Bill No. 249, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM C. HORNE, *Chair*

Mr. Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Assembly Bill No. 427, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, without recommendation, and refer to the Committee on Ways and Means.

MAGGIE CARLTON, *Chair*

Mr. Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 192, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 19, 2011

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 565.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

SENATE CHAMBER, Carson City, April 20, 2011

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 7.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

By Senators Horsford, Breeden, Brower, Cegavske, Copening, Denis, Gustavson, Halseth, Hardy, Kieckhefer, Kihuen, Lee, Leslie, Manendo, McGinness, Parks, Rhoads, Roberson, Schneider, Settelmeyer, and Wiener; Assemblymen Smith, 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, Hickey, Hogan, Horne, Kirkpatrick, Kirner, Kite, Livermore, Mastroluca, McArthur, Munford, Neal, Ocegueda, Ohrenschall, Pierce, Segerblom, Sherwood, Stewart, and Woodbury.

Senate Concurrent Resolution No. 7—Memorializing Milton D. Glick, President of the University of Nevada, Reno.

WHEREAS, The members of the Nevada Legislature note with great sorrow the passing of Milton Glick, President of the University of Nevada, Reno, and one of Nevada's finest educators and leaders, on April 16, 2011; and

WHEREAS, Born in Memphis, Tennessee, in 1937, Dr. Glick grew up in Rock Island, Illinois, and it soon became apparent that education was to be his passion, as he graduated with a bachelor's degree in chemistry from Augustana College in Rock Island and earned his doctorate at the University of Wisconsin in Madison, followed by postdoctoral studies at Cornell University in Ithaca, New York; and

WHEREAS, Dr. Glick was on the faculty at Wayne State University in Detroit, Michigan, Iowa State University in Ames, the College of Arts and Science at the University of Missouri in Columbia and Arizona State University in Tempe, which reinforced his enduring belief in the power of higher education; and

WHEREAS, At his inauguration as the 15th President of the University of Nevada, Reno, in 2006, Dr. Glick stated that "The next Comstock Lode is not in the mines of Nevada. . . . It is in the minds of Nevadans," thereby signaling to all Nevadans that he had the leadership and commitment to take the University to new heights and national recognition; and

WHEREAS, Despite economic challenges, President Glick fostered a culture of excellence and led the University to unprecedented growth through campus expansion and construction, increased research funding, the recruitment of a record number of National Merit Scholarship students and the elevation of the University to Tier 1 status in the prestigious annual rankings of *U. S. News & World Report*; and

WHEREAS, The efforts of this talented leader and devoted educator resulted last year in the University graduating its largest class ever, marking a 66 percent increase in the number of baccalaureate degrees awarded over the last 10 years; and

WHEREAS, Dr. Glick's mantra was that "Nevada needs more education, not less. It's about what we want our children and grandchildren to inherit," and when asked about the future of education in the face of severe budget

cuts, he said, “I still believe that what we do at our University will determine the quality of life for all Nevadans”; and

WHEREAS, As the heart and soul of the University of Nevada, Reno, Dr. Glick always put the students’ needs first, whether it was by participating in a walk-a-thon, rooting for the Wolf Pack or telling a story, and he always had a twinkle in his eye and optimism for the future of Nevada through education; and

WHEREAS, The absence of this beloved figure with his trademark hat and ever-present sense of humor will forever alter the aura of the campus of the University of Nevada, Reno; 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 Dr. Glick’s wife Peggy, son David and his wife Jennifer, son Sander and his wife Laura, and grandchildren Toby, Nina and Elijah; and be it further

RESOLVED, That the remarkable legacy which Dr. Glick leaves through the lives he touched and through living his belief that education is the pathway to a better future for the Silver State is appreciated and lauded by all residents of this State; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to Dr. Glick’s beloved wife Peggy.

Assemblywoman Smith moved the adoption of the resolution.

Remarks by Assemblymen Smith and Bobzien.

Resolution adopted unanimously.

NOTICE OF EXEMPTION

April 15, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 360.

MARK KRMPOTIC
Fiscal Analysis Division

Assemblyman Conklin moved that Assembly Bills Nos. 6, 56, 61, 72, 78, 114, 154, 192, 196, 213, 249, 253, 254, 255, 259, 279, 289, 290, 291, 300, 321, 346, 350, 389, 396, 401, 427, 433, 466, and 538, just reported out of committee, be placed on the Second Reading File.

Motion carried.

Assemblyman Conklin moved that Assembly Bill No. 508 be taken from the General File and placed on the Chief Clerk’s Desk.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 6.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 444.

SUMMARY—Authorizes courts to allow certain victims of sex trafficking or involuntary servitude who have been convicted of engaging in or soliciting prostitution to ~~seek new trials and~~ have their judgments of conviction vacated. (BDR 14-366)

AN ACT relating to criminal procedure; authorizing courts to allow certain victims of sex trafficking or involuntary servitude who have been convicted of engaging in or soliciting prostitution to ~~seek new trials and~~ have their judgments of conviction vacated; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that it is a crime for anyone to engage in or solicit prostitution, except in a licensed house of prostitution. (NRS 201.354) ~~[Existing law also provides that if a defendant is convicted of a crime, the court may grant a new trial to the defendant, under certain circumstances, if the defendant makes a motion for a new trial within a certain period after the verdict or finding of guilt. (NRS 176.515)]~~ This bill allows a **court to grant a motion to vacate a judgment if the** defendant ~~[who]~~ was convicted of engaging in or soliciting prostitution ~~[, but whose]~~ **and the defendant's** participation in the offense was the result of having been a victim of sex trafficking or involuntary servitude ~~. [, to make a motion for a new trial beyond the time limitations set forth in existing law. If the court grants such a motion, the court must vacate the judgment entered against the defendant and must dismiss the accusatory pleading.]~~

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

Section 1. NRS 176.515 is hereby amended to read as follows:

176.515 1. The court may grant a new trial to a defendant if required as a matter of law or on the ground of newly discovered evidence.

2. If trial was by the court without a jury, the court may vacate the judgment if entered, take additional testimony and direct the entry of a new judgment.

3. Except as otherwise provided in ~~(subsection 5 and)~~ NRS 176.0918, a motion for a new trial based on the ground of newly discovered evidence may be made only within 2 years after the verdict or finding of guilt.

4. A ~~[Except as otherwise provided in subsection 5, a]~~ motion for a new trial based on any other grounds must be made within 7 days after the verdict or finding of guilt or within such further time as the court may fix during the 7-day period.

5. **The court may** ~~[waive the time limitations set forth in subsections 3 and 4 and may]~~ **grant a motion [for a new trial] to vacate a judgment if:**

(a) *The judgment is a conviction for a violation of NRS 201.354, for engaging in prostitution or solicitation for prostitution, provided that the defendant was not alleged to be a customer of a prostitute;*

(b) The participation of the defendant in the offense was the result of the defendant having been a victim of:

(1) Trafficking in persons as described in the Trafficking Victims Protection Act of 2000, 22 U.S.C. §§ 7101 et seq.; or

(2) Involuntary servitude as described in NRS 200.463; and

(c) The defendant makes a motion under this subsection with due diligence after the defendant has ceased being a victim of trafficking or involuntary servitude or has sought services for victims of such trafficking or involuntary servitude.

6. In deciding whether to grant a motion made pursuant to subsection 5, the court shall take into consideration any reasonable concerns for the safety of the defendant, family members of the defendant or other victims that may be jeopardized by the bringing of such a motion.

7. If the court grants a motion made pursuant to subsection 5, the court:

(a) Shall vacate the judgment and dismiss the accusatory pleading; and

(b) May take any additional action that the court deems appropriate under the circumstances.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 56.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 65.

AN ACT relating to the Office of the Attorney General; authorizing the Attorney General, acting through the Medicaid Fraud Control Unit, to issue a subpoena to obtain certain documents, records or materials; authorizing the Attorney General to recover and retain certain costs and expenses that are incurred pursuant to an investigation or prosecution by the Unit; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Medicaid Fraud Control Unit within the Office of the Attorney General as the agency responsible for the investigation and prosecution of violations or offenses relating to the State Plan for Medicaid. (NRS 228.410) ~~[This bill authorizes the Attorney General, acting through the Medicaid Fraud Control Unit, to issue a subpoena to obtain certain documents, records or materials that are relevant to investigations or prosecutions by the Unit. Additionally, a person who willfully fails or refuses to comply with such a subpoena is guilty of a misdemeanor.]~~

~~This bill also~~ **Section 2 of this bill** authorizes the Attorney General to take appropriate legal action to recover any reasonable costs or expenses that are incurred pursuant to an investigation or prosecution by the Unit. ~~[This bill]~~ **Section 2** further authorizes the Attorney General to retain a certain

amount of the costs and expenses that are recovered, and requires the Attorney General to place any amount recovered in excess of that which the Attorney General is authorized to retain in the State General Fund for the State Plan for Medicaid.

Section 1 of this bill authorizes the Attorney General, acting through the chief executive of the Medicaid Fraud Control Unit, to issue a subpoena to obtain certain documents, records or materials relevant to an investigation or prosecution by the Unit in a civil action to recover the reasonable costs or expenses incurred pursuant to the investigation or prosecution. Additionally, a person who willfully fails or refuses to comply with such a subpoena is guilty of a misdemeanor.

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

Section 1. Chapter 228 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In carrying out the duties and responsibilities under NRS 228.410, the Attorney General, acting through the chief executive of the Medicaid Fraud Control Unit or his or her designee, may issue a subpoena for documents, records or materials.

2. The Attorney General may use any documents, records or materials produced pursuant to a subpoena issued under this section in the course of a civil action brought pursuant to NRS 228.410.

3. Any person who willfully fails or refuses to comply with a subpoena issued pursuant to this section is guilty of a misdemeanor.

4. A subpoena issued pursuant to this section must include a copy of the provisions of subsections 1, 2 and 3.

~~[Section 1.]~~ **Sec. 2.** NRS 228.410 is hereby amended to read as follows:

228.410 1. The Attorney General has primary jurisdiction to investigate and prosecute violations of NRS 422.540 to 422.570, inclusive, and any fraud in the administration of the Plan or in the provision of medical assistance pursuant to the Plan. The provisions of this section notwithstanding, the Department of Health and Human Services and the Division of Health Care Financing and Policy of the Department of Health and Human Services shall enforce the Plan and any regulations adopted pursuant thereto.

2. For this purpose, the Attorney General shall establish within his or her office the Medicaid Fraud Control Unit. The Unit must consist of a group of qualified persons, including, without limitation, an attorney, an auditor and an investigator who, to the extent practicable, have expertise in nursing, medicine and the administration of medical facilities.

3. The Attorney General, acting through the Medicaid Fraud Control Unit:

(a) Is the single state agency responsible for the investigation and prosecution of violations of NRS 422.540 to 422.570, inclusive;

(b) ***May conduct any investigation or prosecution authorized pursuant to 42 U.S.C. § 1396b(q);***

(c) Shall review reports of abuse or criminal neglect of patients in medical facilities which receive payments under the Plan and, when appropriate, investigate and prosecute the persons responsible;

~~[(e)]~~ (d) May review and investigate reports of misappropriation of money from the personal resources of patients in medical facilities that receive payments under the Plan and, when appropriate, shall prosecute the persons responsible;

~~[(d)]~~ (e) Shall cooperate with federal investigators and prosecutors in coordinating state and federal investigations and prosecutions involving fraud in the provision or administration of medical assistance pursuant to the Plan, and provide those federal officers with any information in his or her possession regarding such an investigation or prosecution; and

~~[(e)]~~ (f) Shall protect the privacy of patients and establish procedures to prevent the misuse of information obtained in carrying out the provisions of this section ~~[-]~~ ***and section 1 of this act.***

4. When acting pursuant to ***this section*** or NRS 228.175 , ~~for this section,~~ the Attorney General may commence an investigation and file a criminal action without leave of court, and has exclusive charge of the conduct of the prosecution.

5. ~~If the Attorney General has reasonable cause to believe that a person is in possession, custody or control of any documents, records or other materials relevant to an investigation or prosecution conducted pursuant to this section, the Attorney General, acting through the Medicaid Fraud Control Unit, may issue a subpoena for the documents, records or materials. A subpoena issued pursuant to this subsection must:~~

- ~~(a) Be served upon the person in the manner required by law;~~
- ~~(b) Describe the documents, records or materials to be produced with sufficient definiteness so that the documents, records or materials are reasonably identifiable;~~
- ~~(c) Be limited to documents, records or materials that are relevant to an investigation or prosecution conducted pursuant to this section;~~
- ~~(d) Specify a reasonable time within which the person must produce the documents, records or materials; and~~
- ~~(e) Specify a place for the production of the documents, records or materials.~~

~~6.]~~ ***The Attorney General may, by appropriate legal action, recover any reasonable costs or expenses incurred in conducting an investigation or prosecution pursuant to this section [-] or section 1 of this act. The Attorney General may retain the costs and expenses recovered pursuant to this subsection up to an amount not exceeding, in the aggregate, three times the amount of any money paid by this State which matches federal***

grant money for the Medicaid Fraud Control Unit. Costs and expenses recovered by the Attorney General in excess of the amount retained by the Attorney General must be deposited in the State General Fund for credit to the appropriate account for the Plan.

~~{7. Any person who willfully fails or refuses to comply with a subpoena issued pursuant to subsection 5 is guilty of a misdemeanor.~~

~~8.}~~ **6.** As used in this section:

(a) “Medical facility” has the meaning ascribed to it in NRS 449.0151.

(b) “Plan” means the State Plan for Medicaid established pursuant to NRS 422.271.

~~{Sec. 2.}~~ **Sec. 3.** This act becomes effective on July 1, 2011.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 61.

Bill read second time.

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

Amendment No. 12.

SUMMARY—Creates a ~~{permanent}~~ **temporary** entity to study issues relating to substance abuse in this State. (BDR 18-290)

AN ACT relating to substance abuse; creating the Substance Abuse Working Group **temporarily** within the Office of the Attorney General to study issues relating to substance abuse in this State; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

In 2007, the Governor established by executive order the Working Group on Methamphetamine Use in Nevada. The Working Group was charged with studying the impact of methamphetamine use in this State, including its impact on law enforcement, correctional facilities, social services and community services, and with preparing a report of its findings and recommendations. The 2007 Working Group completed the report of its findings and recommendations. Since then, the Governor has provided for the continuation of the Working Group by amending the original executive order in 2008 and again in 2009. The current Working Group continues until December 31, 2010.

Section 2 of this bill creates a ~~{permanent}~~ Substance Abuse Working Group within the Office of the Attorney General to study similar issues with respect to substance abuse generally in this State ~~{ }~~ **until June 30, 2015.** **Section 2** also provides that the Attorney General serves as the ex officio Chair of the Working Group and appoints the other nine members, who serve without compensation and are not entitled to per diem or travel expenses. **Section 3** of this bill requires the Working Group to hold meetings at least every 3 months. **Section 4** of this bill specifies issues for the Working Group

to study and requires the Working Group to submit a report of its findings and recommendations to each regular session of the Legislature.

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

Section 1. Chapter 228 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. 1. *The Substance Abuse Working Group is hereby created within the Office of the Attorney General.*

2. The Working Group consists of the Attorney General and nine members appointed by the Attorney General.

3. The Attorney General is the ex officio Chair of the Working Group.

4. The Working Group shall annually elect a Vice Chair and Secretary from among its members.

5. Each member who is appointed to the Working Group serves a term of 2 years. Members may be reappointed for additional terms of 2 years. Any vacancy occurring in the membership of the Working Group must be filled not later than 30 days after the vacancy occurs.

6. The members of the Working Group serve without compensation and are not entitled to the per diem and travel expenses provided for state officers and employees generally.

7. Each member of the Working Group who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation so that the officer or employee may prepare for and attend meetings of the Working Group and perform any work necessary to carry out the duties of the Working Group in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Working Group to make up the time the officer or employee is absent from work to carry out duties as a member of the Working Group or use annual leave or compensatory time for the absence.

8. The Attorney General shall provide such administrative support to the Working Group as is necessary to carry out the duties of the Working Group.

Sec. 3. 1. *The Substance Abuse Working Group created by section 2 of this act shall meet at least once every 3 months at the times and places specified by a call of the Chair and may meet at such further times as deemed necessary by the Chair.*

2. The Chair of the Working Group, or in the absence of the Chair, the Vice Chair of the Working Group, shall preside at each meeting of the Working Group.

3. A member of the Working Group may designate a person to represent him or her at a meeting of the Working Group if it is impractical for the member of the Working Group to attend the meeting. A representative who has been so designated:

(a) Shall be deemed to be a member of the Working Group for the purpose of determining a quorum at the meeting; and

(b) May vote on any matter that is voted on by the regular members of the Working Group at the meeting.

Sec. 4. 1. The Substance Abuse Working Group created by section 2 of this act shall study issues relating to substance abuse in the State of Nevada, including, without limitation:

(a) The effect of substance abuse on law enforcement, prisons and other correctional facilities;

(b) The sources and manufacturers of substances which are abused;

(c) Methods and resources to prevent substance abuse;

(d) Methods and resources to prevent the manufacture, trafficking and sale of substances which are abused;

(e) The effectiveness of criminal and civil penalties in preventing substance abuse;

(f) The effectiveness of criminal and civil penalties in preventing the manufacture, trafficking and sale of substances which are abused;

(g) Resources available to assist substance abusers to rehabilitate and recover from the effects of abuse;

(h) Programs available to educate youth about the effects of substance abuse;

(i) Programs available to educate family and friends of substance abusers about the manner in which to provide support and assistance to substance abusers; and

(j) The effect of substance abuse on the economy.

2. On or before January 15 of each odd-numbered year, the Working Group shall submit a report of its findings and recommendations to the Director of the Legislative Counsel Bureau for distribution to the next regular session of the Legislature.

Sec. 5. This act becomes effective on July 1, 2011, ~~and~~ and expires by limitation on June 30, 2015.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 72.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 14.

AN ACT relating to securities; designating certain uses of a certification or professional designation as unethical or dishonest practices in the securities business; requiring the filing of certain forms when a sales representative terminates association with a broker-dealer; revising activities for which the Administrator of the Securities Division of the Office of the Secretary of State may deny a license or impose certain limitations or disciplinary actions

upon a licensee; revising certain registration and filing requirements for certain securities; increasing the penalty for the putting off, circulation or publication of any false or misleading writing, statement or intelligence regarding a security that is publicly traded; prohibiting certain activities in an investigation, proceeding or prosecution; increasing certain fees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides that a person engages in unethical or dishonest practices in the securities business if the person uses a certification or professional designation in certain specified ways.

Section 2 of this bill increases the annual licensing fee for a representative of an investment adviser from \$110 to \$125 and requires licensing of branch offices of investment advisers in the same manner as branch offices of broker-dealers.

Existing law requires a person licensed as a sales representative or the broker-dealer on whose behalf the sales representative is acting to promptly notify the Administrator of the Securities Division of the Office of the Secretary of State when the sales representative terminates association with the broker-dealer. (NRS 90.380) **Section 3** of this bill specifies that the sales representative or the broker-dealer must promptly file with the Administrator a Uniform Termination Notice for Securities Industry Registration (Form U-5).

Existing law authorizes the Administrator to deny a license or impose certain limitations or disciplinary actions upon a licensee if, within the preceding 10 years, the applicant or licensee has been convicted of certain felonies or misdemeanors. (NRS 90.420) **Section 4** of this bill includes among the specified felonies and misdemeanors crimes which involve moral turpitude. **Section 4** also authorizes the Administrator to take the described actions if the applicant or licensee: (1) has been convicted of the specified felonies at any point in time and the specified misdemeanors within the preceding 10 years; or (2) is or has been the subject of certain orders prohibiting the person from serving in certain capacities.

Existing law exempts from certain registration and filing requirements certain governmental securities except for securities payable solely from revenues to be received from an enterprise unless certain conditions are met. (NRS 90.520) **Section 5** of this bill specifies that the enterprise must be a private industrial or commercial enterprise.

Existing law exempts from certain registration and filing requirements certain specified securities if certain documents, including a notice on Form NF or Form N-9, as prescribed by the Administrator, are filed with the Administrator before the initial offering of the securities in this State. (NRS 90.565) **Section 6** of this bill establishes the effective period of a notice filed on Form NF or Form N-9 and a procedure for its renewal.

Existing law requires an issuer of securities to file with the Administrator a fee of \$500 within 15 days after the first sale of the security in this State if

the Administrator exempts that security from certain registration and filing requirements. (NRS 90.567) **Section 7** of this bill requires the issuer to: (1) file any other document which the Administrator may require in addition to the \$500 fee; and (2) pay an additional fee of \$250 if a filing is up to 10 days late and \$500 if a filing is more than 10 days late.

Existing law makes the putting off, circulation or publication of any false or misleading writing, statement or intelligence regarding a security that is publicly traded a gross misdemeanor. (NRS 205.440) **Sections 8 and 12** of this bill make such conduct a category B felony instead.

Existing law prohibits certain activities in an investigation, proceeding or prosecution with respect to a violation of any securities laws, regulations or orders issued thereunder. (NRS 90.605) **Section 9** of this bill prohibits the willful making of a materially false or fictitious statement or representation with the intent to effectuate certain concealments, delays or hindrances impeding the investigation, proceeding or prosecution.

Section 10 of this bill increases the fee for a request to the Administrator for a waiver or a no-action letter from \$200 to \$500.

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

Section 1. Chapter 90 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person engages in unethical or dishonest practices in the securities business if, without limitation, the person uses a certification or professional designation that:

(a) Indicates or implies that the person has special certification or training in advising or providing services to older persons or retirees in connection with the offer, sale or purchase of securities or in the provision of advice as to the value of or advisability of investing in, purchasing or selling securities, either directly or indirectly, through publications or writings or by issuing or publishing analyses or reports related to securities if the person does not have such special certification or training;

(b) The person has not earned or is otherwise ineligible to use;

(c) Is nonexistent;

(d) The person conferred upon himself or herself;

(e) Indicates or implies a level of occupational qualifications obtained through education, training or experience that the person using the certification or professional designation has not obtained; or

(f) Was obtained from a certifying or designating organization that, except as otherwise provided in subsection 2:

(1) Is primarily engaged in the business of instruction in sales or marketing;

(2) Does not have reasonable standards or procedures for assuring the competency of its certificate holders or designees;

(3) *Does not have reasonable standards or procedures for monitoring and disciplining its certificate holders or designees for conduct that is improper or unethical; or*

(4) *Does not have reasonable requirements for continuing education for its certificate holders or designees in order to maintain the certificate or designation.*

2. *There is a rebuttable presumption that paragraph (f) of subsection 1 does not include a certification or professional designation that:*

(a) *Does not primarily apply to sales or marketing; and*

(b) *Was conferred by a certifying or designating organization that has been accredited by:*

(1) *The American National Standards Institute;*

(2) *The National Commission for Certifying Agencies; or*

(3) *An organization that is on the list provided by the United States Department of Education entitled "Accrediting Agencies Recognized for Title IV Purposes."* ~~*[A copy of the list may be obtained at the Internet address http://www2.ed.gov/admins/finaid/accred/accreditation_pg9.html.]*~~

3. *In determining whether a combination of words or an acronym standing for a combination of words constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or providing services to older persons or retirees, factors to be considered will include, without limitation:*

(a) *The use of one or more words such as "elder," "retirement," "senior" or similar words combined with one or more words such as "chartered," "certified," "registered," "adviser," "consultant," "planner," or "specialist" or similar words in the name of the certification or professional designation; and*

(b) *The manner in which those words are combined.*

4. *For the purposes of this section, a title of a job within an organization that is licensed or registered by a financial services regulatory agency of this State, any other state or the Federal Government is not a certification or professional designation if the title is not used in a manner that would confuse or mislead a reasonable consumer and the title:*

(a) *Indicates seniority or standing within the organization; or*

(b) *Specifies a person's area of specialization within the organization.*

5. *As used in this section:*

(a) *"Financial services regulatory agency" includes, without limitation, an agency that regulates broker-dealers, investment advisers or investment companies as defined in the Investment Company Act of 1940, 15 U.S.C. § 80a-3.*

(b) *"Older person" has the meaning ascribed to it in NRS 200.5092.*

Sec. 2. NRS 90.360 is hereby amended to read as follows:

90.360 1. An applicant for licensing shall pay a nonrefundable licensing fee, due annually in the following amounts:

(a) Broker-dealer, \$300.

- (b) Sales representative, \$125.
- (c) Investment adviser, \$300.
- (d) Representative of an investment adviser, ~~[\$110.]~~ **\$125.**

2. The Administrator by regulation shall require licensing of branch offices. A broker-dealer **or investment adviser** who desires to obtain a branch office license must, in addition to complying with any other requirements established by the Administrator for such a license, submit an application for the license and pay a fee of \$100. If any change occurs in the information set forth in an application made pursuant to this subsection, the applicant shall, within 30 days after the change, file an amendment to the application and pay a fee of \$50. A license obtained pursuant to this subsection expires on December 31 of each year. The license must be renewed annually on or before December 31 by paying a fee of \$100.

3. For the purpose of this section, a “branch office” means any place of business in this State other than the principal office in the state of the broker-dealer ~~or investment adviser~~, from which one or more sales representatives **or representatives of an investment adviser** transact business.

Sec. 3. NRS 90.380 is hereby amended to read as follows:

90.380 1. Unless a proceeding under NRS 90.420 has been instituted, the license of any broker-dealer, sales representative, investment adviser or representative of an investment adviser becomes effective 30 days after an application for licensing has been filed and is complete, including any amendment, if all requirements imposed pursuant to NRS 90.370 and 90.375 have been satisfied. An application or amendment is complete when the applicant has furnished information responsive to each applicable item of the application. The Administrator may authorize an earlier effective date of licensing.

2. The license of a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent is effective until terminated by revocation, suspension, expiration or withdrawal.

3. The license of a sales representative is only effective with respect to transactions effected on behalf of the broker-dealer or issuer for whom the sales representative is licensed.

4. A person shall not at any one time act as a sales representative for more than one broker-dealer or for more than one issuer, unless the Administrator by regulation or order authorizes multiple licenses.

5. If a person licensed as a sales representative terminates association with a broker-dealer or issuer or ceases to be a sales representative, the sales representative and the broker-dealer or issuer on whose behalf the sales representative was acting shall promptly ~~notify~~ **file with** the Administrator ~~or file with the Administrator~~ **a Uniform Termination Notice for Securities Industry Registration (Form U-5).**

6. The Administrator by regulation may authorize one or more special classifications of licenses as a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent to be issued

to applicants subject to limitations and conditions on the nature of the activities that may be conducted by persons so licensed.

7. The license of a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent expires if:

(a) The statement required pursuant to NRS 90.375 is not submitted when it is due; or

(b) Any annual fee required by NRS 90.360 is not paid when it is due.

8. A license that has expired may be reinstated retroactively if the licensed person:

(a) Submits the statement required pursuant to NRS 90.375; and

(b) Pays any fee required by NRS 90.360, plus a fee for reinstatement in the amount of \$50,

↪ within 30 days after the date of expiration. If the license is not reinstated within that time, it shall be deemed to have lapsed as of the date of expiration, and the licensed person must thereafter submit a new application for licensing if the licensed person desires to be relicensed.

Sec. 4. NRS 90.420 is hereby amended to read as follows:

90.420 1. The Administrator by order may deny, suspend or revoke any license, fine any licensed person, limit the activities governed by this chapter that an applicant or licensed person may perform in this State, bar an applicant or licensed person from association with a licensed broker-dealer or investment adviser or bar from employment with a licensed broker-dealer or investment adviser a person who is a partner, officer, director, sales representative, investment adviser or representative of an investment adviser, or a person occupying a similar status or performing a similar function for an applicant or licensed person, if the Administrator finds that the order is in the public interest and that the applicant or licensed person or, in the case of a broker-dealer or investment adviser, any partner, officer, director, sales representative, investment adviser, representative of an investment adviser, or person occupying a similar status or performing similar functions or any person directly or indirectly controlling the broker-dealer or investment adviser, or any transfer agent or any person directly or indirectly controlling the transfer agent:

(a) Has filed an application for licensing with the Administrator which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in a material respect or contained a statement that was, in light of the circumstances under which it was made, false or misleading with respect to a material fact;

(b) Has violated or failed to comply with a provision of this chapter as now or formerly in effect or a regulation or order adopted or issued under this chapter;

(c) Is the subject of an adjudication or determination after notice and opportunity for hearing, within the last 5 years by a securities agency or administrator of another state or a court of competent jurisdiction that the person has violated the Securities Act of 1933, the Securities Exchange Act

of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act or the securities law of any other state, but only if the acts constituting the violation of that state's law would constitute a violation of this chapter had the acts taken place in this State;

(d) ~~[Within the last 10 years has]~~ **Has** been convicted of a felony or , ***within the previous 10 years has been convicted of a*** misdemeanor , which the Administrator finds:

(1) Involves the purchase or sale of a security, taking a false oath, making a false report, bribery, perjury, burglary, robbery or conspiracy to commit any of the foregoing offenses;

(2) Arises out of the conduct of business as a broker-dealer, investment adviser, depository institution, insurance company or fiduciary; ~~[or]~~

(3) Involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion or misappropriation of money or securities or conspiracy to commit any of the foregoing offenses; **or**

(4) *Involves moral turpitude;*

(e) Is or has been permanently or temporarily enjoined by any court of competent jurisdiction, unless the order has been vacated, from acting as an investment adviser, representative of an investment adviser, underwriter, broker-dealer or as an affiliated person or employee of an investment company, depository institution or insurance company or from engaging in or continuing any conduct or practice in connection with any of the foregoing activities or in connection with the purchase or sale of a security;

(f) Is or has been the subject of an order of the Administrator, unless the order has been vacated, denying, suspending or revoking the person's license as a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent;

(g) Is or has been the subject of any of the following orders which were issued within the last 5 years, unless the order has been vacated:

(1) An order by the securities agency or administrator of another state, Canadian province or territory or by the Securities and Exchange Commission or a comparable regulatory agency of another country, entered after notice and opportunity for hearing, denying, suspending or revoking the person's license as a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent;

(2) A suspension or expulsion from membership in or association with a member of a self-regulatory organization;

(3) *An order by a self-regulatory organization that prohibits the person from serving, indefinitely or for a specified period, as a principal or in a supervisory capacity within a business or organization which is a member of a self-regulatory organization;*

(4) An order of the United States Postal Service relating to fraud;

~~[(4)]~~ (5) An order to cease and desist entered after notice and opportunity for hearing by the Administrator, the securities agency or

administrator of another state, Canadian province or territory, the Securities and Exchange Commission or a comparable regulatory agency of another country, or the Commodity Futures Trading Commission; or

~~{(5)}~~ (6) An order by the Commodity Futures Trading Commission denying, suspending or revoking registration under the Commodity Exchange Act;

(h) Has engaged in unethical or dishonest practices in the securities business;

(i) Is insolvent, either in the sense that liabilities exceed assets or in the sense that obligations cannot be met as they mature, but the Administrator may not enter an order against a broker-dealer or investment adviser under this paragraph without a finding of insolvency as to the broker-dealer or investment adviser;

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

(k) Is determined by the Administrator in compliance with NRS 90.430 not to be qualified on the basis of lack of training, experience and knowledge of the securities business; or

(l) Has failed reasonably to supervise a sales representative, employee or representative of an investment adviser.

2. The Administrator may not institute a proceeding on the basis of a fact or transaction known to the director when the license became effective unless the proceeding is instituted within 90 days after issuance of the license.

3. If the Administrator finds that an applicant or licensed person is no longer in existence or has ceased to do business as a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent or is adjudicated mentally incompetent or subjected to the control of a committee, conservator or guardian or cannot be located after reasonable search, the Administrator may by order deny the application or revoke the license.

Sec. 5. NRS 90.520 is hereby amended to read as follows:

90.520 1. As used in this section:

(a) "Guaranteed" means guaranteed as to payment of all or substantially all of principal and interest or dividends.

(b) "Insured" means insured as to payment of all or substantially all of principal and interest or dividends.

2. Except as otherwise provided in subsections 4 and 5, the following securities are exempt from NRS 90.460 and 90.560:

(a) A security, including a revenue obligation, issued, insured or guaranteed by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more states or their political subdivisions, or a certificate of deposit for any of the foregoing, but

this exemption does not include a security payable solely from revenues to be received from ~~an~~ **a private industrial or commercial** enterprise unless the:

(1) Payments are insured or guaranteed by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more states or their political subdivisions, or by a person whose securities are exempt from registration pursuant to paragraphs (b) to (e), inclusive, or (g), or the revenues from which the payments are to be made are a direct obligation of such a person;

(2) Security is issued by this State or an agency, instrumentality or political subdivision of this State; or

(3) Payments are insured or guaranteed by a person who, within the 12 months next preceding the date on which the securities are issued, has received a rating within one of the top four rating categories of either Moody's Investors Service, Inc., or Standard and Poor's Ratings Services.

(b) A security issued, insured or guaranteed by Canada, a Canadian province or territory, a political subdivision of Canada or of a Canadian province or territory, an agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government or governmental combination or entity with which the United States maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer, insurer or guarantor.

(c) A security issued by and representing an interest in or a direct obligation of a depository institution if the deposit or share accounts of the depository institution are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a successor to an applicable agency authorized by federal law.

(d) A security issued by and representing an interest in or a direct obligation of, or insured or guaranteed by, an insurance company organized under the laws of any state and authorized to do business in this State.

(e) A security issued or guaranteed by a railroad, other common carrier, public utility or holding company that is:

(1) Subject to the jurisdiction of the Surface Transportation Board;

(2) A registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of a registered holding company within the meaning of that act;

(3) Regulated in respect to its rates and charges by a governmental authority of the United States or a state; or

(4) Regulated in respect to the issuance or guarantee of the security by a governmental authority of the United States, a state, Canada, or a Canadian province or territory.

(f) Equipment trust certificates in respect to equipment leased or conditionally sold to a person, if securities issued by the person would be exempt pursuant to this section.

(g) A security listed or approved for listing upon notice of issuance on the New York Stock Exchange, ~~[the American Stock Exchange,]~~ **NYSE Amex Equities**, the Chicago Stock Exchange, the Pacific Stock Exchange or other exchange designated by the Administrator, any other security of the same issuer which is of senior or substantially equal rank, a security called for by subscription right or warrant so listed or approved, or a warrant or right to purchase or subscribe to any of the foregoing.

(h) A security designated or approved for designation upon issuance or notice of issuance for inclusion in the national market system by the ~~[Financial Industry Regulatory Authority,]~~ **NASDAQ Stock Market**, any other security of the same issuer which is of senior or substantially equal rank, a security called for by subscription right or warrant so designated, or a warrant or a right to purchase or subscribe to any of the foregoing.

(i) An option issued by a clearing agency registered under the Securities Exchange Act of 1934, other than an off-exchange futures contract or substantially similar arrangement, if the security, currency, commodity or other interest underlying the option is:

- (1) Registered under NRS 90.470, 90.480 or 90.490;
- (2) Exempt pursuant to this section; or
- (3) Not otherwise required to be registered under this chapter.

(j) A security issued by a person organized and operated not for private profit but exclusively for a religious, educational, benevolent, charitable, fraternal, social, athletic or reformatory purpose, or as a chamber of commerce, or trade or professional association if at least 10 days before the sale of the security the issuer has filed with the Administrator a notice setting forth the material terms of the proposed sale and copies of any sales and advertising literature to be used and the Administrator by order does not disallow the exemption within the next 5 full business days.

(k) A promissory note, draft, bill of exchange or banker's acceptance that evidences an obligation to pay cash within 9 months after the date of issuance, exclusive of days of grace, is issued in denominations of at least \$50,000 and receives a rating in one of the three highest rating categories from a nationally recognized statistical rating organization, or a renewal of such an obligation that is likewise limited, or a guarantee of such an obligation or of a renewal.

(l) A security issued in connection with an employees' stock purchase, savings, option, profit-sharing, pension or similar employees' benefit plan.

(m) A membership or equity interest in, or a retention certificate or like security given in lieu of a cash patronage dividend issued by, a cooperative organized and operated as a nonprofit membership cooperative under the cooperative laws of any state if not traded to the general public.

(n) A security issued by an issuer registered as an open-end management investment company or unit investment trust under section 8 of the Investment Company Act of 1940 if:

(1) The issuer is advised by an investment adviser that is a depository institution exempt from registration under the Investment Advisers Act of 1940 or that is currently registered as an investment adviser, and has been registered, or is affiliated with an adviser that has been registered, as an investment adviser under the Investment Advisers Act of 1940 for at least 3 years next preceding an offer or sale of a security claimed to be exempt pursuant to this paragraph, and the issuer has acted, or is affiliated with an investment adviser that has acted, as investment adviser to one or more registered investment companies or unit investment trusts for at least 3 years next preceding an offer or sale of a security claimed to be exempt under this paragraph; or

(2) The issuer has a sponsor that has at all times throughout the 3 years before an offer or sale of a security claimed to be exempt pursuant to this paragraph sponsored one or more registered investment companies or unit investment trusts the aggregate total assets of which have exceeded \$100,000,000.

3. For the purpose of paragraph (n) of subsection 2, an investment adviser is affiliated with another investment adviser if it controls, is controlled by, or is under common control with the other investment adviser.

4. The exemption provided by paragraph (n) of subsection 2 is available only if the person claiming the exemption files with the Administrator a notice of intention to sell which sets forth the name and address of the issuer and the securities to be offered in this State and pays a fee:

(a) Of \$500 for the initial claim of exemption and the same amount at the beginning of each fiscal year thereafter in which securities are to be offered in this State, in the case of an open-end management company; or

(b) Of \$300 for the initial claim of exemption in the case of a unit investment trust.

5. An exemption provided by paragraph ~~[(a), (b)]~~ (c), (d), (e), (f), (i) ~~[(j)]~~ or (k) ~~[(or (n))]~~ of subsection 2 is available only if, within the 12 months immediately preceding the use of the exemption, a notice of claim of exemption has been filed with the Administrator and a nonrefundable fee of \$300 has been paid.

Sec. 6. NRS 90.565 is hereby amended to read as follows:

90.565 **1.** An offering of securities is exempt from the provisions of NRS 90.460 and 90.560 if:

~~[(1)]~~ (a) The securities are set forth in subparagraph (2) of paragraph (b) of section 18 of the Securities Act of 1933, 15 U.S.C. § 77r(b)(2); and

~~[(2)]~~ (b) Before the initial offering in this State of the securities:

~~[(a)]~~ (1) A copy of the issuer's federal registration statement is filed with the Securities and Exchange Commission; or

~~[(b)]~~ (2) A notice ~~on Form NF or Form N-9, as prescribed by the Administrator,~~ **filing** is filed with the Administrator with a fee of \$500.

2. A notice filing pursuant to subparagraph (2) of paragraph (b) of subsection 1 is effective for 1 year commencing on the later of:

- (a) The date the notice filing is filed with the Administrator; or**
- (b) The effective date specified in the issuer's federal registration statement that is filed with the Securities and Exchange Commission.**

3. On or before the expiration of a notice filing, an issuer may renew the notice filing by:

- (a) Paying a renewal fee of \$500; and**
- (b) Filing with the Administrator:**
 - (1) A copy of those records filed by the issuer with the Securities and Exchange Commission pursuant to rule or order under this chapter; or**
 - (2) A notice filing. This requirement may be satisfied by reference to a notice filing that was previously filed with the Administrator.**

4. The renewal of a notice filing becomes effective upon the expiration of the notice filing being renewed.

5. As used in this section, "notice filing" means a notice on Form NF or Form N-9, as prescribed by the Administrator, to be filed with the Administrator.

Sec. 7. NRS 90.567 is hereby amended to read as follows:

90.567 1. If, pursuant to NRS 90.540, the Administrator by regulation or order exempts from the provisions of NRS 90.460 and 90.560 an offer to sell or the sale of a security ~~[by an issuer to persons who are or the issuer believes are accredited investors,]~~ **and the offer to sell or the sale of the security complies with the requirements of Regulation D of the Securities and Exchange Commission, 17 C.F.R. §§ 230.501 to 230.506, inclusive, except for 17 C.F.R. § 230.504,** the issuer shall, within 15 days after the first sale in this State, file with the Administrator a fee of \$500 ~~[]~~ **and any other document which the Administrator by regulation or order may require.**

2. ~~[As used in this section, "accredited investor" has the meaning ascribed to it in 17 C.F.R. § 230.501(a).]~~ **In addition to the fee set forth in subsection 1, an issuer shall pay an additional fee of:**

- (a) ~~+\$250~~ Two hundred fifty dollars for any filing that is filed 1 to 10 days after the date required by subsection 1; or**
- (b) ~~+\$500~~ Five hundred dollars for any filing that is filed more than 10 days after the date required by subsection 1.**

Sec. 8. NRS 90.580 is hereby amended to read as follows:

90.580 1. Without limiting the general applicability of NRS 90.570, a person shall not:

- (a) Quote a fictitious price with respect to a security;**
- (b) Effect a transaction in a security which involves no change in the beneficial ownership of the security for the purpose of creating a false or misleading appearance of active trading in a security or with respect to the market for the security;**

(c) Enter an order for the purchase of a security with the knowledge that an order of substantially the same size and at substantially the same time and price for the sale of the security has been or will be entered by or for the same or affiliated person for the purpose of creating a false or misleading appearance of active trading in a security or with respect to the market for the security;

(d) Enter an order for the sale of a security with knowledge that an order of substantially the same size and at substantially the same time and price for the purchase of the security has been or will be entered by or for the same or affiliated person for the purpose of creating a false or misleading appearance of active trading in a security or with respect to the market for the security;
~~{or}~~

(e) Employ any other deceptive or fraudulent device, scheme or artifice to manipulate the market in a security ~~{}~~; *or*

(f) Put off, circulate or publish any false or misleading writing, statement or intelligence regarding a security that is publicly traded.

2. Transactions effected in compliance with, or conduct which does not violate, the applicable provisions of the Securities Exchange Act of 1934 and the rules and regulations of the Securities and Exchange Commission thereunder are not violations of subsection 1.

Sec. 9. NRS 90.605 is hereby amended to read as follows:

90.605 In any investigation, proceeding or prosecution with respect to any violation of a provision of this chapter, a regulation adopted pursuant to this chapter, an order denying, suspending or revoking the effectiveness of registration or an order to cease and desist issued by the Administrator, a person shall not willfully:

1. *Make any materially false, fictitious or fraudulent statement or representation;*

2. Offer or procure to be offered into evidence, as genuine, any book, paper, document or record if the person knows that the book, paper, document or record has been forged or fraudulently altered; or

~~{2-}~~ 3. Destroy, alter, erase, obliterate or conceal, or cause to be destroyed, altered, erased, obliterated or concealed, any book, paper, document or record, with the intent to:

(a) Conceal any violation of any provision of this chapter, a regulation adopted pursuant to this chapter, an order denying, suspending or revoking the effectiveness of registration or an order to cease and desist issued by the Administrator;

(b) Protect or conceal the identity of any person who has violated any provision of this chapter, a regulation adopted pursuant to this chapter, an order denying, suspending or revoking the effectiveness of registration or an order to cease and desist issued by the Administrator; or

(c) Delay or hinder the investigation or prosecution of any person for any violation of any provision of this chapter, a regulation adopted pursuant to

this chapter, an order denying, suspending or revoking the effectiveness of registration or an order to cease and desist issued by the Administrator.

Sec. 10. NRS 90.715 is hereby amended to read as follows:

90.715 1. Except as otherwise provided in this section, the Division shall interpret strictly the provisions of this chapter and the regulations adopted pursuant thereto and shall not waive the enforcement of any such provision.

2. Subject to the provisions of this section and at the sole discretion of the Administrator, the Division may:

(a) Grant a waiver of the enforcement of any provision of this chapter or the regulations adopted pursuant thereto if the Administrator determines that the waiver is appropriate under the circumstances and is clearly within the authority of the Division to grant.

(b) Issue a no-action letter relating to a proposed transaction. Such a letter must not be issued in any case in which the issue presented may be resolved through a careful reading of the relevant provisions of this chapter or the regulations adopted pursuant thereto or through an interpretation of those provisions by competent counsel.

3. A request for a waiver or no-action letter must be submitted in writing to the office of the Administrator, accompanied by a fee of ~~[\$200.]~~ **\$500.**

4. Except under extraordinary circumstances, the Division shall not respond to any request:

(a) Involving the antifraud provisions of this chapter or the regulations adopted pursuant thereto; or

(b) Relating to a transaction that has been consummated.

5. Unless otherwise specified in writing by the Division, a waiver or no-action letter is limited to the specific security, case, matter or transaction at hand and has no precedential value in any other context.

6. As used in this section, "no-action letter" means a written communication issued by the Division by which a person is advised that a transaction carried out under a set of assumed facts will not result in a recommendation by the staff of the Division that an enforcement action be taken.

Sec. 11. NRS 205.435 is hereby amended to read as follows:

205.435 ~~{A.}~~ ***Unless a greater penalty is imposed by a specific statute,***
an officer, agent or other person in the service of a joint-stock company or corporation, domestic or foreign, who, willfully and knowingly with the intent to defraud:

1. Sells, pledges or issues, or causes to be sold, pledged or issued, or signs or executes or causes to be signed or executed, with the intent to sell, pledge or issue, or cause to be sold, pledged or issued, any certificate or instrument purporting to be a certificate or evidence of ownership of any share of that company or corporation, or any conveyance or encumbrance of real or personal property, contract, bond or evidence of debt, or writing purporting to be a conveyance or encumbrance of real or personal property,

contract, bond or evidence of debt of that company or corporation, without being first duly authorized by the company or corporation, or contrary to the charter or laws under which the company or corporation exists, or in excess of the power of the company or corporation, or of the limit imposed by law or otherwise upon its power to create or issue stock or evidence of debt; or

2. Reissues, sells, pledges or disposes of, or causes to be reissued, sold, pledged or disposed of, any surrendered or cancelled certificate or other evidence of the transfer of ownership of any such share,

➔ is guilty of a category C felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

Sec. 12. NRS 205.440 is hereby amended to read as follows:

205.440 Every person who, with intent to affect the market price of any ~~[security or]~~ property, shall put off, circulate or publish any false or misleading writing, statement or intelligence, shall be guilty of a gross misdemeanor.

Sec. 13. 1. This section and sections 1 ~~[and 3 to]~~ **4, 9, 11 and 12** ~~[inclusive]~~ of this act become effective upon passage and approval.

2. ~~[Section]~~ **Sections 2, 3, 5 to 8, inclusive, and 10** of this act ~~[becomes]~~ **become** effective on July 1, 2011.

~~3. Section 3 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:~~

~~(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or~~

~~(b) Are in arrears in the payment for the support of one or more children,~~
~~are repealed by the Congress of the United States.]~~

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 78.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 451.

AN ACT relating to business associations; excluding certain nonprofit organizations from the definition of “business”; ~~[imposing a fine on certain business entities that transact business in this State without qualifying to do business in this State under certain circumstances];~~ revising provisions relating to certain filings with the Secretary of State by certain business associations; making various technical corrections to various provisions relating to business associations; ~~[requiring and increasing certain fees];~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines "business" for the purposes of statutes governing state business licenses. (NRS 76.020) **Section 1** of this bill amends the definition to exclude certain nonprofit organizations.

~~Sections 2 and 3 of this bill provide for a fine of not less than \$1,000 but not more than \$10,000 upon a business entity that fails to obtain or renew a state business license before conducting business in this State within 30 days of receiving notice of such failure and authorize the Secretary of State to instruct a district attorney or the Attorney General, or both, to institute proceedings to recover the penalty, fine and certain costs and fees in a court of competent jurisdiction. Finally, sections 2 and 3 authorize the Secretary of State to adopt regulations to administer the provisions of sections 2 and 3.~~

Existing law provides for a fine against certain business associations purporting to do business in this State that willfully fail or neglect to comply with certain requirements for qualification to do business in this State. (NRS 78.047, 80.055, 82.5234, 86.213, 86.548, 87.445, 87.5405, 87A.237, 87A.610, 87A.632, 87A.652, 88.352, 88.600, 88.6062, 88.6087, 88A.215, 88A.750, 89.215) **Sections 4, 6, 8, 9 and 11-24** of this bill eliminate the element of ~~willfulness~~ **neglect** from these provisions.

Sections 5, 7 and 10 of this bill revise the list of items that certain business associations must file with the Secretary of State.

~~Section 27 of this bill requires the Secretary of State to charge a fee of \$50 for each duplicate certificate issued and increases the fee for certifying certain documents from \$20 to \$30.~~

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

Section 1. 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 *natural* person who operates a business from his or her ~~home~~ *personal residence* 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.

(g) *A nonprofit organization without shares of stock formed pursuant to chapter 81 of NRS.*

(h) *A foreign nonprofit organization without shares of stock registered pursuant to chapter 80 of NRS.*

~~Sec. 2. [NRS 76.110 is hereby amended to read as follows:~~

~~76.110 1. If a person fails to obtain a state business license and pay the fee required pursuant to NRS 76.100 before conducting a business in this State and the person is:~~

~~[1.] (a) An entity required to file an annual list with the Secretary of State pursuant to this title, the person:~~

~~[(a)] (1) Shall pay a penalty of \$100 in addition to the annual state business license fee;~~

~~[(b)] (2) Shall be deemed to have not complied with the requirement to file an annual list with the Secretary of State; and~~

~~[(c)] (3) Is subject to all applicable provisions relating to the failure to file an annual list, including, without limitation, the provisions governing default and revocation of its charter or right to transact business in this State, except that the person is required to pay the penalty set forth in [paragraph (a).] subparagraph (1).~~

~~[2.] (b) Not an entity required to file an annual list with the Secretary of State, the person shall pay a penalty [in the amount] of \$100 in addition to the annual state business license fee.~~

~~2. A person who fails to obtain a state business license pursuant to this section within 30 days after receiving notice of failure to obtain a state business license from the Secretary of State is subject to a fine of not less than \$1,000 but not more than \$10,000. The penalty and fine set forth in this section are to be recovered in a court of competent jurisdiction.~~

~~3. When the Secretary of State is advised that a person is subject to the fine described in subsection 2, the Secretary of State may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the penalty and fine. If the district~~

~~attorney or the Attorney General prevails in a proceeding to recover the penalty and fine set forth in this section, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.~~

~~4. The Secretary of State may adopt regulations to administer the provisions of this section.~~ (Deleted by amendment.)

Sec. 3. ~~[NRS 76.130 is hereby amended to read as follows:]~~

~~76.130 1. A person who applies for renewal of a state business license shall submit a fee in the amount of \$100 to the Secretary of State:~~

~~(a) If the person is an entity required to file an annual list with the Secretary of State pursuant to this title, at the time the person submits the annual list to the Secretary of State, unless the person submits a certificate or other form evidencing the dissolution of the entity; or~~

~~(b) If the person is not an entity required to file an annual list with the Secretary of State pursuant to this title, on the last day of the month in which the anniversary date of issuance of the state business license occurs in each year, unless the person submits a written statement to the Secretary of State, at least 10 days before that date, indicating that the person will not be conducting a business in this State after that date.~~

~~2. The Secretary of State shall, 90 days before the last day for filing an application for renewal of the state business license of a person who holds a state business license, provide to the person a notice of the state business license fee due pursuant to this section and a reminder to file the application for renewal required pursuant to this section. Failure of any person to receive a notice does not excuse the person from the penalty imposed by law.~~

~~3. If a person fails to submit the annual state business license fee required pursuant to this section in a timely manner and the person is:~~

~~(a) An entity required to file an annual list with the Secretary of State pursuant to this title, the person:~~

~~(1) Shall pay a penalty of \$100 in addition to the annual state business license fee;~~

~~(2) Shall be deemed to have not complied with the requirement to file an annual list with the Secretary of State; and~~

~~(3) Is subject to all applicable provisions relating to the failure to file an annual list, including, without limitation, the provisions governing default and revocation of its charter or right to transact business in this State, except that the person is required to pay the penalty set forth in subparagraph (1).~~

~~(b) Not an entity required to file an annual list with the Secretary of State, the person shall pay a penalty [in the amount] of \$100 in addition to the annual state business license fee. The Secretary of State shall provide to the person a written notice that:~~

~~(1) Must include a statement indicating the amount of the fees and penalties required pursuant to this section and the costs remaining unpaid.~~

~~(2) May be provided electronically, if the person has requested to receive communications by electronic transmission, by electronic mail or other electronic communication.~~

~~4. A person who fails to renew a state business license pursuant to this section within 30 days after receiving notice of failure to renew a state business license from the Secretary of State is subject to a fine of not less than \$1,000 but not more than \$10,000. The penalty and fine set forth in this section are to be recovered in a court of competent jurisdiction.~~

~~5. When the Secretary of State is advised that a person is subject to the fine described in subsection 4, the Secretary of State may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the penalty and fine. If the district attorney or the Attorney General prevails in a proceeding to recover the penalty and fine set forth in this section, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.~~

~~6. The Secretary of State may adopt regulations to administer the provisions of this section.] (Deleted by amendment.)~~

Sec. 4. NRS 78.047 is hereby amended to read as follows:

78.047 1. Every person, other than a corporation organized and existing pursuant to the laws of another state, territory, the District of Columbia, a possession of the United States or a foreign country, who is purporting to do business in this State as a corporation and who willfully fails ~~for neglects~~ to file with the Secretary of State articles of incorporation is subject to a fine of not less than \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, the Secretary of State may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

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

Sec. 5. NRS 80.010 is hereby amended to read as follows:

80.010 1. Before commencing or doing any business in this State, each corporation organized pursuant to the laws of another state, territory, the District of Columbia, a possession of the United States or a foreign country that enters this State to do business must:

(a) File in the Office of the Secretary of State of this State:

~~(1) [A certificate of corporate existence issued not more than 90 days before the date of filing by an authorized officer of the jurisdiction of its incorporation setting forth the filing of records and instruments related to the articles of incorporation, or the governmental acts or other instrument or authority by which the corporation was created. If the certificate is in a language other than English, a translation, together with the oath of the translator and his or her attestation of its accuracy, must be attached to the certificate.]~~

~~(2)]~~ The information required pursuant to NRS 77.310. The street address of the registered agent is the registered office of the corporation in this State.

~~{{(3)}} (2)~~ A statement signed by an officer of the corporation setting forth:

(I) A general description of the purposes of the corporation; ~~[and]~~

(II) The authorized stock of the corporation and the number and par value of shares having par value and the number of shares having no par value ~~[]~~;

(III) A declaration of the existence of the corporation and the name of the jurisdiction of its incorporation, or the governmental acts or other instrument or authority by which the corporation was created; and

(IV) A declaration that the corporation is in good standing in the jurisdiction of its incorporation or creation, as applicable.

(b) Lodge in the Office of the Secretary of State a copy of the record most recently filed by the corporation in the jurisdiction of its incorporation setting forth the authorized stock of the corporation, the number of par-value shares and their par value, and the number of no-par-value shares.

2. The Secretary of State shall not file the records required by subsection 1 for any foreign corporation whose name is not distinguishable on the records of the Secretary of State from the names of all other artificial persons formed, organized, registered or qualified pursuant to the provisions of this title that are on file in the Office of the Secretary of State and all names that are reserved in the Office of the Secretary of State pursuant to the provisions of this title, unless the written, acknowledged consent of the holder of the name on file or reserved name to use the same name or the requested similar name accompanies the articles of incorporation.

3. For the purposes of this section and NRS 80.012, a proposed name is not distinguishable from a name on file or reserved solely because one or the other names contains distinctive lettering, a distinctive mark, a trademark or trade name, or any combination thereof.

4. The name of a foreign corporation whose charter has been revoked, which has merged and is not the surviving entity or whose existence has otherwise terminated is available for use by any other artificial person.

5. The Secretary of State shall not accept for filing the records required by subsection 1 or NRS 80.110 for any foreign corporation if the name of the corporation contains the words "engineer," "engineered," "engineering,"

“professional engineer,” “registered engineer” or “licensed engineer” unless the State Board of Professional Engineers and Land Surveyors certifies that:

(a) The principals of the corporation are licensed to practice engineering pursuant to the laws of this State; or

(b) The corporation is exempt from the prohibitions of NRS 625.520.

6. The Secretary of State shall not accept for filing the records required by subsection 1 or NRS 80.110 for any foreign corporation if the name of the corporation contains the words “architect,” “architecture,” “registered architect,” “licensed architect,” “registered interior designer,” “registered interior design,” “residential designer,” “registered residential designer,” “licensed residential designer” or “residential design” unless the State Board of Architecture, Interior Design and Residential Design certifies that:

(a) The principals of the corporation are holders of a certificate of registration to practice architecture or residential design or to practice as a registered interior designer, as applicable, pursuant to the laws of this State; or

(b) The corporation is qualified to do business in this State pursuant to NRS 623.349.

7. The Secretary of State shall not accept for filing the records required by subsection 1 or NRS 80.110 for any foreign corporation if it appears from the records that the business to be carried on by the corporation is subject to supervision by the Commissioner of Financial Institutions, unless the Commissioner certifies that:

(a) The corporation has obtained the authority required to do business in this State; or

(b) The corporation is not subject to or is exempt from the requirements for obtaining such authority.

8. The Secretary of State shall not accept for filing the records required by subsection 1 or NRS 80.110 for any foreign corporation if the name of the corporation contains the word “accountant,” “accounting,” “accountancy,” “auditor” or “auditing” unless the Nevada State Board of Accountancy certifies that the foreign corporation:

(a) Is registered pursuant to the provisions of chapter 628 of NRS; or

(b) Has filed with the Nevada State Board of Accountancy under penalty of perjury a written statement that the foreign corporation is not engaged in the practice of accounting and is not offering to practice accounting in this State.

9. The Secretary of State may adopt regulations that interpret the requirements of this section.

Sec. 6. NRS 80.055 is hereby amended to read as follows:

80.055 1. Every corporation which willfully fails ~~for neglects~~ to comply with the provisions of NRS 80.010 to 80.040, inclusive, is subject to a fine of not less than \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. Except as otherwise provided in subsection 3, every corporation which fails or neglects to comply with the provisions of NRS 80.010 to 80.040, inclusive, may not commence or maintain any action or proceeding in any court of this State until it has fully complied with the provisions of NRS 80.010 to 80.040, inclusive.

3. An action or proceeding may be commenced by such a corporation if an extraordinary remedy available pursuant to chapter 31 of NRS is all or part of the relief sought. Such an action or proceeding must be dismissed without prejudice if the corporation does not comply with the provisions of NRS 80.010 to 80.040, inclusive, within 45 days after the action or proceeding is commenced.

4. When the Secretary of State is advised that a corporation is doing business in contravention of NRS 80.010 to 80.040, inclusive, the Secretary of State may, as soon as practicable, instruct the district attorney of the county where the corporation has its principal place of business or the Attorney General, or both, to institute proceedings to recover any applicable fine provided for in this section. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

5. The failure of a corporation to comply with the provisions of NRS 80.010 to 80.040, inclusive, does not impair the validity of any contract or act of the corporation, or prevent the corporation from defending any action, suit or proceeding in any court of this State.

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

Sec. 7. NRS 80.110 is hereby amended to read as follows:

80.110 1. Each foreign corporation doing business in this State shall, on or before the last day of the first month after the filing of ~~its certificate of corporate existence~~ **the records required by this subsection or NRS 80.010** with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by the Secretary of State, that contains:

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

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

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

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

(a) A declaration under penalty of perjury that the foreign corporation has complied with the provisions of chapter 76 of NRS and which acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

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

3. Upon filing:

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

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

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

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

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

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

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

Sec. 8. NRS 82.5234 is hereby amended to read as follows:

82.5234 1. Every foreign nonprofit corporation which is doing business in this State and which willfully fails ~~for neglects~~ to qualify to do business in this State in accordance with the laws of this State is subject to a fine of not less than \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. Except as otherwise provided in subsection 3, every foreign nonprofit corporation which is doing business in this State and which fails or neglects to qualify to do business in this State in accordance with the laws of this State may not commence or maintain any action or proceeding in any court of this State until it has qualified to do business in this State.

3. An action or proceeding may be commenced by such a corporation if an extraordinary remedy available pursuant to chapter 31 of NRS is all or part of the relief sought. Such an action or proceeding must be dismissed without prejudice if the corporation does not qualify to do business in this State within 45 days after the action or proceeding is commenced.

4. When the Secretary of State is advised that a foreign nonprofit corporation is subject to the fine described in subsection 1, the Secretary of State may, as soon as practicable, instruct the district attorney of the county where the foreign nonprofit corporation has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

5. The failure of a foreign nonprofit corporation to qualify to do business in this State in accordance with the laws of this State does not impair the validity of any contract or act of the corporation, or prevent the corporation from defending any action, suit or proceeding in any court of this State.

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

Sec. 9. NRS 86.213 is hereby amended to read as follows:

86.213 1. Every person, other than a foreign limited-liability company, who is purporting to do business in this State as a limited-liability company and who willfully fails ~~for neglects~~ to file with the Secretary of State articles of organization is subject to a fine of not less than \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, the Secretary of State may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

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

Sec. 10. NRS 86.544 is hereby amended to read as follows:

86.544 Before transacting business in this State, a foreign limited-liability company must register with the Secretary of State. In order to register, a foreign limited-liability company must submit to the Secretary of State an application for registration as a foreign limited-liability company, signed by a manager of the company or, if management is not vested in a manager, a member of the company. The application for registration must set forth:

1. The name of the foreign limited-liability company and, if different, the name under which it proposes to register and transact business in this State;
2. The ~~{state}~~ **jurisdiction** and date of its formation;
3. *A declaration of the existence of the foreign limited-liability company;*

4. *A declaration that the foreign limited-liability company is in good standing in the jurisdiction of its formation;*

5. The information required pursuant to NRS 77.310;

~~{4-}~~ 6. A statement that the Secretary of State is appointed the agent of the foreign limited-liability company for service of process if the authority of the registered agent has been revoked, or if the registered agent has resigned or cannot be found or served with the exercise of reasonable diligence;

~~{5-}~~ 7. The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited-liability company;

~~{6-}~~ 8. The name and business address of each manager or, if management is not vested in a manager, each member;

~~{7-}~~ 9. The address of the office at which is kept a list of the names and addresses of the members and their capital contributions, together with an undertaking by the foreign limited-liability company to keep those records until the registration in this State of the foreign limited-liability company is cancelled or withdrawn; and

~~{8-}~~ 10. If the foreign limited-liability company has one or more series of members and if the debts or liabilities of a series are enforceable against the assets of that series only and not against the assets of the company generally or another series, a statement to that effect.

Sec. 11. NRS 86.548 is hereby amended to read as follows:

86.548 1. Every foreign limited-liability company transacting business in this State which willfully fails ~~{or neglects}~~ to register with the Secretary of State in accordance with the provisions of NRS 86.544 is subject to a fine of not less than \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. Every foreign limited-liability company transacting business in this State which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 86.544 may not commence or maintain any action, suit or proceeding in any court of this State until it has registered with the Secretary of State.

3. The failure of a foreign limited-liability company to register with the Secretary of State does not impair the validity of any contract or act of the foreign limited-liability company, or prevent the foreign limited-liability company from defending any action, suit or proceeding in any court of this State.

4. When the Secretary of State is advised that a foreign limited-liability company is subject to the fine described in subsection 1, the Secretary of State may, as soon as practicable, instruct the district attorney of the county where the foreign limited-liability company has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

5. A foreign limited-liability company, by transacting business in this State without registering with the Secretary of State, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State by the foreign limited-liability company.

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

Sec. 12. NRS 87.445 is hereby amended to read as follows:

87.445 1. Every person, other than a foreign registered limited-liability partnership, who is purporting to do business in this State as a registered limited-liability partnership and who willfully fails ~~for neglects~~ to file with the Secretary of State a certificate of registration is subject to a fine of not less than \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, the Secretary of State may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

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

Sec. 13. NRS 87.5405 is hereby amended to read as follows:

87.5405 1. Every foreign registered limited-liability partnership which is doing business in this State and which willfully fails ~~for neglects~~ to register with the Secretary of State pursuant to NRS 87.440 to 87.500, inclusive, and 87.541 to 87.544, inclusive, is subject to a fine of not less than

\$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. Every foreign registered limited-liability partnership which is doing business in this State and which fails or neglects to register with the Secretary of State pursuant to NRS 87.440 to 87.500, inclusive, and 87.541 to 87.544, inclusive, may not commence or maintain any action, suit or proceeding in any court of this State until it has registered with the Secretary of State pursuant to NRS 87.440 to 87.500, inclusive, and 87.541 to 87.544, inclusive.

3. The failure of a foreign registered limited-liability partnership to register in this State does not impair the validity of any contract or act of the foreign registered limited-liability partnership, or prevent the foreign registered limited-liability partnership from defending any action, suit or proceeding in any court of this State.

4. When the Secretary of State is advised that a foreign registered limited-liability partnership is subject to the fine described in subsection 1, the Secretary of State may, as soon as practicable, instruct the district attorney of the county in which the foreign registered limited-liability partnership's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

5. A foreign registered limited-liability partnership, by transacting business in this State without registration, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State by the foreign registered limited-liability partnership.

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

Sec. 14. NRS 87A.237 is hereby amended to read as follows:

87A.237 1. Every person, other than a foreign limited partnership, who is purporting to do business in this State as a limited partnership and who willfully fails ~~for neglects~~ to file with the Secretary of State a certificate of limited partnership is subject to a fine of not less than \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person, other than a foreign limited partnership, is subject to the fine described in subsection 1, the Secretary of State may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding,

including, without limitation, the cost of any investigation and reasonable attorney's fees.

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

Sec. 15. NRS 87A.610 is hereby amended to read as follows:

87A.610 1. Every foreign limited partnership transacting business in this State which willfully fails ~~for neglects~~ to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 is subject to a fine of not less than \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. Every foreign limited partnership transacting business in this State which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 may not commence or maintain any action, suit or proceeding in any court of this State until it has registered with the Secretary of State.

3. The failure of a foreign limited partnership to register with the Secretary of State does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit or proceeding in any court of this State.

4. When the Secretary of State is advised that a foreign limited partnership is subject to the fine described in subsection 1, the Secretary of State may, as soon as practicable, instruct the district attorney of the county where the foreign limited partnership has its principal place of business or the Attorney General, or both, to institute proceedings to recover any applicable fine provided for in this section. If the district attorney or the Attorney General prevails in a proceeding to recover a fine pursuant to this section, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

5. A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this State without registration.

6. A foreign limited partnership, by transacting business in this State without registering with the Secretary of State, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

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

Sec. 16. NRS 87A.632 is hereby amended to read as follows:

87A.632 1. Every person, other than a limited-liability limited partnership formed pursuant to an agreement governed by the laws of another state, who is purporting to do business in this State as a registered limited-liability limited partnership and who willfully fails ~~for neglects~~ to file with the Secretary of State a certificate of registration is subject to a fine of not

less than \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, the Secretary of State may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in this section, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

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

Sec. 17. NRS 87A.652 is hereby amended to read as follows:

87A.652 1. Every limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, which is purporting to transact business in this State as a foreign registered limited-liability limited partnership and which willfully fails ~~for neglects~~ to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 is subject to a fine of not less than \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. Every limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, which is purporting to transact business in this State as a foreign registered limited-liability limited partnership and which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 may not commence or maintain any action, suit or proceeding in any court of this State until it has registered in this State.

3. The failure of a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state and purporting to do business in this State as a foreign registered limited-liability limited partnership, to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 does not impair the validity of any contract or act of the limited-liability limited partnership or prevent the limited-liability limited partnership from defending any action, suit or proceeding in any court of this State.

4. When the Secretary of State is advised that a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, is subject to the fine described in subsection 1, the Secretary of State may, as soon as practicable, instruct the district attorney of the county where the limited-liability limited partnership has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding,

including, without limitation, the cost of any investigation and reasonable attorney's fees.

5. A limited partner of a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, is not liable as a general partner of the limited-liability limited partnership solely by reason of having transacted business in this State without registration.

6. A limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, by transacting business in this State without registering with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

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

Sec. 18. NRS 88.352 is hereby amended to read as follows:

88.352 1. Every person, other than a foreign limited partnership, who is purporting to do business in this State as a limited partnership and who willfully fails ~~for neglects~~ to file with the Secretary of State a certificate of limited partnership is subject to a fine of not less than \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person, other than a foreign limited partnership, is subject to the fine described in subsection 1, the Secretary of State may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

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

Sec. 19. NRS 88.600 is hereby amended to read as follows:

88.600 1. Every foreign limited partnership transacting business in this State which willfully fails ~~for neglects~~ to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 is subject to a fine of not less than \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. Every foreign limited partnership transacting business in this State which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 may not commence or maintain any action, suit or proceeding in any court of this State until it has registered in this State.

3. The failure of a foreign limited partnership to register with the Secretary of State does not impair the validity of any contract or act of the

foreign limited partnership or prevent the foreign limited partnership from defending any action, suit or proceeding in any court of this State.

4. When the Secretary of State is advised that a foreign limited partnership is subject to the fine described in subsection 1, the Secretary of State may, as soon as practicable, instruct the district attorney of the county where the foreign limited partnership has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

5. A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this State without registration.

6. A foreign limited partnership, by transacting business in this State without registering with the Secretary of State, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

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

Sec. 20. NRS 88.6062 is hereby amended to read as follows:

88.6062 1. Every person, other than a limited-liability limited partnership formed pursuant to an agreement governed by the laws of another state, who is purporting to do business in this State as a registered limited-liability limited partnership and who willfully fails ~~for neglects~~ to file with the Secretary of State a certificate of registration is subject to a fine of not less than \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, the Secretary of State may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in this section, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

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

Sec. 21. NRS 88.6087 is hereby amended to read as follows:

88.6087 1. Every limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, which is purporting to transact business in this State as a foreign registered limited-liability limited partnership and which willfully fails ~~for neglects~~ to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or

88.575 is subject to a fine of not less than \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. Every limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, which is purporting to transact business in this State as a foreign registered limited-liability limited partnership and which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 may not commence or maintain any action, suit or proceeding in any court of this State until it has registered in this State.

3. The failure of a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state and purporting to do business in this State as a foreign registered limited-liability limited partnership, to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 does not impair the validity of any contract or act of the limited-liability limited partnership or prevent the limited-liability limited partnership from defending any action, suit or proceeding in any court of this State.

4. When the Secretary of State is advised that a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, is subject to the fine described in subsection 1, the Secretary of State may, as soon as practicable, instruct the district attorney of the county where the limited-liability limited partnership has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

5. A limited partner of a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, is not liable as a general partner of the limited-liability limited partnership solely by reason of having transacted business in this State without registration.

6. A limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, by transacting business in this State without registering with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

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

Sec. 22. NRS 88A.215 is hereby amended to read as follows:

88A.215 1. Every person, other than a foreign business trust, who is purporting to do business in this State as a business trust and who willfully fails ~~for neglects~~ to file with the Secretary of State a certificate of trust is

subject to a fine of not less than \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person, other than a foreign business trust, is subject to the fine described in subsection 1, the Secretary of State may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

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

Sec. 23. NRS 88A.750 is hereby amended to read as follows:

88A.750 1. Every foreign business trust transacting business in this State which willfully fails ~~for neglects~~ to register with the Secretary of State pursuant to the provisions of NRS 88A.710 is subject to a fine of not less than \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. Every foreign business trust transacting business in this State which fails or neglects to register with the Secretary of State pursuant to the provisions of NRS 88A.710 may not commence or maintain any action, suit or proceeding in any court of this State until it has registered with the Secretary of State.

3. The failure of a foreign business trust to register with the Secretary of State does not impair the validity of any contract or act of the foreign business trust or prevent the foreign business trust from defending any action, suit or proceeding in any court of this State.

4. When the Secretary of State is advised that a foreign business trust is subject to the fine described in subsection 1, the Secretary of State may, as soon as practicable, instruct the district attorney of the county where the foreign business trust has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

5. A foreign business trust, by transacting business in this State without registering the Secretary of State, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

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

Sec. 24. NRS 89.215 is hereby amended to read as follows:

89.215 1. Every person who is purporting to do business in this State as a professional association and who willfully fails ~~for neglects~~ to file with the Secretary of State articles of association is subject to a fine of not less than \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, the Secretary of State may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

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

Sec. 25. NRS 104.9526 is hereby amended to read as follows:

104.9526 1. The Secretary of State shall adopt and publish rules to effectuate this article. The filing-office rules must be:

- (a) Consistent with this article; and
- (b) Adopted in accordance with the provisions of chapter 233B of NRS.

2. To keep the filing-office rules and the practices of the filing office in harmony with the rules and practices of filing offices in other jurisdictions that enact substantially this part, and to keep the technology used by the filing office compatible with the technology used by filing offices in other jurisdictions that enact substantially this part, the Secretary of State, so far as is consistent with the purposes, policies, and provisions of this article, in adopting, amending, and repealing filing-office rules, shall:

(a) Consult with filing offices in other jurisdictions that enact substantially this part;

(b) Consult the most recent version of the Model Rules promulgated by the International Association of ~~Corporation~~ **Commercial** Administrators or any successor organization; and

(c) Take into consideration the rules and practices of, and the technology used by, filing offices in other jurisdictions that enact substantially this part.

Sec. 26. NRS 104.9527 is hereby amended to read as follows:

104.9527 The Secretary of State shall report biennially on or before the first Monday of February in each odd-numbered year to the Governor and Legislature on the operation of the filing office. The report must contain a statement of the extent to which:

1. The filing-office rules are not in harmony with the rules of filing offices in other jurisdictions that enact substantially this part and the reasons for these variations; and

2. The filing-office rules are not in harmony with the most recent version of the Model Rules promulgated by the International Association of

~~[Corporation]~~ *Commercial* Administrators, or any successor organization, and the reasons for these variations.

Sec. 27. ~~[NRS 225.140 is hereby amended to read as follows:~~

~~225.140 1. Except as otherwise provided in subsection 2, in addition to other fees authorized by law, the Secretary of State shall charge and collect the following fees:~~

~~For certifying to a copy of any law, joint resolution, transcript of record or other paper on file or of record with the Secretary of State, including, but not limited to, a document required to be filed pursuant to title 24 of NRS, and use of the State Seal, for each impression [\$20] \$30~~

~~For each passport or other document signed by the Governor and attested by the Secretary of State \$10~~

~~For each duplicate certificate issued by the Secretary of State \$50~~

~~2. The Secretary of State:~~

~~(a) Shall charge a reasonable fee for searching records and documents kept in his or her office, including, but not limited to, records and documents that are stored on a computer database;~~

~~(b) May charge or collect any filing or other fees for services rendered by him or her to the State of Nevada, any local governmental agency or agency of the Federal Government, or any officer thereof in his or her official capacity or respecting his or her office or official duties;~~

~~(c) May not charge or collect a filing or other fee for:~~

~~(1) Attesting extradition papers or executive warrants for other states;~~

~~(2) Any commission or appointment issued or made by the Governor, either for the use of the State Seal or otherwise;~~

~~(d) May charge a reasonable fee, not to exceed:~~

~~(1) One thousand dollars, for providing service within 1 hour after the time service is requested;~~

~~(2) Five hundred dollars, for providing service more than 1 hour but within 2 hours after the time the service is requested; and~~

~~(3) One hundred twenty-five dollars, for providing any other special service, including, but not limited to, providing service more than 2 hours but within 24 hours after the time the service is requested, accepting documents filed by facsimile machine and other use of new technology;~~

~~(e) Shall charge a person, for each check or other negotiable instrument returned to the Office of the Secretary of State because the person had insufficient money or credit with the drawee to pay the check or other instrument or because the person stopped payment on the check or other instrument;~~

~~(1) A fee of \$25; and~~

~~(2) If the check or other instrument that was returned had been presented for the payment of a filing fee for more than one entity, an additional fee in an amount equal to the actual cost incurred by the Office of~~

~~the Secretary of State to perform the following actions as a result of the returned check or instrument:~~

~~(I) Reversing the status of the entities in the records of the Office of the Secretary of State; and~~

~~(H) Recouping any fees charged for services rendered by the Office of the Secretary of State to the entities, including, without limitation, fees charged for providing service pursuant to paragraph (d), providing copies or issuing certificates.~~

~~→ The Secretary of State shall, by regulation, establish procedures for the imposition of the fees authorized by this paragraph and the manner in which a fee authorized by subparagraph (2) will be calculated.~~

~~(f) May charge a reasonable fee for searching for and cancelling or removing, if requested, any filing that has been submitted to him or her but not yet processed.~~

~~3. The Secretary of State shall post a schedule of the fees authorized to be charged pursuant to this section in a conspicuous place at each office at which such fees are collected.] (Deleted by amendment.)~~

Sec. 28. This act becomes effective on July 1, 2011.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 114.

Bill read second time.

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

Amendment No. 129.

AN ACT relating to water; revising the amount of the fee for issuing and recording a permit to change the point of diversion or place of use only of an existing water right for irrigational purposes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth a schedule of fees that the State Engineer is required to collect for providing various services relating to the appropriation of water for beneficial uses in Nevada. In 2009, a fee of \$200 for issuing and recording a permit to change the point of diversion or place of use only of an existing water right for irrigational purposes was eliminated and the following fee became applicable to such a permit: (1) a fee of \$250 for issuing and recording a permit to change an existing water right for any purpose other than for watering livestock or wildlife purposes or for certain uses concerning the generation of hydroelectric power; and (2) an additional fee of \$3 for each acre-foot of water or fraction thereof approved in the permit by the State Engineer. (Chapter 250, Statutes of Nevada 2009, p. 1014; NRS 533.435) This bill reinstates and increases to \$500 the flat fee that had been eliminated in 2009 for issuing and recording a permit to change the

point of diversion or place of use only of an existing water right for irrigational purposes. Thus, under this bill, a person who is issued such a permit is required to pay a flat fee of \$500 rather than a fee of \$250 plus an additional fee of \$3 for each acre-foot of water or fraction thereof approved in the permit by the State Engineer.

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 water100.00

For examining and acting upon plans and specifications for construction of a dam1,000.00

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] Except for generating hydroelectric power which results in nonconsumptive use of the water, for watering livestock or wildlife purposes which change the point of diversion or place of use only [,] or for irrigational purposes which change the point of diversion or place of use only, for issuing and recording each permit to change an existing right whether temporary or permanent for any purpose.....250.00

plus \$3 per acre-foot approved or fraction thereof.

For issuing and recording each permit to change the point of diversion or place of use only of an existing right whether temporary or permanent for irrigational purposes.....500.00

For issuing and recording each permit to appropriate or change the point of diversion or place of use of an

existing right only whether temporary or permanent for watering livestock or wildlife purposes	\$200.00
plus \$50 for each second-foot of water approved or fraction thereof.	
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 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 plots10.00

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.

Sec. 2. This act becomes effective on July 1, 2011.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 154.

Bill read second time.

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

Amendment No. 89.

AN ACT relating to the protection of children; establishing provisions which set forth certain rights of children who are placed in foster homes; requiring notice of those rights to children placed in foster homes; establishing a procedure for children who are placed in foster homes to report alleged violations of those rights; ~~prohibiting retribution against a child who makes such a report; providing a penalty;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 3-5 of this bill establish certain rights of children who are placed in foster homes. **Section 6** of this bill requires a ~~[licensing authority]~~ **provider of family foster care** which places a child in a foster home to inform the child of his or her rights and provide the child with a written copy

of those rights. **Section 6** also requires each group foster home which provides care to more than six children to post a written copy of those rights in the group foster home. **Section 7** of this bill authorizes a ~~person licensed to operate a~~ **provider of family foster home care** to place reasonable restrictions on the rights of a child based upon the time, place and manner of a child's exercise of those rights if such restrictions are necessary to preserve the order or safety of the foster home. **Section 8** of this bill ~~establishes a procedure for a child to report an alleged violation of his or her rights and requires certain actions to be taken by the licensee of the foster home if the licensee determines that such a violation has occurred.~~ **authorizes a child placed in foster care who believes that his or her rights as set forth in this bill have been violated to raise and redress a grievance with any of a number of persons or institutions responsible for the child.**

Section 9 of this bill prohibits an employee of a school district from disclosing to any person who is not employed by the school district any information relating to a pupil who is placed in foster care.

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

Section 1. Chapter ~~424~~ **432** of NRS is hereby amended by adding thereto the provisions set forth as sections ~~1.3~~ **1.3** to 8, inclusive, of this act.

Sec. 1.3. As used in sections 1.3 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 1.5, 1.7 and 1.9 of this act have the meanings ascribed to them in those sections.

Sec. 1.5. "Foster home" has the meaning ascribed to it in NRS 424.014.

Sec. 1.7. "Group foster home" has the meaning ascribed to it in NRS 424.015.

Sec. 1.9. "Provider of family foster care" has the meaning ascribed to it in NRS 424.017.

Sec. 2. It is the policy of this State that every child placed in a foster home by ~~a licensing authority~~ an agency which provides child welfare services have the rights set forth in sections 3, 4 and 5 of this act.

Sec. 3. A child placed in a foster home by ~~a licensing authority~~ an agency which provides child welfare services has the right:

1. To receive information concerning his or her rights set forth in this section and sections 4 and 5 of this act.

2. To be treated with dignity and respect.

3. To fair and equal access to services, placement, care, treatment and benefits.

4. To receive adequate, healthy, appropriate and accessible food.

5. To receive adequate, appropriate and accessible clothing and shelter.

6. To receive appropriate medical care, including, without limitation:

(a) Dental, vision and mental health services;

(b) Medical and psychological screening, assessment and testing; and

(c) Referral to and receipt of medical, emotional, psychological or psychiatric evaluation and treatment as soon as practicable after the need for such services has been identified.

7. To be free from:

(a) Abuse or neglect, as defined in NRS 432B.020;

(b) Corporal punishment, as defined in NRS 388.5225;

(c) Unreasonable searches of his or her personal belongings or other unreasonable invasions of privacy;

(d) The administration of psychotropic medication unless the administration is consistent with NRS 432B.197 and the policies established pursuant thereto; and

(e) Discrimination or harassment on the basis of his or her actual or perceived race, ethnicity, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability or exposure to the human immunodeficiency virus.

8. To attend religious services of his or her choice or to refuse to attend religious services.

9. Except for placement in a ~~treatment~~ facility, as defined in NRS 432B.6072, not to be locked in any room, building or premise or to be subject to other physical restraint or isolation.

10. Except as otherwise prohibited by the agency which provides child welfare services:

(a) To send and receive unopened mail; and

(b) To maintain a bank account and manage personal income, consistent with the age and developmental level of the child.

11. To complete an identification kit, including, without limitation, photographing ~~and fingerprinting,~~ and include the identification kit and his or her photograph in a file maintained by the licensee of the foster home ~~and~~ the agency which provides child welfare services and any ~~caseworker of the child,~~ employee thereof who provides child welfare services to the child.

12. To communicate with other persons, including, without limitation, the right:

(a) To communicate regularly, but not less often than once each month, with ~~his or her caseworker,~~ an employee of the agency which provides child welfare services who provides child welfare services to the child;

(b) To communicate confidentially with the agency which provides child welfare services to the child concerning his or her care;

(c) To report any alleged violation of his or her rights pursuant to section 8 of this act without being threatened or punished;

~~and~~ (d) Except as otherwise prohibited by a court order, to contact a family member, social worker, attorney, advocate for children receiving foster care services or guardian ad litem appointed by a court or probation officer; and

~~[(d)]~~ (e) Except as otherwise prohibited by a court order, to contact and visit his or her siblings.

Sec. 4. With respect to the placement of a child in a foster home by ~~the~~ an agency which provides child welfare services, the child has the right:

1. To live in a safe, healthy, stable and comfortable environment, including, without limitation, the right:

(a) If safe and appropriate, to remain in his or her home, be placed in the home of a relative or be placed in a home within his or her community;

(b) To be placed in an appropriate foster home best suited to meet the unique needs of the child, including, without limitation, any disability of the child;

(c) To be placed in a foster home where the licensee, employees and residents of the foster home who are 18 years of age or older have submitted to an investigation of their background and personal history in compliance with NRS 424.031; and

(d) To be placed with his or her siblings, whenever possible, if his or her siblings are also placed outside the home.

2. To receive and review information concerning his or her placement, including, without limitation, the right:

(a) To receive information concerning any plan for his or her permanent placement adopted pursuant to NRS 432B.553;

(b) To receive information concerning any changes made to his or her plan for permanent placement; and

(c) If the child is 12 years of age or older, to review the plan for his or her permanent placement.

3. To attend and participate in a court hearing which affects the child, to the extent authorized by law and appropriate given the age and experience of the child.

Sec. 5. With respect to the education and vocational training of a child placed in a foster home by ~~the~~ an agency which provides child welfare services, the child has the right:

1. To receive fair and equal access to an education, including, without limitation, the right:

(a) To receive an education as required by law;

(b) To have stability in and minimal disruption to his or her education when the child is placed in a foster home;

(c) To attend the school and remain in the scholastic activities that he or she was enrolled in before placement in a foster home, to the extent practicable and if in the best interests of the child;

(d) To have educational records transferred in a timely manner from the school that he or she was enrolled in before placement in a foster home to a new school, if any;

(e) *Not to be identified as a foster child to other students at his or her school by an employee of a school district, including, without limitation, a school administrator, ~~for~~ teacher ~~for~~ or instructional aide.*

(f) *To receive any educational screening, assessment or testing required by law;*

(g) *To be referred to and receive educational evaluation and services as soon as practicable after the need for such services has been identified, including, without limitation, access to special education and special services to meet the unique needs of a child with educational or behavioral disabilities or impairments that adversely affect the child's educational performance;*

(h) *To have access to information regarding relevant educational opportunities, including, without limitation, course work for vocational and postsecondary educational programs and financial aid for postsecondary education, once the child is 16 years of age or older; and*

(i) *To attend a class or program concerning independent living for which he or she is qualified that is offered by the ~~licensing~~ agency which provides child welfare services or another agency or contractor of the State.*

2. *To participate in extracurricular, cultural and personal enrichment activities which are consistent with the age and developmental level of the child.*

3. *To work and to receive vocational training, to the extent permitted by statute and consistent with the age and developmental level of the child.*

4. *To have access to transportation, if practicable, to allow the child to participate in extracurricular, cultural, personal and work activities.*

Sec. 6. 1. ~~[A licensing authority]~~ A provider of family foster care that places a child in a foster home shall:

(a) *Inform the child of his or her rights set forth in sections 3, 4 and 5 of this act;*

(b) *Provide the child with a written copy of those rights; and*

(c) *Provide an additional written copy of those rights to the child upon request.*

2. *A group foster home shall post a written copy of the rights set forth in sections 3, 4 and 5 of this act in a conspicuous place inside the group foster home.*

~~3. A written copy of the rights set forth in sections 3, 4 and 5 of this act which is provided to a child or posted at a group foster home must include a telephone number or other contact information that the child may use to notify the licensing authority of any alleged violation of his or her rights.~~

Sec. 7. ~~[1. A licensee of a foster home shall ensure that the rights set forth in sections 3, 4 and 5 of this act for children placed in the foster home are protected and that, except as otherwise provided in this section, the licensee or an employee of the foster home does not restrict the ability of a child to exercise those rights.~~

~~2.] A [licensee of a] provider of family foster [home] care may impose reasonable restrictions on the time, place and manner in which a child may exercise his or her rights set forth in sections 3, 4 and 5 of this act if the [licensee] provider of family foster care determines that such restrictions are necessary to preserve the order, discipline or safety of the foster home.~~

~~3. A licensing authority may adopt regulations relating to the reasonable restrictions imposed by a licensee of a foster home pursuant to subsection 2.]~~

Sec. 8. ~~1.]~~ If a child believes that his or her rights set forth in sections 3, 4 and 5 of this act have been violated, the child may ~~report the alleged violation to:~~

~~(a) The licensee or an employee of the foster home;~~

~~(b) The licensing authority; or~~

~~(c) Any other person, including, without limitation, a] raise and redress a grievance with, without limitation:~~

1. A provider of foster care;

2. An employee of a family foster home, as defined in NRS 424.013, group foster home or specialized foster home;

3. An agency which provides provide child welfare services to the child, and any employee thereof;

4. A juvenile court with jurisdiction over the child ~~for~~;

5. A guardian ad litem for the child; or ~~for~~

6. An attorney for the child.

~~2. A report submitted pursuant to subsection 1 must include the right that was allegedly violated and may include the circumstances surrounding the alleged violation.~~

~~3. If a child reports an alleged violation of his or her rights to an employee of a foster home, to the licensing authority or to any other person pursuant to subsection 1, the employee, licensing authority or other person shall, as soon as practicable, notify the licensee of the foster home of the alleged violation.~~

~~4. The licensee of a foster home shall investigate whether a violation alleged pursuant to subsection 1 has occurred and, if the licensee determines that such a violation has occurred:~~

~~(a) Correct the violation and notify the child and the licensing authority of the manner in which the violation was corrected; or~~

~~(b) If the violation cannot be corrected, take all reasonable action to ameliorate the violation and notify the child and the licensing authority of the reasons for the failure to correct the violation.~~

~~5. A licensee or an employee of a foster home, a licensing authority or any other person who receives a report of an alleged violation pursuant to subsection 1 shall keep the report and any information relating to the report confidential, except that:~~

~~(a) An employee of a foster home, a licensing authority or any other person who received the report may provide any necessary information to the~~

~~licensee of the foster home to correct the alleged violation and to ensure the health and safety of the child; and~~

~~(b) The licensee of the foster home shall communicate with the licensing authority concerning the manner in which any violation was corrected or all action that was taken to ameliorate the violation and the reasons for the failure to correct the violation as required by subsection 4.~~

~~6. A person, including, without limitation, a licensee or employee of a foster home, shall not threaten, punish or take other retribution against a child who makes a report pursuant to subsection 1.~~

Sec. 9. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

An employee of a school district, including, without limitation, a teacher, an administrator or an instructional aide, shall not disclose to any person who is not employed by the school district the fact that a pupil is a child who has been placed in a foster home or any related information.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 192.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 200.

AN ACT relating to county recorders; providing **authorization** for the collection and disposition of an additional fee for certain recorded documents; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a county recorder to charge and collect a fee of \$1 for recording a document, instrument, paper, notice, deed, conveyance, map, chart, survey or any other writing other than an originally signed copy of a certificate of marriage. (NRS 247.305) ~~[This bill requires a county recorder to charge an additional \$2 fee]~~ **Section 2 of this bill authorizes a board of county commissioners to adopt by ordinance an additional fee of not more than \$3** for each such recording and provides that such fees must be used to provide legal services for abused and neglected children.

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

Section 1. NRS 247.110 is hereby amended to read as follows:

247.110 1. When a document authorized, entitled or required by law to be recorded is deposited in the county recorder's office for recording, the county recorder shall:

(a) Endorse upon it the time when it was received, noting:

- (1) The year, month, day, hour and minute of its reception;
- (2) The document number; and
- (3) The amount of fees collected for recording the document.

(b) Record the document without delay, together with the acknowledgments, proofs and certificates, written upon or annexed to it, with the plats, surveys, schedules and other papers thereto annexed, in the order in which the papers are received for recording.

(c) Note at the upper right corner of the record and upon the document, except a map, so recorded the exact time of its reception and the name of the person at whose request it was recorded.

(d) Upon request, place a stamp or other notation upon one copy of the document presented at the time of recording to reflect the information endorsed upon the original pursuant to subparagraphs (1) and (2) of paragraph (a) and as evidence that the county recorder received the original, and return the copy to the person who presented it.

2. In addition to the information described in paragraph (a) of subsection 1, a county recorder may endorse upon a document the book and page where the document is recorded.

3. Except as otherwise provided in this section, subsection ~~4~~ 5 of NRS 247.305 and NRS 111.366 to 111.3697, inclusive, a document, except a map, certificate or affidavit of death, military discharge or document regarding taxes that is issued by the Internal Revenue Service of the United States Department of the Treasury, that is submitted for recording must be on a form authorized by NRS 104.9521 for the type of filing or must:

- (a) Be on white, 20-pound paper that is 8 1/2 inches by 11 inches in size.
- (b) Have a margin of 1 inch on the left and right sides and at the bottom of each page.
- (c) Have a space of 3 inches by 3 inches at the upper right corner of the first page and have a margin of 1 inch at the top of each succeeding page.
- (d) Not be on sheets of paper that are bound together at the side, top or bottom.
- (e) Not contain printed material on more than one side of each page.
- (f) Not have any documents or other materials physically attached to the paper.
- (g) Not contain:

(1) Colored markings to highlight text or any other part of the document;

(2) A stamp or seal that overlaps with text or a signature on the document, except in the case of a validated stamp or seal of a professional engineer or land surveyor who is licensed pursuant to chapter 625 of NRS;

(3) Text that is smaller than a 10-point Times New Roman font and is printed in any ink other than black; or

(4) More than nine lines of text per vertical inch.

4. The provisions of subsection 3 do not apply to a document submitted for recording that has been filed with a court and which conforms to the formatting requirements established by the court.

5. A document is recorded when the information required pursuant to this section is placed on the document and is entered in the record of the county recorder.

~~[Section 1.]~~ **Sec. 2.** NRS 247.305 is hereby amended to read as follows:

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

- (a) For recording any document, for the first page, \$10.
- (b) For each additional page, \$1.
- (c) For recording each portion of a document which must be separately indexed, after the first indexing, \$3.
- (d) For copying any record, for each page, \$1.
- (e) For certifying, including certificate and seal, \$4.
- (f) For a certified copy of a certificate of marriage, \$10.
- (g) For a certified abstract of a certificate of marriage, \$10.
- (h) For a certified copy of a certificate of marriage or for a certified abstract of a certificate of marriage, the additional sum of \$5 for the Account for Aid for Victims of Domestic Violence in the State General Fund. The fees collected for this purpose must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and must be credited to that Account. The county treasurer shall, on or before the 15th day of each month, remit those fees deposited by the recorder to the State Controller for credit to that Account.

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

3. Except as otherwise provided in this subsection and NRS 375.060, a county recorder shall charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee of \$1 ~~/\$3/~~ for recording a document, instrument, paper, notice, deed, conveyance, map, chart, survey or any other writing. A county recorder shall not charge the additional fee authorized in this subsection for recording the originally

signed copy of a certificate of marriage described in NRS 122.120. On or before the fifth day of each month, the county recorder shall pay the amount of fees collected by him or her pursuant to this subsection to the county treasurer. On or before the 15th day of each month, the county treasurer shall remit the money received by him or her pursuant to this subsection ~~in the following amounts for each fee received:~~

~~(a) Two dollars to the organization operating a program for legal services as set forth in NRS 19.031 to be used to provide legal services for abused and neglected children.~~

~~(b) One dollar~~ to the State Treasurer for credit to the Account to Assist Persons Formerly in Foster Care established pursuant to NRS 432.017.

4. Except as otherwise provided in this subsection and NRS 375.060, a board of county commissioners may, in addition to any fee that a county recorder is otherwise authorized to charge and collect, impose by ordinance a fee of not more than \$3 for recording a document, instrument, paper, notice, deed, conveyance, map, chart, survey or any other writing. A county recorder shall not charge the additional fee authorized by this subsection for recording the originally signed copy of a certificate of marriage described in NRS 122.120. On or before the fifth day of each month, the county recorder shall pay the amount of fees collected by him or her pursuant to this subsection to the county treasurer. On or before the 15th day of each month, the county treasurer shall remit the money received by him or her pursuant to this subsection to the organization operating the program for legal services for the indigent that receives the fees charged pursuant to NRS 19.031 to be used to provide legal services for abused and neglected children.

5. Except as otherwise provided in this subsection, subsection ~~5~~ 6 or by specific statute, a county recorder may charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee not to exceed \$25 for recording any document that does not meet the standards set forth in subsection 3 of NRS 247.110. A county recorder shall not charge the additional fee authorized by this subsection for recording a document that is exempt from the provisions of subsection 3 of NRS 247.110.

~~5~~ 6. Except as otherwise provided in subsection ~~6~~ 7, a county recorder shall not charge or collect any fees for any of the services specified in this section when rendered by the county recorder to:

- (a) The county in which the county recorder's office is located.
- (b) The State of Nevada or any city or town within the county in which the county recorder's office is located, if the document being recorded:
 - (1) Conveys to the State, or to that city or town, an interest in land;
 - (2) Is a mortgage or deed of trust upon lands within the county which names the State or that city or town as beneficiary;
 - (3) Imposes a lien in favor of the State or that city or town; or

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

~~6.1~~ 7. A county recorder shall charge and collect the fees specified in this section for copying any document at the request of the State of Nevada, and any city or town within the county. For copying, and for his or her certificate and seal upon the copy, the county recorder shall charge the regular fee.

~~7.1~~ 8. If the amount of money collected by a county recorder for a fee pursuant to this section:

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

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

~~8.1~~ 9. Except as otherwise provided in subsection 2, 3, 4 or ~~7.1~~ 8 or by an ordinance adopted pursuant to the provisions of NRS 244.207, county recorders shall, on or before the fifth working day of each month, account for and pay to the county treasurer all such fees collected during the preceding month.

~~9.1~~ 10. For the purposes of this section, “State of Nevada,” “county,” “city” and “town” include any department or agency thereof and any officer thereof in his or her official capacity.

~~Sec. 2.1~~ Sec. 3. This act becomes effective on July 1, 2011.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 196.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 204.

SUMMARY—Revises provisions governing the collection of fines, administrative assessments, fees and restitution owed by certain convicted persons. (BDR ~~18-557~~) 14-557)

AN ACT relating to the State Controller; ~~requiring~~ authorizing a county treasurer to enter into a cooperative agreement with the Office of the State Controller ~~to collect~~ for the purpose of assigning the responsibility of collecting fines, administrative assessments, fees and restitution from ~~persons convicted of~~ certain criminal ~~offenses;~~ defendants; making various changes relating to the collection of fines, administrative assessments, fees and restitution from certain criminal defendants; making various changes relating to debt collection between this State and the Federal Government; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that if a fine, administrative assessment, fee or restitution imposed upon a defendant is delinquent: (1) the defendant is liable for a collection fee; (2) the entity responsible for collecting the delinquent amount may report the delinquency to credit reporting agencies, may contract with a collection agency and may request that the court take appropriate action; and (3) the court may request that a prosecuting attorney undertake collection efforts, may order the suspension of the driver's license of the defendant and may, in the case of a delinquent fine or administrative assessment, order that the defendant be confined in the appropriate prison, jail or detention facility. (NRS 176.064)

~~[This bill provides that if a defendant is convicted of a felony or gross misdemeanor and ordered to pay a fine, administrative assessment, fee or restitution, the State Controller is responsible for: (1) collecting the fine, administrative assessment, fee or restitution; and (2) distributing the fine, administrative assessment, fee or restitution to the entity entitled to receive it. Sections 1 and 2 of this bill require: (1) each district court, the Chief of the Division of Parole and Probation of the Department of Public Safety and the Director of the Department of Corrections to provide, upon request and in the manner prescribed by the State Controller, necessary information to the State Controller regarding the amount of any fine, administrative assessment, fee or restitution owed by a person convicted of a felony or gross misdemeanor; and (2) each district court, the Department of Public Safety, the Department of Corrections and any other state or local agency involved in the collection of fines, administrative assessments, fees or restitution to collaborate with the State Controller.] Sections 7 and 11 of this bill require the district court to forward to the county treasurer the necessary information for the collection of the debt of a criminal defendant. If a county is unable to collect the debt, sections 7, 11 and 14 of this bill authorize the county treasurer to enter into a cooperative agreement with the Office of the State Controller for the purpose of assigning to the Office of the State Controller the responsibility for collecting the debt.~~

Under existing law, a judgment entered by the court ordering a defendant to pay a fine, administrative assessment or restitution constitutes a lien. (NRS 176.275) Section 8 of this bill requires a district court judge to inform a defendant at the time of sentencing of the provisions of NRS 176.275, and that if the lien is not satisfied, collection efforts may be undertaken against the defendant.

Sections 9 and 12 of this bill require a defendant to pay costs and fees associated with the efforts to collect a debt.

Section 14 authorizes the Office of the State Controller to enter into a cooperative agreement with a governmental entity for the purpose of establishing the Office of the State Controller as the collection agent for the governmental entity.

Section 15 of this bill authorizes the State Controller or his or her designee to enter into a reciprocal agreement with the Federal Government for the collection and offset of indebtedness.

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

Section 1. ~~[Chapter 227 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The State Controller shall:~~

~~(a) Collect any fine, administrative assessment, fee or restitution imposed upon a defendant convicted of a felony or gross misdemeanor pursuant to chapter 176 of NRS; and~~

~~(b) Distribute a fine, administrative assessment, fee or restitution collected pursuant to subsection 1 to the entity that is entitled to receive the fine, administrative assessment, fee or restitution.~~

~~2. To carry out the provisions of subsection 1, the State Controller shall:~~

~~(a) Collaborate with the appropriate district court, the Department of Public Safety, the Department of Corrections and any other state or local agency involved in the collection of fines, administrative assessments, fees or restitution; and~~

~~(b) Use any lawful means necessary to collect the fines, administrative assessments, fees and restitution, including, without limitation, taking any or all of the actions set forth in NRS 176.064.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 176.064 is hereby amended to read as follows:~~

~~176.064 1. If a fine, administrative assessment, fee or restitution is imposed upon a defendant pursuant to this chapter, whether or not the fine, administrative assessment, fee or restitution is in addition to any other punishment, and the fine, administrative assessment, fee or restitution or any part of it remains unpaid after the time established by the court for its payment, the defendant is liable for a collection fee, to be imposed by the court at the time it finds that the fine, administrative assessment, fee or restitution is delinquent, of:~~

~~(a) Not more than \$100, if the amount of the delinquency is less than \$2,000.~~

~~(b) Not more than \$500, if the amount of the delinquency is \$2,000 or greater, but is less than \$5,000.~~

~~(c) Ten percent of the amount of the delinquency, if the amount of the delinquency is \$5,000 or greater.~~

~~2. [A] The State Controller or a state or local entity that is [responsible for collecting] involved in the collection of a delinquent fine, administrative assessment, fee or restitution may, in addition to attempting to collect the fine, administrative assessment, fee or restitution through any other lawful means, take any or all of the following actions:~~

~~(a) Report the delinquency to reporting agencies that assemble or evaluate information concerning credit.~~

~~(b) Request that the court take appropriate action pursuant to subsection 3.~~

~~(c) Contract with a collection agency licensed pursuant to NRS 649.075 to collect the delinquent amount and the collection fee. The collection agency must be paid as compensation for its services an amount not greater than the amount of the collection fee imposed pursuant to subsection 1, in accordance with the provisions of the contract.~~

~~3. The court may, on its own motion or at the request of *the State Controller* or a state or local entity that is [responsible for collecting] *involved in the collection of* the delinquent fine, administrative assessment, fee or restitution, take any or all of the following actions, in the following order of priority if practicable:~~

~~(a) Request that a prosecuting attorney undertake collection of the delinquency, including, without limitation, the original amount and the collection fee, by attachment or garnishment of the defendant's property, wages or other money receivable.~~

~~(b) Order the suspension of the driver's license of the defendant. If the defendant does not possess a driver's license, the court may prohibit the defendant from applying for a driver's license for a specified period. If the defendant is already the subject of a court order suspending or delaying the issuance of the defendant's driver's license, the court may order the additional suspension or delay, as appropriate, to apply consecutively with the previous order. At the time the court issues an order suspending the driver's license of a defendant pursuant to this paragraph, the court shall require the defendant to surrender to the court all driver's licenses then held by the defendant. The court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles the licenses, together with a copy of the order. At the time the court issues an order pursuant to this paragraph delaying the ability of a defendant to apply for a driver's license, the court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles a copy of the order. The Department of Motor Vehicles shall report a suspension pursuant to this paragraph to an insurance company or its agent inquiring about the defendant's driving record, but such a suspension must not be considered for the purpose of rating or underwriting.~~

~~(c) For a delinquent fine or administrative assessment, order the confinement of the person in the appropriate prison, jail or detention facility, as provided in NRS 176.065 and 176.075.~~

~~4. Money collected from a collection fee imposed pursuant to subsection 1 must be distributed in the following manner:~~

~~(a) Except as otherwise provided in paragraph (d), if the money is collected by or on behalf of a municipal court, the money must be deposited in a special fund in the appropriate city treasury. The city may use the money~~

~~in the fund only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution.~~

~~(b) Except as otherwise provided in paragraph (d), if the money is collected by or on behalf of a justice court or district court, the money must be deposited in a special fund in the appropriate county treasury. The county may use the money in the special fund only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution.~~

~~(c) Except as otherwise provided in paragraph (d), if the money is collected by [a state entity,] **the State Controller**, the money must be deposited in an account, which is hereby created in the State Treasury. The [Court Administrator] **State Controller** may use the money in the account only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution in this State.~~

~~(d) If the money is collected by a collection agency, after the collection agency has been paid its fee pursuant to the terms of the contract, any remaining money must be deposited in the state, city or county treasury, whichever is appropriate, to be used only for the purposes set forth in paragraph (a), (b) or (c). [of this subsection.]~~

~~**5. To carry out the provisions of this section:**~~

~~(a) Each district court, the Chief of the Division and the Director of the Department of Corrections shall, upon the request of and in the manner prescribed by the State Controller, provide to the State Controller such information in their possession regarding the amount of any fine, administrative assessment, fee or restitution owed by a person convicted of a felony or gross misdemeanor as determined necessary by the State Controller.~~

~~(b) Each district court, the Department of Public Safety, the Department of Corrections and any other state or local agency involved in the collection of fines, administrative assessments, fees or restitution shall collaborate with the State Controller. (Deleted by amendment.)~~

~~Sec. 3. [NRS 176.0916 is hereby amended to read as follows:~~

~~176.0916 1. If the Division is supervising a probationer or parolee pursuant to an interstate compact and the probationer or parolee is or has been convicted in another jurisdiction of violating a law that prohibits the same or similar conduct as an offense listed in subsection 4 of NRS 176.0913, the Division shall arrange for a biological specimen to be obtained from the probationer or parolee.~~

~~2. After a biological specimen is obtained from a probationer or parolee pursuant to this section, the Division shall:~~

~~(a) Provide the biological specimen to the forensic laboratory that has been designated by the county in which the probationer or parolee is residing to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917; and~~

~~(b) Submit the name, social security number, date of birth and any other information identifying the probationer or parolee to the Central Repository [.] for Nevada Records of Criminal History.~~

~~3. Except as otherwise authorized by federal law or by specific statute, a biological specimen obtained pursuant to this section, the results of a genetic marker analysis and any information identifying or matching a biological specimen with a person must not be shared with or disclosed to any person other than the authorized personnel who have possession and control of the biological specimen, results of a genetic marker analysis or information identifying or matching a biological specimen with a person, except pursuant to:~~

~~(a) A court order; or~~

~~(b) A request from a law enforcement agency during the course of an investigation.~~

~~4. A person who violates any provision of subsection 3 is guilty of a misdemeanor.~~

~~5. A probationer or parolee, to the extent of his or her financial ability, shall pay the sum of \$150 to the [Division] *State Controller* as a fee for obtaining the biological specimen and for conducting the analysis to determine the genetic markers of the biological specimen. Except as otherwise provided in subsection 6, the fee required pursuant to this subsection must be collected from a probationer or parolee at the time the biological specimen is obtained from the probationer or parolee.~~

~~6. A probationer or parolee may arrange to make monthly payments of the fee required pursuant to subsection 5. If such arrangements are made, the [Division] *State Controller* shall provide a probationer or parolee with a monthly statement that specifies the date on which the next payment is due.~~

~~7. Any unpaid balance for a fee required pursuant to subsection 5 is a charge against the [Division] *State Controller*.~~

~~8. The [Division] *State Controller* shall deposit money that is collected pursuant to this section in the Fund for Genetic Marker Testing, which is hereby created in the State General Fund. The money deposited in the Fund for Genetic Marker Testing must be used to pay for the actual amount charged to the Division for obtaining biological specimens from probationers and parolees, and for conducting an analysis to determine the genetic markers of the specimens.] (Deleted by amendment.)~~

Sec. 4. ~~[NRS 176A.430 is hereby amended to read as follows:~~

~~176A.430 1. The court shall order as a condition of probation or suspension of sentence, in appropriate circumstances, that the defendant make full or partial restitution to the person or persons named in the order, at the times and in the amounts specified in the order unless the court finds that restitution is impracticable. Such an order may require payment for medical or psychological treatment of any person whom the defendant has injured. In appropriate circumstances, the court shall include as a condition of probation or suspension of sentence that the defendant execute an assignment of wages~~

~~earned while on probation or subject to the conditions of suspension of sentence to the [Division] **State Controller** for restitution.~~

~~2. All money received by the [Division] **State Controller** for restitution for:~~

~~(a) One victim may; and~~

~~(b) More than one victim must;~~

~~→ be deposited with the State Treasurer for credit to the Restitution Trust Fund. All payments from the Fund must be paid as other claims against the State are paid.~~

~~3. If restitution is not required, the court shall set forth the circumstances upon which it finds restitution impracticable in its order of probation or suspension of sentence.~~

~~4. Failure to comply with the terms of an order for restitution is a violation of a condition of probation or suspension of sentence unless the defendant's failure has been caused by economic hardship resulting in the defendant's inability to pay the amount due. The defendant is entitled to a hearing to show the existence of such a hardship.~~

~~5. If, within 3 years after the defendant has been discharged from probation, the [Division] **State Controller** has not located the person to whom the restitution was ordered, the money paid by the defendant must be deposited with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime.] (Deleted by amendment.)~~

~~Sec. 5. [NRS 213.126 is hereby amended to read as follows:~~

~~213.126 1. Unless complete restitution was made while the parolee was incarcerated, the Board shall impose as a condition of parole, in appropriate circumstances, a requirement that the parolee make restitution to the person or persons named in the statement of parole conditions, including restitution to a governmental entity for expenses related to extradition, at the times specified in the statement unless the Board finds that restitution is impracticable. The amount of restitution must be the amount set by the court pursuant to NRS 176.033. In appropriate circumstances, the Board shall include as a condition of parole that the parolee execute an assignment of wages earned by the parolee while on parole to the [Division] **State Controller** for restitution.~~

~~2. All money received by the [Division] **State Controller** for restitution for:~~

~~(a) One victim may; and~~

~~(b) More than one victim must;~~

~~→ be deposited in the State Treasury for credit to the Restitution Trust Fund which is hereby created.~~

~~3. The [Division] **State Controller** shall make pro rata payments from the money received from the parolee to each person to whom the restitution was ordered pursuant to NRS 176.033. Such a payment must be made:~~

~~(a) If the money received from the parolee in a single payment is \$200 or more or if the total accumulated amount received from the parolee is \$200 or more, whenever money is received from the parolee.~~

~~(b) If the money received from the parolee in a single payment is less than \$200 or if the total accumulated amount received from the parolee is less than \$200, at the end of each year until the parolee has paid the entire restitution owed.~~

~~* Any money received from the parolee that is remaining at the end of each year must be paid at that time in pro rata payments to each person to whom the restitution was ordered. A final pro rata payment must be made to such persons when the parolee pays the entire restitution owed.~~

~~4. A person to whom restitution was ordered pursuant to NRS 176.033 may at any time file an application with the [Division] *State Controller* requesting the [Division] *State Controller* to make a pro rata payment from the money received from the parolee. If the [Division] *State Controller* finds that the applicant is suffering a serious financial hardship and is in need of financial assistance, the [Division] *State Controller* shall pay to the applicant his or her pro rata share of the money received from the parolee.~~

~~5. All payments from the Fund must be paid as other claims against the State are paid.~~

~~6. If restitution is not required, the Board shall set forth the circumstances upon which it finds restitution impracticable in its statement of parole conditions.~~

~~7. Failure to comply with a restitution requirement imposed by the Board is a violation of a condition of parole unless the parolee's failure was caused by economic hardship resulting in his or her inability to pay the amount due. The defendant is entitled to a hearing to show the existence of that hardship.~~

~~8. If, within 3 years after the parolee is discharged from parole, the [Division] *State Controller* has not located the person to whom the restitution was ordered, the money paid to the [Division] *State Controller* by the parolee must be deposited in the Fund for the Compensation of Victims of Crime.~~ (Deleted by amendment.)

Sec. 6. Chapter 176 of NRS is hereby amended by adding thereto the provisions set forth as sections 7, 8 and 9 of this act.

Sec. 7. 1. If a fine, administrative assessment, fee or restitution is imposed pursuant to this chapter upon a defendant who pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a felony or gross misdemeanor, the district court entering the judgment of conviction shall forward to the county treasurer or other office assigned by the county to make collections the information necessary to collect the fine, administrative assessment, fee or restitution. The county treasurer or other office assigned by the county to make collections is responsible for such collection efforts and has the authority to collect the fine, administrative assessment, fee or restitution.

2. If the county treasurer or other office assigned by the county to make collections is unable to collect the fine, administrative assessment, fee or restitution after 60 days, the county treasurer may assign to the Office of the State Controller the responsibility for collection of the fine, administrative assessment, fee or restitution through a cooperative agreement pursuant to section 14 of this act, so long as the Office of the State Controller is willing and able to make such collection efforts.

3. If the county treasurer and the Office of the State Controller enter into a cooperative agreement pursuant to section 14 of this act, the county treasurer or other county office assigned by the county to make collections shall forward to the Office of the State Controller the necessary information. For the purposes of this section, the information necessary to collect the fine, administrative assessment, fee or restitution shall be considered and limited to:

- (a) The name of the defendant;
- (b) The date of birth of the defendant;
- (c) The social security number of the defendant;
- (d) The last known address of the defendant; and
- (e) The nature and the amount of money owed by the defendant.

4. If the Office of the State Controller is successful in collecting the fine, administrative assessment, fee or restitution, the money collected must be returned to the originating county, minus the costs and fees actually incurred in collecting the fine, administrative assessment, fee or restitution pursuant to section 9 of this act.

5. Any money collected pursuant to subsection 4 must be deposited in the State Treasury, pursuant to NRS 176.265.

6. Any record created pursuant to subsection 3 that contains personal identifying information shall not be considered a public record pursuant to NRS 239.010 and must be treated pursuant to NRS 239.0105.

7. Unless otherwise prohibited by law, the entity responsible for collecting the fine, administrative assessment, fee or restitution pursuant to this section, has the authority to compromise the amount to be collected for the purpose of satisfying the judgment.

Sec. 8. If a district court imposes a fine, administrative assessment, fee or restitution upon a defendant who pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a felony or gross misdemeanor, the district court judge shall advise the defendant at the time of sentencing that:

1. The judgment constitutes a lien, pursuant to NRS 176.275; and

2. If the defendant does not satisfy the lien, collection efforts may be undertaken against the defendant pursuant to the laws of this State.

Sec. 9. 1. A defendant who pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill who owes a fine, administrative assessment, fee or restitution, pursuant to section 7 of this act, must be assessed by and pay to the county treasurer or other office assigned by the

county to make collections the following costs and fees if the county treasurer or other office assigned by the county to make collections is successful in collecting the fine, administrative assessment, fee or restitution:

(a) The costs and fees actually incurred in collecting the fine, administrative assessment, fee or restitution; and

(b) A fee payable to the county treasurer in the amount of 2 percent of the amount of the fine, administrative assessment, fee or restitution assigned to the county treasurer or other office assigned by the county to make collections.

2. The total amount of the costs and fees required to be collected pursuant to subsection 1 must not exceed 35 percent of the amount of the fine, administrative assessment, fee or restitution or \$50,000, whichever is less.

Sec. 10. Chapter 178 of NRS is hereby amended by adding thereto the provisions set forth as sections 11 and 12 of this act.

Sec. 11. 1. If a district court orders a defendant to pay for expenses incurred by the county or State in providing the defendant with an attorney pursuant to NRS 178.3975 or makes an execution on the property of the defendant pursuant to NRS 178.398, the district court entering the judgment shall forward to the county treasurer or other office assigned by the county to make collections the information necessary to collect the fee. The county treasurer or other office assigned by the county to make collections is responsible for such collection efforts and has the authority to collect the fee.

2. If the county treasurer or other office assigned by the county to make collections is unable to collect the fee after 60 days, the county treasurer may assign to the Office of the State Controller the responsibility for collection of the fee through a cooperative agreement pursuant to section 14 of this act, so long as the Office of the State Controller is willing and able to make such collection efforts.

3. If the county treasurer and the Office of the State Controller enter into a cooperative agreement pursuant to section 14 of this act, the county treasurer or other county office assigned by the county to make collections shall forward to the Office of the State Controller the necessary information. For purposes of this section, the information necessary to collect the fee shall be considered and limited to:

(a) The name of the defendant;

(b) The date of birth of the defendant;

(c) The social security number of the defendant;

(d) The last known address of the defendant; and

(e) The nature and the amount of money owed by the defendant.

4. If the Office of the State Controller is successful in collecting the fee, the money collected must be returned to the originating county, minus the costs and fees actually incurred in collecting the fee.

5. Any money collected must be paid to the county or state public defender's office which bore the expense and which was not reimbursed by another governmental agency, pursuant to NRS 178.3975.

6. Any record created pursuant to subsection 3 that contains personal identifying information shall not be considered a public record pursuant to NRS 239.010 and must be treated pursuant to NRS 239.0105.

7. Unless otherwise prohibited by law, the entity responsible for collecting the fee pursuant to this section, has the authority to compromise the amount to be collected for the purpose of satisfying the judgment.

Sec. 12. 1. A defendant who owes a fee pursuant to section 11 of this act, must be assessed by and pay to the county treasurer or other office assigned by the county to make collections, the following costs and fees if the county treasurer or other office assigned by the county to make collections is successful in collecting the fee:

(a) The costs and fees actually incurred in collecting the fee; and

(b) A fee payable to the county treasurer in the amount of 2 percent of the amount of the fee assigned to the county treasurer or other office assigned by the county to make collections.

2. The total amount of the costs and fees required to be collected pursuant to subsection 1 must not exceed 35 percent of the amount of the fee or \$50,000, whichever is less.

Sec. 13. Chapter 353 of NRS is hereby amended by adding thereto the provisions set forth as sections 14 and 15 of this act.

Sec. 14. The Office of the State Controller may act as the collection agent for any governmental entity pursuant to a cooperative agreement entered into between the Office of the State Controller and the governmental entity.

Sec. 15. The State Controller or his or her designee may enter into a reciprocal agreement with the Federal Government for the collection and offset of indebtedness, pursuant to which the State will offset from state tax refunds and from payments otherwise due to vendors and contractors providing goods or services to the departments, agencies or institutions of this State, non tax related debt owed to the Federal Government, and the Federal Government will offset from federal payments to vendors and taxpayers debt owed to the State of Nevada.

~~{Sec. 6.}~~ Sec. 16. This act becomes effective on July 1, 2011.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 213.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 152.

AN ACT relating to gaming; authorizing the Nevada Gaming Commission to adopt regulations relating to the issuance of a preliminary finding of suitability; revising provisions relating to investigations and the initiation of complaints by the State Gaming Control Board; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Nevada Gaming Commission to require a finding of suitability of a person under certain circumstances. (NRS 463.162) **Section 1** of this bill authorizes the Commission to adopt regulations relating to the issuance of a preliminary finding of suitability.

Existing law requires the State Gaming Control Board to make investigations and to initiate a hearing by filing a complaint with the Commission if the Board is satisfied that a license, registration, finding of suitability, pari-mutuel license or prior approval by the Commission of any transaction for which approval was required or permitted should be limited, conditioned, suspended or revoked. (NRS 463.310) **Section 2** of this bill clarifies that the Board may, after an investigation, initiate a hearing by filing a complaint with the Commission if the Board is satisfied that a person or entity which is licensed, registered, found suitable or found preliminarily suitable or which previously obtained approval for which Commission approval was required or permitted should be fined.

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

Section 1. Chapter 463 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commission may, with the advice and assistance of the Board, adopt regulations governing the issuance of a preliminary finding of suitability to a person.

2. The regulations adopted by the Commission pursuant to this section must:

(a) Provide that a person must demonstrate to the satisfaction of the Commission that the person has the suitability to become involved as a licensee but has not otherwise entered into a position or transaction which would require licensing pursuant to this chapter.

(b) Provide that a preliminary finding of suitability expires not more than 2 years after issuance by the Commission but may be renewed for additional periods of not more than 2 years as the Commission deems appropriate.

(c) Set forth standards for a person to be issued a preliminary finding of suitability that are as stringent as the standards for a person to be issued a nonrestricted license.

(d) Establish the fees for a person to apply for, to be investigated for and to hold a preliminary finding of suitability.

(e) *Provide that no person may be issued a preliminary finding of suitability unless the person agrees that, for the duration of the period in which the person holds the preliminary finding of suitability, the person will not seek or in any way engage in a corporate acquisition opposed by management.*

(f) *Define “preliminary finding of suitability” as the term is used in this section.*

3. *As used in this section:*

(a) *“Acquire control” or “acquiring control” means any act or conduct by a person whereby the person obtains control, whether accomplished through the ownership of equity or voting securities, ownership of rights to acquire equity or voting securities, by management or consulting agreements or other contract, by proxy or power of attorney, by statutory mergers, by consummation of a tender offer, by acquisition of assets, or otherwise.*

(b) *“Control” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person.*

(c) *“Corporate acquisition opposed by management” means an attempt to acquire control of a publicly traded corporation that is an affiliated company by means of a tender offer that is opposed by the board of directors of the affiliated company.*

(d) *“Tender offer” means a public offer by a person other than the issuer to purchase voting securities of a publicly traded corporation that is an affiliated company, made directly to security holders for the purpose of acquiring control of the affiliated company.*

(e) *“Voting security” means a security the holder of which is entitled to vote for the election of a member or members of the board of directors or board of trustees of a corporation or a comparable person or persons in the case of a partnership, trust, or other form of business organization other than a corporation.*

Sec. 2. NRS 463.310 is hereby amended to read as follows:

463.310 1. The Board shall make appropriate investigations:

(a) To determine whether there has been any violation of this chapter or chapter 462, 464, 465 or 466 of NRS or any regulations adopted thereunder.

(b) To determine any facts, conditions, practices or matters which it may deem necessary or proper to aid in the enforcement of any such law or regulation.

(c) To aid in adopting regulations.

(d) To secure information as a basis for recommending legislation relating to this chapter or chapter 462, 464, 465 or 466 of NRS.

(e) As directed by the Commission.

2. If, after any investigation the Board is satisfied that ~~it~~ :

(a) A license, registration, finding of suitability, preliminary finding of suitability, pari-mutuel license or prior approval by the Commission of any transaction for which the approval was required or permitted under the

provisions of this chapter or chapter 462, 464 or 466 of NRS should be limited, conditioned, suspended or revoked ~~[, it]; or~~

(b) A person or entity which is licensed, registered, found suitable or found preliminarily suitable pursuant to this chapter or chapter 464 of NRS or which previously obtained approval for any act or transaction for which Commission approval was required or permitted under the provisions of this chapter or chapter 464 of NRS should be fined,

→ *the Board* shall initiate a hearing before the Commission by filing a complaint with the Commission in accordance with NRS 463.312 and transmit therewith a summary of evidence in its possession bearing on the matter and the transcript of testimony at any investigative hearing conducted by or on behalf of the Board.

3. Upon receipt of the complaint of the Board, the Commission shall review ~~the~~ *the complaint* and all matter presented in support thereof, and shall conduct further proceedings in accordance with NRS 463.3125 to 463.3145, inclusive.

4. After the provisions of subsections 1, 2 and 3 have been complied with, the Commission may:

(a) Limit, condition, suspend or revoke the license of any licensed gaming establishment or the individual license of any licensee without affecting the license of the establishment;

(b) Limit, condition, suspend or revoke any registration, finding of suitability, pari-mutuel license, or prior approval given or granted to any applicant by the Commission;

(c) Order a licensed gaming establishment to keep an individual licensee from the premises of the licensed gaming establishment or not to pay the licensee any remuneration for services or any profits, income or accruals on the investment of the licensee in the licensed gaming establishment; and

(d) Fine each person or entity, or both, ~~[who was]~~ *which is* licensed, registered or found suitable pursuant to this chapter or chapter 464 of NRS or ~~[who]~~ *which* previously obtained approval for any act or transaction for which Commission approval was required or permitted under the provisions of this chapter or chapter 464 of NRS:

(1) Not less than \$25,000 ~~[nor]~~ *and not* more than \$250,000 for each separate violation of any regulation adopted pursuant to NRS 463.125 which is the subject of an initial or subsequent complaint; or

(2) Except as otherwise provided in subparagraph (1), ~~[of this paragraph]~~ not more than \$100,000 for each separate violation of the provisions of this chapter or chapter 464 or 465 of NRS or of the regulations of the Commission which is the subject of an initial complaint and not more than \$250,000 for each separate violation of the provisions of this chapter or chapter 464 or 465 of NRS or of the regulations of the Commission which is the subject of any subsequent complaint.

→ All fines must be paid to the State Treasurer for deposit in the State General Fund.

5. For the second violation of any provision of chapter 465 of NRS by any licensed gaming establishment or individual licensee, the Commission shall revoke the license of the establishment or person.

6. If the Commission limits, conditions, suspends or revokes any license or imposes a fine, or limits, conditions, suspends or revokes any registration, finding of suitability, pari-mutuel license or prior approval, it shall issue its written order therefor after causing to be prepared and filed its written decision upon which the order is based.

7. Any such limitation, condition, revocation, suspension or fine so made is effective until reversed upon judicial review, except that the Commission may stay its order pending a rehearing or judicial review upon such terms and conditions as it deems proper.

8. Judicial review of any such order or decision of the Commission may be had in accordance with NRS 463.315 to 463.318, inclusive.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 249.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 103.

AN ACT relating to court reporters; making various changes pertaining to the appointment, duties and work product of court reporters in the district courts and justice courts of this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides that a business organization appointed to provide to a district court the services of a certified court reporter must be licensed by the Certified Court Reporters' Board of Nevada. (NRS 3.320)

Section 2 of this bill clarifies that an official reporter pro tempore of a district court is appointed rather than employed and, like the official reporter he or she replaces, does not have a fixed term of employment. (NRS 3.320, 3.340)

Section 3 of this bill states that prima facie evidence of the testimony and proceedings in a district court is provided by the transcript and not the report of the official reporter. (NRS 3.360) **Section 4** of this bill makes various changes with respect to the compensation of the official reporter of a district court. (NRS 3.370) **Section 5** of this bill provides that, when sound recording equipment is used to record proceedings in a district court and a transcript is subsequently made: (1) the person who transcribes the recording shall subscribe to an oath that he or she has truly and correctly transcribed the proceedings as recorded; and (2) the person who operates the sound recording equipment shall subscribe to an oath that the sound recording is a true and accurate recording of the proceedings and, in the event of an error, malfunction or other problem relating to the sound recording equipment or

the sound recording, report that error, malfunction or problem to the court. (NRS 3.380) **Section 6** of this bill states that, with regard to proceedings in a justice court, compensation for the preparation of a transcript is to be deposited with the certified court reporter and not with the deputy clerk of the court. (NRS 4.410) **Section 7** of this bill provides that ~~it~~ : **(1) the sound recording of each proceeding in justice court must be preserved until at least 1 year, instead of 30 days, after the time for filing an appeal expires; and (2)** with respect to certain criminal proceedings in a justice court, sound recordings must be preserved for a period of at least 8 years. (NRS 4.420)

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

Section 1. NRS 3.320 is hereby amended to read as follows:

3.320 1. The judge or judges of any district court may appoint, subject to the provisions of this chapter and other laws as to the qualifications and examinations of the appointee, one certified court reporter, to be known as official reporter of the court or department and to hold office during the pleasure of the judge appointing the official reporter. The appointee may be any business organization *licensed by the Board* if the person representing ~~it~~ ***the business organization***, who actually performs the reporting service, is a certified court reporter.

2. The official reporter, or any one of them if there are two or more, shall:

(a) At the request of either party or of the court in a civil action or proceeding, and on the order of the court, the district attorney or the attorney for the defendant in a criminal action or proceeding, make a record of all the testimony, the objections made, the rulings of the court, the exceptions taken, all arraignments, pleas and sentences of defendants in criminal cases, and all statements and remarks made by the district attorney or judge, and all oral instructions given by the judge; and

(b) ~~it~~ ***When*** directed by the court or requested by either party, within such reasonable time after the trial of the case as may be designated by law or, in the absence of any law relating thereto, by the court, ~~write out the record, or such specific portions thereof as may be requested, in plain and legible longhand, or by typewriter or other printing machine.~~ ***transcribe the record into a written transcript.*** The reporter shall certify ~~to that copy as being~~ ***that the action or proceeding was*** correctly reported and transcribed and, when directed by the law or court, shall file ~~it~~ ***the written transcript*** with the clerk of the court.

3. As used in this section, “Board” means the *Certified Court Reporters’ Board of Nevada, created by NRS 656.040.*

Sec. 2. NRS 3.340 is hereby amended to read as follows:

3.340 The official reporter of any district court shall attend to the duties of office in person except when excused for good and sufficient reason by

order of the court, which order shall be entered upon the minutes of the court. Employment in his or her professional capacity elsewhere shall not be deemed a good and sufficient reason for such excuse. When the official reporter of any court has been excused in the manner provided in this section, the court may designate an official reporter pro tempore who shall perform the same duties and receive the same compensation during the term of his or her ~~employment~~ **appointment** as the official reporter.

Sec. 3. NRS 3.360 is hereby amended to read as follows:

3.360 The ~~report~~ **transcript** of the official reporter, or official reporter pro tempore, of any court, duly appointed and sworn, when transcribed and certified as being a correct transcript of the testimony and proceedings in the case, is prima facie evidence of such testimony and proceedings.

Sec. 4. NRS 3.370 is hereby amended to read as follows:

3.370 1. Except as otherwise provided in subsection 3, for his or her services the official reporter or reporter pro tempore is entitled to the following compensation:

(a) For being available to report civil and criminal testimony and proceedings when the court is sitting during traditional business hours on any day except Saturday or Sunday, \$170 per day, to be paid by the county as provided in subsection 4.

(b) For being available to report civil and criminal testimony and proceedings when the court is sitting beyond traditional business hours or on Saturday or Sunday:

(1) If the reporter has been available to report for at least 4 hours, \$35 per hour for each hour of availability; or

(2) If the reporter has been available to report for fewer than 4 hours, a pro rata amount based on the daily rate set forth in paragraph (a),
 ➡ to be paid by the county as provided in subsection 4.

(c) For transcription:

(1) Except as otherwise provided in subparagraph (2), for the original draft and any copy to be delivered:

(I) Within 24 hours after it is requested, \$7.50 per page for the original draft and one copy, and \$2 per page for each additional copy;

(II) Within 48 hours after it is requested, \$5.62 per page for the original draft and one copy, and \$1.50 per page for each additional copy;

(III) Within 4 days after it is requested, \$4.68 per page for the original draft and one copy, and \$1.25 per page for each additional copy; or

(IV) More than 4 days after it is requested, \$3.55 per page for the original draft and one copy, and 55 cents per page for each additional copy.

(2) For civil litigants who are ordering the original draft and are represented by a nonprofit legal corporation or a program for pro bono legal assistance, for the original draft and any copy to be delivered:

(I) Within 24 hours after it is requested, \$5.50 per page and \$1.10 per page for each additional copy;

(II) Within 48 hours after it is requested, \$4.13 per page and 83 cents per page for each additional copy;

(III) Within 4 days after it is requested, \$3.44 per page and 69 cents per page for each additional copy; or

(IV) More than 4 days after it is requested, \$2.75 per page and 55 cents per page for each additional copy.

(3) For any party other than the party ordering the original draft, for the copy of the draft to be delivered:

(I) Within 24 hours after it is requested, \$1.10 per page;

(II) Within 48 hours after it is requested, 83 cents per page;

(III) Within 4 days after it is requested, 69 cents per page; or

(IV) More than 4 days after it is requested, 55 cents per page.

(d) For reporting all civil matters, in addition to the compensation provided in paragraphs (a) and (b), \$30 for each hour or fraction thereof actually spent, to be taxed as costs pursuant to subsection 5.

(e) For providing an instantaneous translation of testimony into English which appears on a computer that is located at a table in the courtroom where the attorney who requested the translation is seated:

(1) Except as otherwise provided in this subparagraph, in all criminal matters in which a party requests such a translation, in addition to the compensation provided pursuant to paragraphs (a) and (b), \$140 for the first day and \$90 per day for each subsequent day from the party who makes the request. This additional compensation must be paid by the county as provided pursuant to subsection 4 only if the court issues an order granting the translation service to the prosecuting attorney or to an indigent defendant who is represented by a county or state public defender.

(2) In all civil matters in which a party requests such a translation, in addition to the compensation provided pursuant to paragraphs (a), (b) and (d), \$140 for the first day and \$90 per day for each subsequent day, to be paid by the party who requests the translation.

(f) For providing a diskette containing testimony prepared from a translation provided pursuant to paragraph (e):

(1) Except as otherwise provided in this subparagraph, in all criminal matters in which a party requests the diskette and the reporter agrees to provide the diskette, in addition to the compensation provided pursuant to paragraphs (a), (b) and (e), \$1.50 per page of the translation contained on the diskette from the party who makes the request. This additional compensation must be paid by the county as provided pursuant to subsection 4 only if the court issues an order granting the diskette to the prosecuting attorney or to an indigent defendant who is represented by a county or state public defender.

(2) In all civil matters in which a party requests the diskette and the reporter agrees to provide the diskette, in addition to the compensation provided pursuant to paragraphs (a), (b), (d) and (e), \$1.50 per page of the translation contained on the diskette, to be paid by the party who requests the diskette.

2. For the purposes of subsection 1, a page is a sheet of paper 8 1/2 by 11 inches ~~[]~~ **and does not include a condensed transcript.** The left margin must not be more than 1 1/2 inches from the left edge of the paper. The right margin must not be more than three-fourths of an inch from the right edge of the paper. Each sheet must be numbered on the left margin and must contain at least 24 lines of type. The first line of each question and of each answer may be indented not more than five spaces from the left margin. The first line of any paragraph or other material may be indented not more than 10 spaces from the left margin. There must not be more than one space between words or more than two spaces between sentences. The type size must not be larger than 10 characters per inch. The lines of type may be double spaced or one and one-half spaced.

3. If the court determines that the services of more than one reporter are necessary to deliver transcripts on a daily basis in a criminal proceeding, each reporter is entitled to receive:

(a) The compensation set forth in paragraphs (a) and (b) of subsection 1 and subparagraph (1) of paragraph (e) of subsection 1, as appropriate; and

(b) Compensation of \$7.50 per page for the original draft and one copy, and \$2 per page for each additional copy for transcribing a proceeding of which the transcripts are ordered by the court to be delivered on or before the start of the next day the court is scheduled to conduct business.

4. The compensation specified in paragraphs (a) and (b) of subsection 1, the compensation for transcripts in criminal cases ordered by the court to be made, the compensation for transcripts in civil cases ordered by the court pursuant to NRS 12.015, the compensation for transcripts for parents or guardians or attorneys of parents or guardians who receive transcripts pursuant to NRS 432B.459, the compensation in criminal cases that is ordered by the court pursuant to subparagraph (1) of paragraph (e) and subparagraph (1) of paragraph (f) of subsection 1 and the compensation specified in subsection 3 must be paid out of the county treasury upon the order of the court. When there is no official reporter in attendance and a reporter pro tempore is appointed, his or her reasonable expenses for traveling and detention must be fixed and allowed by the court and paid in the same manner. The respective district judges may, with the approval of the respective board or boards of county commissioners within the judicial district, fix a monthly salary to be paid to the official reporter in lieu of per diem. The salary, and also actual traveling expenses in cases where the reporter acts in more than one county, must be prorated by the judge on the basis of time consumed by work in the respective counties and must be paid out of the respective county treasuries upon the order of the court.

5. Except as otherwise provided in subsection 4, in civil cases, the compensation prescribed in paragraph (d) of subsection 1 and for transcripts ordered by the court to be made must be paid by the parties in equal proportions, and either party may, at the party's option, pay the entire compensation. In either case, all amounts so paid by the party to whom costs

are awarded must be taxed as costs in the case. The compensation for transcripts and copies ordered by the parties must be paid by the party ordering them. No reporter may be required to perform any service in a civil case until his or her compensation has been paid to him or her. ~~for deposited with the clerk of the court.]~~

6. Where a transcript is ordered by the court or by any party, the compensation for ~~it~~ **the transcript** must be paid to the ~~clerk of the court and by the clerk paid to the~~ reporter upon the furnishing of the transcript.

7. ~~[The testimony and proceedings in an uncontested divorce action need not be transcribed unless requested by a party or ordered by the court.]~~

If a proceeding is recorded and a transcript is requested, a copy of any sound recording must, if requested, be provided with the transcript. The cost for providing the sound recording must not exceed the actual cost of production and must be paid by the party who requests the sound recording.

Sec. 5. NRS 3.380 is hereby amended to read as follows:

3.380 1. The judge or judges of any district court may, with the approval of the board of county commissioners of any one or more of the counties comprising such district, in addition to the appointment of a court reporter as in this chapter provided, enter an order for the installation of sound recording equipment for use in any of the instances recited in NRS 3.320, for the recording of any civil and criminal proceedings, testimony, objections, rulings, exceptions, arraignments, pleas, sentences, statements and remarks made by the district attorney or judge, oral instructions given by the judge and any other proceedings occurring in civil or criminal actions or proceedings, or special proceedings whenever and wherever and to the same extent as any of such proceedings have heretofore under existing statutes been recorded by the official reporter or any special reporter or any reporter pro tempore appointed by the court.

2. For the purpose of operating such sound recording equipment, the court or judge may appoint or designate the official reporter or a special reporter or reporter pro tempore or the county clerk or clerk of the court or deputy clerk. The person so operating such sound recording equipment shall subscribe to an oath that he or she will well and truly operate the equipment so as to record all of the matters and proceedings.

3. The court may then designate the person operating such equipment or any other competent person to ~~read~~ **listen to** the recording and to transcribe ~~it~~ **the recording** into ~~typewriting~~ **written text**. The person ~~transcribing~~ **who:**

(a) **Transcribes** the recording shall subscribe to an oath that he or she has truly and correctly transcribed ~~it~~ **the proceedings as recorded**.

(b) **Operates the sound recording equipment as described in subsection 2 shall:**

(1) **Subscribe to an oath that the sound recording is a true and accurate recording of the proceedings; and**

(2) *In the event of an error, malfunction or other problem relating to the sound recording equipment or the sound recording, report that error, malfunction or problem to the court.*

4. The transcript may be used for all purposes for which transcripts have heretofore been received and accepted under then existing statutes, including transcripts of testimony and transcripts of proceedings as constituting bills of exceptions or part of the bill of exceptions on appeals in all criminal cases and transcripts of the evidence or proceedings as constituting the record on appeal in civil cases and including transcripts of preliminary hearings before justices of the peace and other committing magistrates, and are subject to correction in the same manner as transcripts under existing statutes.

5. In civil and criminal cases when the court has ordered the use of such sound recording equipment, any party to the action, at the party's own expense, may provide a certified court reporter to make a record of and transcribe all the matters of the proceeding. In such a case, the record prepared by sound recording is the official record of the proceedings, unless it fails or is incomplete because of equipment or operational failure, in which case the record prepared by the certified court reporter shall be deemed, for all purposes, the official record of the proceedings.

Sec. 6. NRS 4.410 is hereby amended to read as follows:

4.410 1. If the person designated to transcribe the proceedings is:

(a) Regularly employed as a public employee, the person is not entitled to additional compensation for preparing the transcript.

(b) Not regularly employed as a public employee and not a certified court reporter, the person is entitled to such compensation for preparing the transcript as the board of county commissioners determines.

(c) A certified court reporter, the person is entitled to the same compensation as set forth in NRS 3.370.

2. The compensation for transcripts and copies must be paid by the party ordering them. In a civil case, the preparation of the transcript need not commence until the compensation has been deposited with the ~~deputy clerk of the court.~~ **court reporter.**

Sec. 7. NRS 4.420 is hereby amended to read as follows:

4.420 ~~[The]~~

1. *Except as otherwise provided in this section:*

(a) ***The*** sound recording of each proceeding in justice court must be preserved until at least ~~[30 days]~~ **1 year** after the time for filing an appeal expires.

(b) ***With respect to a proceeding in justice court that involves a misdemeanor for which enhanced penalties may be imposed, a gross misdemeanor or a felony, the sound recording of the proceeding must be preserved for at least 8 years after the time for filing an appeal expires.***

2. If no appeal is taken, the justice of the peace may order the destruction of the recording at any time after ~~[that date.]~~ ***the date specified in subsection 1.***

3. If there is an appeal to the district court, the sound recording must be preserved until at least 30 days after final disposition of the case on appeal, but the justice of the peace may order the destruction of the recording at any time after that date.

Sec. 8. This act becomes effective upon passage and approval.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 253.

Bill read second time.

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

Amendment No. 218.

AN ACT relating to occupational safety; revising certain fines for willful ~~for repeated~~ violations of the Nevada Occupational Safety and Health Act; authorizing citations and fines for violation of a settlement agreement; providing for a survey of salaries of safety and mechanical inspectors; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the assessment of certain fines and punishments for violations of the Nevada Occupational Safety and Health Act. (NRS 618.625-618.715)

Sections 1-4 of this bill include within the scope of behavior that may trigger certain fines or punishments the violation of any provision of a settlement agreement entered into that relates to the Nevada Occupational Safety and Health Act ~~1-4~~ **and authorize the Division of Industrial Relations of the Department of Business and Industry to take certain actions to enforce such a settlement agreement.**

Section 2 of this bill increases the maximum and minimum fines for willfully ~~for repeatedly~~ violating any requirement of the Nevada Occupational Safety and Health Act. **Section 4** of this bill revises the punishment for a willful violation of the Nevada Occupational Safety and Health Act that results in the death of an employee by revising the fine that may be assessed for each such violation.

Section 5 of this bill requires the Department of Personnel to complete a survey of the salaries of safety and mechanical inspectors and report its findings to the Director of the Legislative Counsel Bureau by July 1, 2012.

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

Section 1. NRS 618.465 is hereby amended to read as follows:

618.465 1. If, upon inspection or investigation, the Administrator or the Administrator's authorized representative believes that an employer has violated a requirement of this chapter, ~~or~~ any standard, rule or order

adopted or issued pursuant to this chapter, ***or any provision of a settlement agreement entered into relating to this chapter***, the Division shall with reasonable promptness issue a citation to the employer. Each citation must be in writing and describe with particularity the nature of the violation, including a reference to the section of this chapter, ~~for~~ the provision of the standard, rule, regulation or order, ***or the provision of the settlement agreement*** alleged to have been violated. In addition the citation must fix a reasonable time for the abatement of the violation. The Administrator may prescribe procedures for the issuance of a notice in lieu of a citation with respect to:

(a) Minor violations which have no direct or immediate relationship to safety or health; and

(b) Violations which are not serious and which the employer agrees to correct within a reasonable time.

2. Each citation issued under this section, or a copy or copies thereof, must be prominently posted as prescribed in regulations adopted by the Administrator at or near each place a violation referred to in the citation occurred.

3. No citation may be issued under this section after 6 months following the occurrence of any violation.

Sec. 1.3. NRS 618.515 is hereby amended to read as follows:

618.515 If any person disobeys an order of the Division, ***any provision of a settlement agreement entered into relating to this chapter, or*** a subpoena issued by ~~the~~ ***the Division*** or one of its representatives, refuses to permit an inspection or refuses to testify as a witness to any matter regarding which the person may be lawfully interrogated, ~~then~~ the district judge of the county in which the person resides, on application of the Administrator or the Administrator's representative, shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience of the requirements of subpoenas issued from the court on a refusal to testify therein.

Sec. 1.7. NRS 618.525 is hereby amended to read as follows:

618.525 1. The Division may prosecute, defend and maintain actions in the name of the Division for the enforcement of the provisions of this chapter ***or any settlement agreement entered into relating to this chapter***, and is entitled to all extraordinary writs ***or other relief*** provided by the Constitution of the State of Nevada, the statutes of this State and the Nevada Rules of Civil Procedure in connection therewith for the enforcement thereof.

2. Verification of any pleading, affidavit or other paper required may be made by the Division.

3. In any action or proceeding or in the prosecution of any appeal by the Division, no bond or undertaking may be required to be furnished by the Division.

Sec. 2. NRS 618.635 is hereby amended to read as follows:

618.635 Any employer who willfully ~~for repeatedly~~ violates any requirements of this chapter, any standard, rule, regulation or order promulgated or prescribed pursuant to this chapter, *or any provision of a settlement agreement entered into relating to this chapter* may be assessed an administrative fine of not more than ~~[\$70,000] [\$120,000 for each violation, but]~~ ***\$100,000 and*** not less than ~~[\$5,000]~~ ***\$8,000*** for each willful violation.

Sec. 3. NRS 618.645 is hereby amended to read as follows:

618.645 Any employer who has received a citation for a serious violation of any requirement of this chapter, ~~for~~ any standard, rule, regulation or order promulgated or prescribed pursuant to this chapter, *or any provision of a settlement agreement entered into relating to this chapter* must be assessed an administrative fine of not more than \$7,000 for each such violation. If a violation is specifically determined to be of a nonserious nature an administrative fine of not more than \$7,000 may be assessed.

Sec. 4. NRS 618.685 is hereby amended to read as follows:

618.685 Any employer who willfully violates any requirement of this chapter, ~~for~~ any standard, rule, regulation or order promulgated or prescribed pursuant to this chapter, *or any provision of a settlement agreement entered into relating to this chapter*, where the violation causes the death of any employee, shall be punished:

1. For a first offense, ~~for an employer who has more than 25 employees,~~ by a fine of not more than ~~[\$50,000] [\$250,000]~~ ***\$100,000 and not less than \$50,000***, or ~~or~~

~~(a) For a first offense,~~ by imprisonment in the county jail for not more than 6 months ~~or~~

~~(b) For a second or subsequent offense, by imprisonment in the county jail for not more than 1 year,~~
~~or~~ or by both fine and imprisonment.

2. For a second or subsequent offense, ~~for an employer who has 25 or fewer employees,~~ by a fine of not more than ~~[\$100,000]~~ ***\$250,000 and not less than \$50,000***, or ~~or~~

~~(a) For a first offense,~~ by imprisonment in the county jail for not more than ~~6 months; or~~

~~(b) For a second or subsequent offense, by imprisonment in the county jail for not more than 1 year,~~
~~or~~ or by both fine and imprisonment.

Sec. 5. 1. The Department of Personnel shall conduct a survey of the salaries of safety and mechanical inspectors employed by the Division of Industrial Relations of the Department of Business and Industry, including, without limitation, salaries for similar positions within the private sector.

2. The Department of Personnel shall seek to obtain relevant information from public and private employers as part of the survey. Any such information obtained by the Department may be used only for the purpose of conducting the survey.

3. The Department of Personnel shall complete the survey and submit a copy of its findings and recommendations on or before July 1, 2012, to the Director of the Legislative Counsel Bureau for distribution to the Interim Finance Committee.

Sec. 6. This act becomes effective on ~~July 1, 2011.~~ **January 1, 2012.**

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 254.

Bill read second time.

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

Amendment No. 223.

AN ACT relating to occupational safety; **revising provisions governing the grounds for the issuance of a citation for certain occupational safety and health violations;** providing for the issuance of a citation for certain occupational safety and health violations ~~in the absence of the observation of the violation~~ **upon a determination** by the Administrator of the Division of Industrial Relations of the Department of Business and Industry or the Administrator's authorized representative ~~if~~ **that any employee has access to a hazard;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that if, upon inspection or investigation, the Administrator of the Division of Industrial Relations of the Department of Business and Industry or the Administrator's authorized representative believes an employer is in violation of the Nevada Occupational Safety and Health Act, the Division shall issue a citation to the employer for the violation. (NRS 618.465)

This bill provides that the Administrator or the authorized representative may find a violation to have occurred based upon ~~either: (1) the observation of the violation by the Administrator or authorized representative during an inspection; or (2) an investigation by~~ **a determination of** the Administrator or authorized representative that ~~demonstrates the violation has occurred using depositions of witnesses, interviews or other reasonable evidence in the absence of the observation of the violation by the Administrator or authorized representative.~~ **any employee has access to a hazard. This bill also includes within the scope of behavior for which a citation may be issued the violation of any provision of a settlement agreement entered into that relates to the Nevada Occupational Safety and Health Act.**

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

Section 1. NRS 618.465 is hereby amended to read as follows:

618.465 1. If, upon inspection or investigation, the Administrator or the Administrator's authorized representative believes that an employer has violated a requirement of this chapter, ~~for~~ any standard, rule or order adopted or issued pursuant to this chapter, or any provision of a settlement agreement entered into relating to this chapter, the Division shall with reasonable promptness issue a citation to the employer. Each citation must be in writing and describe with particularity the nature of the violation, including a reference to the section of this chapter, ~~for~~ the provision of the standard, rule, regulation or order, or the provision of the settlement agreement alleged to have been violated. In addition the citation must fix a reasonable time for the abatement of the violation. The Administrator may prescribe procedures for the issuance of a notice in lieu of a citation with respect to:

(a) Minor violations which have no direct or immediate relationship to safety or health; and

(b) Violations which are not serious and which the employer agrees to correct within a reasonable time.

2. ~~A citation issued under this section may be based upon~~

~~(a) The observation of a violation by~~ a determination of the Administrator or the Administrator's authorized representative ~~during an inspection; or~~

~~(b) An investigation by the Administrator or the Administrator's authorized representative that relies upon depositions of witnesses, interviews or other reasonable evidence to demonstrate the existence of a violation in the absence of the observation of the violation by the Administrator or the Administrator's authorized representative.~~ that any employee has access to a hazard.

3. Each citation issued under this section, or a copy or copies thereof, must be prominently posted as prescribed in regulations adopted by the Administrator at or near each place a violation referred to in the citation occurred.

~~{3}~~ 4. No citation may be issued under this section after 6 months following the occurrence of any violation.

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

Sec. 2. This act becomes effective on January 1, 2012.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 255.

Bill read second time.

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

Amendment No. 222.

AN ACT relating to occupational safety; requiring the Division of Industrial Relations of the Department of Business and Industry to provide certain persons with specified information and notifications relating to an investigation of an accident which results in the death or , under certain circumstances, the injury of an employee; requiring the Division to use its best efforts to interview certain persons during an investigation of an accident which results in the death of an employee; ~~[requiring the Division to allow certain persons to participate in certain meetings relating to an accident which results in the death of an employee;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Administrator of the Division of Industrial Relations of the Department of Business and Industry to inspect and investigate places of employment and conditions, equipment and structures therein. (NRS 618.325) Existing law also requires the Division to investigate certain accidents that result in the death or injury of employees. (NRS 618.378) **Section 1** of this bill requires the Division, after an accident which results in the death of an employee or [injury of an employee,] the hospitalization of three or more employees, to provide to the injured employees, the immediate families of the injured or deceased employees and the representatives of the injured or deceased employees a written description of their rights regarding an investigation of the accident. **Section 1** also requires the Division to provide such persons with notice of certain events related to an investigation of the accident or proceedings concerning the accident.

With regard to an accident which results in the death of an employee, existing law requires the Division and the Occupational Safety and Health Review Board to provide specified information and notifications to, and under certain circumstances to enter into discussions with, the immediate family of the deceased employee after a citation is issued regarding the accident. (NRS 618.480, 618.605) **Section 3** of this bill requires the Division to use its best efforts to interview the immediate family of the deceased employee during an investigation of the fatal accident to obtain information relevant to the investigation. ~~[Section 3 also requires the Division to allow the immediate family of the deceased employee to participate in certain meetings related to the accident.]~~

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

Section 1. Chapter 618 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If an accident occurs in the course of employment which is fatal to ~~for injuries~~ one or more employees ~~++~~ or which results in the hospitalization of three or more injured employees, the Division shall, as soon as practicable:

(a) Provide to each injured employee, the immediate family of each deceased or injured employee and each representative of each deceased or injured employee a written description of the rights of such persons with regard to an investigation of the accident; and

(b) Notify each injured employee, the immediate family of each deceased or injured employee and each representative of each deceased or injured employee of:

(1) The commencement by the Division of any investigation of the accident;

(2) The result of any informal conference between the employer and the Division;

(3) The finalization of any agreement between an employer and the Division which formally settles an issue related to the accident;

~~[(3)]~~ (4) The issuance of any citation under the provisions of this chapter related to the accident;

~~[(4)]~~ (5) The receipt by the Division of notice from an employer that the employer wishes to contest or appeal any action or decision of the Division which relates to the accident; and

~~[(5)]~~ (6) The completion by the Division and, if applicable, the Board of any investigation of the accident and any proceeding related to the accident.

2. As used in this section, “representative of each deceased or injured employee” means:

(a) A person previously identified to the Division as an authorized representative of the employee bargaining unit of a labor organization which has a collective bargaining relationship with the employer of the employee and represents the employee.

(b) An attorney acting on behalf of the employee.

(c) A person designated by a court to act as the official representative for the employee or the estate of the employee.

Sec. 2. NRS 618.315 is hereby amended to read as follows:

618.315 1. The Division has authority over working conditions in all places of employment except as limited by subsection 2.

2. The authority of the Division does not extend to working conditions which:

(a) Exist in household domestic service;

(b) Exist in motor vehicles operating on public highways of this State; or

(c) Are regulated pursuant to the Federal Mine Safety and Health Act of 1977, ~~[(30)]~~ 30 U.S.C. §§ 801 et seq., ~~[(D)]~~ the Federal Safety ~~[Appliances]~~ **Appliance** Act ~~[(45)]~~, **49** U.S.C. §§ ~~[(1)]~~ **20301** et seq., ~~[(D)]~~ or the Federal Railroad Safety Act of 1970 ~~[(45)]~~, **49** U.S.C. §§ ~~[(421)]~~ **20101** et seq. ~~[(D)]~~, **and any amendments thereto.**

3. The Division may:

(a) Declare and prescribe which safety devices, safeguards or other means of protection are well adapted to render employees safe as required by lawful

order, state standards or regulations or federal standards, as adopted by the Division.

(b) Fix and adopt such reasonable standards and prescribe, modify and enforce such reasonable orders for the adoption, installation, use, maintenance and operation of safety devices, safeguards and other means or methods of protection, which must be as nearly uniform as practicable, as may be necessary to carry out all laws and lawful orders relative to the protection of the lives, safety and health of employees.

(c) Adopt such reasonable standards for the construction, repair and maintenance of places of employment as render those places safe and healthful.

(d) Require the performance of any other act which the protection of the lives, safety and health in places of employment reasonably demands.

(e) ~~Provide~~ ***Except as otherwise provided in NRS 618.480, provide*** the method and frequency of making investigations, examinations and inspections.

(f) Prepare, provide and regulate forms of notices, publications and blank forms deemed proper and advisable to carry out the provisions of this chapter, and to charge to employers the printing costs for those publications.

(g) Furnish blank forms upon request.

(h) Provide for adequate notice to each employer or employee of his or her right to administrative review of any action or decision of the Division as set forth in NRS 618.475 and 618.605 and to judicial review.

(i) Consult with the Health Division of the Department of Health and Human Services with respect to occupational health matters in chapter 617 of NRS.

(j) Appoint and fix the compensation of advisers who shall assist the Division in establishing standards of safety and health. The Division may adopt and incorporate in its general orders such safety and health recommendations as it may receive from advisers.

Sec. 3. NRS 618.480 is hereby amended to read as follows:

618.480 1. ~~If, after~~ ***During*** an investigation of an accident occurring in the course of employment which is fatal to one or more employees, ***the Division shall use its best efforts to interview the immediate family of each deceased employee to obtain any information relevant to the investigation, including, without limitation, information which the deceased employee shared with the immediate family.***

2. ~~Except as otherwise provided in this subsection, the Division shall allow the immediate family of each deceased employee to participate in any meeting relating to the accident. This subsection does not apply to a meeting if:~~

~~(a) The meeting relates to the investigation of the accident and occurs before the investigation is completed by the Division; or~~

~~(b) Each person who participates in the meeting, in any manner, is an employee of the Division.~~

~~2.7~~ *If, after the investigation of the accident,* the Division issues a citation under the provisions of this chapter, the Division shall offer to enter into a discussion with the immediate family of each deceased employee within a reasonable time after the Division issues the citation.

~~[2.7]~~ ~~4.4~~ 3. During the discussion ~~[1]~~ *described in subsection ~~[3.7]~~ 2,* the Division shall provide each family with:

- (a) Information regarding the citation and abatement process;
- (b) Information regarding the means by which the family may obtain a copy of the final incident report and abatement decision of the Division; and
- (c) Any other information that the Division deems relevant and necessary to inform the family of the outcome of the investigation by the Division.

Sec. 4. This act becomes effective on January 1, 2012.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 259.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 179.

AN ACT relating to legal services; requiring a portion of certain existing fees to be used for certain programs for legal services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain fees to be charged and collected in civil actions and provides that such fees must only be used for court staffing, capital costs, debt service, renovation, furniture, fixtures, equipment, technology and, in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties), for court appointed special advocate programs. (NRS 19.0302) **Section 1** of this bill **authorizes such fees to also be used to support legal services for the indigent in counties whose population is less than 100,000. Section 1 also** provides that **. in counties whose population is 100,000 or more, (currently Clark and Washoe Counties)** \$20 of each fee, collected on the commencement or transfer of any action in district court or upon the filing of any first paper by a defendant, must be submitted to a program for legal services ~~for the~~ **operation of programs for the indigent.**

Existing law also requires certain fees to be charged and collected at the time of recording a notice of default and election to sell. (NRS 107.080) **Section 2** of this bill provides that ~~that \$15~~ **\$10** of each fee, collected at the time of recording a notice of default and election to sell, must be submitted to a program for legal services ~~for the~~ **operation of programs for the indigent.**

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

Section 1. NRS 19.0302 is hereby amended to read as follows:

19.0302 1. Except as otherwise provided by specific statute and in addition to any other fee required by law, each clerk of the court or county clerk, as appropriate, shall charge and collect the following fees:

(a) On the commencement of any action or proceeding in the district court, other than those listed in paragraphs (c), (e) and (f), or on the transfer of any action or proceeding from a district court of another county, to be paid by the party commencing the action, proceeding or transfer.....\$99

(b) On the appearance of any defendant or any number of defendants answering jointly, to be paid upon the filing of the first paper in the action by the defendant or defendants\$99

(c) On the filing of a petition for letters testamentary, letters of administration or a guardianship, which fee does not include the court fee prescribed by NRS 19.020, to be paid by the petitioner:

(1) Where the stated value of the estate is \$200,000 or more.....\$352

(2) Where the stated value of the estate is more than \$20,000 but less than \$200,000.....\$99

(3) Where the stated value of the estate is \$20,000 or less, no fee may be charged or collected.

(d) On the filing of a motion for summary judgment or a joinder Thereto.....\$200

(e) On the commencement of an action defined as a business matter pursuant to the local rules of practice and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding thereto.....\$1,359

(f) On the commencement of:

(1) An action for a constructional defect pursuant to NRS 40.600 to 40.695, inclusive; or

(2) Any other action defined as “complex” pursuant to the local rules of practice,

➡ and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding.....\$349

(g) On the filing of a third-party complaint, to be paid by the filing Party.....\$135

(h) On the filing of a motion to certify or decertify a class, to be paid by the filing party.....\$349

(i) For the issuance of any writ of attachment, writ of garnishment, writ of execution or any other writ designed to enforce any judgment of the Court.....\$10

2. ~~[Fees]~~ ***Except as otherwise provided in subsection 4, fees*** collected pursuant to this section must be deposited into a special account administered by the county and maintained for the benefit of the court. The money in that account must be used only:

(a) To offset the costs for adding and maintaining new judicial departments, including, without limitation, the cost for additional staff;

(b) To reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature; and

(c) If any money remains in the account in a fiscal year after satisfying the purposes set forth in paragraphs (a) and (b), to:

(1) Acquire land on which to construct additional facilities for the district court or a regional justice center that includes the district court;

(2) Construct or acquire additional facilities for the district court or a regional justice center that includes the district court;

(3) Renovate or remodel existing facilities for the district court or a regional justice center that includes the district court;

(4) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the district court or a regional justice center that includes the district court;

(5) Acquire advanced technology;

(6) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the district court or a regional justice center that includes the district court;

(7) In a county whose population is less than 100,000, support court appointed special advocate programs for children, at the discretion of the judges of the judicial district; ~~or~~

(8) *In a county whose population is less than 100,000, support legal services to the indigent and to be used by the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent; or*

(9) Be carried forward to the next fiscal year.

3. Except as otherwise provided by specific statute, all fees prescribed in this section are payable in advance if demanded by the clerk of the court or county clerk.

4. Each clerk of the court or county clerk shall, on or before the fifth day of each month, account for and pay to the county treasurer ~~all~~ :

(a) ~~Ann~~ *In a county whose population is 100,000 or more, an amount equal to \$20 of each fee collected pursuant to paragraphs (a) and (b) of subsection 1 during the preceding month. The county treasurer shall remit quarterly to the organization operating ~~the~~ the program for legal services ~~as set forth in~~ that receives the fees charged pursuant to NRS 19.031 ~~all the money received from the clerk of the court or county clerk pursuant to this subsection.~~ for the operation of programs for the indigent all the money received from the clerk of the court or county clerk pursuant to this paragraph.*

(b) *All remaining* fees collected pursuant to this section during the preceding month.

Sec. 2. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085 and 107.086, 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;

(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]~~ ~~[\$35]~~ \$40 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.

~~[-]~~ (c) A fee of ~~[\$15]~~ \$10 to be paid over to the county treasurer on or before the fifth day of each month for the preceding calendar month. The county recorder may direct that 1.5 percent of the fees collected by the county recorder pursuant to this paragraph be transferred into a special account for use by the office of the county recorder. The county treasurer shall remit quarterly to the organization operating ~~the~~ the program for legal services ~~as set forth in~~ that receives the fees charged pursuant to NRS 19.031 ~~all the money received from the county recorder pursuant to~~

~~this paragraph.] for the operation of programs for the indigent all the money received from the county recorder pursuant to this paragraph.~~

11. The fees collected pursuant to ~~this subsection~~ paragraphs (a) and (b) of subsection 10 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 *for Foreclosure Mediation* as prescribed pursuant to ~~this~~ subsection ~~11~~ 10. 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~~.

~~11.~~ 10.

12. 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.~~ 13. 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.

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

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 279.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 258.

AN ACT relating to gaming; ~~authorizing~~ **requiring** the Nevada Gaming Commission to adopt regulations pertaining to independent testing laboratories; authorizing independent testing laboratories to inspect and certify gaming devices, equipment and systems; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Gaming Control Board to inspect every gaming device which is manufactured, sold or distributed: (1) for use in this State, before the gaming device is put into play; and (2) in this State for use outside this State, before the gaming device is shipped from this State. The Board may also inspect every gaming device which is offered for play within

this State by a state gaming licensee. Additionally, the Board may inspect various gaming equipment and systems which are manufactured, sold or distributed for use in this State and may determine, charge and collect an inspection fee from each gaming manufacturer, seller or distributor. (NRS 463.670)

This bill ~~authorizes~~ **requires** the Nevada Gaming Commission to adopt regulations providing for the registration of independent testing laboratories, which may be utilized by the Board to inspect and certify gaming devices, equipment and systems, and any components thereof, and providing for the standards and procedures for the revocation of registration of such independent testing laboratories. Such regulations must establish uniform protocols and procedures that the Board and independent testing laboratories must follow during the inspection and certification of gaming devices, equipment and systems, and any components thereof. This bill also authorizes the Commission to determine, charge and collect inspection fees from independent testing laboratories.

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

Section 1. NRS 463.670 is hereby amended to read as follows:

463.670 1. The Legislature finds and declares as facts:

(a) That the inspection of gaming devices, associated equipment, cashless wagering systems, mobile gaming systems and interactive gaming systems is essential to carry out the provisions of this chapter. ~~{-and}~~

(b) That *the* inspection of gaming devices, associated equipment, cashless wagering systems, mobile gaming systems and interactive gaming systems is greatly facilitated by the opportunity to inspect components before assembly and to examine the methods of manufacture.

(c) *That the interest of this State in the inspection of gaming devices, associated equipment, cashless wagering systems, mobile gaming systems and interactive gaming systems must be balanced with the interest of this State in maintaining a competitive gaming industry in which games can be efficiently and expeditiously brought to the market.*

2. *The Commission may, with the advice and assistance of the Board, adopt and implement procedures that preserve and enhance the necessary balance between the regulatory and economic interests of this State which are critical to the vitality of the gaming industry of this State.*

3. The Board may inspect every gaming device which is manufactured, sold or distributed:

(a) For use in this State, before the gaming device is put into play.

(b) In this State for use outside this State, before the gaming device is shipped out of this State.

~~{-}~~ 4. The Board may inspect every gaming device which is offered for play within this State by a *state gaming* licensee.

~~{4.}~~ 5. The Board may inspect all associated equipment, every cashless wagering system, every mobile gaming system and every interactive gaming system which is manufactured, sold or distributed for use in this State before the equipment or system is installed or used by a *state gaming* licensee and at any time while the *state gaming* licensee is using the equipment or system.

~~{5.}~~ 6. In addition to all other fees and charges imposed by this chapter, the Board may determine, charge and collect an inspection fee from each manufacturer, seller, ~~{or}~~ distributor *or independent testing laboratory* which must not exceed the actual cost of inspection and investigation.

7. *The Commission ~~{may}~~ shall adopt regulations which:*

(a) Provide for the registration of independent testing laboratories, specify the form of the application required for such registration and establish the fees required for the application, the investigation of the applicant and the registration of the applicant.

(b) Authorize the Board to utilize independent testing laboratories for the inspection and certification of any gaming device, associated equipment, cashless wagering system, mobile gaming system or interactive gaming system, or any components thereof.

(c) Establish uniform protocols and procedures which the Board and independent testing laboratories must follow during an inspection performed pursuant to subsection 3 or 5, and which independent testing laboratories must follow during the certification of any gaming device, associated equipment, cashless wagering system, mobile gaming system or interactive gaming system, or any components thereof, for use in this State or for shipment from this State.

(d) Allow an application for the registration of an independent testing laboratory to be granted upon the independent testing laboratory's completion of an inspection performed in compliance with the uniform protocols and procedures established pursuant to paragraph (c) and satisfaction of such other requirements that the Board may establish.

(e) Provide the standards and procedures for the revocation of the registration of an independent testing laboratory.

8. As used in this section, unless the context otherwise requires, "independent testing laboratory" means a private laboratory that is registered by the Commission to inspect and certify gaming devices, associated equipment, cashless wagering systems, mobile gaming systems and interactive gaming systems, and any components thereof, and to perform such other services as the Board and Commission may request.

Sec. 1.5. The Nevada Gaming Commission shall adopt the regulations required to be adopted pursuant to the amendatory provisions of this act before October 1, 2011.

Sec. 2. This act becomes effective:

1. Upon passage and approval, for the purpose of adopting regulations; and
2. On October 1, 2011, for all other purposes.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 289.

Bill read second time.

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

Amendment No. 286.

AN ACT relating to dietetics; creating the State Board of Dietetics; prescribing the powers and duties of the Board; providing for the membership of the Board; providing for the licensure of dietitians; ~~providing for the registration of dietetic technicians;~~ prohibiting a person from engaging in the practice of dietetics without a license ~~for certificate of registration~~ issued by the Board; setting forth the grounds for disciplinary action against a licensed dietitian ~~; for registered dietetic technician;~~ providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill provides for the licensing and regulation of the practice of dietetics by the State Board of Dietetics. The practice of dietetics is the performance of acts of assessment, evaluation, diagnosis, counseling, intervention, monitoring or treatment of a person relating to nutrition, food, biology, and behavior to achieve and maintain proper nourishment and care of the health of the person.

Sections 11-19 of this bill create the State Board of Dietetics and prescribe the powers and duties of the Board and include provisions concerning: (1) the membership of the Board; (2) the meetings of the Board; (3) the compensation of Board members; (4) a waiver of liability for actions taken by members or employees of the Board within the scope of their duties; and (5) the authority of the Board to adopt certain regulations.

Sections 2-10 and 20-31 of this bill regulate the activities of persons who engage in the practice of dietetics and include provisions concerning: (1) applications for and renewals of a license to engage in the practice of dietetics ~~; for a certificate as a registered dietetic technician;~~ and (2) the duties and scope of practice of a licensed dietitian ~~; for a registered dietetic technician.~~

Sections 18 and 33 of this bill require the Board to charge and collect certain fees relating to the issuance of licenses ~~for certificates of registration~~ and to carry out its other duties.

Section 23 of this bill authorizes the Board to issue a provisional license to a person who does not meet all the qualifications for licensure under certain circumstances. **Section 24** of this bill authorizes the Board to issue a temporary license to a person for the limited purpose of treating patients in this State for a limited period under certain circumstances. ~~Section 25 of this bill authorizes the Board to issue a reciprocal license to a person who is~~

~~licensed to engage in the practice of dietetics in another state under certain circumstances.]~~

Sections 34-44 of this bill govern disciplinary proceedings against a licensed dietitian ~~[for a registered dietetic technician]~~ and authorize the Board to suspend or revoke a license ~~[for certificate of registration]~~ or deny an application for a license ~~[for certificate of registration]~~ under certain circumstances. **Section 45** of this bill prohibits a person who is not licensed ~~[for registered]~~ pursuant to the provisions of this bill from acting or holding himself or herself out as a licensed dietitian. ~~[for registered dietetic technician.]~~ **Section 46** of this bill provides that a violation of any provision of this bill is a misdemeanor and, in addition to any criminal penalty that may be imposed, authorizes the Board to impose a civil penalty for each violation.

Sections 47-51 and 58-60 of this bill include licensed dietitians in the definition of “provider of health care” to ensure that licensed dietitians comply with the same requirements for standards of care, medical records and medical devices as other providers of health care such as doctors or nurses.

Sections 52-54 of this bill require a licensed dietitian to report suspected incidents of abuse or neglect of an older or vulnerable person, and require a report to be forwarded to the Board if a licensed dietitian is suspected of abuse or neglect of an older or vulnerable person.

Section 63 of this bill authorizes the Governor, for the initial appointments to the Board, to appoint persons who are not licensed dietitians but who meet the qualifications for licensure. **Section 64** of this bill requires the Board to grant a license to engage in the practice of dietetics to a person who does not meet the qualifications for licensure but who was engaged in the practice of dietetics in this State before 2012 and meets certain other requirements.

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]~~ **1.5** to 46, inclusive, of this act.

Sec. 1.5. *The Legislature hereby declares that the practice of dietetics is a learned profession affecting the safety, health and welfare of the public and is subject to regulation to protect the public from the practice of dietetics by unqualified and unlicensed persons and from unprofessional conduct by persons licensed to practice dietetics. The Legislature further declares that the purpose of the State Board of Dietetics is to regulate the practice of dietetics and to enforce the provisions of this chapter.*

Sec. 2. *As used in this chapter, unless the context otherwise requires, 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. *“Board” means the State Board of Dietetics.*

Sec. 4. “Licensed dietitian” means a person licensed pursuant to this chapter to engage in the practice of dietetics or to provide nutrition services~~[-]~~, including, without limitation, medical nutrition therapy.

Sec. 4.5. “Medical nutrition therapy” means the use of nutrition services by a licensed dietitian to manage, treat or rehabilitate a disease, illness, injury or medical condition of a patient.

Sec. 5. “Nutrition services” means the performance of acts designated by the Board which are within the practice of dietetics.

Sec. 6. 1. “Practice of dietetics” means the performance of any act in the nutrition care process, including, without limitation, assessment, evaluation, diagnosis, counseling, intervention, monitoring and treatment, of a person which requires substantial specialized judgment and skill based on the knowledge, application and integration of the principles derived from the sciences of food, nutrition, management, communication, biology, behavior, physiology and social science to achieve and maintain proper nourishment and care of the health of the person.

2. The term does not include acts of medical diagnosis.

Sec. 7. ~~“Registered dietetic technician” means a person who engages in the practice of dietetics under the supervision of a licensed dietitian and is registered pursuant to this chapter.~~ (Deleted by amendment.)

Sec. 8. “Registered dietitian” means a person who is ~~certified~~ registered as a ~~registered~~ dietitian by the Commission on Dietetic Registration of the American Dietetic Association.

Sec. 9. 1. The provisions of this chapter do not apply to:

(a) Any person who is licensed or registered in this State as a physician pursuant to chapter 630, 630A or 633 of NRS, dentist, nurse, dispensing optician, optometrist, practitioner of respiratory care, physical therapist, podiatric physician, psychologist, marriage and family therapist, chiropractor, athletic trainer, perfusionist, doctor of Oriental medicine in any form, medical laboratory director or technician or pharmacist who:

(1) Practices within the scope of that license or registration;

(2) Does not represent that he or she is a licensed dietitian ~~[-]~~ or registered dietitian; ~~for registered dietetic technician;~~ and

(3) ~~Engages in the practice of dietetics~~ Provides nutrition information incidental to the practice for which he or she is licensed or registered.

(b) A student enrolled in an educational program accredited by the Commission on Accreditation for Dietetics Education of the American Dietetic Association, if the student engages in the practice of dietetics under the supervision of a licensed dietitian or registered dietitian as part of that educational program.

(c) A registered dietitian employed by the Armed Forces of the United States, the United States Department of Veterans Affairs or any division or department of the Federal Government in the discharge of his or her

official duties, including, without limitation, the practice of dietetics or providing nutrition services.

(d) A person who furnishes nutrition information or markets food, food materials or dietary supplements and provides nutrition information related to that marketing, if the person is not engaged in the practice of dietetics and does not provide nutrition services.

(e) A person who provides services relating to weight loss or weight control through a program reviewed by and in consultation with a licensed dietitian or physician or a dietitian licensed or registered in another state which has equivalent licensure requirements as this State, as long as the person does not change the services or program without the approval of the person with whom he or she is consulting.

2. As used in this section, "nutrition information" means information relating to the principles of nutrition and the effect of nutrition on the human body, including, without limitation:

- (a) Food preparation;*
- (b) Food included in a normal daily diet;*
- (c) Essential nutrients required by the human body and recommended amounts of essential nutrients, based on nationally established standards;*
- (d) The effect of nutrients on the human body and the effect of deficiencies in or excess amounts of nutrients in the human body; and*
- (e) Specific foods or supplements that are sources of essential nutrients.*

Sec. 10. 1. The purpose of licensing dietitians ~~and registering dietetic technicians~~ is to protect the public health, safety and welfare of the people of this State.

2. Any license ~~for certificate of registration~~ issued pursuant to this chapter is a revocable privilege.

Sec. 11. 1. The State Board of Dietetics, consisting of five members appointed by the Governor, is hereby created.

2. The Governor shall appoint to the Board:

(a) Four members who are licensed dietitians and have been actively engaged in the practice of dietetics for not less than 5 years immediately preceding their appointment.

(b) One member who is a representative of the general public. This member must not be:

(1) A licensed dietitian ~~; a registered dietitian or registered dietetic technician;~~ or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a licensed dietitian ~~; a registered dietitian or registered dietetic technician.~~

3. Each member of the Board serves a term of 3 years. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified pursuant to this section to replace that member for the remainder of the unexpired term.

4. 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.

5. The Governor may remove any member of the Board for neglect of duty or for misfeasance, malfeasance or nonfeasance in office.

Sec. 12. 1. The Board shall operate on the basis of a fiscal year commencing on July 1 and terminating on June 30.

2. At the first meeting of each fiscal year, the Board shall elect from its members a Chair and a Vice Chair.

3. The Board may appoint an Executive Director who is not a member of the Board. The Executive Director shall perform administrative and such other duties as the Board may direct and is entitled to receive compensation as set by the Board.

4. 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; and

(b) Employ such attorneys, investigators and other professional consultants and clerical personnel as necessary to the discharge of its duties.

Sec. 13. 1. The Board shall meet at least two times a year and may meet at other times at the call of the Chair or upon the written request of the Executive Director or two or more members of the Board.

2. The Chair shall preside over meetings of the Board and perform duties prescribed by law or assigned by the Board. The Vice Chair shall perform the duties of the Chair during any absence of the Chair.

3. The Chair may appoint such advisory committees as the Chair determines appropriate to carry out the duties of the Board.

4. A concurrence of a majority of the members of the Board is necessary to render a decision.

Sec. 14. 1. The compensation of the members of the Board must be fixed by the Board, but may not exceed \$150 for each day spent by each member in the discharge of his or her official duties. The Board may choose not to compensate its members.

2. While engaged in the discharge of his or her official duties, each member and 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.

3. All compensation, per diem allowances and travel expenses of the members and employees of the Board must be paid out of the money of the Board.

Sec. 15. A member of the Board or an employee or agent of the Board is not liable in a civil action for any act performed in good faith and within the scope of the duties of the Board pursuant to this chapter.

Sec. 16. 1. Except as otherwise provided in subsection 3, all money received by the Board pursuant to this chapter must be deposited in banks,

credit unions or savings and loan associations in this State. The money may be drawn on by the Board for payment of all expenses incurred in the administration of this chapter.

2. If the Board delegates to a hearing officer its authority to take disciplinary action pursuant to this chapter, the Board may deposit all money collected from the assessment of costs and the imposition of fines and penalties in banks, credit unions or savings and loan associations in this State.

3. If the Board does not delegate to a hearing officer its authority to take disciplinary action pursuant to this chapter, the Board shall deposit all money collected from the assessment of costs and the imposition of fines and penalties with the State Treasurer for credit to the State General Fund, and may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay any costs incurred by the Board in connection with the disciplinary action.

Sec. 17. 1. The Board shall make and keep a complete record of all its proceedings, including, without limitation:

(a) A file of all applications for licenses ~~for certificates of registration~~ pursuant to this chapter, together with the action of the Board upon each application;

(b) A register of all licensed dietitians in this State; and

(c) ~~A register of all registered dietetic technicians in this State; and~~

~~(d)~~ Documentation of any disciplinary action taken by the Board against a licensee ~~for holder of a certificate.~~

2. The Board shall maintain in its main office a public docket or other record in which it shall record, from time to time as made, the rulings or decisions upon all complaints filed with the Board and all investigations instituted by it, upon or in connection with which any hearing has been held or in which the licensee ~~for holder of a certificate~~ charged has made no defense.

~~3. At least semiannually, the Board shall publish a list of the names of all applicants whose applications were denied within the immediately preceding year and all licensees and holders of a certificate who were the subject of disciplinary action within the immediately preceding year, together with such other information relating to the enforcement of the provisions of this chapter as the Board determines may be of interest to the public.~~

Sec. 18. 1. The Board shall:

(a) Adopt regulations establishing reasonable standards:

(1) For the denial, renewal, suspension and revocation of, and the placement of conditions, limitations and restrictions upon, a license to engage in the practice of dietetics ~~for a certificate of registration as a registered dietetic technician.~~

(2) Of professional conduct for the practice of dietetics.

(b) Investigate and determine the eligibility of an applicant for a license ~~for certificate~~ pursuant to this chapter.

(c) Carry out and enforce the provisions of this chapter and the regulations adopted pursuant thereto.

2. The Board shall adopt regulations establishing reasonable:

(a) Qualifications for the issuance of a license ~~for certificate~~ pursuant to this chapter.

(b) Standards for the continuing professional competence of licensees ~~for holders of a certificate~~. The Board may evaluate licensees ~~for holders of a certificate~~ periodically for compliance with those standards.

3. The Board shall adopt regulations establishing a schedule of reasonable fees and charges for:

(a) Investigating licensees ~~for holders of a certificate~~ and applicants for a license ~~for certificate~~ pursuant to this chapter;

(b) Evaluating the professional competence of licensees ~~for holders of a certificate~~;

(c) Conducting hearings pursuant to this chapter;

(d) Duplicating and verifying records of the Board; and

(e) Surveying, evaluating and approving schools and courses of dietetics,

↪ and may collect the fees established pursuant to this subsection.

4. The Board may adopt such other regulations as it determines necessary:

(a) For its own government; and

(b) To carry out the provisions of this chapter relating to the practice of dietetics.

Sec. 19. The Board may:

1. Accept gifts or grants of money to pay for the costs of administering the provisions of this chapter.

2. Enter into contracts with other public agencies and accept payment from those agencies to pay the expenses incurred by the Board in carrying out the provisions of this chapter relating to the practice of dietetics.

Sec. 20. 1. An applicant for a license to engage in the practice of dietetics in this State must submit to the Board a completed application on a form prescribed by the Board. The application must include, without limitation, written evidence that the applicant:

(a) Is 21 years of age or older.

(b) Is of good moral character.

(c) Has completed a course of study and holds a bachelor's degree or higher in human nutrition, nutrition education, food and nutrition, dietetics, food systems management or an equivalent course of study approved by the Board from a college or university that:

(1) Was accredited, at the time the degree was received, by a regional accreditation body in the United States which is recognized by the Council

for Higher Education Accreditation, or its successor organization, and the United States Department of Education; or

(2) Is located in a foreign country if the application includes the documentation required by section 21 of this act.

(d) Has completed not less than 1,200 hours of training and experience within the United States in the practice of dietetics under the direct supervision of a licensed dietitian, registered dietitian or a person who holds a doctorate degree in human nutrition, nutrition education, food and nutrition, dietetics or food systems management from a college or university that is:

(1) Accredited by a regional accreditation body in the United States which is recognized by the Council for Higher Education Accreditation, or its successor organization, and the United States Department of Education; or

(2) Located in a foreign country if the application includes the documentation required by section 21 of this act.

(e) Has successfully completed the Registration Examination for Dietitians administered by the Commission on Dietetic Registration of the American Dietetic Association.

(f) Meets such other reasonable requirements as prescribed by the Board.

2. Each applicant must remit the applicable fee required pursuant to this chapter with the application for a license to engage in the practice of dietetics in this State.

3. Each applicant shall submit to the Central Repository for Nevada Records of Criminal History two complete sets of fingerprints for submission to the Federal Bureau of Investigation for its report. The Central Repository for Nevada Records of Criminal History shall determine whether the applicant has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.188 and immediately inform the Board of whether the applicant has been convicted of such a crime.

Sec. 21. 1. If an applicant for a license to engage in the practice of dietetics is a graduate of a college or university located in a foreign country, the applicant must include with his or her application a written statement or other proof from the Council for Higher Education Accreditation or its successor organization that the degree is equivalent to a degree issued by a college or university accredited by a regional accreditation body in the United States which is recognized by the Council for Higher Education Accreditation, or its successor organization, and the United States Department of Education.

2. If an applicant for a license to engage in the practice of dietetics completed his or her hours of training and experience under the supervision of a person who holds a doctorate degree conferred by a college or university located in a foreign country, the applicant must include with his or her application a written statement or other proof from

the Council for Higher Education Accreditation or its successor organization that the degree held by the person who supervised the training and experience is equivalent to a degree issued by a college or university accredited by a regional accreditation body in the United States which is recognized by the Council for Higher Education Accreditation, or its successor organization, and the United States Department of Education.

Sec. 22. 1. A person who has the education and experience required by section 20 of this act but who has not passed the examination required for licensure may engage in the practice of dietetics under the direct supervision of a licensed dietitian who is professionally and legally responsible for the applicant's performance.

2. A person shall not engage in the practice of dietetics pursuant to subsection 1 for a period of more than 1 year.

Sec. 23. 1. Upon application and payment of the applicable fee required pursuant to this chapter, the Board may grant a provisional license to engage in the practice of dietetics in this State to an applicant who provides evidence to the Board that the applicant has completed a course of study and holds a bachelor's degree or higher in human nutrition, nutrition education, food and nutrition, dietetics, food systems management or an equivalent course of study approved by the Board from a college or university that:

(a) Was accredited, at the time the degree was received, by a regional accreditation body in the United States which is recognized by the Council for Higher Education Accreditation, or its successor organization, and the United States Department of Education; or

(b) Is located in a foreign country if the application includes the documentation required by section 21 of this act.

2. A provisional license is valid for 1 year after the date of issuance. A provisional license may be renewed for not more than 6 months if the applicant submits evidence satisfactory to the Board for the failure of the applicant to obtain a license to engage in the practice of dietetics during the time the applicant held the provisional license.

3. A person who holds a provisional license may engage in the practice of dietetics only under the supervision of a licensed dietitian.

Sec. 24. 1. Upon application and payment of the applicable fee required pursuant to this chapter, the Board may grant a temporary license to engage in the practice of dietetics in this State to a person who holds a corresponding license ~~for certificate~~ in another jurisdiction if:

(a) The corresponding license ~~for certificate~~ is in good standing; and

(b) The requirements for licensure in the other jurisdiction are substantially equal to the requirements for licensure in this State.

2. A temporary license may be issued for the limited purpose of authorizing the licensee to treat patients in this State.

3. A temporary license is valid for the 10-day period designated on the license.

~~Sec. 25. [Upon application and payment of the appropriate fee required pursuant to this chapter, the Board may grant a license to engage in the practice of dietetics in this State to a person who holds a current license to engage in the practice of dietetics in the District of Columbia or any state or territory of the United States if the applicant furnishes to the Board proof that the applicant:~~

- ~~1. Is a registered dietitian; or~~
- ~~2. Has successfully completed the Registration Examination for Dietitians administered by the Commission on Dietetic Registration of the American Dietetic Association.] (Deleted by amendment.)~~

Sec. 26. 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license to engage in the practice of dietetics in this State 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 engage in the practice of dietetics in this State shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Board.

3. A license to engage in the practice of dietetics 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. 27. 1. A licensed dietitian shall provide nutrition services to assist a person in achieving and maintaining proper nourishment and care of his or her body, including, without limitation:

(a) *Assessing the nutritional needs of a person and determining resources for and constraints in meeting those needs by obtaining, verifying and interpreting data;*

(b) *Determining the metabolism of a person and identifying the food, nutrients and supplements necessary for growth, development, maintenance or attainment of proper nourishment of the person;*

(c) *Considering the cultural background and socioeconomic needs of a person in achieving or maintaining proper nourishment;*

(d) *Identifying and labeling nutritional problems of a person;*

(e) *Recommending the appropriate method of obtaining proper nourishment, including, without limitation, orally, intravenously or through a feeding tube;*

(f) *Providing counseling, advice and assistance concerning health and disease with respect to the nutritional intake of a person;*

(g) *Establishing priorities, goals and objectives that meet the nutritional needs of a person and are consistent with the resources of the person, including, without limitation, providing instruction on meal preparation;*

(h) *Treating nutritional problems of a person and identifying patient outcomes to determine the progress made by the person;*

(i) *Planning activities to change the behavior, risk factors, environmental conditions or other aspects of the health and nutrition of a person, a group of persons or the community at large;*

(j) *Developing, implementing and managing systems to provide care related to nutrition; ~~and~~*

(k) *Evaluating and maintaining appropriate standards of quality in the services provided ~~for~~;*

(l) *Accepting and transmitting verbal and electronic orders from a physician consistent with an established protocol to implement medical nutrition therapy; and*

(m) *Ordering medical laboratory tests relating to the therapeutic treatment concerning the nutritional needs of a patient when authorized to do so by a written protocol prepared or approved by a physician.*

2. A licensed dietitian may use medical nutrition therapy to manage, treat or rehabilitate a disease, illness, injury or medical condition of a patient, including, without limitation:

(a) *Interpreting data and recommending the nutritional needs of the patient through methods such as diet, feeding tube, intravenous solutions or specialized oral feedings;*

(b) *Determining the interaction between food and drugs prescribed to the patient; and*

(c) *Developing and managing operations to provide food, care and treatment programs prescribed by a physician, physician assistant, dentist, advanced practitioner of nursing or podiatric physician that monitor or alter the food and nutrient levels of the patient.*

3. A licensed dietitian shall not provide medical diagnosis of the health of a person.

~~4. As used in this section, "medical nutrition therapy" means the use of nutrition services by a licensed dietitian to manage, treat or rehabilitate a disease, illness, injury or medical condition of a patient.~~

Sec. 28. ~~[Any person who wishes to apply for a certificate of registration as a registered dietetic technician in this State must:~~

~~1. Furnish the Board with satisfactory proof that the person:~~

~~(a) Is of good moral character; and~~

~~(b) Possesses an associates degree or higher in dietetics or dietetic technology from a school accredited by the Commission on Accreditation for Dietetics Education of the American Dietetic Association.~~

~~2. Submit all information required to complete an application for such a certificate of registration, on a form approved by the Board.~~

~~3. Pay to the Board the appropriate fee required pursuant to this chapter.] (Deleted by amendment.)~~

Sec. 29. 1. Except as otherwise provided in subsection 2, the Board may waive any requirement of section 20 ~~+~~ or 23 ~~for 28~~ of this act for an applicant who proves to the satisfaction of the Board that his or her education and experience are substantially equivalent to the education and experience required by the respective section.

2. The Board may waive the requirement of an examination that is set forth in section 20 of this act in accordance with regulations adopted by the Board that prescribe the circumstances under which the Board may waive the requirement of the examination.

Sec. 30. ~~[1. The holder of a certificate of registration as a registered dietetic technician may be employed as a registered dietetic technician in this State only in the office of a licensed dietitian.~~

~~2. A registered dietetic technician must be directly supervised by a licensed dietitian in the performance of all duties. A registered dietetic technician under the direct supervision of a licensed dietitian may assist in the implementation or monitoring of nutrition services.~~

~~3. A licensed dietitian must be available to provide consultation, in person, by phone or by electronic means, to a registered dietetic technician at all times when the registered dietetic technician is performing duties relating to the practice of dietetics.~~

~~4. A licensed dietitian must be present a sufficient number of hours each week in the office in which a registered dietetic technician is employed to provide supervision to and review the work of the registered dietetic technician.] (Deleted by amendment.)~~

Sec. 31. 1. A license to engage in the practice of dietetics ~~for a certificate of registration as a registered dietetic technician~~ expires 2 years after the date of issuance.

2. The Board ~~shall~~ may renew a license ~~for certificate~~ if the applicant:

(a) Submits a completed written application and the appropriate fee required pursuant to this chapter;

(b) Submits documentation of completion of such continuing training and education as required by regulations adopted by the Board;

(c) Has not committed any act which is grounds for disciplinary action, unless the Board determines that sufficient restitution has been made or the act was not substantially related to the practice of dietetics;

(d) Submits information that the credentials of the applicant are in good standing; and

(e) Submits all other information required to complete the renewal.

3. The Board shall require a licensed dietitian who fails to submit an application for the renewal of his or her license within 2 years after the date of the expiration of the license to take the examination required by section 20 of this act before renewing the license.

Sec. 32. The Board shall act upon an application for a license ~~for certificate of registration~~ submitted pursuant to this chapter without unnecessary delay. If an applicant is found qualified, the applicant must be issued a license to engage in the practice of dietetics ~~for a certificate of registration as a registered dietetic technician.~~

Sec. 33. 1. The Board shall adopt regulations establishing reasonable fees for:

(a) The examination of an applicant for a license ~~for certificate of registration;~~

(b) The issuance of a license ~~for certificate of registration;~~

(c) The issuance of a provisional license;

(d) The issuance of a temporary license;

(e) ~~The issuance of a reciprocal license;~~

~~(f)~~ (f) The renewal of a license ~~for certificate of registration;~~

~~(g)~~ (g) The late renewal of a license ~~for certificate of registration;~~

~~(h)~~ (h) The reinstatement of a license ~~for certificate of registration~~ which has been suspended or revoked; and

~~(i)~~ (i) The issuance of a duplicate license ~~for certificate of registration~~ or for changing the name on a license ~~for certificate of registration.~~

2. The fees must be set in such an amount as to reimburse the Board for the cost of carrying out the provisions of this chapter.

Sec. 34. 1. The Board may deny, refuse to renew, revoke or suspend any license ~~for certificate of registration~~ applied for or issued pursuant to this chapter, or take such other disciplinary action against a licensee ~~for holder of a certificate~~ as authorized by regulations adopted by the Board, upon determining that the licensee ~~for certificate holder.~~

(a) Is guilty of fraud or deceit in procuring or attempting to procure a license ~~for certificate~~ pursuant to this chapter.

(b) Is guilty of any offense:

(1) Involving moral turpitude; or

(2) *Relating to the qualifications, functions or duties of a licensee ~~for holder of a certificate.~~*

(c) *Uses any controlled substance, dangerous drug as defined in chapter 454 of NRS, or intoxicating liquor to an extent or in a manner which is dangerous or injurious to any other person or which impairs his or her ability to conduct the practice authorized by the license ~~for certificate.~~*

(d) *Is guilty of unprofessional conduct, which includes, without limitation:*

(1) *Impersonating an applicant or acting as proxy for an applicant in any examination required pursuant to this chapter for the issuance of a license ~~for certificate.~~*

(2) *Impersonating another licensed dietitian ~~for holder of a certificate.~~*

(3) *Permitting or allowing another person to use his or her license ~~for certificate~~ to engage in the practice of dietetics ~~for to practice as a registered dietetic technician.~~*

(4) *Repeated malpractice, which may be evidenced by claims of malpractice settled against the licensee ~~for certificate holder.~~*

(5) *Physical, verbal or psychological abuse of a patient.*

(6) *Conviction for the use or unlawful possession of a controlled substance or dangerous drug as defined in chapter 454 of NRS.*

(e) *Has willfully or repeatedly violated any provision of this chapter.*

(f) *Is guilty of aiding or abetting any person in violating any provision of this chapter.*

(g) *Has been disciplined in another state in connection with the practice of dietetics or has committed an act in another state which would constitute a violation of this chapter.*

(h) *Has engaged in conduct likely to deceive, defraud or endanger a patient or the general public.*

(i) *Has willfully failed to comply with a regulation, subpoena or order of the Board.*

2. *In addition to any criminal or civil penalty that may be imposed pursuant to this chapter, the Board may assess against and collect from a licensee ~~for holder of a certificate~~ all costs incurred by the Board in connection with any disciplinary action taken against the licensee ~~for holder.~~ including, without limitation, costs for investigators and stenographers, attorney's fees and other costs of the hearing.*

3. *For the purposes of this section, a plea or verdict of guilty or guilty but mentally ill or a plea of nolo contendere constitutes a conviction of an offense. The Board may take disciplinary action pending the appeal of a conviction.*

Sec. 35. 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 ~~for certificate~~*

issued pursuant to this chapter, the Board shall deem the license ~~for 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 ~~for certificate~~ by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license ~~for 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 ~~for certificate~~ issued pursuant to this chapter 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 ~~for certificate~~ was suspended stating that the person whose license ~~for 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 ~~for certificate~~ was suspended pays the appropriate fee required pursuant to this chapter.

Sec. 36. 1. Before suspending or revoking any license ~~for certificate~~ or taking other disciplinary action against a licensee ~~for holder of a certificate~~, the Board shall cause an administrative complaint to be filed against the licensee ~~for holder of the certificate~~. The Board shall notify the licensee ~~for holder of the certificate~~ in writing of the charges against him or her, accompanying the notice with a copy of the administrative complaint.

2. Written notice may be served by delivering it personally to the licensee ~~for holder of the certificate~~ or by mailing it by registered or certified mail to the last known residential address of the licensee ~~for holder of the certificate~~.

3. If the licensee ~~for holder of the certificate~~ after receiving a copy of the administrative complaint pursuant to subsection 1, submits a written request, the Board shall furnish the licensee ~~for holder of the certificate~~ with a copy of each communication, report and affidavit in the possession of the Board which relates to the matter in question.

4. As soon as practicable after the filing of the administrative complaint, the Board shall hold a hearing on the charges at such time and place as the Board prescribes. If the Board receives a report pursuant to subsection 5 of NRS 228.420, the hearing must be held within 30 days after receiving the report. If requested by the licensee ~~for holder of the certificate~~, the hearing must be held within the county in which the licensee ~~for holder of the certificate~~ resides.

Sec. 37. The Board may delegate its authority to conduct hearings pursuant to section 36 of this act concerning the discipline of a licensee ~~for holder of a certificate~~ to a hearing officer. The hearing officer has the powers of the Board in connection with such hearings, and shall report to

the Board his or her findings of fact and conclusions of law within 30 days after the final hearing on the matter. The Board may take action based upon the report of the hearing officer, refer the matter to the hearing officer for further hearings or conduct its own hearings on the matter.

Sec. 38. *The Board may:*

- 1. Issue subpoenas for the attendance of witnesses and the production of books, papers and documents;*
- 2. Administer oaths when taking testimony in any matter relating to the duties of the Board; and*
- 3. Adopt a seal which must be judicially noticed by the courts of this State.*

Sec. 39. *1. The district court in and for the county in which any hearing is held by the Board may compel the attendance of witnesses, the giving of testimony and the production of books, papers and documents as required by any subpoena issued by the Board.*

2. In case of the refusal of any witness to attend or testify or produce any books, papers or documents required by a subpoena, the Board may report to the district court in and for the county in which the hearing is pending, by petition setting forth:

- (a) That due notice has been given of the time and place of attendance of the witness or the production of books, papers or documents;*
- (b) That the witness has been subpoenaed in the manner prescribed by this chapter; and*

(c) That the witness has failed and refused to attend or produce the books, papers or documents required by the subpoena before the Board in the cause or proceeding named in the subpoena, or has refused to answer questions propounded to him or her in the course of the hearing, and ask an order of the court compelling the witness to attend and testify or produce the books, papers or documents before the Board.

3. The court, upon petition of the Board, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in the order, the time to be not more than 10 days after the date of the order, to show cause why the witness has not attended or testified or produced the books, papers or documents before the Board. 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 Board, the court shall enter an order that the witness appear before the Board at the time and place fixed in the order and testify or produce the required books, papers or documents. Upon failure to obey the order, the witness must be dealt with as for contempt of court.

Sec. 40. *1. The Board shall render a decision on any administrative complaint within 60 days after the final hearing thereon. For the purposes of this subsection, the final hearing on a matter delegated to a hearing officer pursuant to section 37 of this act is the final hearing conducted by*

the hearing officer unless the Board conducts a hearing with regard to the administrative complaint.

2. The Board shall notify the licensee ~~for holder of the certificate~~ of its decision in writing by certified mail, return receipt requested. The decision of the Board becomes effective on the date the licensee ~~for holder of the certificate~~ receives the notice or on the date the Board receives a notice from the United States Postal Service stating that the licensee ~~for holder of the certificate~~ refused to accept delivery or could not be located.

Sec. 41. 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 dietetics or suspends or revokes a license ~~for certificate~~ is effective from the date the Board issues 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. 42. 1. Any licensee ~~for holder of a certificate~~ whose license ~~for certificate~~ was revoked by the Board may apply for reinstatement of the license ~~for certificate~~ pursuant to the provisions of chapter 622A of NRS.

2. In addition to the requirements for reinstatement of the license ~~for certificate~~ pursuant to chapter 622A of NRS, the Board may reinstate the license ~~for certificate~~ upon payment of the applicable fee required pursuant to this chapter.

Sec. 43. 1. Except as otherwise provided in this section and NRS 239.0115, any records or information obtained during the course of an investigation by the Board and any record of the investigation are confidential.

2. Any complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose disciplinary action are public records.

3. This section does not prevent or prohibit the Board from communicating or cooperating with another licensing board or any agency that is investigating a licensee ~~for holder of a certificate~~ including a law enforcement agency.

Sec. 44. If the Board, based on evidence satisfactory to it, believes that any person has violated or is about to violate any provision of this chapter, the terms of any license ~~for certificate~~, or any order, decision, demand or requirement, or any part thereof, the Board may bring an action, in the name of the Board, in the district court in and for the county in which the person resides, against the person to enjoin the person from continuing the violation or engaging in any act that constitutes such a violation. The court may enter an order or judgment granting such injunctive relief as it

determines proper, but no such injunctive relief may be granted without at least 5 days' notice to the opposite party.

Sec. 45. *If a person is not licensed to engage in the practice of dietetics ~~for registered as a registered dietetic technician~~ pursuant to this chapter, or if a person's license to engage in the practice of dietetics ~~for registration as a registered dietetic technician~~ has been suspended or revoked by the Board, the person shall not:*

- 1. Engage in the practice of dietetics;*
- 2. Use in connection with his or her name the words or letters "L.D.," "licensed dietitian," "L.N.," "licensed nutritionist," ~~["R.D.T." or "registered dietetic technician,"]~~ or any other letters, words or insignia indicating or implying that he or she is licensed to engage in the practice of dietetics, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "dietetics" or "nutritionist" or represent himself or herself as licensed or qualified to engage in the practice of dietetics in this State; or*
- 3. 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 "Dietitian" or "Nutritionist" or any other term that indicates or implies that he or she is licensed or qualified to engage in the practice of dietetics in this State.*

Sec. 46. *1. A person who violates any provision of this chapter or any regulation adopted pursuant thereto is guilty of a misdemeanor.*

2. In addition to any criminal penalty that may be imposed pursuant to subsection 1, the Board may, after notice and hearing, impose a civil penalty of not more than \$100 for each such violation. For the purposes of this subsection, each day on which a violation occurs constitutes a separate offense, except that the aggregate civil penalty that may be imposed against a person pursuant to this subsection may not exceed \$10,000.

Sec. 47. 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, chiropractor, athletic trainer, perfusionist, doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist, **licensed dietitian** 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. 48. NRS 7.095 is hereby amended to read as follows:

7.095 1. An attorney shall not contract for or collect a fee contingent on the amount of recovery for representing a person seeking damages in

connection with an action for injury or death against a provider of health care based upon professional negligence in excess of:

- (a) Forty percent of the first \$50,000 recovered;
- (b) Thirty-three and one-third percent of the next \$50,000 recovered;
- (c) Twenty-five percent of the next \$500,000 recovered; and
- (d) Fifteen percent of the amount of recovery that exceeds \$600,000.

2. The limitations set forth in subsection 1 apply to all forms of recovery, including, without limitation, settlement, arbitration and judgment.

3. For the purposes of this section, “recovered” means the net sum recovered by the plaintiff after deducting any disbursements or costs incurred in connection with the prosecution or settlement of the claim. Costs of medical care incurred by the plaintiff and general and administrative expenses incurred by the office of the attorney are not deductible disbursements or costs.

4. As used in this section:

(a) “Professional negligence” means a negligent act or omission to act by a provider of health care in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death. The term does not include services that are outside the scope of services for which the provider of health care is licensed or services for which any restriction has been imposed by the applicable regulatory board or health care facility.

(b) “Provider of health care” means a physician licensed under chapter 630 or 633 of NRS, dentist, registered nurse, dispensing optician, optometrist, registered physical therapist, podiatric physician, licensed psychologist, chiropractor, doctor of Oriental medicine, medical laboratory director or technician, *licensed dietitian* or a licensed hospital and its employees.

Sec. 49. NRS 41A.017 is hereby amended to read as follows:

41A.017 “Provider of health care” means a physician licensed under chapter 630 or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, registered physical therapist, podiatric physician, licensed psychologist, chiropractor, doctor of Oriental medicine, medical laboratory director or technician, *licensed dietitian* or a licensed hospital and its employees.

Sec. 50. NRS 42.021 is hereby amended to read as follows:

42.021 1. In an action for injury or death against a provider of health care based upon professional negligence, if the defendant so elects, the defendant may introduce evidence of any amount payable as a benefit to the plaintiff as a result of the injury or death pursuant to the United States Social Security Act, any state or federal income disability or worker’s compensation act, any health, sickness or income-disability insurance, accident insurance that provides health benefits or income-disability coverage, and any contract or agreement of any group, organization, partnership or corporation to provide, pay for or reimburse the cost of medical, hospital, dental or other health care services. If the defendant elects to introduce such evidence, the

plaintiff may introduce evidence of any amount that the plaintiff has paid or contributed to secure the plaintiff's right to any insurance benefits concerning which the defendant has introduced evidence.

2. A source of collateral benefits introduced pursuant to subsection 1 may not:

- (a) Recover any amount against the plaintiff; or
- (b) Be subrogated to the rights of the plaintiff against a defendant.

3. In an action for injury or death against a provider of health care based upon professional negligence, a district court shall, at the request of either party, enter a judgment ordering that money damages or its equivalent for future damages of the judgment creditor be paid in whole or in part by periodic payments rather than by a lump-sum payment if the award equals or exceeds \$50,000 in future damages.

4. In entering a judgment ordering the payment of future damages by periodic payments pursuant to subsection 3, the court shall make a specific finding as to the dollar amount of periodic payments that will compensate the judgment creditor for such future damages. As a condition to authorizing periodic payments of future damages, the court shall require a judgment debtor who is not adequately insured to post security adequate to assure full payment of such damages awarded by the judgment. Upon termination of periodic payments of future damages, the court shall order the return of this security, or so much as remains, to the judgment debtor.

5. A judgment ordering the payment of future damages by periodic payments entered pursuant to subsection 3 must specify the recipient or recipients of the payments, the dollar amount of the payments, the interval between payments, and the number of payments or the period of time over which payments will be made. Such payments must only be subject to modification in the event of the death of the judgment creditor. Money damages awarded for loss of future earnings must not be reduced or payments terminated by reason of the death of the judgment creditor, but must be paid to persons to whom the judgment creditor owed a duty of support, as provided by law, immediately before the judgment creditor's death. In such cases, the court that rendered the original judgment may, upon petition of any party in interest, modify the judgment to award and apportion the unpaid future damages in accordance with this subsection.

6. If the court finds that the judgment debtor has exhibited a continuing pattern of failing to make the periodic payments as specified pursuant to subsection 5, the court shall find the judgment debtor in contempt of court and, in addition to the required periodic payments, shall order the judgment debtor to pay the judgment creditor all damages caused by the failure to make such periodic payments, including, but not limited to, court costs and attorney's fees.

7. Following the occurrence or expiration of all obligations specified in the periodic payment judgment, any obligation of the judgment debtor to

make further payments ceases and any security given pursuant to subsection 4 reverts to the judgment debtor.

8. As used in this section:

(a) “Future damages” includes damages for future medical treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and suffering of the judgment creditor.

(b) “Periodic payments” means the payment of money or delivery of other property to the judgment creditor at regular intervals.

(c) “Professional negligence” means a negligent act or omission to act by a provider of health care in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death. The term does not include services that are outside the scope of services for which the provider of health care is licensed or services for which any restriction has been imposed by the applicable regulatory board or health care facility.

(d) “Provider of health care” means a physician licensed under chapter 630 or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, registered physical therapist, podiatric physician, licensed psychologist, chiropractor, doctor of Oriental medicine, medical laboratory director or technician, *licensed dietitian* or a licensed hospital and its employees.

Sec. 51. 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 physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an

optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern, **a licensed dietitian**, ~~a registered dietetic technician~~, 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. 52. 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, athletic trainer, driver of an ambulance, advanced emergency medical technician, *licensed dietitian* 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. 53. 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, athletic trainer, driver of an ambulance, advanced emergency medical technician, *licensed dietitian* 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. 54. 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 ~~22~~ 1.5 to 46, inclusive, of this act*, the information contained in the report must be submitted to the board that issued the license.

Sec. 55. NRS 218G.400 is hereby amended to read as follows:

218G.400 1. Except as otherwise provided in subsection 2, each 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 *and sections ~~22~~ 1.5 to 46, inclusive, of this act* shall:

(a) If the revenue of the board from all sources is less than \$50,000 for any fiscal year, prepare a balance sheet for that fiscal year on the form provided by the Legislative Auditor and file the balance sheet with the Legislative Auditor and the Chief of the Budget Division of the Department of Administration on or before December 1 following the end of that fiscal

year. The Legislative Auditor shall prepare and make available a form that must be used by a board to prepare such a balance sheet.

(b) If the revenue of the board from all sources is \$50,000 or more for any fiscal year, engage the services of a certified public accountant or public accountant, or firm of either of such accountants, to audit all its fiscal records for that fiscal year and file a report of the audit with the Legislative Auditor and the Chief of the Budget Division of the Department of Administration on or before December 1 following the end of that fiscal year.

2. In lieu of preparing a balance sheet or having an audit conducted for a single fiscal year, a board may engage the services of a certified public accountant or public accountant, or firm of either of such accountants, to audit all its fiscal records for a period covering two successive fiscal years. If such an audit is conducted, the board shall file the report of the audit with the Legislative Auditor and the Chief of the Budget Division of the Department of Administration on or before December 1 following the end of the second fiscal year.

3. The cost of each audit conducted pursuant to subsection 1 or 2 must be paid by the board that is audited. Each such audit must be conducted in accordance with generally accepted auditing standards, and all financial statements must be prepared in accordance with generally accepted principles of accounting for special revenue funds.

4. Whether or not a board is required to have its fiscal records audited pursuant to subsection 1 or 2, the Legislative Auditor shall audit the fiscal records of any such board whenever directed to do so by the Legislative Commission. When the Legislative Commission directs such an audit, the Legislative Commission shall also determine who is to pay the cost of the audit.

5. A person who is a state officer or employee of a board is guilty of nonfeasance if the person:

(a) Is responsible for preparing a balance sheet or having an audit conducted pursuant to this section or is responsible for preparing or maintaining the fiscal records that are necessary to prepare a balance sheet or have an audit conducted pursuant to this section; and

(b) Knowingly fails to prepare the balance sheet or have the audit conducted pursuant to this section or knowingly fails to prepare or maintain the fiscal records that are necessary to prepare a balance sheet or have an audit conducted pursuant to this section.

6. In addition to any other remedy or penalty, a person who is guilty of nonfeasance pursuant to this section forfeits the person's state office or employment and may not be appointed to a state office or position of state employment for a period of 2 years following the forfeiture. The provisions of this subsection do not apply to a state officer who may be removed from office only by impeachment pursuant to Article 7 of the Nevada Constitution.

Sec. 56. NRS 284.013 is hereby amended to read as follows:

284.013 1. Except as otherwise provided in subsection 4, this chapter does not apply to:

(a) Agencies, bureaus, commissions, officers or personnel in the Legislative Department or the Judicial Department of State Government, including the Commission on Judicial Discipline;

(b) Any person who is employed by a board, commission, committee or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and 656 of NRS ~~§~~ **and sections ~~22~~ 1.5 to 46, inclusive, of this act;** or

(c) Officers or employees of any agency of the Executive Department of the State Government who are exempted by specific statute.

2. Except as otherwise provided in subsection 3, the terms and conditions of employment of all persons referred to in subsection 1, including salaries not prescribed by law and leaves of absence, including, without limitation, annual leave and sick and disability leave, must be fixed by the appointing or employing authority within the limits of legislative appropriations or authorizations.

3. Except as otherwise provided in this subsection, leaves of absence prescribed pursuant to subsection 2 must not be of lesser duration than those provided for other state officers and employees pursuant to the provisions of this chapter. The provisions of this subsection do not govern the Legislative Commission with respect to the personnel of the Legislative Counsel Bureau.

4. Any board, commission, committee or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and 656 of NRS ~~and sections 22~~ **1.5 to 46, inclusive, of this act** which contracts for the services of a person, shall require the contract for those services to be in writing. The contract must be approved by the State Board of Examiners before those services may be provided.

Sec. 57. NRS 353A.025 is hereby amended to read as follows:

353A.025 1. The head of each agency shall periodically review the agency's system of internal accounting and administrative control to determine whether it is in compliance with the uniform system of internal accounting and administrative control for agencies adopted pursuant to subsection 1 of NRS 353A.020.

2. On or before July 1 of each even-numbered year, the head of each agency shall report to the Director whether the agency's system of internal accounting and administrative control is in compliance with the uniform system adopted pursuant to subsection 1 of NRS 353A.020. The reports must be made available for inspection by the members of the Legislature.

3. For the purposes of this section, "agency" does 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 ~~§~~ **and sections ~~22~~ 1.5 to 46, inclusive, of this act.**

(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.

4. The Director shall, on or before the first Monday in February of each odd-numbered year, submit a report on the status of internal accounting and administrative controls in agencies to the:

- (a) Director of the Legislative Counsel Bureau for transmittal to the:
 - (1) Senate Standing Committee on Finance; and
 - (2) Assembly Standing Committee on Ways and Means;
- (b) Governor; and
- (c) Legislative Auditor.

5. The report submitted by the Director pursuant to subsection 4 must include, without limitation:

- (a) The identification of each agency that has not complied with the requirements of subsections 1 and 2;
- (b) The identification of each agency that does not have an effective method for reviewing its system of internal accounting and administrative control; and
- (c) The identification of each agency that has weaknesses in its system of internal accounting and administrative control, and the extent and types of such weaknesses.

Sec. 58. NRS 372.7285 is hereby amended to read as follows:

372.7285 1. In administering the provisions of NRS 372.325, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

- (a) The medical device was ordered or prescribed by a provider of health care, within his or her scope of practice, for use by the person to whom it is provided;
- (b) The medical device is covered by Medicaid or Medicare; and
- (c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, perfusionist, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist,

licensed marriage and family therapist, licensed clinical professional counselor, chiropractor , *licensed dietitian* or doctor of Oriental medicine in any form.

Sec. 59. NRS 374.731 is hereby amended to read as follows:

374.731 1. In administering the provisions of NRS 374.330, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his or her scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) “Medicaid” means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) “Medicare” means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) “Provider of health care” means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, perfusionist, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor , *licensed dietitian* or doctor of Oriental medicine in any form.

Sec. 60. NRS 442.003 is hereby amended to read as follows:

442.003 As used in this chapter, unless the context requires otherwise:

1. “Advisory Board” means the Advisory Board on Maternal and Child Health.

2. “Department” means the Department of Health and Human Services.

3. “Director” means the Director of the Department.

4. “Fetal alcohol syndrome” includes fetal alcohol effects.

5. “Health Division” means the Health Division of the Department.

6. “Obstetric center” has the meaning ascribed to it in NRS 449.0155.

7. “Provider of health care or other services” means:

(a) A clinical alcohol and drug abuse counselor who is licensed, or an alcohol and drug abuse counselor who is licensed or certified, pursuant to chapter 641C of NRS;

(b) A physician or a physician assistant who is licensed pursuant to chapter 630 or 633 of NRS and who practices in the area of obstetrics and gynecology, family practice, internal medicine, pediatrics or psychiatry;

(c) A licensed nurse;

(d) A licensed psychologist;

(e) A licensed marriage and family therapist;

(f) A licensed clinical professional counselor;

(g) A licensed social worker; ~~for~~

(h) ***A licensed dietitian; or***

(i) The holder of a certificate of registration as a pharmacist.

Sec. 61. 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 ~~and sections 1.5 to 46, inclusive, of this act.~~

Sec. 62. Section 26 of this act is hereby amended to read as follows:

Sec. 26. 1. In addition to any other requirements set forth in this chapter ~~for~~:

~~(a) An applicant for the issuance of a license to engage in the practice of dietetics in this State shall include the social security number of the applicant in the application submitted to the Board.~~

~~(b) An~~, ***an*** applicant for the issuance or renewal of a license to engage in the practice of dietetics in this State shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Board.

3. A license to engage in the practice of dietetics 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. Notwithstanding the provisions of section 11 of this act, the Governor may, for the initial appointments to the State Board of Dietetics, appoint four members who are not licensed dietitians but who meet the qualifications for licensure.

Sec. 64. Notwithstanding the provisions of section 20 of this act, the State Board of Dietetics shall grant a license to engage in the practice of dietetics in this state without examination to a person who:

1. Was engaged in the practice of dietetics in this State on or before January 1, 2012;
2. Submits an application for a license to the Board on or before January 1, 2013; and
3. Presents proof that the person:
 - (a) Is a registered dietitian; or
 - (b) Meets the education and experience requirements set forth in section 20 of this act.

Sec. 65. 1. This section and sections 11 and 63 of this act become effective upon passage and approval.

2. Sections 1 to 10, inclusive, 12 to 61, inclusive, and 64 of this act become effective on July 1, 2011, for the purpose of adopting regulations and carrying out any other administrative tasks, and on January 1, 2012, for all other purposes.

3. Section 62 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➔ are repealed by the Congress of the United States.

4. Sections 35 and 62 of this act expire by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➔ are repealed by the Congress of the United States.

Assemblywoman Mastroluca moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 290.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 419.

AN ACT relating to education; ~~requiring the board of trustees of each school district to administer the practice test of the high school proficiency examination to all pupils enrolled in grade 10;~~ authorizing the principal of a high school **or the principal's designee** to postpone the administration of the high school proficiency examination in the subject areas of mathematics and science for a pupil who is not academically ready in those subject areas; **authorizing the board of trustees of a school district to administer the practice test of the high school proficiency examination to pupils enrolled in high school;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the high school proficiency examination is administered to pupils enrolled in high school in the subject areas of reading, mathematics, science and writing. (NRS 389.015, 389.550) Also under existing law, unless a pupil satisfies certain alternative criteria, passage of the high school proficiency examination in its entirety is required for receipt of a standard high school diploma. (NRS 389.805) Existing administrative regulations of the State Board of Education set forth the times for the administration of the high school proficiency examination beginning with grade 10. (NAC 389.051) ~~[Section 3 of this bill requires the board of trustees of each school district to administer the practice test of the high school proficiency examination to all pupils enrolled in grade 10 during the first month of the fall semester of the school year.]~~ **Section 4** of this bill authorizes the principal of a high school **or the principal's designee** to postpone the administration of the high school proficiency examination in the subject area of mathematics or science, or both, for a pupil enrolled in grade 10 for not more than 1 year if: (1) the principal **or the principal's designee** and the pupil's teacher who provides instruction in the applicable subject area determine that the pupil is not academically ready to take the examination, ~~[as demonstrated by the pupil's performance on the practice test of the high school proficiency examination.]~~ **based upon a determination that the pupil is not achieving at least 79 percent competency in the applicable subject area;** and (2) the parent or legal guardian of the pupil agrees in writing that the pupil is not academically ready for that subject area of the examination. If the administration of the examination is postponed, the pupil's academic plan for high school must be revised to ensure that: (1) the pupil is enrolled in or scheduled to enroll in the appropriate course work **for his or her grade level and receives the necessary preparation to [prepare]** ~~enable the pupil [for] to take~~ the subject area of the high school proficiency examination which was postponed; and (2) the pupil participates in the statewide program to prepare pupils for the high school proficiency

examination or enrolls in a course of study offered by the board of trustees of the school district designed to assist pupils with passing the high school proficiency examination.

Effective on July 1, 2011, existing law authorizes the board of trustees of each school district to require the administration of district-wide tests, examinations and assessments that are in addition to any other test, examination or assessment that is required by state or federal law. (NRS 389.006) Section 4.5 of this bill authorizes the board of trustees of each school district to administer the practice test of the high school proficiency examination to pupils enrolled in high school.

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

Section 1. NRS 388.205 is hereby amended to read as follows:

388.205 1. The board of trustees of each school district shall adopt a policy for each public school in the school district in which ninth grade pupils are enrolled to develop a 4-year academic plan for each of those pupils. The academic plan must set forth the specific educational goals that the pupil intends to achieve before graduation from high school. The plan may include, without limitation, the designation of a career pathway and enrollment in dual credit courses, career and technical education courses, advanced placement courses and honors courses.

2. The policy must require each pupil enrolled in ninth grade and the pupil's parent or legal guardian to:

(a) Work in consultation with a school counselor to develop an academic plan for the pupil;

(b) Sign the academic plan; and

(c) Review the academic plan at least once each school year in consultation with a school counselor and revise the plan if necessary.

3. If a pupil enrolls in a high school after ninth grade, an academic plan must be developed for that pupil with appropriate modifications for the grade level of the pupil.

4. *If the administration of the high school proficiency examination in the subject area of mathematics or science, or both, is postponed for a pupil pursuant to section 4 of this act, the pupil's academic plan must be revised in consultation with the pupil's teacher who provides instruction in the applicable subject area and the pupil's parent or legal guardian as set forth in section 4 of this act.*

5. An academic plan for a pupil must be used as a guide for the pupil and the parent or legal guardian of the pupil to plan, monitor and manage the pupil's educational and occupational development and make determinations of the appropriate courses of study for the pupil. If a pupil does not satisfy all the goals set forth in the academic plan, the pupil is eligible to graduate and receive a high school diploma if the pupil otherwise satisfies the requirements for a diploma.

Sec. 2. Chapter 389 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. ~~[1. The board of trustees of each school district shall administer the practice test of the high school proficiency examination, as prescribed by the Department, to all pupils enrolled in grade 10 in the school district during the first month of the fall semester of the school year.~~

~~2. If a pupil transfers to a high school in this State from a school outside of this State after the practice test is administered pursuant to subsection 1, the principal of the high school to which the pupil transfers shall ensure that the pupil takes the practice test of the high school proficiency examination within the first month of the pupil's transfer to determine the placement of the pupil in the appropriate courses of study at the high school.] (Deleted by amendment.)~~

Sec. 4. 1. The principal of a high school, or the principal's designee, may postpone, for not more than 1 year, the administration of the high school proficiency examination in the subject area of mathematics or science, or both, for a pupil enrolled in grade 10 at the high school if:

(a) The principal, or the principal's designee, and the pupil's teacher who provides instruction in the applicable subject area determine that the pupil is not academically ready to take the high school proficiency examination in the subject area of mathematics or science, based upon the pupil's performance in the subject area on the practice test of the high school proficiency examination administered pursuant to section 3 of this act; and a determination that the pupil is not achieving at least 79 percent competency in the applicable subject area. If the high school in which the pupil is enrolled administers the practice test of the high school proficiency examination, the results of the pupil on that test may be included as one of the factors to determine the pupil's readiness.

(b) The parent or legal guardian of the pupil agrees in writing with the determination of the principal, or the principal's designee, and the teacher that the pupil is not academically ready to take the high school proficiency examination in the subject area of mathematics or science, or both.

2. If the administration of the mathematics or science subject area of the high school proficiency examination is postponed for a pupil pursuant to subsection 1, the principal of the school, or the principal's designee, shall provide the pupil and his or her parent or legal guardian a copy of the informational pamphlet concerning the high school proficiency examination developed by the Department pursuant to NRS 389.0173.

3. If the administration of the mathematics or science subject area of the high school proficiency examination is postponed for a pupil pursuant to subsection 1, the academic plan of the pupil developed pursuant to NRS 388.205 must be revised to:

(a) Ensure that the pupil is enrolled in or scheduled to enroll in the course work for his or her grade level and receives the necessary preparation to enable the pupil to take ~~+, not later than 1 year~~

~~after the postponement is made,] the subject area of the high school proficiency examination for which the examination is postponed; and~~

(b) *Require the pupil to participate in the statewide program to prepare pupils for the high school proficiency examination established pursuant to NRS 389.0175 or enroll in the course of study designed to assist pupils with passing the high school proficiency examination prescribed by the State Board pursuant to NRS 389.045, or both.*

4. *On or before July 1 of each year, the board of trustees of each school district shall submit a report to the Department and the Legislative Committee on Education indicating:*

(a) *The number of pupils for whom the administration of the high school proficiency examination is postponed in the immediately preceding school year; and*

(b) *A notation indicating whether the administration was postponed for the subject area of mathematics or science, or both.*

Sec. 4.5. NRS 389.006 is hereby amended to read as follows:

389.006 1. In addition to any other test, examination or assessment required by state or federal law, the board of trustees of each school district may require the administration of district-wide tests, examinations and assessments *including, without limitation, the practice test of the high school proficiency examination to pupils enrolled in high school.* that the board of trustees determines are vital to measure the achievement and progress of pupils. In making this determination, the board of trustees shall consider any applicable findings and recommendations of the Legislative Committee on Education.

2. The tests, examinations and assessments required pursuant to subsection 1 must be limited to those which can be demonstrated to provide a direct benefit to pupils or which are used by teachers to improve instruction and the achievement of pupils.

3. The board of trustees of each school district and the State Board shall periodically review the tests, examinations and assessments administered to pupils to ensure that the time taken from instruction to conduct a test, examination or assessment is warranted because it is still accomplishing its original purpose.

Sec. 5. NRS 389.015 is hereby amended to read as follows:

389.015 1. The board of trustees of each school district shall administer examinations in all public schools of the school district. The governing body of a charter school shall administer the same examinations in the charter school. The examinations administered by the board of trustees and governing body must determine the achievement and proficiency of pupils in:

- (a) Reading;
- (b) Mathematics; and
- (c) Science.

2. The examinations required by subsection 1 must be:

(a) Administered before the completion of grades 4, 7, 10 and 11 ~~or~~ , *except for a pupil enrolled in grade 10 for whom the administration of the high school proficiency examination in the subject area of mathematics or science, or both, is postponed pursuant to section 4 of this act.*

(b) Administered in each school district and each charter school at the same time during the spring semester. The time for the administration of the examinations must be prescribed by the State Board.

(c) Administered in each school in accordance with uniform procedures adopted by the State Board. The Department shall monitor the compliance of school districts and individual schools with the uniform procedures.

(d) Administered in each school in accordance with the plan adopted pursuant to NRS 389.616 by the Department and with the plan adopted pursuant to NRS 389.620 by the board of trustees of the school district in which the examinations are administered. The Department shall monitor the compliance of school districts and individual schools with:

(1) The plan adopted by the Department; and

(2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.

(e) Scored by a single private entity that has contracted with the State Board to score the examinations. The private entity that scores the examinations shall report the results of the examinations in the form and by the date required by the Department.

3. Not more than 14 working days after the results of the examinations are reported to the Department by a private entity that scored the examinations, the Superintendent of Public Instruction shall certify that the results of the examinations have been transmitted to each school district and each charter school. Not more than 10 working days after a school district receives the results of the examinations, the superintendent of schools of each school district shall certify that the results of the examinations have been transmitted to each school within the school district. Except as otherwise provided in this subsection, not more than 15 working days after each school receives the results of the examinations, the principal of each school and the governing body of each charter school shall certify that the results for each pupil have been provided to the parent or legal guardian of the pupil:

(a) During a conference between the teacher of the pupil or administrator of the school and the parent or legal guardian of the pupil; or

(b) By mailing the results of the examinations to the last known address of the parent or legal guardian of the pupil.

➡ If a pupil fails the high school proficiency examination, the school shall notify the pupil and the parents or legal guardian of the pupil of each subject area that the pupil failed as soon as practicable but not later than 15 working days after the school receives the results of the examination.

4. If a pupil fails to demonstrate at least adequate achievement on the examination administered before the completion of grade 4, 7 or 10, the pupil

may be promoted to the next higher grade, but the results of the pupil's examination must be evaluated to determine what remedial study is appropriate. If such a pupil is enrolled at a school that has failed to make adequate yearly progress or in which less than 60 percent of the pupils enrolled in grade 4, 7 or 10 in the school who took the examinations administered pursuant to this section received an average score on those examinations that is at least equal to the 26th percentile of the national reference group of pupils to which the examinations were compared, the pupil must, in accordance with the requirements set forth in this subsection, complete remedial study that is determined to be appropriate for the pupil.

5. Except as otherwise provided in subsection 6, if a pupil fails to pass the high school proficiency examination, the pupil must not be graduated unless he or she:

- (a) Is able, through remedial study, to pass the proficiency examination; or
- (b) Passes the subject areas of mathematics and reading tested on the proficiency examination, has at least a 2.75 grade point average on a 4.0 grading scale and satisfies the alternative criteria prescribed by the State Board pursuant to NRS 389.805,

➡ but the pupil may be given a certificate of attendance, in place of a diploma, if the pupil has reached the age of 18 years.

6. A pupil who transfers during grade 12 to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the pupil may receive a waiver from the requirements of subsection 5 if, in accordance with the provisions of NRS 392C.010, the school district in which the pupil is enrolled:

(a) Accepts the results of the exit or end-of-course examinations required for graduation in the local education agency in which the pupil was previously enrolled;

(b) Accepts the results of a national norm-referenced achievement examination taken by the pupil; or

(c) Establishes an alternative test for the pupil which demonstrates proficiency in the subject areas tested on the high school proficiency examination, and the pupil successfully passes that test.

7. The State Board shall prescribe standard examinations of achievement and proficiency to be administered pursuant to subsection 1. The high school proficiency examination must include the subjects of reading, mathematics and science and, except for the writing portion prescribed pursuant to NRS 389.550, must be developed, printed and scored by a nationally recognized testing company in accordance with the process established by the testing company. The examinations on reading, mathematics and science prescribed for grades 4, 7 and 10 must be selected from examinations created by private entities and administered to a national reference group, and must allow for a comparison of the achievement and proficiency of pupils in grades 4, 7 and 10 in this State to that of a national reference group of pupils in grades 4, 7 and 10. The questions contained in the examinations and the approved

answers used for grading them are confidential, and disclosure is unlawful except:

(a) To the extent necessary for administering and evaluating the examinations.

(b) That a disclosure may be made to a:

(1) State officer who is a member of the Executive or Legislative Branch to the extent that it is necessary for the performance of his or her duties;

(2) Superintendent of schools of a school district to the extent that it is necessary for the performance of his or her duties;

(3) Director of curriculum of a school district to the extent that it is necessary for the performance of his or her duties; and

(4) Director of testing of a school district to the extent that it is necessary for the performance of his or her duties.

(c) That specific questions and answers may be disclosed if the Superintendent of Public Instruction determines that the content of the questions and answers is not being used in a current examination and making the content available to the public poses no threat to the security of the current examination process.

(d) As required pursuant to NRS 239.0115.

Sec. 6. This act becomes effective on July 1, 2011.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 291.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 447.

AN ACT relating to estates; making certain agreements between an heir finder and an apparent heir relating to the recovery of property in an estate void and unenforceable under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill provides that an agreement between an heir finder and an apparent heir relating to the recovery of property in an estate **for which the public administrator petitioned for letters of administration** is void and unenforceable if the agreement is entered into during the period beginning with the death of the person whose estate is in probate until ~~12~~ **6** months ~~[after the filing of a petition for letters of administration.]~~ **thereafter.**

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

Section 1. Chapter 139 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An agreement between an heir finder and an apparent heir, the primary purpose of which is to locate, recover or assist in the recovery of an estate ~~for which the public administrator has petitioned for letters of administration~~, is void and unenforceable if the agreement is entered into during the period beginning with the death of the person whose estate is in probate until ~~12~~ 6 months ~~after the filing of a petition for letters of administration~~ thereafter.

2. As used in this section, “heir finder” means a person who, for payment of a fee, assignment of a portion of any interest in a decedent’s estate or other consideration, provides information, assistance, forensic genealogy research or other efforts related to another person’s right to or interest in a decedent’s estate. The term does not include:

(a) A person acting in the capacity of a personal representative or guardian ad litem;

(b) A person appointed to perform services by a probate court in which a proceeding in connection with a decedent’s estate is pending; or

(c) An attorney providing legal services to a decedent’s family member if the attorney has not agreed to pay to any other person a portion of the fees received from the family member or the family member’s interest in the decedent’s estate.

Sec. 2. The provisions of this act apply to agreements described in section 1 of this act that are entered into on or after July 1, 2011.

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

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 300.

Bill read second time.

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

Amendment No. 472.

ASSEMBLY BILL NO. 300—ASSEMBLYMEN FRIERSON, ATKINSON, HORNE, SMITH, OCEGUERA; **BROOKS**, BUSTAMANTE ADAMS, CONKLIN, DIAZ, OHRENSCHALL AND SEGERBLOM

AN ACT relating to real property; revising provisions providing for mediation in certain actions for foreclosure; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law sets forth procedures governing foreclosures on real property upon default. A trustee under a deed of trust, commonly referred to as a lender, has the power to sell the property to which a deed of trust applies, subject to certain restrictions. (NRS 107.080, 107.085) Existing law sets forth additional restrictions on the lender’s power of sale with respect to owner-occupied housing by providing a grantor of a deed of trust or the

person who holds the title of record, commonly referred to as a homeowner, with the right to request mediation under which he or she may receive a loan modification. (NRS 107.086)

Sections 7-10 of this bill revise the procedures concerning such a mediation. Specifically, **section 7**: (1) requires a mediator to complete and submit a statement that includes the findings of the mediator; (2) authorizes the homeowner to petition the court for an order imposing sanctions against the lender; and (3) creates a rebuttable presumption that the court will impose sanctions against the lender under certain circumstances which include, without limitation, the failure of the lender to attend the mediation.

Section 8 of this bill authorizes either party to the mediation to petition for judicial review if the party is dissatisfied with the findings ~~for recommendations~~ of the mediator. **Section 9** of this bill requires, under certain circumstances, a foreclosure to take place within 90 days after the specific date by which the homeowner is required to vacate the property pursuant to an agreement reached by the parties to such a mediation. **Section 10** of this bill sets forth certain requirements governing an agreement reached by the parties to such a mediation that authorizes a ~~“short sale”~~ **sale** of the property **in which the sale price would be insufficient to pay to the lender the entire outstanding balance of the lien upon the trust property and the costs of the sale.**

Section 13 of this bill prohibits a lender from assessing any fee to a homeowner for participating in such a mediation or any subsequent court action.

Section 6 of this bill establishes additional duties of the Mediation Administrator, including, without limitation, collecting and compiling statistics on the participation of lenders in such mediations.

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 the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *As used in NRS 107.086 and sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Mediation Administrator” means the entity so designated pursuant to subsection 8 of NRS 107.086.*

Sec. 4. *“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.*

Sec. 5. *“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.*

Sec. 6. 1. *The Mediation Administrator shall collect and compile statistics on the participation of beneficiaries of deeds of trust or their representatives in mediation conducted pursuant to NRS 107.086 and shall document, by beneficiary, information concerning such mediation, including, without limitation:*

(a) *The number of mediations in which the beneficiary of the deed of trust or a representative was a participant;*

(b) *Whether the parties to the mediation reached an agreement ~~that~~ as determined by the mediator; and*

(c) *Whether the mediator found that the beneficiary of the deed of trust or the representative complied with the requirements of the mediation as set forth in NRS 107.086, including, without limitation, whether the beneficiary or the representative:*

(1) *Attended the mediation;*

(2) *Brought the requisite documents to the mediation;*

(3) *Had authority to negotiate a loan modification or access to a person with the authority required by subsection 4 of NRS 107.086; and*

(4) *Participated in the mediation in good faith.*

2. *The Mediation Administrator shall post the statistics maintained pursuant to subsection 1 on its Internet website.*

Sec. 7. 1. *After the conclusion of the mediation conducted pursuant to NRS 107.086 or if the beneficiary of the deed of trust or a representative fails to attend such a mediation, the mediator shall complete and submit to the Mediation Administrator a statement that includes the findings of the mediator.*

2. *If the statement of the mediator includes a finding by the mediator that the beneficiary of the deed of trust or the representative failed to attend the mediation, failed to participate in the mediation in good faith, did not bring to the mediation each document required by subsection 4 of NRS 107.086 or did not have the authority or access to a person with the authority required by subsection 4 of NRS 107.086 ~~that~~*

~~(a) The~~, *the Mediation Administrator shall not issue a certificate to foreclose ~~that~~ and*

~~(b) No additional late fees or interest on the loan may be assessed to the grantor or the person who holds the title of record.~~

3. *The statement of the mediator must document the conduct of the beneficiary of the deed of trust and the representative, if any, and include details concerning the conduct that would be sufficient to enable a judge considering the issue on judicial review to ascertain the circumstances and make a ruling.*

4. *If the grantor or the person who holds the title of record wishes to pursue sanctions as a result of the conduct of the beneficiary of the deed of trust or the representative, the grantor or the person who holds the title of record may petition the court for an order imposing sanctions against the beneficiary of the deed of trust or the representative.*

5. If the court finds that the beneficiary of the deed of trust or the representative failed to attend the mediation, failed to participate in the mediation in good faith, did not bring to the mediation each document required by subsection 4 of NRS 107.086 or did not have the authority or access to a person with the authority required by subsection 4 of NRS 107.086, there is a rebuttable presumption that the court will impose sanctions against the beneficiary of the deed of trust or the representative.

6. In determining whether to impose sanctions against the beneficiary of the deed of trust or the representative, the court shall consider:

(a) Whether the conduct of the beneficiary of the deed of trust or the representative was intentional;

(b) Whether the beneficiary of the deed of trust or the representative has engaged in a pattern of similar conduct;

(c) The record of the beneficiary of the deed of trust or the representative in mediations conducted pursuant to NRS 107.086 as set forth on the Internet website of the Mediation Administrator; and

(d) The pattern, as a whole, of the beneficiary of the deed of trust or the representative with regard to participation in mediations conducted pursuant to NRS 107.086.

7. 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:

(a) Requiring a loan modification ~~in the manner determined proper by the court,~~ if a loan modification was agreed to by the parties to a mediation conducted pursuant to NRS 107.086 and the loan modification is reflected in the statement of the mediator;

(b) Requiring further mediation and requiring the beneficiary of the deed of trust or the representative to pay:

(1) The fee for mediation services described in paragraph (e) of subsection 8 of NRS 107.086 for any subsequent mediation of the grantor or the person who holds the title of record; and

(2) The attorney's fees and costs of the grantor or the person who holds the title of record for any such subsequent mediation; ~~and~~

(c) Monetary sanctions which may include, without limitation ~~the~~;

(1) The payment of sums to the grantor or the person who holds the title of record which may be applied by the grantor or the person who holds the title of record to reduce the principal of the loan ~~the~~; and

(2) The interest and fees that accrued on the loan after the date on which the statement of the mediator was submitted to the Mediation Administrator pursuant to subsection 1 if the statement included any findings described in subsection 2; and

(d) Such other relief as the court deems appropriate.

8. The court shall set forth written findings concerning any order issued by the court pursuant to subsection 7.

Sec. 8. If a party to a mediation conducted pursuant to NRS 107.086 is dissatisfied with the findings ~~for recommendations~~ of the mediator, the party may file a petition for judicial review. The court shall:

1. Review the statement of the mediator required pursuant to section 7 of this act and any briefs of the parties to the mediation;
2. Hold a hearing at which the parties to the mediation may present evidence; and
3. Order such relief as may be appropriate.

Sec. 9. If the parties to a mediation conducted pursuant to NRS 107.086 agree that the grantor or the person who holds the title of record is required to vacate the property as of a date certain and the Mediation Administrator has issued a certificate to foreclose, foreclosure must take place not later than 90 days after the date indicated in the agreement as the date by which the grantor or the person who holds the title of record is required to vacate the property ~~and~~ unless otherwise agreed to by the parties to the mediation.

Sec. 10. 1. If the parties to a mediation conducted pursuant to NRS 107.086 agree to a ~~short~~ sale ~~and~~ in which the sale price would be insufficient to pay to the beneficiary of the deed of trust the entire outstanding balance of the lien upon the trust property and the costs of the sale, the statement of the mediator required pursuant to section 7 of this act must include, without limitation:

(a) The date by which the beneficiary of the deed of trust will provide the grantor or the person who holds the title of record with ~~the short sale amount agreed upon;~~ an agreed-upon price at which the property will be listed for sale, which must include the costs of the sale;

(b) The date by which the property will be ~~placed on the market;~~ listed for sale;

(c) A specified period during which the property will be ~~on the market;~~ listed for sale; and

(d) A provision indicating that the beneficiary of the deed of trust has a specified period within which to decide whether to accept an offer to purchase the property. The specified period must not be more than ~~30~~ 60 days after the date on which such an offer is communicated to the beneficiary of the deed of trust.

2. Any ~~option for a short sale agreed to by the parties to the mediation~~ agreement made pursuant to this section must include a release of the deficiency, if any, owed by the grantor or the person who holds the title of record.

3. If the ~~short sale~~ close of escrow is not completed within the period allowed by the agreement ~~and~~ after the acceptance of an offer to purchase the property, the beneficiary of the deed of trust may submit a request to the Mediation Administrator to issue a certificate to foreclose ~~and~~

~~and~~ unless such failure to close escrow is a result of the action or inaction of the beneficiary of the deed of trust.

4. If the grantor or the person who holds the title of record believes that ~~the~~ :

(a) The beneficiary of the deed of trust failed to comply with the terms of the agreement for the ~~short~~ sale, the grantor or the person who holds the title of record may file a petition for judicial review within ~~15~~ 30 days after the expiration of the period set forth in ~~the agreement~~.

~~4. As used in this section, "short sale" means sale of property by the grantor or the person who holds the title of record for an amount less than the outstanding balance owed on the loan secured by a deed of trust on such property, where, before the sale, the beneficiary of the deed of trust agrees to accept less than the outstanding balance on the loan in full or partial satisfaction of the loan and the proceeds of the sale are paid to the beneficiary of the deed of trust.~~ the statement of the mediator pursuant to paragraph (d) of subsection 1; or

(b) Escrow did not close because of the action or inaction of the beneficiary of the deed of trust, the grantor or the person who holds the title of record may file a petition for judicial review within 30 days after the date on which escrow was required to close.

Sec. 11. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085 and 107.086, 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,]~~ **section 5 of this act**, 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 ~~to~~ **and sections 2 to 10, inclusive, 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.

Sec. 12. NRS 107.085 is hereby amended to read as follows:

107.085 1. With regard to a transfer in trust of an estate in real property to secure the performance of an obligation or the payment of a debt, the provisions of this section apply to the exercise of a power of sale pursuant to NRS 107.080 only if:

(a) The trust agreement becomes effective on or after October 1, 2003, and, on the date the trust agreement is made, the trust agreement is subject to the provisions of § 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602(aa), and the regulations adopted by the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32; or

(b) The trust agreement concerns owner-occupied housing as defined in ~~[NRS 107.086.]~~ **section 5 of this act.**

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

(a) In the manner required by subsection 3, not later than 60 days before the date of the sale, the trustee causes to be served upon the grantor or the person who holds the title of record a notice in the form described in subsection 3; and

(b) If an action is filed in a court of competent jurisdiction claiming an unfair lending practice in connection with the trust agreement, the date of the sale is not less than 30 days after the date the most recent such action is filed.

3. The notice described in subsection 2 must be:

(a) Served upon the grantor or the person who holds the title of record:

(1) Except as otherwise provided in subparagraph (2), by personal service or, if personal service cannot be timely effected, in such other manner as a court determines is reasonably calculated to afford notice to the grantor or the person who holds the title of record; or

(2) If the trust agreement concerns owner-occupied housing as defined in ~~[NRS 107.086:]~~ **section 5 of this act:**

(I) By personal service;

(II) If the grantor or the person who holds the title of record is absent from his or her place of residence or from his or her usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the grantor or the person who holds the title of record at his or her place of residence or place of business; or

(III) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the trust property, delivering a copy to a person there residing if the person can be found and mailing a copy to the grantor or the person who holds the title of record at the place where the trust property is situated; and

(b) In substantially the following form, with the applicable telephone numbers and mailing addresses provided on the notice and, except as otherwise provided in subsection 4, a copy of the promissory note attached to the notice:

NOTICE

YOU ARE IN DANGER OF LOSING YOUR HOME!

Your home loan is being foreclosed. In not less than 60 days your home will be sold and you will be forced to move. For help, call:

Consumer Credit Counseling _____

The Attorney General _____

The Division of Financial Institutions _____

Legal Services _____

Your Lender _____

Nevada Fair Housing Center _____

4. The trustee shall cause all social security numbers to be redacted from the copy of the promissory note before it is attached to the notice pursuant to paragraph (b) of subsection 3.

5. This section does not prohibit a judicial foreclosure.

6. As used in this section, “unfair lending practice” means an unfair lending practice described in NRS 598D.010 to 598D.150, inclusive.

Sec. 13. NRS 107.086 is hereby amended to read as follows:

107.086 1. In addition to the requirements of NRS 107.085, 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 ~~[-]~~ **and sections 2 to 10, inclusive, of this act.**

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;

(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 ~~[-]~~ 5 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 ~~[-]~~ 6 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, the trustee shall execute an affidavit attesting to that fact 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. 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. 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. ~~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 or does not have the authority or access to a person with the authority required by subsection 4, 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 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.

~~{7-}~~ 6. 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.

7. *A beneficiary of the deed of trust or a representative shall not assess any fee, however described, to the grantor or the person who holds the title of record for participating in the mediation or any subsequent court action, unless specifically ordered by a court.*

8. The Supreme Court shall adopt rules necessary to carry out the provisions of this section ~~{-}~~ *and sections 2 to 10, inclusive, of this act.* 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.

(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 , *except as otherwise provided in section 7 of this act*, the responsibility for payment of the fee must be shared equally by the parties to the mediation.

9. Except as otherwise provided in subsection 11, the provisions of this section *and sections 2 to 10, inclusive, of this act* 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. A noncommercial lender is not excluded from the application of this section ~~{-}~~ *and sections 2 to 10, inclusive, of this act.*

11. The Mediation Administrator and each mediator who acts pursuant to this section *and sections 2 to 10, inclusive, of this act* in good faith and without gross negligence are immune from civil liability for those acts.

~~{12- As used in this section:~~

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

~~(b) "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.~~

~~(c) "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.]~~

Sec. 14. NRS 107.095 is hereby amended to read as follows:

107.095 1. The notice of default required by NRS 107.080 must also be sent by registered or certified mail, return receipt requested and with postage prepaid, to each guarantor or surety of the debt. If the address of the guarantor or surety is unknown, the notice must be sent to the address of the trust property. Failure to give the notice, except as otherwise provided in subsection 3, releases the guarantor or surety from his or her obligation to the beneficiary, but does not affect the validity of a sale conducted pursuant to NRS 107.080 or the obligation of any guarantor or surety to whom the notice was properly given.

2. Failure to give the notice of default required by NRS 107.090, except as otherwise provided in subsection 3, releases the obligation to the beneficiary of any person who has complied with NRS 107.090 and who is or may otherwise be held liable for the debt or other obligation secured by the deed of trust, but such a failure does not affect the validity of a sale conducted pursuant to NRS 107.080 or the obligation of any person to whom the notice was properly given pursuant to this section or to NRS 107.080 or 107.090.

3. A guarantor, surety or other obligor is not released pursuant to this section if:

(a) The required notice is given at least 15 days before the later of:

(1) The expiration of the 15- or 35-day period described in paragraph (a) of subsection 2 of NRS 107.080;

(2) In the case of any trust agreement which concerns owner-occupied housing as defined in ~~[NRS 107.086.]~~ **section 5 of this act**, the expiration of the period described in paragraph (b) of subsection 2 of NRS 107.080; or

(3) Any extension of the applicable period by the beneficiary; or

(b) The notice is rescinded before the sale is advertised.

Sec. 15. This act becomes effective on July 1, 2011.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 321.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 445.

AN ACT relating to the use of force; revising the provisions governing justifiable homicide; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing case law, there is no duty to retreat before using deadly force if the person using deadly force is not the original aggressor and reasonably believes that he or she is about to be killed or seriously injured. (*Culverson v. State*, 106 Nev. 484 (1990)) This bill provides that under the defense of justifiable homicide there is no duty to retreat if the person using deadly force: (1) is not the original aggressor; (2) has a right to be present at the location where deadly force is used; and (3) is not **actively** engaged in **conduct in furtherance of** criminal activity at the time deadly force is used.

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

Section 1. NRS 200.120 is hereby amended to read as follows:

200.120 **1.** Justifiable homicide is the killing of a human being in necessary self-defense, or in defense of habitation, property or person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony, or against any person or persons who manifestly intend and endeavor, in a violent, riotous, tumultuous or surreptitious manner, to enter the habitation of another for the purpose of assaulting or offering personal violence to any person dwelling or being therein.

2. A person is not required to retreat before using deadly force as provided in subsection 1 if the person:

(a) Is not the original aggressor;

(b) Has a right to be present at the location where deadly force is used;
and

(c) Is not actively engaged in conduct in furtherance of criminal activity at the time deadly force is used.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 346.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 323.

AN ACT relating to real property; providing for a cause of action against a public agency which delays certain actions after adopting a resolution of intent to exercise eminent domain; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Nevada Supreme Court has held that a governmental entity may be liable for precondemnation damages if it: (1) has taken official action

amounting to an announcement of its intent to acquire the real property by eminent domain; and (2) following such action, has “acted improperly.” Two examples given by the Court of circumstances in which a governmental entity acted improperly are when it: (1) unreasonably delayed commencing the eminent domain proceeding; or (2) engaged in other improper or oppressive conduct. The Court further held that the determination of whether a governmental entity has unreasonably delayed the commencement of an eminent domain proceeding or engaged in other oppressive conduct is a question of fact to be determined by the fact finder. (*Buzz Stew, LLC v. City of North Las Vegas*, 124 Nev. Adv. Op. 21, 181 P.3d 670 (2008))

This bill, which is patterned after the provisions of California Code of Civil Procedure § 1245.260, creates a statutory cause of action where a governmental entity: (1) has adopted a resolution which announces its intent to acquire property; and (2) has not commenced an eminent domain proceeding to acquire the property within ~~180~~ 365 days after the adoption of the resolution or has commenced such a proceeding but, within ~~180~~ 365 days after commencing the action, has not served the complaint and summons relating to the proceeding. If the action is successful, the governmental entity may be required to do either or both of the following: (1) take the property and pay just compensation for it; or (2) pay damages for any interference with the possession and use of the property which resulted from the adoption of the resolution. An action is exempt from any statutory requirement to present a claim to a governmental entity before the commencement of an action against the governmental entity, and the action must be commenced within 15 years after the adoption of the resolution. After the commencement of an action, the governmental entity may rescind the resolution or abandon the taking of the property only under the same circumstances and subject to the same consequences as the abandonment of an eminent domain proceeding.

Under this bill, in lieu of an action for inverse condemnation or if the statute of limitations has expired, the owner of the property may obtain a writ of mandate to compel the governmental entity to rescind the resolution or commence an eminent domain proceeding to acquire the property.

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

Section 1. Chapter 37 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If a public agency has adopted a resolution of necessity but has not commenced an eminent domain proceeding to acquire the property within ~~180~~ 365 days after the date of the adoption of the resolution, or has commenced such a proceeding but has not within ~~180~~ 365 days after the commencement of the proceeding served the complaint and the summons relating to the proceeding, the owner of the property may, by an action in inverse condemnation, do either or both of the following:*

(a) Require the public agency to take the property and pay just compensation therefor.

(b) Recover damages from the public agency for any interference with the possession and use of the property resulting from the adoption of the resolution of necessity.

2. No claim need be presented against a public agency under NRS 41.036, 244.250, 268.020 or any other statute requiring the presentment of claim to a public agency as a prerequisite to commencement or maintenance of an action under subsection 1, but any such action must be commenced within 15 years after the date on which the public agency adopted the resolution of necessity.

3. After the owner of the property has commenced an action under this section, the public entity may rescind the resolution of necessity and abandon the taking of the property only under the same circumstances and subject to the same conditions and consequences as the abandonment of an eminent domain proceeding pursuant to NRS 37.180.

4. Commencement of an action under this section does not affect any authority of a public agency to commence an eminent domain proceeding, take possession of the property pursuant to NRS 37.100 and 37.170, or abandon the eminent domain proceeding pursuant to NRS 37.180.

5. In lieu of bringing an action under subsection 1 or if the limitations period set forth in subsection 2 has expired, the owner of the property may obtain a writ of mandate to compel the public agency, within such time as the court deems appropriate, to rescind the resolution of necessity or to commence an eminent domain proceeding to acquire the property.

6. As used in this section:

(a) "Public agency" means an agency or political subdivision of this State.

(b) "Resolution of necessity" means a resolution which:

(1) Is adopted by a public agency authorized by NRS 37.0095 to exercise the power of eminent domain; and

(2) Announces the intent of the public agency to acquire property.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 350.

Bill read second time.

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

Amendment No. 274.

AN ACT relating to protection of children; requiring a court that orders a child to be placed with someone other than a parent to retain jurisdiction over the child after the child reaches the age of 18 years in certain circumstances; requiring an agency which provides child welfare services to continue to

provide services **and financial support** to such a child while the child remains under the jurisdiction of the court; requiring the agency which provides child welfare services and such a child to enter into a written agreement; requiring the agency which provides child welfare services to develop a plan for such a child to assist the child in transitioning to independent living; revising various provisions relating to a child placed with someone other than a parent to clarify the application of those provisions to persons who remain in foster care beyond the age of 18 years; revising provisions governing the placement of children who are taken into protective custody or placed with someone other than a parent; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law gives a juvenile court exclusive jurisdiction over proceedings concerning a child in need of protection in this State, except if the child is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act. (NRS 432B.410) The juvenile court may take actions to protect a child from abuse and neglect, including ordering a child to be placed into the custody of a person or entity other than a parent. (NRS 432B.550) **Section 18** of this bill requires the juvenile court that has jurisdiction over a child who was placed with a person other than a parent to continue to retain jurisdiction over the child when the child reaches the age of 18 years if the child so requests. **Section 18** provides that jurisdiction over the child will terminate when the child reaches 21 years of age unless certain conditions occur first.

Section 16 of this bill requires the juvenile court to refer a child to an attorney when the child is 17 years of age if the court determines that the child is not likely to be returned to the custody of a parent before reaching 18 years of age. **Section 16** requires the juvenile court to request that the attorney assist the child in deciding whether to remain under the jurisdiction of the court. **Section 17** of this bill requires the agency which provides child welfare services to meet with the child at least 120 days before the child reaches 18 years of age to determine whether the child intends to remain under the jurisdiction of the court. However, the child is allowed to change his or her mind any time before reaching 18 years of age. In addition, **section 18** requires the child and the agency which provides child welfare services to enter into a written agreement which must be filed with the juvenile court that ~~acknowledges~~ **includes provisions stating** some of the conditions and consequences of the child remaining under the jurisdiction of the juvenile court. **Section 18** further requires the agency which provides child welfare services to continue to provide ~~the same~~ services **and financial support** to the child ~~that the child was entitled to receive before reaching 18 years of age.~~ **while the child remains under the jurisdiction of the court. Section 18 also establishes a procedure for resolving issues involving a child who remains under the jurisdiction of the court. The agency which provides child welfare services and the child are required to attempt to resolve**

any issue before taking the issue to court. If the agency which provides child welfare services decides to recommend that jurisdiction over the child be terminated, section 18 requires the agency to provide notice to the child and an opportunity for the child to have an informal administrative review of the decision. If the agency and the child are unable to reach an agreement, section 18 authorizes the child or the attorney of the child to request a hearing before the court.

Section 19 of this bill requires the agency which provides child welfare services to develop a written plan to assist a child who remains under the jurisdiction of the juvenile court in transitioning to independent living and provides other duties of the agency which provides child welfare services with respect to a child who remains under the jurisdiction of the juvenile court. **Section 19** also requires the agency which provides child welfare services to conduct an exit interview with such a child before the jurisdiction of the court is terminated to determine whether the child requires any additional services. **Section 20** of this bill revises the definition of “child” in existing law to clarify that a child who remains under the jurisdiction of the juvenile court after reaching 18 years of age is not included within that term for purposes of certain other provisions relating to the protection of children. **Section 21** of this bill similarly revises the definition of “custodian” in existing law to provide that the term does not include a custodian of such a child for purposes of certain other provisions relating to the protection of children.

Section 22 of this bill establishes the order of priority in which to place a child who is taken into protective custody and allows the child to be placed with certain persons who are not related to the child but with whom the child has developed a significant emotional and positive relationship. **Section 25** of this bill establishes the order of preference when placing a child with someone other than with a parent.

Sections 1-13, ~~14~~ and 23 ~~and 24~~ of this bill make various changes so that the provisions of NRS relating to a child who is in foster care are consistent and apply to a person who remains in foster care under the jurisdiction of a court after attaining 18 years of age in the same manner as a child in foster care who is less than 18 years of age.

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

Section 1. NRS 424.013 is hereby amended to read as follows:

424.013 “Family foster home” means a family home in which one to six children *who are* under 18 years of age *or who remain under the jurisdiction of a court pursuant to section 18 of this act and who are* not related within the first degree of consanguinity or affinity to the person or persons maintaining the home are received, cared for and maintained, for compensation or otherwise, including the provision of permanent free care. The term includes a family home in which such a child is received, cared for

and maintained pending completion of proceedings for the adoption of the child by the person or persons maintaining the home.

Sec. 2. NRS 424.015 is hereby amended to read as follows:

424.015 “Group foster home” means a natural person, partnership, firm, corporation or association who provides full-time care for 7 to 15 children who are:

1. Under 18 years of age ~~and~~ ***or who remain under the jurisdiction of a court pursuant to section 18 of this act;***

2. Not related within the first degree of consanguinity or affinity to any natural person maintaining or operating the home; and

3. Received, cared for and maintained for compensation or otherwise, including the provision of permanent free care.

Sec. 3. NRS 424.031 is hereby amended to read as follows:

424.031 1. The licensing authority or a person or entity designated by the licensing authority shall obtain from appropriate law enforcement agencies information on the background and personal history of each applicant for a license to conduct a foster home, prospective employee of that applicant or of a person who is licensed to conduct a foster home, and resident of a foster home who is 18 years of age or older, ***other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act,*** to determine whether the person investigated has been arrested for or convicted of any crime.

2. The licensing authority or its approved designee may charge each person investigated pursuant to this section for the reasonable cost of that investigation.

Sec. 4. NRS 424.033 is hereby amended to read as follows:

424.033 1. Each applicant for a license to conduct a foster home, prospective employee of that applicant or of a person who is licensed to conduct a foster home, or resident of a foster home who is 18 years of age or older, ***other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act,*** must submit to the licensing authority or its approved designee:

(a) A complete set of fingerprints and written permission authorizing the licensing authority or its approved designee to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report to enable the licensing authority or its approved designee to conduct an investigation pursuant to NRS 424.031; and

(b) Written permission to conduct a child abuse and neglect screening.

2. For each person who submits the documentation required pursuant to subsection 1, the licensing authority or its approved designee shall conduct a child abuse and neglect screening of the person in every state in which the person has resided during the immediately preceding 5 years.

3. The licensing authority or its approved designee may exchange with the Central Repository or the Federal Bureau of Investigation any information respecting the fingerprints submitted.

4. The Division shall assist the licensing authority of another state that is conducting a child abuse and neglect screening of a person who has resided in this State by providing information which is necessary to conduct the screening if the person who is the subject of the screening has signed a written permission authorizing the licensing authority to conduct a child abuse and neglect screening. The Division may charge a fee for providing such information in an amount which does not exceed the actual cost to the Division to provide the information.

5. When a report from the Federal Bureau of Investigation is received by the Central Repository, it shall immediately forward a copy of the report to the licensing authority or its approved designee.

Sec. 5. NRS 424.039 is hereby amended to read as follows:

424.039 1. A licensing authority or its approved designee may, in accordance with the procedures set forth in 28 C.F.R. §§ 901 et. seq., conduct a preliminary Federal Bureau of Investigation Interstate Identification Index name-based check of the records of criminal history of a resident who is 18 years of age or older of a foster home in which the licensing authority wishes to place a child in an emergency situation , *other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act*, to determine whether the person investigated has been arrested for or convicted of any crime.

2. Upon request of a licensing authority that wishes to place a child in a foster home in an emergency situation, or upon request of the approved designee of the licensing authority, a resident who is 18 years of age or older of the foster home in which the licensing authority wishes to place the child , *other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act*, must submit to the licensing authority or its approved designee a complete set of fingerprints and written permission authorizing the licensing authority or its approved designee to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The licensing authority or its approved designee shall forward the fingerprints to the Central Repository for Nevada Records of Criminal History within the time set forth in federal law or regulation.

3. If a resident who is 18 years of age or older of a foster home in which a licensing authority places a child in an emergency situation , *other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act*, refuses to provide a complete set of fingerprints to the licensing authority or its approved designee upon request pursuant to subsection 2, the licensing authority must immediately remove the child from the foster home.

Sec. 6. NRS 432.010 is hereby amended to read as follows:

432.010 As used in this chapter, except as otherwise defined by specific statute or unless the context otherwise requires:

1. "Administrator" means the Administrator of the Division.
2. "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.
3. "Child" means a person *who is* less than 18 years of age or ~~[-, if in school, until graduation from high school.]~~ ***who remains under the jurisdiction of a court pursuant to section 18 of this act.***
4. "Department" means the Department of Health and Human Services.
5. "Director" means the Director of the Department.
6. "Division" means the Division of Child and Family Services of the Department.
7. "Maintenance" means general expenses for care such as board, shelter, clothing, transportation and other necessary or incidental expenses, or any of them, or monetary payments therefor.
8. "Special services" means medical, hospital, psychiatric, surgical or dental services, or any combination thereof.

Sec. 7. NRS 432A.0245 is hereby amended to read as follows:

432A.0245 **1.** "Child care institution" means a facility which provides care and shelter during the day and night and provides developmental guidance to 16 or more children who do not routinely return to the homes of their parents or guardians. Such an institution may also provide, without limitation:

~~{1-}~~ **(a)** Education to the children according to a curriculum approved by the Department of Education;

~~{2-}~~ **(b)** Services to children who have been diagnosed as severely emotionally disturbed as defined in NRS 433B.080, including, without limitation, services relating to mental health and education; or

~~{3-}~~ **(c)** Emergency shelter to children who have been placed in protective custody pursuant to chapter 432B of NRS.

2. *As used in this section, "child" includes a person who is less than 18 years of age or who remains under the jurisdiction of a court pursuant to section 18 of this act.*

Sec. 8. NRS 432A.160 is hereby amended to read as follows:

432A.160 **1.** Except as otherwise provided in this section, the Bureau may issue a provisional license, effective for a period not exceeding 1 year, to a child care facility which:

(a) Is in operation at the time of adoption of standards and other regulations pursuant to the provisions of this chapter, if the Bureau determines that the facility requires a reasonable time under the particular circumstances, not to exceed 1 year from the date of the adoption, within which to comply with the standards and other regulations;

(b) Has failed to comply with the standards and other regulations, if the Bureau determines that the facility is in the process of making the necessary changes or has agreed to effect the changes within a reasonable time; or

(c) Is in the process of applying for a license, if the Bureau determines that the facility requires a reasonable time within which to comply with the standards and other regulations.

2. The provisions of subsection 1 do not require the issuance of a license or prevent the Bureau from refusing to renew or from revoking or suspending any license in any instance where the Bureau considers that action necessary for the health and safety of the occupants of any facility or the clients of any outdoor youth program.

3. A provisional license must not be issued pursuant to this section unless the Bureau has completed an investigation into the qualifications and background of the applicant and the employees of the applicant pursuant to NRS 432A.170 to ensure that the applicant and each employee of the applicant, or every resident of the child care facility *who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act*, or participant in any outdoor youth program who is 18 years of age or older, has not been convicted of a crime listed in subsection 2 of NRS 432A.170 and has not had a substantiated report of child abuse or neglect made against him or her.

Sec. 9. NRS 432A.170 is hereby amended to read as follows:

432A.170 1. The Bureau may, upon receipt of an application for a license to operate a child care facility, conduct an investigation into the:

(a) Buildings or premises of the facility and, if the application is for an outdoor youth program, the area of operation of the program;

(b) Qualifications and background of the applicant or the employees of the applicant;

(c) Method of operation for the facility; and

(d) Policies and purposes of the applicant.

2. The Bureau shall secure from appropriate law enforcement agencies information on the background and personal history of every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility *who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act*, or participant in an outdoor youth program who is 18 years of age or older, to determine whether the person has been convicted of:

(a) Murder, voluntary manslaughter or mayhem;

(b) Any other felony involving the use of a firearm or other deadly weapon;

(c) Assault with intent to kill or to commit sexual assault or mayhem;

(d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(e) Abuse or neglect of a child or contributory delinquency;

(f) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(g) Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct; or

(h) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years.

3. The Bureau shall request information concerning every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility *who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act*, or participant in an outdoor youth program who is 18 years of age or older, from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 to determine whether there has been a substantiated report of child abuse or neglect made against any of them.

4. The Bureau may charge each person investigated pursuant to this section for the reasonable cost of that investigation.

5. The information required to be obtained pursuant to subsections 2 and 3 must be requested concerning an:

(a) Employee of an applicant or licensee, resident of a child care facility *who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act*, or participant in an outdoor youth program who is 18 years of age or older not later than 3 days after the employee is hired, the residency begins or the participant begins participating in the program, and then at least once every 6 years thereafter.

(b) Applicant at the time that an application is submitted for licensure, and then at least once every 6 years after the license is issued.

Sec. 10. NRS 432A.175 is hereby amended to read as follows:

432A.175 1. Every applicant for a license to operate a child care facility, licensee and employee of such an applicant or licensee, and every resident of a child care facility *who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act*, or participant in an outdoor youth program who is 18 years of age or older, shall submit to the Bureau, or to the person or agency designated by the Bureau, to enable the Bureau to conduct an investigation pursuant to NRS 432A.170, a:

(a) Complete set of fingerprints and a written authorization for the Bureau or its designee to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(b) Written statement detailing any prior criminal convictions; and

(c) Written authorization for the Bureau to obtain any information that may be available from the Statewide Central Registry for the Collection of

Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100.

2. If an employee of an applicant for a license to operate a child care facility or licensee, or a resident of a child care facility *who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act*, or participant in an outdoor youth program who is 18 years of age or older, has been convicted of any crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect filed against him or her, the Bureau shall immediately notify the applicant or licensee, who shall then comply with the provisions of NRS 432A.1755.

3. An applicant for a license to operate a child care facility or licensee shall notify the Bureau within 2 days after receiving notice that:

(a) The applicant, licensee or an employee of the applicant or licensee, or a resident of the child care facility *who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act*, or participant in an outdoor youth program who is 18 years of age or older, or a facility or program operated by the applicant or licensee, is the subject of a lawsuit or any disciplinary proceeding; or

(b) The applicant or licensee, an employee, a resident or participant has been charged with a crime listed in subsection 2 of NRS 432A.170 or is being investigated for child abuse or neglect.

Sec. 11. NRS 432A.1755 is hereby amended to read as follows:

432A.1755 1. Upon receiving information pursuant to NRS 432A.175 from the Central Repository for Nevada Records of Criminal History or the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 or evidence from any other source that an employee of an applicant for a license to operate a child care facility or a licensee, or a resident of a child care facility *who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act*, or participant in an outdoor youth program who is 18 years of age or older has been convicted of a crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect made against him or her, the applicant or licensee shall terminate the employment of the employee or remove the resident from the facility or participant from the outdoor youth program after allowing the employee, resident or participant time to correct the information as required pursuant to subsection 2.

2. If an employee, resident or participant believes that the information provided to the applicant or licensee pursuant to subsection 1 is incorrect, the employee, resident or participant must inform the applicant or licensee immediately. The applicant or licensee shall give any such employee, resident or participant 30 days to correct the information.

3. During any period in which an employee, resident or participant seeks to correct information pursuant to subsection 2, it is within the discretion of

the applicant or licensee whether to allow the employee, resident or participant to continue to work for or reside at the child care facility or participate in the outdoor youth program, as applicable.

Sec. 12. NRS 432A.1785 is hereby amended to read as follows:

432A.1785 1. Each applicant for a license to operate a child care facility and licensee shall maintain records of the information concerning its employees and any residents of the child care facility *who are 18 years of age or older, other than residents who remain under the jurisdiction of a court pursuant to section 18 of this act*, or participants in any outdoor youth program who are 18 years of age or older that is collected pursuant to NRS 432A.170 and 432A.175, including, without limitation:

(a) Proof that the applicant or licensee submitted fingerprints to the Central Repository for its report; and

(b) The written authorization to obtain information from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100.

2. The records maintained pursuant to subsection 1 must be made available for inspection by the Bureau at any reasonable time, and copies thereof must be furnished to the Bureau upon request.

Sec. 13. NRS 432A.190 is hereby amended to read as follows:

432A.190 1. The Bureau may deny an application for a license to operate a child care facility or may suspend or revoke such a license upon any of the following grounds:

(a) Violation by the applicant or licensee or an employee of the applicant or licensee of any of the provisions of this chapter or of any other law of this State or of the standards and other regulations adopted thereunder.

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

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

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the child care facility, or the clients of the outdoor youth program.

(e) Conviction of any crime listed in subsection 2 of NRS 432A.170 committed by the applicant or licensee or an employee of the applicant or licensee, or by a resident of the child care facility or participant in the outdoor youth program who is 18 years of age or older.

(f) Failure to comply with the provisions of NRS 432A.178.

(g) Substantiation of a report of child abuse or neglect made against the applicant or licensee.

(h) Conduct which is found to pose a threat to the health or welfare of a child or which demonstrates that the applicant or licensee is otherwise unfit to work with children.

(i) Violation by the applicant or licensee of the provisions of NRS 432A.1755 by continuing to employ a person, allowing a resident *who is 18*

years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act, to continue to reside in the child care facility or allowing a participant in an outdoor youth program to continue to participate in the program if the employee, or the resident or participant who is 18 years of age or older, has been convicted of a crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect made against him or her.

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

- (a) Is convicted of violating any of the provisions of NRS 202.470;
- (b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or
- (c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Bureau shall maintain a log of any complaints that it receives relating to activities for which the Bureau may revoke the license to operate a child care facility pursuant to subsection 2. The Bureau shall provide to a child care facility:

- (a) A summary of a complaint against the facility if the investigation of the complaint by the Bureau either substantiates the complaint or is inconclusive;
- (b) A report of any investigation conducted with respect to the complaint; and
- (c) A report of any disciplinary action taken against the facility.

↪ The facility shall make the information available to the public pursuant to NRS 432A.178.

4. In addition to any other disciplinary action, the Bureau may impose an administrative fine for a violation of any provision of this chapter or any regulation adopted pursuant thereto. The Bureau shall afford to any person so fined an opportunity for a hearing. Any money collected for the imposition of such a fine must be credited to the State General Fund.

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

- (a) Any complaints included in the log maintained by the Bureau pursuant to subsection 3; and
- (b) Any disciplinary actions taken by the Bureau pursuant to subsection 2.

Sec. 14. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 15 to 19, inclusive, of this act.

Sec. 15. *As used in sections 15 to 19, inclusive, of this act, “child” means a person who is:*

- 1. *Under the age of 18 years; and*

2. Over the age of 18 years and who remains under the jurisdiction of the court pursuant to section 18 of this act.

Sec. 16. 1. A court shall refer a child who is in the custody of an agency which provides child welfare services to an attorney in the county who provides legal services without a charge to abused or neglected children if the court determines that the child:

(a) Has reached the age of 17 years; and

(b) Is not likely to be returned to the custody of his or her parent before reaching the age of 18 years.

2. The court shall request the attorney to whom such a child is referred to counsel the child regarding the legal consequences of remaining under the jurisdiction of the court after reaching 18 years of age and assist the child in deciding whether to remain under the jurisdiction of the court.

Sec. 17. 1. At least 120 days before the date on which a child who is in the custody of an agency which provides child welfare services reaches the age of 18 years, the agency which provides child welfare services shall meet with the child to determine whether the child intends to request that the court retain jurisdiction over the child pursuant to section 18 of this act after the child reaches the age of 18 years.

2. If the child indicates during the meeting held pursuant to subsection 1 that the child does not intend to request that the court retain jurisdiction over the child, the agency which provides child welfare services shall recommend that the court terminate jurisdiction over the child when the child reaches the age of 18 years.

3. Notwithstanding a determination made by a child during a meeting held pursuant to subsection 1, any time before reaching the age of 18 years, the child may:

(a) Inform the agency which provides child welfare services that the child intends to request that the court continue jurisdiction over the child pursuant to section 18 of this act, and the agency shall revise its recommendation to the court accordingly; or

(b) Request that the court retain jurisdiction over the child pursuant to section 18 of this act, and the court shall accept jurisdiction.

4. A child who enters into an agreement with an agency which provides child welfare services before the child reaches the age of 18 years to allow the child to live independently is not prohibited from requesting that the court retain jurisdiction over the child pursuant to section 18 of this act, and such a child is entitled to the same rights and protections set forth in sections 15 to 19, inclusive, of this act as provided to any other child.

Sec. 18. 1. A court which orders a child to be placed other than with a parent and which has jurisdiction over the child when the child reaches the age of 18 years shall retain jurisdiction over the child if the child so requests.

2. Except as otherwise provided in this section, jurisdiction over a child that is retained pursuant to subsection 1 continues until:

(a) The agency which provides child welfare services, the child and the attorney of the child agree to terminate the jurisdiction after a hearing held pursuant to subsection 5 or, if the parties do not reach an agreement during such a hearing, the court determines that ~~the~~;

(1) The child has achieved the goals set forth in the plan developed pursuant to section 19 of this act;

~~+~~ ~~(b) The court determines that the~~

(2) The child is not making a good faith effort to achieve the goals set forth in the plan developed pursuant to section 19 of this act;

~~++~~ or

(3) The circumstances of the child have changed in such a manner that it is infeasible for the child to achieve the goals set forth in the plan developed pursuant to section 19 of this act;

(b) The child requests that jurisdiction be terminated; or

~~++~~ (c) The child reaches of the age of 21 years,

~~+~~ whichever occurs first.

3. If the court that retains jurisdiction over a child pursuant to this section transfers jurisdiction to another court in this State, the court which accepts jurisdiction must retain jurisdiction over the case for the period provided pursuant to this section.

4. A child who requests that the court retain jurisdiction over the child pursuant to this section must, upon reaching the age of 18 years, enter into a written agreement with the agency which provides child welfare services. The agreement, which must be filed with the court, must ~~acknowledge that~~ include, without limitation, the following provisions, which must specify that:

(a) The child voluntarily requested that the court retain jurisdiction over the child;

(b) While under the jurisdiction of the court, the child is entitled to continue to receive services from the agency which provides child welfare services ~~+~~ and to receive financial support in the form of payments made to the child or to another person or governmental entity as designated in the plan developed pursuant to section 19 of this act in an amount not to exceed the amount paid for a child who is in foster care;

(c) While under the jurisdiction of the court, the child will no longer be under the legal custody of the agency which provides child welfare services, and the proceedings concerning the child conducted pursuant to NRS 432B.410 to 432B.590, inclusive, will terminate; ~~and~~

(d) The child may, at any time, request that jurisdiction over the child be terminated ~~+~~; and

(e) If there is an issue concerning the child while under the jurisdiction of the court, the child and the agency which provides child welfare services agree to attempt to resolve the issue before requesting a hearing before the court to address the issue.

5. If an issue arises concerning a child who remains under the jurisdiction of the court, ~~for the contract entered into pursuant to subsection 4,~~ the child, the agency which provides child welfare services or the attorney assigned to the case may request a hearing before the court to address the issue. Before requesting such a hearing, the child and the agency which provides child welfare services must attempt to resolve the issue.

6. If the agency which provides child welfare services has decided to request that the court terminate jurisdiction over the child, the agency which provides child welfare services must send a notice to the child and the attorney of the child informing the child and the attorney of the child of its decision and that the child has 15 days after receipt of the notice in which to request an informal administrative review of that decision. If, during the administrative review, a resolution is not reached, the child or the attorney of the child may request a hearing before the court pursuant to subsection 5.

7. A child ~~[who remains]~~, while under the jurisdiction of the court pursuant to this section, is entitled to continue to receive ~~[the same services that the child was eligible to receive before reaching the age of 18 years, and]~~ services and financial support from the agency which provides child welfare services. ~~[shall ensure that the child may access such services.]~~

7. Such financial support must consist of payments made to the child or to another person or governmental entity as designated in the plan developed pursuant to section 19 of this act in an amount not to exceed the amount paid for a child in foster care.

8. The court may issue any order which it deems appropriate or necessary to ensure:

(a) That the agency which provides child welfare services provides the services and financial support to which the child is entitled to receive; and

(b) That the child who remains under the jurisdiction of the court is working towards achieving the goals of the plan developed pursuant to section 19 of this act.

Sec. 19. 1. If the court retains jurisdiction over a child pursuant to section 18 of this act, the agency which provides child welfare services shall develop a written plan to assist the child in transitioning to independent living. ~~[Such]~~ Except as otherwise provided in subsection 2, such a plan must include, without limitation, the following goals:

(a) That the child save enough money to pay for his or her monthly expenses for at least 3 months;

(b) ~~[That]~~ If the child has not graduated from high school or obtained a general equivalency diploma, that the child ~~[complete]~~ remain enrolled in high school or a program to obtain a general equivalency diploma ~~[until graduation or completion of the program];~~

(c) If the child has graduated from high school or obtained a general equivalency diploma, that the child:

(1) Enroll in a program of postsecondary or vocational education;

(2) Enroll or participate in a program or activity designed to promote or remove obstacles to employment; or

(3) Obtain or actively seek employment which is at least 80 hours per month;

(d) That the child secure housing;

~~[(d)]~~ (e) That the child have adequate income to meet his or her monthly expenses;

~~[(e)]~~ (f) That the child identify an adult who will be available to provide support to the child; and

~~[(f)]~~ (g) If applicable, that the child have established appropriate supportive services to address any mental health or developmental needs of the child.

2. If a child is not capable of achieving one or more of the goals set forth in paragraphs (a) to (g), inclusive, of subsection 1, the agency which provides child welfare services shall develop the written plan with goals which are appropriate for the child based upon the needs of the child.

3. During the period in which the court retains jurisdiction over the child, the agency which provides child welfare services shall:

(a) Monitor the plan developed pursuant to ~~subsection~~ subsections 1 and 2 and adjust the plan as necessary;

(b) Contact the child by telephone at least once each month and in person at least quarterly;

(c) Ensure that the child meets with a person who will provide guidance to the child and make the child aware of the services which will be available to the child; and

(d) Conduct a meeting with the child at least 30 days, but not more than 45 days, before the jurisdiction of the court is terminated to determine whether the child requires any additional guidance.

Sec. 20. NRS 432B.040 is hereby amended to read as follows:

432B.040 "Child" means a person under the age of 18 years ~~[.] or [.] if in school, until graduation from high school. The term does not include a child] who ~~continues~~ remains under the jurisdiction of the court pursuant to section 18 of this act. ~~after the child reaches the age of 18 years.]~~~~

Sec. 21. NRS 432B.060 is hereby amended to read as follows:

432B.060 "Custodian" means a person or a governmental organization, other than a parent or legal guardian, who has been awarded legal custody of a child. *The term does not include a person or governmental organization who continues to provide services to a child that remains under the jurisdiction of a court pursuant to section 18 of this act.*

Sec. 22. NRS 432B.390 is hereby amended to read as follows:

432B.390 1. An agent or officer of a law enforcement agency, an officer of the local juvenile probation department or the local department of juvenile services, or a designee of an agency which provides child welfare services:

(a) May place a child in protective custody without the consent of the person responsible for the child's welfare if the agent, officer or designee has reasonable cause to believe that immediate action is necessary to protect the child from injury, abuse or neglect.

(b) Shall place a child in protective custody upon the death of a parent of the child, without the consent of the person responsible for the welfare of the child, if the agent, officer or designee has reasonable cause to believe that the death of the parent of the child is or may be the result of an act by the other parent that constitutes domestic violence pursuant to NRS 33.018.

2. When an agency which provides child welfare services receives a report pursuant to subsection 2 of NRS 432B.630, a designee of the agency which provides child welfare services shall immediately place the child in protective custody.

3. If there is reasonable cause to believe that the death of a parent of a child is or may be the result of an act by the other parent that constitutes domestic violence pursuant to NRS 33.018, a protective custody hearing must be held pursuant to NRS 432B.470, whether the child was placed in protective custody or with a relative. If an agency other than an agency which provides child welfare services becomes aware that there is reasonable cause to believe that the death of a parent of a child is or may be the result of an act by the other parent that constitutes domestic violence pursuant to NRS 33.018, that agency shall immediately notify the agency which provides child welfare services and a protective custody hearing must be scheduled.

4. An agency which provides child welfare services shall request the assistance of a law enforcement agency in the removal of a child if the agency has reasonable cause to believe that the child or the person placing the child in protective custody may be threatened with harm.

5. Before taking a child for placement in protective custody, the person taking the child shall show his or her identification to any person who is responsible for the child and is present at the time the child is taken. If a person who is responsible for the child is not present at the time the child is taken, the person taking the child shall show his or her identification to any other person upon request. The identification required by this subsection must be a single card that contains a photograph of the person taking the child and identifies the person as a person authorized pursuant to this section to place a child in protective custody.

6. A child placed in protective custody pending an investigation and a hearing held pursuant to NRS 432B.470 must be placed , ~~in a hospital, if the child needs hospitalization, or in a shelter, which may include, without limitation, a foster home or other home or facility which provides care for those children.~~ except as otherwise provided in NRS 432B.3905 ~~[]~~ , *in the following order of priority:*

(a) In a hospital, if the child needs hospitalization.

~~(b) [With a parent of the child, if the agency which provides child welfare services reasonably believes that the parent did not participate in the alleged injury, abuse or neglect.~~

~~(c) [With a person who is related within the fifth degree of consanguinity or a fictive kin, and who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative or fictive kin resides within this State.~~

~~[(d) With a fictive kin who is suitable and able to provide proper care and guidance for the child, regardless of whether the fictive kin resides within this State.~~

~~(e) [~~ **(c)** ~~]~~ **In a foster home that is licensed pursuant to chapter 424 of NRS.**

~~[(f) [~~ **(d)** ~~]~~ **In any other licensed shelter that provides care to such children.**

7. Whenever possible, a child placed pursuant to subsection 6 must be placed together with any siblings of the child. Such a child must not be placed in a jail or other place for detention, incarceration or residential care of persons convicted of a crime or children charged with delinquent acts.

~~[7.]~~ **8.** A person placing a child in protective custody pursuant to subsection 1 shall:

(a) Immediately take steps to protect all other children remaining in the home or facility, if necessary;

(b) Immediately make a reasonable effort to inform the person responsible for the child's welfare that the child has been placed in protective custody; **and**

~~(c) [Give preference in placement of the child to any person related within the fifth degree of consanguinity to the child who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State; and~~

~~(d) [~~ As soon as practicable, inform the agency which provides child welfare services and the appropriate law enforcement agency, except that if the placement violates the provisions of NRS 432B.3905, the person shall immediately provide such notification.

~~[8.]~~ **9.** If a child is placed with any person who resides outside this State, the placement must be in accordance with NRS 127.330.

10. As used in this section, "fictive kin" means a person who is not related by blood to a child but who has a significant emotional and positive relationship with the child.

Sec. 23. NRS 432B.391 is hereby amended to read as follows:

432B.391 1. An agency which provides child welfare services or its approved designee may, in accordance with the procedures set forth in 28 C.F.R. §§ 901 et. seq., conduct a preliminary Federal Bureau of Investigation Interstate Identification Index name-based check of the records of criminal history of a resident who is 18 years of age or older of a home in which the agency which provides child welfare services wishes to place a child in an

emergency situation , *other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act*, to determine whether the person investigated has been arrested for or convicted of any crime.

2. Upon request of an agency which provides child welfare services that wishes to place a child in a home in an emergency situation, or upon request of the approved designee of the agency which provides child welfare services, a resident who is 18 years of age or older of the home in which the agency which provides child welfare services wishes to place the child , *other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act*, must submit to the agency which provides child welfare services or its approved designee a complete set of fingerprints and written permission authorizing the agency which provides child welfare services or its approved designee to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The agency which provides child welfare services or its approved designee shall forward the fingerprints to the Central Repository for Nevada Records of Criminal History within the time set forth in federal law or regulation.

3. If a resident who is 18 years of age or older of a home in which an agency which provides child welfare services places a child in an emergency situation , *other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act*, refuses to provide a complete set of fingerprints to the agency which provides child welfare services or its approved designee upon request pursuant to subsection 2, the agency which provides child welfare services must immediately remove the child from the home.

Sec. 24. ~~[NRS 432B.468 is hereby amended to read as follows:~~

~~432B.468 1. The court shall retain jurisdiction to enforce, modify or terminate a guardianship established pursuant to NRS 432B.4665 until the child reaches 18 years of age [.] or for the period specified in section 18 of this act, whichever is later.~~

~~2. Any person having a direct interest in a guardianship established pursuant to NRS 432B.4665 may move to enforce, modify or terminate an order concerning the guardianship.~~

~~3. The court shall issue an order directing the appropriate agency which provides child welfare services to file a report and make a recommendation in response to any motion to enforce, modify or terminate an order concerning a guardianship established pursuant to NRS 432B.4665. The agency must submit the report to the court within 45 days after receiving the order of the court.~~

~~4. Any motion to enforce, modify or terminate an order concerning a guardianship established pursuant to NRS 432B.4665 must comply with the provisions set forth in chapter 159 of NRS for motions to enforce, modify or terminate orders concerning guardianships.~~

~~5. A successor guardian may be appointed in accordance with the procedures set forth in chapter 159 of NRS.~~ **(Deleted by amendment.)**

Sec. 25. NRS 432B.550 is hereby amended to read as follows:

432B.550 1. If the court finds that a child is in need of protection, it may, by its order, after receipt and review of the report from the agency which provides child welfare services:

(a) Permit the child to remain in the temporary or permanent custody of the parents of the child or a guardian with or without supervision by the court or a person or agency designated by the court, and with or without retaining jurisdiction of the case, upon such conditions as the court may prescribe;

(b) Place the child in the temporary or permanent custody of a relative, a fictive kin or other person the court finds suitable to receive and care for the child with or without supervision, and with or without retaining jurisdiction of the case, upon such conditions as the court may prescribe; or

(c) Place the child in the temporary custody of a public agency or institution authorized to care for children, the local juvenile probation department, the local department of juvenile services or a private agency or institution licensed by the Department of Health and Human Services or a county whose population is 100,000 or more to care for such a child.

➔ In carrying out this subsection, the court may, in its sole discretion and in compliance with the requirements of chapter 159 of NRS, consider an application for the guardianship of the child. If the court grants such an application, it may retain jurisdiction of the case or transfer the case to another court of competent jurisdiction.

2. If, pursuant to subsection 1, a child is placed other than with a parent:

(a) The parent retains the right to consent to adoption, to determine the child's religious affiliation and to reasonable visitation, unless restricted by the court. If the custodian of the child interferes with these rights, the parent may petition the court for enforcement of the rights of the parent.

(b) The court shall set forth good cause why the child was placed other than with a parent.

3. If, pursuant to subsection 1, the child is to be placed with a relative ~~or~~ or fictive kin, the court may consider, among other factors, whether the child has resided with a particular relative or fictive kin for 3 years or more before the incident which brought the child to the court's attention.

4. Except as otherwise provided in this subsection, a copy of the report prepared for the court by the agency which provides child welfare services must be sent to the custodian and the parent or legal guardian. If the child was delivered to a provider of emergency services pursuant to NRS 432B.630 and the location of the parent is unknown, the report need not be sent to that parent.

5. In determining the placement of a child pursuant to this section, if the child is not permitted to remain in the custody of the parents of the child or guardian:

(a) It must be presumed to be in the best interests of the child to be placed together with the siblings of the child.

(b) Preference must be given to placing the child ~~[with]~~ ***in the following order:***

(1) ***With*** any person related within the fifth degree of consanguinity to the child ***or a fictive kin, and*** who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative ***or fictive kin*** resides within this State.

~~[→]~~ (2) ***In a foster home that is licensed pursuant to chapter 424 of NRS.***

6. Any search for a relative with whom to place a child pursuant to this section must be completed within 1 year after the initial placement of the child outside of the home of the child. If a child is placed with any person who resides outside of this State, the placement must be in accordance with NRS 127.330.

~~[6.]~~ 7. Within 60 days after the removal of a child from the home of the child, the court shall:

(a) Determine whether:

(1) The agency which provides child welfare services has made the reasonable efforts required by paragraph (a) of subsection 1 of NRS 432B.393; or

(2) No such efforts are required in the particular case; and

(b) Prepare an explicit statement of the facts upon which its determination is based.

8. As used in this section, “fictive kin” means a person who is not related by blood to a child but who has a significant emotional and positive relationship with the child.

Sec. 26. 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. 27. This act becomes effective upon passage and approval.

Assemblywoman Mastroluca moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 389.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 356.

AN ACT relating to the Open Meeting Law; requiring a public body to ~~[allow an equal amount of time for certain testimony]~~ **make a reasonable effort to allow the expression of certain opinions** at a public meeting; making the provisions of chapter 241 of NRS applicable to a nonprofit corporation that has the power of eminent domain; ~~[requiring meetings conducted by common interest communities to comply with the Open Meeting Law]~~ and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Section 1 of this bill requires a public body to ~~allot an equal amount of time for testimony in favor of and in opposition to an~~ **make a reasonable effort to allow the expression of competing opinions concerning any agenda item at a public meeting.** ~~[Section 1 also requires a public body to allot an equal amount of time for the rebuttal of such testimony.]~~

Section 2 of this bill requires a nonprofit corporation that has the power of eminent domain to comply with the provisions of chapter 241 of NRS.

~~{ Section 3 of this bill requires that meetings of common interest communities must comply with the Open Meeting Law. The Commission for Common Interest Communities and Condominium Hotels is responsible for investigating and enforcing violations of the Open Meeting Law by common interest communities. }~~

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

Section 1. Chapter 241 of NRS is hereby amended by adding thereto a new section to read as follows:

~~{To the extent that persons have requested to testify in favor of and in opposition to an}~~ **A public body shall make a reasonable effort to allow the expression of competing opinions concerning any item on the agenda for a meeting of the public body.** ~~{, the public body shall allot an equal amount of time at the meeting for:~~

~~1.—Testimony in favor of and in opposition to the item; and~~

~~2.—Rebuttal to such testimony.~~

~~As used in this section, “testimony” includes, without limitation, any presentation, explanation or oral response.]~~

Sec. 2. NRS 241.015 is hereby amended to read as follows:

241.015 As used in this chapter, unless the context otherwise requires:

1. “Action” means:

(a) A decision made by a majority of the members present during a meeting of a public body;

(b) A commitment or promise made by a majority of the members present during a meeting of a public body;

(c) If a public body may have a member who is not an elected official, an affirmative vote taken by a majority of the members present during a meeting of the public body; or

(d) If all the members of a public body must be elected officials, an affirmative vote taken by a majority of all the members of the public body.

2. “Meeting”:

(a) Except as otherwise provided in paragraph (b), means:

(1) The gathering of members of a public body at which a quorum is present to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) Any series of gatherings of members of a public body at which:

(I) Less than a quorum is present at any individual gathering;

(II) The members of the public body attending one or more of the gatherings collectively constitute a quorum; and

(III) The series of gatherings was held with the specific intent to avoid the provisions of this chapter.

(b) Does not include a gathering or series of gatherings of members of a public body, as described in paragraph (a), at which a quorum is actually or collectively present:

(1) Which occurs at a social function if the members do not deliberate toward a decision or take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) To receive information from the attorney employed or retained by the public body regarding potential or existing litigation involving a matter over which the public body has supervision, control, jurisdiction or advisory power and to deliberate toward a decision on the matter, or both.

3. Except as otherwise provided in this subsection, “public body” means:

(a) Any administrative, advisory, executive or legislative body of the State or a local government which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including, but not limited to, any board, commission, committee, subcommittee or other subsidiary thereof and includes an educational foundation as defined in subsection 3 of NRS 388.750 and a university foundation as defined in subsection 3 of NRS 396.405; ~~and~~

(b) A limited-purpose association that is created for a rural agricultural residential common-interest community as defined in subsection 6 of NRS 116.1201 ~~}; and~~

(c) *A nonprofit corporation organized or existing under the provisions of chapter 82 of NRS that has the authority to exercise the power of eminent domain pursuant to subsection 2 of NRS 37.0095.*

↪ “Public body” does not include the Legislature of the State of Nevada.

4. “Quorum” means a simple majority of the constituent membership of a public body or another proportion established by law.

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.)~~

†

~~TEXT OF REPEALED SECTION~~

~~116.3109 Quorum~~

~~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 the association who are present in person or by proxy at the beginning of the meeting equals or exceeds 20 percent of the total number of voting members of the association.~~

~~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, a quorum is deemed present throughout any meeting of the executive board if persons entitled to cast 50 percent of the votes on that board are present at the beginning of the meeting.]~~

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 396.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 257.

SUMMARY—~~[Provides immunity from civil liability to local governmental entities that engage in cooperative training exercises under certain circumstances.]~~ **Revises provisions relating to industrial insurance involving certain employees who are injured during certain cooperative governmental activities. (BDR {3-1002} 53-1002)**

AN ACT relating to ~~[civil actions; providing immunity from civil liability to local governmental entities that engage in cooperative training exercises under certain circumstances;]~~ **industrial insurance; revising provisions involving certain employees who are injured during certain cooperative governmental activities;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1 of this bill provides immunity from civil liability to a local governmental entity and its officers, employees and volunteers who engage in a cooperative training exercise with officers, employees and volunteers of another local governmental entity or this State unless: (1) the officer, employee or volunteer made a specific promise or representation to a person who relied upon the promise or representation to the person's detriment; or (2) the conduct of the officer, employee or volunteer affirmatively caused the harm.]~~

Section 2.5 of this bill provides that when an employee of a state or local government employer is injured by accident sustained during the course of employment while participating in certain cooperative governmental activities, industrial insurance extends to the government employer of the injured employee and any act or failure to act which creates liability on the part of any of the government employers is deemed to be the act or failure to act of the government employer of the injured employee.

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. A local governmental entity is not liable for the negligent acts or omissions of its officers, employees or volunteers who are engaged in a cooperative training exercise with officers, employees or volunteers of another local governmental entity or this State, nor are the individual officers, employees or volunteers thereof, unless:~~

~~(a) The officer, employee or volunteer made a specific promise or representation to a natural person who relied upon the promise or representation to the person's detriment; or~~

~~(b) The conduct of the officer, employee or volunteer affirmatively caused the harm.~~

~~2. For the purposes of this section, "local governmental entity" means a county, an incorporated city, an unincorporated town, a township, a school district or any other public district or agency designed to perform local governmental functions.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 41.0307 is hereby amended to read as follows:~~
~~41.0307 As used in NRS 41.0305 to 41.039, inclusive [:], and section 1 of this act:~~

- ~~1. “Employee” includes an employee of a:~~
~~— (a) Part time or full time board, commission or similar body of the State or a political subdivision of the State which is created by law;~~
~~— (b) Charter school;~~
~~— (c) University school for profoundly gifted pupils described in chapter 392A of NRS;~~
~~2. “Employment” includes any services performed by an immune contractor;~~
~~3. “Immune contractor” means any natural person, professional corporation or professional association which:~~
~~— (a) Is an independent contractor with the State pursuant to NRS 333.700; and~~
~~— (b) Contracts to provide medical services for the Department of Corrections;~~
~~→ As used in this subsection, “professional corporation” and “professional association” have the meanings ascribed to them in NRS 89.020.~~
~~4. “Public officer” or “officer” includes:~~
~~— (a) A member of a part time or full time board, commission or similar body of the State or a political subdivision of the State which is created by law;~~
~~— (b) A public defender and any deputy or assistant attorney of a public defender or an attorney appointed to defend a person for a limited duration with limited jurisdiction;~~
~~— (c) A district attorney and any deputy or assistant district attorney or an attorney appointed to prosecute a person for a limited duration with limited jurisdiction.] (Deleted by amendment.)~~

Sec. 2.5. NRS 616A.020 is hereby amended to read as follows:

616A.020 1. The rights and remedies provided in chapters 616A to 616D, inclusive, of NRS for an employee on account of an injury by accident sustained arising out of and in the course of the employment shall be exclusive, except as otherwise provided in those chapters, of all other rights and remedies of the employee, his or her personal or legal representatives, dependents or next of kin, at common law or otherwise, on account of such injury.

2. The terms, conditions and provisions of chapters 616A to 616D, inclusive, of NRS for the payment of compensation and the amount thereof for injuries sustained or death resulting from such injuries shall be conclusive, compulsory and obligatory upon both employers and employees coming within the provisions of those chapters.

3. The exclusive remedy provided by this section to a principal contractor extends, with respect to any injury by accident sustained by an employee of any contractor in the performance of the contract, to every architect, land surveyor or engineer who performs services for:

- (a) The contractor;
- (b) The owner of the property; or

(c) Any such beneficially interested persons.

4. The exclusive remedy provided by this section applies to the owner of a construction project who provides industrial insurance coverage for the project by establishing and administering a consolidated insurance program pursuant to NRS 616B.710 to the extent that the program covers the employees of the contractors and subcontractors who are engaged in the construction of the project.

5. When an employee of a state or local government employer is injured by accident sustained during the course of employment while participating in an activity which is carried out cooperatively by the state or local government employer with another state or local government employer, the exclusive remedy provided by this section extends to the state or local government employer of the injured employee and any act or failure to act which creates liability on the part of any of the government employers participating in the activity shall be deemed to be the act or failure to act of the government employer of the injured employee for the purposes of the rights and remedies provided in chapters 616A to 616D, inclusive, of NRS.

6. If an employee receives any compensation or accident benefits under chapters 616A to 616D, inclusive, of NRS, the acceptance of such compensation or benefits shall be in lieu of any other compensation, award or recovery against his or her employer under the laws of any other state or jurisdiction and such employee is barred from commencing any action or proceeding for the enforcement or collection of any benefits or award under the laws of any other state or jurisdiction.

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

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 401.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 360.

AN ACT relating to constructional defects; revising the definition of "constructional defect"; revising provisions governing attorney's fees in claims concerning constructional defects; revising the statutes of limitation and repose relating to certain actions concerning constructional defects; **making an appropriation**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a defect in the design, construction, manufacture, repair or landscaping of a new residence, of an alteration of or addition to an existing residence, or of an appurtenance, which is done in violation of law, including in violation of local codes or ordinances, is a

constructional defect. (NRS 40.615) **Section 1** of this bill provides that there is a rebuttable presumption that workmanship which exceeds the standards set forth in the applicable law, including any applicable local codes or ordinances, is not a constructional defect.

Existing law provides that in a claim for damages as the result of a constructional defect, reasonable attorney's fees may be recovered as damages. (NRS 40.655) **Section 2** of this bill provides that: (1) the court shall award to the prevailing party reasonable attorney's fees, which must be an element of costs and awarded as costs; and (2) the amount of any attorney's fees awarded must be determined by and approved by the court. **Additionally, section 2 authorizes any party to petition the court to determine the reasonableness of attorney's fees to be reimbursed to the claimant if: (1) the contractor has made satisfactory repairs in response to a notice of constructional defect; and (2) the only issue remaining is the amount of the reasonable attorney's fees to be reimbursed to the claimant.**

Existing law sets forth the statute of limitations for various actions. (NRS 11.190) **Section 4** of this bill provides for a statute of limitations of 3 years for an action for damages for certain deficiencies, injury or wrongful death caused by a defect in construction if the defect is a result of willful misconduct or was fraudulently concealed.

Existing law contains certain periods of limitation, known as statutes of repose, in which certain actions for damages for certain deficiencies, injury or wrongful death caused by a defect in construction must be commenced. These statutes of repose apply to both commercial and residential construction. (NRS 11.202-11.206) **Sections 3 and 5-8** of this bill exclude residential construction from the existing statutes of repose and provide a new statute of repose relating specifically to residential construction.

Section 9 of this bill provides that the amendatory provisions of the bill relating to claims for constructional defects governed by NRS 40.600 to 40.695, inclusive, apply to claims that arise on or after October 1, 2011, and the amendatory provisions of the remaining sections of the bill apply to actions based upon construction that occurs on or after October 1, 2011.

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

Section 1. NRS 40.615 is hereby amended to read as follows:

40.615 **1.** "Constructional defect" means a defect in the design, construction, manufacture, repair or landscaping of a new residence, of an alteration of or addition to an existing residence, or of an appurtenance .
~~[and]~~

2. *The term* includes, without limitation, the design, construction, manufacture, repair or landscaping of a new residence, of an alteration of or addition to an existing residence, or of an appurtenance:

~~1-1~~ (a) Which is done in violation of law, including, without limitation, in violation of local codes or ordinances ~~;~~

~~2-1~~ , ***except as otherwise provided in subsection 3;***

(b) Which proximately causes physical damage to the residence, an appurtenance or the real property to which the residence or appurtenance is affixed;

~~3-1~~ (c) Which is not completed in a good and workmanlike manner in accordance with the generally accepted standard of care in the industry for that type of design, construction, manufacture, repair or landscaping; or

~~4-1~~ (d) Which presents an unreasonable risk of injury to a person or property.

3. *There exists a rebuttable presumption that the term does not include the design, construction, manufacture, repair or landscaping of a new residence, of an alteration of or addition to an existing residence, or of an appurtenance which is done in violation of law, including, without limitation, in violation of local codes or ordinances, if the workmanship of the design, construction, manufacture, repair or landscaping exceeds the standards set forth in the applicable law, including, without limitation, the applicable local codes or ordinances.*

Sec. 2. NRS 40.655 is hereby amended to read as follows:

40.655 1. Except as otherwise provided in NRS 40.650, in a claim governed by NRS 40.600 to 40.695, inclusive, the claimant may recover only the following ***costs and*** damages to the extent proximately caused by a constructional defect:

(a) Any reasonable attorney's fees;

(b) The reasonable cost of any repairs already made that were necessary and of any repairs yet to be made that are necessary to cure any constructional defect that the contractor failed to cure and the reasonable expenses of temporary housing reasonably necessary during the repair;

(c) The reduction in market value of the residence or accessory structure, if any, to the extent the reduction is because of structural failure;

(d) The loss of the use of all or any part of the residence;

(e) The reasonable value of any other property damaged by the constructional defect;

(f) Any additional costs reasonably incurred by the claimant, including, but not limited to, any costs and fees incurred for the retention of experts to:

(1) Ascertain the nature and extent of the constructional defects;

(2) Evaluate appropriate corrective measures to estimate the value of loss of use; and

(3) Estimate the value of loss of use, the cost of temporary housing and the reduction of market value of the residence; and

(g) Any interest provided by statute.

2. *The court shall award to the prevailing party reasonable attorney's fees, which must be an element of costs and awarded as costs.* The amount

of any attorney's fees awarded pursuant to this section must be *determined by and* approved by the court.

3. If a contractor complies with the provisions of NRS 40.600 to 40.695, inclusive, the claimant may not recover from the contractor, as a result of the constructional defect, anything other than that which is provided pursuant to NRS 40.600 to 40.695, inclusive. *If a contractor makes satisfactory repairs in response to a notice of a constructional defect pursuant to NRS 40.600 to 40.695, inclusive, and the only issue remaining is the amount of reasonable attorney's fees to be reimbursed to the claimant, any party may petition the court to determine the reasonableness of the fees.*

4. This section must not be construed as impairing any contractual rights between a contractor and a subcontractor, supplier or design professional.

5. As used in this section, "structural failure" means physical damage to the load-bearing portion of a residence or appurtenance caused by a failure of the load-bearing portion of the residence or appurtenance.

Sec. 3. Chapter 11 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~Not~~ *Except as otherwise provided in subsection 2, no action may be commenced against the owner, occupier or any person performing or furnishing the design, planning, supervision or observation of construction, or the construction of a residence more than ~~7~~ 6 years after the substantial completion of the residence, for the recovery of damages for:*

(a) Any deficiency in the design, planning, supervision or observation of construction, or the construction of the residence;

(b) Injury to real or personal property caused by any such deficiency; or

(c) Injury to or the wrongful death of a person caused by any such deficiency.

2. *If a deficiency in the design, planning, supervision or observation of construction, or the construction of a residence is discovered during the sixth year after the substantial completion of the residence, the period set forth in subsection 1 is extended 2 years after the discovery of the deficiency.*

3. *Except as otherwise provided in subsection ~~3~~ 4, for the purposes of this section, the date of substantial completion of a residence shall be deemed to be the date on which:*

(a) The final building inspection of the residence is conducted;

(b) A notice of completion is issued for the residence; or

(c) A certificate of occupancy is issued for the residence,

↪ *whichever occurs later.*

~~3~~ 4. *If none of the events described in subsection ~~4~~ 3 occurs, the date of substantial completion of a residence must be determined by the rules of the common law.*

~~4~~ 5. *The provisions of this section do not apply to:*

(a) A claim for indemnity or contribution.

(b) An action brought against any person on account of a defect in a product.

~~§5-7~~ **6.** *As used in this section, “residence” has the meaning ascribed to it in NRS 40.630.*

Sec. 4. NRS 11.190 is hereby amended to read as follows:

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

1. Within 6 years:

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

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

2. Within 4 years:

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

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

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

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

3. Within 3 years:

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

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

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

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

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

(f) An action against the owner, occupier or any person performing or furnishing the design, planning, supervision or observation of construction, or the construction of a residence, for the recovery of damages for:

(1) Any deficiency in the design, planning, supervision or observation of construction, or the construction of the residence which is the result of his or her willful misconduct or which he or she fraudulently concealed;

(2) Injury to real or personal property caused by any such deficiency;
or

(3) Injury to or the wrongful death of a person caused by any such deficiency.

↪ The cause of action in such a case shall be deemed to accrue upon the discovery by the aggrieved party of the deficiency. As used in this paragraph, “residence” has the meaning ascribed to it in NRS 40.630.

4. Within 2 years:

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

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

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

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

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

(f) An action to recover damages under NRS 41.740.

5. Within 1 year:

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

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

Sec. 5. NRS 11.202 is hereby amended to read as follows:

11.202 1. ~~[An]~~ ***Except as otherwise provided in section 3 of this act,*** ***an*** action may be commenced against the owner, occupier or any person performing or furnishing the design, planning, supervision or observation of construction, or the construction of an improvement to real property at any time after the substantial completion of such an improvement, for the recovery of damages for:

(a) Any deficiency in the design, planning, supervision or observation of construction or the construction of such an improvement which is the result of his or her willful misconduct or which he or she fraudulently concealed;

(b) Injury to real or personal property caused by any such deficiency; or

(c) Injury to or the wrongful death of a person caused by any such deficiency.

2. The provisions of this section do not apply in an action brought against:

(a) The owner or keeper of any hotel, inn, motel, motor court, boardinghouse or lodging house in this State on account of his or her liability as an innkeeper.

(b) Any person on account of a defect in a product.

Sec. 6. NRS 11.203 is hereby amended to read as follows:

11.203 1. ***Except as otherwise provided in NRS 11.202 and 11.206, and section 3 of this act,*** no action may be commenced against the owner, occupier or any person performing or furnishing the design, planning, supervision or observation of construction, or the construction of an improvement to real property more than 10 years after the substantial completion of such an improvement, for the recovery of damages for:

(a) Any deficiency in the design, planning, supervision or observation of construction or the construction of such an improvement which is known or through the use of reasonable diligence should have been known to him or her;

(b) Injury to real or personal property caused by any such deficiency; or

(c) Injury to or the wrongful death of a person caused by any such deficiency.

2. Notwithstanding the provisions of NRS 11.190 and subsection 1 of this section, if an injury occurs in the 10th year after the substantial completion of such an improvement, an action for damages for injury to property or person, damages for wrongful death resulting from such injury or damages for breach of contract may be commenced within 2 years after the date of such injury, irrespective of the date of death, but in no event may an action be commenced more than 12 years after the substantial completion of the improvement.

3. The provisions of this section do not apply to a claim for indemnity or contribution.

Sec. 7. NRS 11.204 is hereby amended to read as follows:

11.204 1. Except as otherwise provided in NRS 11.202, 11.203 and 11.206, **and section 3 of this act**, no action may be commenced against the owner, occupier or any person performing or furnishing the design, planning, supervision or observation of construction, or the construction, of an improvement to real property more than 8 years after the substantial completion of such an improvement, for the recovery of damages for:

- (a) Any latent deficiency in the design, planning, supervision or observation of construction or the construction of such an improvement;
- (b) Injury to real or personal property caused by any such deficiency; or
- (c) Injury to or the wrongful death of a person caused by any such deficiency.

2. Notwithstanding the provisions of NRS 11.190 and subsection 1 of this section, if an injury occurs in the eighth year after the substantial completion of such an improvement, an action for damages for injury to property or person, damages for wrongful death resulting from such injury or damages for breach of contract may be commenced within 2 years after the date of such injury, irrespective of the date of death, but in no event may an action be commenced more than 10 years after the substantial completion of the improvement.

3. The provisions of this section do not apply to a claim for indemnity or contribution.

4. For the purposes of this section, “latent deficiency” means a deficiency which is not apparent by reasonable inspection.

Sec. 8. NRS 11.205 is hereby amended to read as follows:

11.205 1. Except as otherwise provided in NRS 11.202, 11.203 and 11.206, **and section 3 of this act**, no action may be commenced against the owner, occupier or any person performing or furnishing the design, planning, supervision or observation of construction, or the construction of an improvement to real property more than 6 years after the substantial completion of such an improvement, for the recovery of damages for:

- (a) Any patent deficiency in the design, planning, supervision or observation of construction or the construction of such an improvement;
- (b) Injury to real or personal property caused by any such deficiency; or
- (c) Injury to or the wrongful death of a person caused by any such deficiency.

2. Notwithstanding the provisions of NRS 11.190 and subsection 1 of this section, if an injury occurs in the sixth year after the substantial completion of such an improvement, an action for damages for injury to property or person, damages for wrongful death resulting from such injury or damages for breach of contract may be commenced within 2 years after the date of such injury, irrespective of the date of death, but in no event may an

action be commenced more than 8 years after the substantial completion of the improvement.

3. The provisions of this section do not apply to a claim for indemnity or contribution.

4. For the purposes of this section, "patent deficiency" means a deficiency which is apparent by reasonable inspection.

Sec. 8.5. 1. There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of \$250,000 to contract, through competitive bidding, with a qualified independent consultant:

(a) To review the provisions of Nevada law relating to actions to recover damages resulting from constructional defects; and

(b) To make recommendations to the Nevada Legislature regarding the long-term effects of the provisions of the Nevada Revised Statutes pertaining to actions to recover damages resulting from constructional defects, including, without limitation:

(1) The definition of a constructional defect set forth in NRS 40.615;

(2) The length and effect of the statutes of repose for actions to recover damages resulting from constructional defects; and

(3) The recovery of attorney's fees in actions to recover damages resulting from constructional defects.

2. Any remaining balance of the appropriation made by subsection 1 to the Interim Finance Committee must not be committed for expenditure after June 30, 2013, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 20, 2013, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 20, 2013.

Sec. 9. The amendatory provisions of:

1. Sections 1 and 2 of this act apply to any claim that arises on or after October 1, 2011.

2. Sections 3 to 8, inclusive, of this act apply to actions based upon the design, planning, supervision or observation of construction, or the construction of a residence that occurs on or after October 1, 2011.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 427.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 297.

AN ACT relating to programs for recycling; enacting provisions requiring the payment of deposits and refunds on certain beverage containers sold in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill establishes a program for requiring deposits to be paid and then refunded on certain recyclable beverage containers sold in this State. Under **section 10** of this bill, every beverage container, with certain exceptions, has a refund value of 5 cents. **Section 11** of this bill requires every beverage container sold in this State to be clearly labeled with that refund value and ~~as being recyclable and originally sold in this State.~~ **with the word "Nevada" or the abbreviation "NV."** **Section 12** of this bill requires a consumer to deposit the refund value of each beverage container when purchasing a filled container ~~and~~ **requires a dealer who receives that deposit to submit the amount of the deposit to the Director of the State Department of Conservation and Natural Resources for deposit in the Beverage Container Recycling Fund.** **Section 12** also **authorizes a consumer to return the beverage container to a redemption center and requires the Division of Environmental Protection of the Department to adopt regulations for the certification of those redemption centers.** **Section 13** of this bill provides for the refunding of ~~that~~ **the value of the empty beverage container** to the consumer ~~and the eventual return of empty beverage containers to bottlers.~~ **by a redemption center.** **Section 14** of this bill prohibits a person from attempting to return for a refund more than a certain number of empty beverage containers that the person knows or has reason to know were not originally sold in this State. **Section 15** of this bill ~~provides for the separate accounting of money received as a deposit for a beverage container and requires certain surplus money to be transferred to the Division of Environmental Protection of the State Department of Conservation and Natural Resources for use in~~ **creates the Beverage Container Recycling Fund and requires the money in the Fund to be used for** recycling and recycling promotion and education programs. **Section 16** of this bill requires certain reports to be made to the ~~Division,~~ **Director of the Department,** and **section 17** of this bill requires the Division to adopt regulations necessary to carry out the provisions of this bill.

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

Section 1. Chapter 444A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this act.

Sec. 2. *As used in sections 2 to 16, inclusive, of this act, the words and terms described in sections 3 to ~~9,~~ 9.5, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Beverage" means beer and other malt beverages, bottled water, mineral water, soda water, bottled or canned tea, bottled or canned energy drinks, flavored water and ~~similar~~ any other carbonated ~~soft~~ or*

noncarbonated drinks intended for human consumption. The term does not include milk or wine.

Sec. 4. "Beverage container" means any sealable bottle, can, jar or carton that is primarily composed of glass, metal or plastic or any combination thereof and is produced for the purpose of containing a beverage ~~for a single use.~~

Sec. 5. ~~"Bottler" means any person who fills beverage containers for sale to distributors or dealers. The term includes any person who produces a beverage and fills beverage containers with that beverage for sale to distributors or dealers.~~ (Deleted by amendment.)

Sec. 6. "Consumer" means a person who purchases a beverage in a beverage container for use or consumption with no intent to resell the beverage.

Sec. 7. "Dealer" means a person who engages in the sale of beverages in beverage containers. The term includes the operator of a vending machine that sells beverages.

Sec. 7.5. "Director" means the Director of the State Department of Conservation and Natural Resources.

Sec. 8. "Distributor" means a person who engages in the sale of beverages in beverage containers to a dealer. ~~The term includes a bottler.~~

Sec. 9. "Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

Sec. 9.5. "Redemption center" means a facility that is certified by the Division pursuant to section 12 of this act to accept beverage containers from consumers.

Sec. 10. 1. Except as otherwise provided in subsection 2, every beverage container sold or offered for sale in this State has a refund value of 5 cents.

2. The following beverage containers do not have a refund value:

(a) A beverage container sold by a distributor for use by a common carrier in the conduct of interstate passenger service; and

(b) A beverage container sold by a distributor for use by a gaming establishment, saloon, restaurant or resort that demonstrates to the satisfaction of the State Environmental Commission that:

(1) Of the beverage containers sold or given away by the gaming establishment, saloon, restaurant or resort, a percentage not less than that determined by the Division pursuant to subsections 3 and 4 contain beverages that will be consumed on the premises; and

(2) The gaming establishment, saloon, restaurant or resort has on the premises a program for recycling beverage containers.

3. The Division shall adopt regulations prescribing the method for determining the percentage of beverage containers sold or given away by a gaming establishment, saloon, restaurant or resort required for the exemption pursuant to paragraph (b) of subsection 2.

4. The regulations adopted pursuant to subsection 3 must provide for consideration by the Division of the size and nature of the gaming establishment, saloon, restaurant or resort and the purposes of sections 2 to 16, inclusive, of this act.

Sec. 11. A beverage container may not be sold in this State unless the beverage container is clearly labeled:

1. ~~{As being reusable;~~
~~2. With the refund value of the beverage container; and~~
- ~~3. As being originally sold in this State as a filled beverage container.}~~
2. With the word "Nevada" or the abbreviation "NV."

Sec. 12. 1. For every filled beverage container that a consumer purchases from a dealer, the consumer shall deposit the refund value of the beverage container with the dealer.

2. Within 10 days after the end of each month, a dealer who receives a deposit from a consumer pursuant to subsection 1 shall submit the amount of the deposit to the Director for deposit pursuant to the provisions of section 15 of this act.

3. A consumer who deposits the refund value of a beverage container pursuant to subsection 1 may return the beverage container to a redemption center pursuant to section 13 of this act.

4. The Division shall adopt regulations concerning the issuance and renewal of certificates for redemption centers and the administration and enforcement of the provisions of sections 2 to 16, inclusive, of this act. The regulations must include, without limitation, provisions setting forth:

- (a) The requirements for the issuance and renewal of those certificates;
- (b) The fees, if any, for the issuance and renewal of those certificates;
- (c) The manner in which deposits, refunds of deposits and reimbursements for deposits paid by redemption centers must be made from the Beverage Container Recycling Fund created by section 15 of this act; and

(d) Any other requirements specified by the Division to carry out the provisions of sections 2 to 16, inclusive, of this act.

Sec. 13. 1. Except as otherwise provided in subsections ~~{4}~~ 2 and ~~{5}~~ 3, a ~~{dealer}~~ redemption center shall:

(a) Accept from any person during normal business hours any empty beverage container of the type, size and brand sold by ~~{the}~~ a dealer ~~{at any time during the preceding 60 days;}~~ in this State; and

(b) ~~{Except as otherwise prescribed in this paragraph, pay}~~ Pay the person the refund value of each empty beverage container so returned. ~~{To pay the person the refund value as required by this paragraph, the dealer may use money from the Deposit Transaction Account of the dealer. The dealer may refuse to pay the person the refund value as required by this paragraph if the amount of money necessary to pay the person exceeds the amount of money in the Deposit Transaction Account of the dealer.}~~

~~2. Except as otherwise provided in subsections 4 and 5, a distributor shall:~~

~~(a) Accept from a dealer, during normal business hours and at the location at which the dealer normally obtains filled beverage containers from the distributor, any empty beverage container of the type, size and brand sold by the distributor at any time during the preceding 60 days; and~~

~~(b) Pay the dealer a handling fee of 1 cent per beverage container.~~

~~3. Except as otherwise provided in subsections 4 and 5, a bottler shall:~~

~~(a) Accept from a distributor or dealer, during normal business hours and at the location at which the distributor or dealer normally obtains filled beverage containers from the bottler, any empty reusable beverage container of the type, size and brand sold by the bottler at any time during the preceding 60 days; and~~

~~(b) Pay the distributor or dealer a handling fee of 1 cent per beverage container.~~

~~4.] 2. A {dealer, distributor or bottler} redemption center may refuse to accept a beverage container which contains material foreign to the normal contents of the beverage container other than water, soap or any similar cleaning material or solution.~~

~~{5.] 3. A {dealer, distributor or bottler} redemption center may refuse to accept empty beverage containers that the {dealer, distributor or bottler} redemption center reasonably believes were not originally sold in this State as filled beverage containers.~~

Sec. 14. A person may not offer to return at one time to a ~~{dealer, distributor or bottler}~~ redemption center more than 250 empty beverage containers that the person knows or has reason to know were not originally sold in this State as filled beverage containers.

Sec. 15. 1. ~~{Every dealer shall maintain a separate account designated as the Deposit Transaction Account.}~~ The Beverage Container Recycling Fund is hereby created in the State Treasury as a special revenue fund.

2. All money received by a dealer pursuant to section 12 of this act must be deposited in the ~~{Deposit Transaction Account of the dealer and held in trust for the State until such time as it is disposed of pursuant to this section or section 13 of this act.}~~

~~3. Any income earned on the amount in the Deposit Transaction Account of a dealer is the property of the dealer and may be transferred to a private account of the dealer at any time after the income has been accounted for, for the purpose of deeming deposit amounts abandoned pursuant to subsection 4.~~

~~4. On the last day of each month, any amount of money that is or must be in the Deposit Transaction Account of a dealer and that exceeds the sum of:~~

~~(a) Income earned on the amount in the Deposit Transaction Account during that month; and~~

~~(b) The total amount of refund values received by the dealer during that month and the two preceding months.~~

~~4. shall be deemed abandoned deposit amounts.~~

~~5. Except as otherwise provided in subsection 6, not later than the 10th day of the following month, each dealer shall provide to the Division, in the manner prescribed by the Division, an amount equal to the amount deemed abandoned pursuant to subsection 4.~~

~~6. If the amount required to be provided to the Division by a dealer in a given month exceeds the amount in the Deposit Transaction Account of the dealer:~~

~~(a) The dealer may apply to the Division for relief from the requirement of subsection 5; and~~

~~(b) The Division may grant such relief upon a determination that the dealer is not at fault for the fact that the amount required to be provided to the Division exceeds the amount in the Deposit Transaction Account.~~

~~7. Notwithstanding any provision of law to the contrary, any money received by the Division pursuant to subsection 5 must be:~~

~~(a) Deposited in the State Treasury;~~

~~(b) Accounted for separately in the State General Fund; and~~

~~(c) Used.~~ State Treasury for credit to the Fund. The Director may apply for and accept any gift, donation, bequest, grant or other source of money for use by the Fund. Any money so received must be deposited in the State Treasury for credit to the Fund.

3. The Fund is a continuing fund without reversion. The money in the Fund must be invested as the money in other state funds is invested. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. Claims against the Fund must be paid as other claims against the State are paid.

4. The Director shall administer the Fund. The money in the Fund, after deducting any costs incurred by the Division in administering the provisions of sections 2 to 16, inclusive, of this act, must be used by the Division solely for recycling programs and programs promoting recycling and education concerning recycling.

Sec. 16. Not later than the 10th day of each month, each dealer and redemption center shall, as applicable, report to the ~~Division,~~ Director, in the manner prescribed by the ~~Division,~~ Director:

1. The amount deposited with the dealer pursuant to section 12 of this act during the immediately preceding month;

2. The amount refunded to a consumer pursuant to section 13 of this act during the immediately preceding month ; and ~~during the immediately preceding 3 months;~~

3. ~~Any income earned on money in the Deposit Transaction Account of the dealer during the immediately preceding month;~~

4. ~~The balance in the Deposit Transaction Account of the dealer as of the close of business on the last business day of the immediately preceding month; and~~

5. Any other information required by the ~~Division,~~ Director.

Sec. 17. The Division of Environmental Protection of the State Department of Conservation and Natural Resources shall, on or before December 31, ~~2011,~~ **2012,** adopt any regulations required or necessary to carry out the provisions of this act.

Sec. 18. This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On January 1, ~~2012,~~ **2013,** for all other purposes.

Assemblywoman Carlton moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 433.

Bill read second time.

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

Amendment No. 280.

AN ACT relating to employment practices; making it unlawful for public employers to make rules or regulations that prohibit or prevent an employee from engaging in politics or becoming a candidate for public office with certain exceptions; prohibiting any employer from taking any adverse employment action against an employee because the employee has become a candidate for any public office with certain exceptions; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it unlawful for a private employer to make rules or regulations that prohibit or prevent an employee from engaging in politics or becoming a candidate for public office. (NRS 613.040) A violation of that prohibition by an employer is punishable by a fine of not more than \$5,000. In addition, the costs of the proceeding to recover the fine are recoverable by the Attorney General. (NRS 613.050) The employee is also authorized to bring a separate lawsuit for damages for such a violation. (NRS 613.070) This bill makes it unlawful for public employers and labor organizations, in addition to private employers, to engage in such unlawful activity and also makes it unlawful for any public or private employer or labor organization to take any adverse employment action against an employee as a result of the employee becoming a candidate for public office. With respect to public employees, this bill makes an exception where necessary to meet requirements of federal law, such as the Hatch Act, 5 U.S.C. §§ 1501-1508, which imposes restrictions on certain political activities by state and local governmental employees.

WHEREAS, Every eligible person has a right to participate in the functions of government; and

WHEREAS, Participating as a candidate in an election for public office and participating in politics are at the core of government; and

WHEREAS, It is the policy of the State of Nevada to encourage participation in government; and

WHEREAS, Anything which tends to prevent a person from so participating is contrary to the policy of this State; now, therefore,

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

Section 1. NRS 613.040 is hereby amended to read as follows:

613.040 ~~[[~~

1. Except as necessary to meet requirements of federal law as it pertains to a particular public employee, it shall be unlawful for any person ~~[, firm or corporation doing business or employing labor in the State of Nevada to]~~ who employs or has under his or her direction and control any person for wages or under a contract of hire and for any labor organization referring a person to an employer for employment:

(a) To make any rule or regulation prohibiting or preventing any employee from engaging in politics or becoming a candidate for any public office in this state.

(b) To take any adverse employment action against an employee who becomes a candidate for any public office in this State because the employee became a candidate for public office.

2. As used in this section ~~["person" means:]~~:

(a) "Adverse employment action" includes, without limitation, requiring an employee to take an unpaid leave of absence during any period of his or her campaign for public office.

(b) "Person" means:

~~[(a)]~~ *(1) A natural person;*

~~[(b)]~~ *(2) Any form of business or social organization and any other nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust or agency or unincorporated organization;*
or

~~[(c)]~~ *(3) A government, governmental agency or political subdivision of a government.*

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 466.

Bill read second time.

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

Amendment No. 242.

AN ACT relating to groundwater; requiring the State Engineer to define, by regulation, the term “environmentally sound” for the purpose of making certain determinations relating to interbasin transfers of groundwater; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

When determining whether an application for an interbasin transfer of groundwater must be rejected, existing law requires the State Engineer to consider whether the proposed interbasin transfer is environmentally sound as it relates to the basin from which the water is exported. (NRS 533.370) This bill requires the State Engineer to define, by regulation, the term “environmentally sound” for the purpose of making that determination.

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

Section 1. NRS 533.370 is hereby amended to read as follows:

533.370 1. Except as otherwise provided in this section and NRS 533.345, 533.371, 533.372 and 533.503, the State Engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

- (a) The application is accompanied by the prescribed fees;
- (b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the efficiency of the district in its delivery or use of water; and
- (c) The applicant provides proof satisfactory to the State Engineer of the applicant’s:
 - (1) Intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and
 - (2) Financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence.

2. Except as otherwise provided in this subsection and subsections 3 and 11 and NRS 533.365, the State Engineer shall approve or reject each application within 1 year after the final date for filing a protest. The State Engineer may:

- (a) Postpone action upon written authorization to do so by the applicant or, if an application is protested, by the protestant and the applicant.
- (b) Postpone action if the purpose for which the application was made is municipal use.
- (c) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

3. Except as otherwise provided in subsection 11, the State Engineer shall approve or reject, within 6 months after the final date for filing a

protest, an application filed to change the point of diversion of water already appropriated when the existing and proposed points of diversion are on the same property for which the water has already been appropriated under the existing water right or the proposed point of diversion is on real property that is proven to be owned by the applicant and is contiguous to the place of use of the existing water right. The State Engineer may:

(a) Postpone action upon written authorization to do so by the applicant or, if the application is protested, by the protestant and the applicant.

(b) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

4. If the State Engineer does not act upon an application within 1 year after the final date for filing a protest, the application remains active until acted upon by the State Engineer.

5. Except as otherwise provided in subsection 11, where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights or with protectable interests in existing domestic wells as set forth in NRS 533.024, or threatens to prove detrimental to the public interest, the State Engineer shall reject the application and refuse to issue the requested permit. If a previous application for a similar use of water within the same basin has been rejected on those grounds, the new application may be denied without publication.

6. In determining whether an application for an interbasin transfer of groundwater must be rejected pursuant to this section, the State Engineer shall consider:

(a) Whether the applicant has justified the need to import the water from another basin;

(b) If the State Engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;

(c) Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;

(d) Whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported; and

(e) Any other factor the State Engineer determines to be relevant.

7. If a hearing is held regarding an application, the decision of the State Engineer must be in writing and include findings of fact, conclusions of law and a statement of the underlying facts supporting the findings of fact. The written decision may take the form of a transcription of an oral ruling. The rejection or approval of an application must be endorsed on a copy of the original application, and a record must be made of the endorsement in the records of the State Engineer. The copy of the application so endorsed must

be returned to the applicant. Except as otherwise provided in subsection 12, if the application is approved, the applicant may, on receipt thereof, proceed with the construction of the necessary works and take all steps required to apply the water to beneficial use and to perfect the proposed appropriation. If the application is rejected, the applicant may take no steps toward the prosecution of the proposed work or the diversion and use of the public water while the rejection continues in force.

8. If:

(a) The State Engineer receives an application to appropriate any of the public waters, or to change the point of diversion, manner of use or place of use of water already appropriated;

(b) The application involves an amount of water exceeding 250 acre-feet per annum;

(c) The application involves an interbasin transfer of groundwater; and

(d) Within 7 years after the date of last publication of the notice of application, the State Engineer has not granted the application, denied the application, held an administrative hearing on the application or issued a permit in response to the application,

→ the State Engineer shall notice a new period of 45 days in which a person who is a successor in interest to a protestant or an affected water right owner may file with the State Engineer a written protest against the granting of the application. Such notification must be entered on the Internet website of the State Engineer and must, concurrently with that notification, be mailed to the board of county commissioners of the county of origin.

9. Except as otherwise provided in subsection 10, a person who is a successor in interest to a protestant or an affected water right owner who wishes to protest an application in accordance with a new period of protest noticed pursuant to subsection 8 shall, within 45 days after the date on which the notification was entered and mailed, file with the State Engineer a written protest that complies with the provisions of this chapter and with the regulations adopted by the State Engineer, including, without limitation, any regulations prescribing the use of particular forms or requiring the payment of certain fees.

10. If a person is the successor in interest of an owner of a water right or an owner of real property upon which a domestic well is located and if the former owner of the water right or real property on which a domestic well is located had previously filed a written protest against the granting of an application, the successor in interest must be allowed to pursue that protest in the same manner as if the successor in interest were the former owner whose interest he or she succeeded. If the successor in interest wishes to pursue the protest, the successor in interest must notify the State Engineer on a form provided by the State Engineer.

11. The provisions of subsections 1 to 6, inclusive, do not apply to an application for an environmental permit.

12. The provisions of subsection 7 do not authorize the recipient of an approved application to use any state land administered by the Division of State Lands of the State Department of Conservation and Natural Resources without the appropriate authorization for that use from the State Land Registrar.

13. *The State Engineer shall, by regulation, define the term “environmentally sound” for the purpose of paragraph (c) of subsection 6.*

14. As used in this section:

(a) “County of origin” means the county from which groundwater is transferred or proposed to be transferred.

(b) “Domestic well” has the meaning ascribed to it in NRS 534.350.

Sec. 2. The State Engineer shall ~~be on~~ :

1. On or before December 31, 2011, **begin the regulatory process to adopt any regulations which are required by** ~~for necessary to carry out~~ the provisions of this act.

2. On or before December 31, 2012, adopt any regulations which are required by the provisions of this act.

3. If those regulations are not adopted on or before December 31, 2012, submit a report to the 77th Session of the Nevada Legislature concerning the progress made toward the adoption of those regulations and provide an estimate of the additional time needed to adopt those regulations.

Sec. 3. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations; and

2. On January 1, ~~2012,~~ **2013**, for all other purposes.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 538.

Bill read second time.

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

Amendment No. 440.

AN ACT relating to pawnbrokers; revising the rate of interest that may be charged by pawnbrokers; revising the minimum time a pawnbroker must hold certain property; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

This bill increases the maximum rate of interest a pawnbroker may charge under certain circumstances from 10 percent to ~~14.5~~ **13** percent. This bill also decreases the required minimum period of time for which a pawnbroker must hold personal property received in pledge from 120 days to 90 days after the date of pledge.

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

Section 1. NRS 646.050 is hereby amended to read as follows:

646.050 1. A pawnbroker may charge and receive interest at the rate of ~~{40} {45}~~ 13 percent a month for money loaned on the security of personal property actually received in pledge, and a person shall not ask or receive a higher rate of interest or discount on any such loan, or on any actual or pretended sale or redemption of personal property. For any loan made, a pawnbroker may make an initial charge of \$5 in addition to interest at the authorized rate.

2. All personal property must be held for redemption for at least ~~{120}~~ 90 days after the date of pledge with any pawnbroker.

3. A pawnbroker shall give to the person securing the loan a printed receipt clearly showing the amount loaned and rate of interest, together with a description of the pledged property. The receipt must be marked in such a manner that the amounts of principal and interest paid by the person securing the loan can be clearly designated. Each payment must be entered upon the receipt, and each entry must designate how much of the payment is being credited to principal and how much to interest, with dates of payments shown thereon.

4. A pawnbroker shall not charge more than \$3 per day for the storage of a motor vehicle which is collateral for a loan.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that upon return from the printer, Assembly Bills Nos. 401 and 427 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Conklin moved that Assembly Bill No. 546 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried

Assemblyman Conklin moved that Assembly Bill No. 299 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:29 p. m.

ASSEMBLY IN SESSION

At 12:35 p.m.
Mr. Speaker presiding.
Quorum present.

GENERAL FILE AND THIRD READING

Assembly Bill No. 9.
Bill read third time.
Roll call on Assembly Bill No. 9:

YEAS—40.

NAYS—Goedhart, Kite—2.

Assembly Bill No. 9 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 150.
Bill read third time.
Remarks by Assemblyman Bobzien.

Roll call on Assembly Bill No. 150:

Yeas—42.

NAYS—None.

Assembly Bill No. 150 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 181.
Bill read third time.
Remarks by Assemblyman Horne.

Roll call on Assembly Bill No. 181:

YEAS—42.

NAYS—None.

Assembly Bill No. 181 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 215.
Bill read third time.
Roll call on Assembly Bill No. 215:

YEAS—42.

NAYS—None.

Assembly Bill No. 215 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 227.
Bill read third time.

Remarks by Assemblymen Hambrick, Carlton, and Kirkpatrick.

Roll call on Assembly Bill No. 227:

YEAS—40.

NAYS—Carlton, Carrillo—2.

Assembly Bill No. 227 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 267.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Assembly Bill No. 267:

YEAS—25.

NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy,
Hickey, Kirkpatrick, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—17.

Assembly Bill No. 267 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 269.

Bill read third time.

Roll call on Assembly Bill No. 269:

YEAS—39.

NAYS—Hardy, Kirner, McArthur—3.

Assembly Bill No. 269 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 292.

Bill read third time.

Remarks by Assemblyman Horne.

Roll call on Assembly Bill No. 292:

YEAS—41.

NAYS—Ohrenschall.

Assembly Bill No. 292 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 318.

Bill read third time.

Remarks by Assemblywoman Mastroluca.

Roll call on Assembly Bill No. 318:

YEAS—26.

NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy,
Hickey, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—16.

Assembly Bill No. 318 having received a constitutional majority,
Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 329.

Bill read third time.

Remarks by Assemblymen Goicoechea, Horne and Bobzien.

Roll call on Assembly Bill No. 329:

YEAS—35.

NAYS—Atkinson, Brooks, Carlton, Carrillo, Flores, Horne, Ohrenschall—7.

Assembly Bill No. 329 having received a constitutional majority,
Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 368 be taken from
the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 393.

Bill read third time.

Remarks by Assemblywoman Dondero Loop.

Roll call on Assembly Bill No. 393:

YEAS—42.

NAYS—None.

Assembly Bill No. 393 having received a two-thirds majority, Mr. Speaker
declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 398.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Assembly Bill No. 398:

YEAS—42.

NAYS—None.

Assembly Bill No. 398 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 403.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Assembly Bill No. 403:

YEAS—26.

NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy,
Hickey, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—16.

Assembly Bill No. 403 having received a constitutional majority,
Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 429.

Bill read third time.

Remarks by Assemblymen Ohrenschall and Anderson.

Roll call on Assembly Bill No. 429:

YEAS—26.

NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—16.

Assembly Bill No. 429 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 441 be taken from the General File and placed at the bottom of General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 455.

Bill read third time.

Remarks by Assemblymen Frierson and Livermore.

Roll call on Assembly Bill No. 455:

YEAS—42.

NAYS—None.

Assembly Bill No. 455 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 477.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Assembly Bill No. 477:

YEAS—42.

NAYS—None.

Assembly Bill No. 477 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 535.

Bill read third time.

Roll call on Assembly Bill No. 535:

YEAS—42.

NAYS—None.

Assembly Bill No. 535 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 537.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Assembly Bill No. 537:

YEAS—41.

NAYS—Kite.

Assembly Bill No. 537 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 551.

Bill read third time.

Remarks by Assemblywoman Flores.

Roll call on Assembly Bill No. 551:

YEAS—42.

NAYS—None.

Assembly Bill No. 551 having received a constitutional majority,
Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Mr. Speaker announced if there were no objections, the Assembly would
recess subject to the call of the Chair.

Assembly in recess at 1:18 p.m.

ASSEMBLY IN SESSION

At 1:20 p.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bills Nos. 368 and 441 be
taken from the General File and placed on the General File for the next
legislative day.

Motion carried.

Assemblyman Conklin moved that the Assembly recess until 4:45 p.m..

Motion carried.

Assembly in recess at 1:24 p.m.

ASSEMBLY IN SESSION

At 4:57 p.m.

Mr. Speaker presiding.

Quorum present.

Mr. Speaker appointed Assemblymen Frierson and Kirner as a committee
to invite the Senate to meet in Joint Session with the Assembly to hear an
address by United States Representative Shelley Berkley.

The members of the Senate appeared before the Bar of the Assembly.

Mr. Speaker invited the Members of the Senate to chairs in the Assembly.

IN JOINT SESSION

At 5:06 p.m.

Mr. Speaker presiding.

The Secretary of the Senate called the Senate roll.

All present except Senator Schneider, who was excused.

The Chief Clerk of the Assembly called the Assembly roll.

All present.

Mr. Speaker appointed a Committee on Escort consisting of Senator Horsford and Assemblywoman Smith to wait upon Representative Berkley and escort her to the Assembly Chamber.

The Committee on Escort in company with The Honorable Shelley Berkley, United States Representative from Nevada, appeared before the Bar of the Assembly.

The Committee on Escort escorted the Representative to the rostrum.

Mr. Speaker welcomed Representative Berkley and invited her to deliver her message.

Shelley Berkley, United States Representative, delivered her message as follows:

MESSAGE TO THE LEGISLATURE OF NEVADA
SEVENTY-SIXTH SESSION, 2011

Speaker Ocegüera, Majority Leader Horsford, Speaker pro Tempore Smith, Minority Leader Goicoechea, and Minority Leader Mike McGinness. I thank you very much for giving me the opportunity to speak with you this evening. I know that you are very, very busy right now, and taking time out of your very busy schedules to listen to me is greatly appreciated. I know we have this wonderful tradition of your federal officials coming, one at a time, and speaking to our Legislature. I think it is a lovely tradition, and I hope it continues for many, many years into the future.

I want to acknowledge the guests, in addition to the assemblymen and state senators, that are here today. I want to particularly thank the members of our judiciary for coming over to the Legislative Branch and, of course, the constitutional officers. You honor me with your presence tonight. I thank you very much. I would be remiss if I did not personally thank the Governor for taking time from his busy schedule to be here. I appreciate the courtesy very, very much.

Before I begin my remarks, I think it would be very appropriate to acknowledge the men and women from Nevada that are serving in our Armed Forces overseas. I don't believe in a moment of silence or a prayer at this time because everybody acknowledges our fighting men and women in their own way. But I think it is important that the leaders of this great state, since we are here together, acknowledge the extraordinary work that our Armed Forces do every day for the rest of us.

I also would be remiss if I didn't acknowledge the passing of President Glick. It is a most unfortunate loss, not only for UNR, but for higher education, education in general, and for the entire state of Nevada. He will be sorely missed, and I am very sorry that he is gone.

I have been your representative in Congress for 13 years now. I first spoke with you as a member of Congress 13 years ago. It has been 28 years since I served as an assemblywoman in this body. I sat right over there where Ms. Flores is sitting, and I had my seven-month-old son Max with me. Now, like most people, I tell time by the birth of my children and their ages. Max is now 28 years old, and we are waiting for word that he passed the bar, ladies and gentlemen of the judiciary. I am most anxious to get him off my payroll and on to someone else's.

Because I am a colleague in fashion, because we are all public servants here, and because I have served in this body, I fully appreciate and respect the work that you are doing. These are not easy times, and you are doing amazing work in a very, very short period of time. I understand the challenges that are facing all of us throughout our nation, and particularly here in our beloved state of Nevada.

We have the highest unemployment rate in the country. We have the highest mortgage foreclosure rate in the country. People who never missed a day of work have lost their jobs. People that have never missed a monthly mortgage payment are losing their homes. They are looking to us for help or suggestions or solutions, and as public officials and leaders of this state and this nation, it is our obligation to do exactly that.

For me, the single most important issue right now is jobs, jobs, jobs. There is nothing more important than getting our economy moving and getting our fellow citizens back to work. We need to get our fiscal house in order, and we need to prepare for our nation's future.

There are three issues, in my mind, that are essential to accomplishing these goals: education, infrastructure, energy independence. I would like to spend a couple of minutes on each of those items, if I may.

Education—most of the people in this room know me well, but for those that don't, let me tell you of my own history. My father has a ninth grade education; my mother graduated high school. But in our family, they knew that the difference between success and failure was that their children got a good education. When I was growing up, my parents didn't care if I was pretty or popular—I would like to think I was both—but they cared that I got good grades. I'm the first person in my family to go to college, and if it wasn't for the university and community college system here in this great state, I guarantee that I wouldn't be standing here in front of you today. I know that my story is not dissimilar to so many people sitting here as well. I see so many of us that either graduated from UNLV, UNR, the community college system, or at the very least took classes at one of our community colleges.

Our Nevada children are no longer competing with students from Missouri and Minnesota and Montana. Our children are competing with the Indians and children from China, who are investing in their future by investing billions of dollars in their education system. Low taxes, which we are very proud of in this state; good weather; and good location in the western United States are no longer enough to attract industry and new business to our state.

If we are going to diversify our economy, which we must—we've been talking about it for 30 years—if we are going to do that, we have to invest in ourselves. Businesses coming to Nevada need and want a well-educated and well-trained workforce. They are not going to come here if we don't deliver that. That is why I fought drastic cuts in Pell Grants and in job training programs. I couldn't have gotten through college without grants and scholarships and working on the side, and I suspect that many of the students that go to our universities and community colleges are in the same position today that I was when I was growing up. To take Pell Grants away from students that have all the right abilities to get a good education and make something of themselves, I think, would be a terrible mistake for this country.

Now I am very careful not to criticize the people in this room. I know you spent hours last night—just last night alone—and many, many hours and days and weeks discussing these issues. But in my mind, gutting our education system is shortchanging our children, and almost as important as that, it is undermining our ability to diversify our economy. If we are going to climb our way out of this economic mess that has not only taken over the state of Nevada in a disproportionately harsh way but the entire country, we are going to need to figure out new ways of doing things.

If I could for a moment wax poetic, our very democracy depends on a well-educated electorate making informed decisions at the ballot box. That well-educated electorate starts with

our classrooms, and those classrooms start with adequate funding so that our kids can get the best possible education this state can have.

Infrastructure—this nation has an aging and crumbling infrastructure. It was no accident that the levies didn't hold in New Orleans. It was no accident that the bridge collapsed in Minnesota. It was a catastrophic loss of life, and billions and billions of taxpayers' dollars went down the drain and are now being used to fix these infrastructure projects. We are either going to pay now or we are going to pay later, but if we pay now, we actually create an infrastructure that will take this country through the twenty-first century, and we will have something to show for it at the end. In addition to new roads and bridges and dams and levies throughout the United States and here in the state of Nevada, we will also be creating jobs—good paying construction jobs—hundreds of thousands of them so we can get our people back to work. That is the importance of infrastructure.

Renewable energy—we must end our dependence on foreign oil, and there are three reasons why we have to do this. It is an economic necessity. It is an environmental necessity. It is a national security imperative. Nevada has an abundance of sun and wind and geothermal. We could be the epicenter of renewable energy production. We could be a net exporter to the rest of the western United States if we invest our dollars in renewable energy. I believe we can create an entire green economy based on green jobs.

Prior to me serving here in the Nevada Legislature, I was in-house counsel at Southwest Gas Corporation. I know a little bit—a little bit—about energy. We have to diversify our energy options. I am not foolish enough to suggest that we will never be dependent on oil, but certainly we can harness the sun and wind and geothermal to be part of a more diverse energy portfolio.

So when Congress voted to end loan guarantees for solar power projects, I voted no. And the reason I voted no to end these loan guarantees is because it is bad for Nevada. Our state is home to some of the biggest solar energy projects in the United States. If we end these loan guarantees in Washington, the Tonopah solar project, which is just about to get started, will come to a screeching halt. What does that do? Not only don't we create the solar energy that we could use, but we are also going to be losing 600 jobs. The state of Nevada can't afford to lose one job right now. The idea that we would be losing 600 jobs would be an anathema to me, and that is why I voted against ending that loan guarantee program for solar projects. We need it here in the state of Nevada; it is important for our future.

The Department of Energy is working with private energy companies to develop a battery-powered car that can go 300 miles without a charge. They are being tested and being manufactured right here in the United States. If we pull the plug on research and development funding, they are not going to be tested and they are not going to be manufactured here. Now we keep talking about expanding our manufacturing base. We don't manufacture enough things here in the United States. This is tailor made for us, and I guarantee if we end those research and development dollars—if we take away the funding—that these projects are going to maybe dry up here in the United States. I bet dollars to doughnuts the Chinese and the Koreans are going to develop these batteries. And you know what? We are going to be buying these batteries from them. We shouldn't have to do that. Let's keep these research and development dollars.

The owners of a Nevada company that sells and installs energy-efficient products like solar screens and insulation for water heaters came to my office recently. This is what they told me. They said that their business is going gangbusters. They are selling a lot of product, and they are hiring a lot of people. But if we end the tax credits for consumers—for people like you and me that want to put solar screens on our windows so that we lower the cost of energy in our homes or if we want to wrap our heating elements and save hundreds of dollars on a monthly basis—if we end those tax credits, their business is going to dry up. They are going to have to close, and they are going to have to lay off all of these workers that they hired. This is the future and this is the future of our state. That is why I fight so hard to keep these tax credits, to make sure that these projects are built, and to make sure that consumers can lower the cost of their monthly energy bills and keep these businesses local and keep them open. That is why I think it is so important for us to do that.

Energy independence, in my mind, is a national security imperative. It is incomprehensible to me that a super power like the United States of America is so dependent on the Saudis and the Venezuelans and the Nigerians to have our energy needs met. These countries are not our

friends. They do not wish us well, and the longer we remain dependent on the Saudis and the Venezuelans and the Nigerians—and so many other countries that are dictatorial terrorist regimes that happen to be sitting on a lot of oil—the worse off this nation is going to be. The sooner we become energy independent—as soon as we harness the sun, wind, geothermal, biomass, and so many other possibilities that we have now—the sooner our children aren't going to have to be holding hands with the Saudi royal family pretending they are friends when the reality is they are the biggest exporters of terrorism and the biggest financers of terrorism on the planet. We are so desperate for that oil that we pretend they are our friends and allies. Shame on us. Let's start moving toward energy independence.

There are a number of issues that we are addressing in our nation's capital, and I would like to share some of them with you. There is a movement afoot to restart Yucca Mountain. If anybody in this room doesn't know what that means, I will refresh your memory. That means shipping a minimum of 77,000 tons of radioactive, toxic nuclear waste that has a radioactive shelf life of approximately 300 years across 43 states to be buried in a hole in the Nevada desert where we have groundwater issues, seismic activity, and volcanic activity. Now, that cost of reopening Yucca Mountain and using it as a national repository when we can and we do have an alternative of dry cast storage onsite so it doesn't have to be moved and it is perfectly safe where it is—the very cost of that is \$100 billion. I would suggest to the people in Washington—and we all are interested in lowering our deficit—but if you want to seriously lower the deficit, let's save \$100 billion right off the bat and end Yucca Mountain once and for all.

Medicare—the House passed a bill that I voted against that would end Medicare and replace it with a voucher system. Our most vulnerable citizens would be required to purchase insurance from a private insurance company. What would that mean? Our seniors would be dependent on the whims of the insurance companies. How many among us reach the age of 65 without a preexisting condition? What insurance company is going to insure a senior citizen that has a preexisting condition? And what happens when that voucher outpaces the cost of their health care? Do they remove themselves from their dialysis machine and go quietly away to die?

The estimated cost per senior of moving to a voucher system is \$6,000 a year for that senior. A third of the seniors that we collectively represent in this state—a third of them—are on a fixed income, which means the only income they have is their social security check. From that check, they pay their rent, they pay for their medication, they pay their energy bills and for their food. Where are they going to get \$6,000 to pay for additional health care costs? The health and well-being of our seniors cannot and should not be a partisan issue. It doesn't matter if we are Republicans or Democrats or Independents; we are all getting old, and we are all going to get sick. What we need to do is fix, not destroy, this nation's Medicare system.

The Ryan budget that I just voted against reopened the doughnut hole. For those of you who don't know, we are trying to make prescription medication affordable for our seniors. If the doughnut hole is reopened, if that legislation becomes law today, 26,000 of our Nevada seniors will pay more for their prescription medication just on day one. That number will increase as time goes on. Why would we want to do this to our senior citizens? Are we really that anxious to balance our budget on the backs of the most vulnerable among us? I don't think so. I don't think anybody here in this room would want to do that.

Social security—I believe we have to protect social security, not privatize it. We have so many of our seniors that depend on it, and frankly, I am not about to entrust Wall Street with our seniors' retirement savings so that they can do to social security what they did to the housing market and bring this nation to the brink of financial disaster. I am not going to do it.

Medicaid—I voted against block granting Medicaid funds to the states. Nevada is already facing a huge shortfall in our budget. This proposal could possibly slash \$6.9 billion in health benefits over the next ten years. If that happens, we would be forced to remove 136 Nevadans from our Medicaid rolls, and we would be closing our nursing homes. That is unacceptable, and I suspect it is unacceptable to everybody in this room.

Veterans—I am the daughter of a World War II veteran. I am the wife of a Vietnam-era veteran. My father served in the Navy. My husband served nine and a half years in the Army. We have a responsibility and an obligation to those that sacrifice much on behalf of the rest of us. A very small percentage of our fellow citizens stand up and answer the call. For those that do, I think when they return, we have an obligation to provide the services—health services,

education services, housing services—that we promised them when they left. When they come back, those things need to be assured—that we are there for them as they were there for us.

I could never support legislation that cuts the housing voucher program for our homeless vets. Six hundred Nevada veterans are off the streets and living in housing because they qualified for a housing voucher from the VA. I will not cut that program. There are hundreds more of our fellow Nevadans on the streets tonight that should not be, and we need to fund those programs, not eliminate them. It is that important.

Our veterans wait for much, but what they won't be waiting for much longer is the VA medical complex that is being built in North Las Vegas. It is one of the first new constructions of a VA facility in the United States of America. It is on 147 acres; three buildings, a full service hospital, a long-term care facility, and an outpatient clinic. The VA will be hiring, or is in the process of hiring, a thousand employees to staff those three facilities. It is on time, it is on budget, and in the year 2006, it was the single largest earmark in our federal budget. And no, I am not giving it back.

My friends and colleagues, we have been through a lot together. There are people in this room that I have known for a better part of my life, others that I have admired from afar, others that I worked very closely with, and I have the highest regard for everybody serving, particularly at this most challenging time.

Our nation is facing many challenges. This state certainly is. But I believe our best years are ahead of us. There is no doubt in my mind about that. But the challenge is how do we get from here to there, and this is how I think we should do it: by investing in our future; by empowering the middle class by getting people back to work; by keeping our promises to our seniors and our veterans and our children and getting our fiscal house in order; by harnessing technology and the entrepreneurial spirit that has marked the United States of America, particularly an amazing state in the middle of nowhere—the state of Nevada. If we do these simple things, we will remind ourselves and show the world why the United States is the great nation that we are and that we intend to remain a super power and the great nation that we are and a light on to the other nations for many, many, many generations to come.

I thank each and every one of you for your friendship and your service to the people of the state of Nevada. It is a privilege for me to serve, and it is a privilege for me to speak with you this evening. Thank you very much.

Senator Kihuen moved that the Senate and Assembly in Joint Session extend a vote of thanks to Representative Berkley for her timely, able, and constructive message.

Seconded by Assemblywoman Benitez-Thompson.

Motion carried unanimously.

The Committee on Escort escorted Representative Berkley to the Bar of the Assembly.

Senator Halseth moved that the Joint Session be dissolved.

Seconded by Assemblyman Kite.

Motion carried.

Joint Session dissolved at 5:31 p.m.

ASSEMBLY IN SESSION

At 5:33 a.m.

Madam Speaker presiding.

Quorum present.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bill No. 565.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Carlton, the privilege of the floor of the Assembly Chamber for this day was extended to Will Foley.

On request of Assemblyman Conklin, the privilege of the floor of the Assembly Chamber for this day was extended to Juanita Oard and the following students and chaperones from Liberty Baptist Academy: Kimberly Crawford, Michelle Crawford, Bryan Crawford, Milah Sarmiento, Johnna Gutierrez, Lilyana Rosales, Jacqueline Haigh, Karisa Gonzales, Angel Williams, Djimon Osuigwe, Miche'le Osuigwe, Chrissy Webb, Thomas Webb, Berlyn Webb, Tierra Webb, Brendan Webb, Stephanie Webb, Marissa Webb, Akili Porter, Dominic Ramirez, Gabriel Wells, Alec Wells, and Jonathan Mahlum.

On request of Assemblywoman Flores, the privilege of the floor of the Assembly Chamber for this day was extended to Ivet Santiago.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Riverview Elementary School: Denali Casarez, Megan Clark, Savannah Clark, Alana Cuddeback, Katherine Darragh, Michelle Dawes, Grace Edison, Ashley Gonsalves, Daniel Gonzales, Jocelyn Hurtado, Matthew McGifford, Jordan Meshberger, Thomas Miller, Aidyn Ohl, Sarah Patterson Robledo, Bryce Ramirez, Jayson Ramos, Noah Ramos, Chance Schlachta, Justin Schmidt, Tyler Soto, Jesse Tschetter, Felicia Villa, Bion Wells, Marco Yanez Meza, Jose Montanez, Zach Hutchinson, Camille Armstrong, Joshua Arnett, Adam Burrows, Alondra Castaneda Ledesma, Steven Cibrian, Sada Cornwell, Jacob Evans, Madsen Evans, Kaylee Fletcher, Delaney Frusteri, Dane Hamblin, Nathaniel Harrison, Meghan Jones, Jason Logan, Jessi Matlock, Kendrick McIlvaine, Alyssa Medeiros, Elisio Medina, Jennifer Miller, Robert Olivera, Caleigh Onstott, Miah Perry, Isaiah Ramos, Celeste Roberts, Samantha Sharpe, Alejandro Vega Blanco, Brendan Vlaininck, Juan Ashmore; and the following students and chaperones from Fernley High School: Tyler Artrup, Latisha Ashe, Antonio Bennett, Nicholas Collins, Blake Gane, Jacqueline Herzig, Lindsay Llumin, Guadalupe Ortega-Flores, Bryce Pasco, Brittany Penner, Dylan Salisbury, Molinda Shipley, Brenda Arriaga, Timothy Jones, Adam Madison, Brittany Neese, Paige Touchstone, Danielle Warmer, Cody Willis, Estrella Bachtle, Kyla Rotton, Michaela Fulenwider, Cody Geil-Crader,

Sharlene Hazen, Shannon Ward, Jessica Kinsey, Jerome Kleve, Casey Scheller, and Rebecca Miller.

On request of Assemblyman Hammond, the privilege of the floor of the Assembly Chamber for this day was extended to Tomas Hammond and Ann Moody.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Deanna Zalewski and Katie Bowen.

On request of Assemblywoman Mastroluca, the privilege of the floor of the Assembly Chamber for this day was extended to Gina Robison-Billups.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Torrey Barber, Nels Brown, and Bridget Zick.

On request of Assemblywoman Woodbury, the privilege of the floor of the Assembly Chamber for this day was extended to Kae Pohe.

Assemblyman Conklin moved that the Assembly adjourn until Friday, April 22, 2011, at 11 a.m., and that it do so in memory of Eric Kvam with our thoughts and prayers to Jean and Bob Kvam and the rest of her family.

Motion carried.

Assembly adjourned at 5:40 p.m.

Approved:

JOHN OCEGUERA
Speaker of the Assembly

Attest: SUSAN FURLONG

Chief Clerk of the Assembly