

THE ONE HUNDRED AND NINTH DAY

CARSON CITY (Thursday), May 26, 2011

Assembly called to order at 1:40 p.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Steven Brooks.

Dear Lord, I would like to make a special prayer for my colleagues and myself today, that we would be able to understand that You have assembled special people, in this special place, for this special moment.

I would like to explain that we came to fight, and we came to win, but not against one another, together as one. You see, our war is not a physical warfare; it is deeper than the eye can see. It is a spiritual warfare and is based on principalities and strongholds. Our weapons are not that of mass destruction; our weapon of choice is our tongue. Let us remember that the decisions we make in these beautiful rotundas affect every man, woman, and child in the ugliest of circumstances and in moments of temporary desperation. As we stand in the gap to protect them let us not lose sight of Your plan, O Lord. For a balanced budget will come to pass, but we will be judged on how we protected Your children in a time of great need.

Please arm us with faith, hope, and love. Give us the courage You provided Gideon's army and allow this army of 63 legislators to remember that on this day, You selected each and every one of them to serve Your people. In all of our foolishness, let us not forget that it is You whom we serve.

For it is with great honor that I serve in this army of servants and all of the great people You have provided to support us. For the greatest title one can have is that of a servant. I pray that we serve You well.

I pray this in Jesus' name.

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 Senate Bills Nos. 314, 414, 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 Government Affairs, to which were referred Senate Bills Nos. 40, 77, 361, 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 were referred Senate Bills Nos. 191, 210, 246, 300, 339, 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 was referred Senate Bill No. 221, 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 Legislative Operations and Elections, to which was referred Senate Bill No. 125, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TICK SEGERBLOM, *Chair*

Mr. Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which were referred Senate Bills Nos. 223, 299, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

Mr. Speaker:

Your Committee on Transportation, to which were referred Senate Bills Nos. 140, 234, 238, 323, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN DONDERO LOOP, *Chair*

Mr. Speaker:

Your Committee on Ways and Means, to which were referred Senate Bills Nos. 97, 430, 444, 450, 481, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DEBBIE SMITH, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 25, 2011

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 365, 382, 422, 477, 551; Assembly Joint Resolution No. 5 of the 75th Session; Senate Bill No. 498.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 20, Amendment No. 618; Assembly Bill No. 456, Amendments Nos. 623, 763, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 11.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 568 to Senate Bill No. 193.

SHERRY L. RODRIGUEZ

Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

May 26, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 192, if the assembly adopts the amendment proposed by the Assembly Committee on Government Affairs.

RICK COMBS
Fiscal Analysis Division

Assemblywoman Kirkpatrick moved that Senate Bills Nos. 40, 77, 97, 125, 140, 191, 210, 221, 223, 234, 238, 246, 299, 300, 314, 323, 339, 361, 414, 430, 444, 450, 481, just reported out of committee, be placed on the Second Reading File.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 498.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 40.

Bill read second time

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

Amendment No. 612.

SUMMARY—Requires ~~the State Public Works Board to adopt~~ **certain state agencies and officials to consult with the deputy manager for compliance and code enforcement before adopting** regulations concerning the construction, maintenance, operation ~~and~~ **or** safety of ~~certain~~ buildings ~~and~~ **or** structures. (BDR 28-436)

AN ACT relating to real property; requiring ~~the State Public Works Board to adopt~~ **certain state agencies and officials to consult with the deputy manager for compliance and code enforcement before adopting** regulations concerning the construction, maintenance, operation ~~and~~ **or** safety of ~~certain~~ buildings and structures; ~~requiring the deputy manager for compliance and code enforcement to make recommendations to the Board concerning such regulations;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Section 1 of this bill requires the State Public Works Board to adopt regulations concerning the construction, maintenance, operation and safety of buildings and structures on property of this State or held in trust for any division of the State Government. Section 2 of this bill requires the deputy~~

~~manager for compliance and code enforcement to make recommendations to the Board concerning these regulations.]~~

Existing law requires the State Public Works Board to appoint a deputy manager for compliance and code enforcement, who serves as the building official for all buildings and structures on property of the State or held in trust for any division of the State Government. (NRS 341.100)

Existing law **also** authorizes or, in some cases, requires certain state agencies and officials to adopt regulations concerning the construction, maintenance, operation or safety of certain buildings or structures. (NRS 446.940, 449.250-449.430, 455C.110, 461.170, 472.040, 477.030) Specifically, these agencies and officials include the State Board of Health, the Department of Health and Human Services, the Division of Industrial Relations of the Department of Business and Industry, the Manufactured Housing Division of the Department of Business and Industry, the State Forester Firewarden and the State Fire Marshal. Sections 4-11 of this bill ~~prohibit these state agencies and officials from adopting regulations which apply to the buildings and structures on property of this State or held in trust for any division of State Government and which conflict with the regulations adopted by the State Public Works Board.]~~ **require these state agencies and officials to consult with the deputy manager for compliance and code enforcement before adopting regulations concerning the construction, maintenance, operation or safety of buildings or structures in the State. Section 2 of this bill requires the deputy manager to consult with such an agency or official and to provide recommendations regarding how the agency or official's regulation, as it applies to buildings and structures on property of this State or held in trust for any division of the State Government, may be made consistent with other regulations which apply to such buildings or structures.**

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

Section 1. ~~[Chapter 341 of NRS is hereby amended by adding thereto a new section to read as follows:~~

1. Subject to the provisions of subsection 2, the Board shall adopt regulations concerning the construction, maintenance, operation and safety of buildings and structures on property of this State or held in trust for any division of the State Government.

2. Before adopting any regulation pursuant to subsection 1, the Board shall consult with the State Board of Health, the Department of Health and Human Services, the Division of Industrial Relations of the Department of Business and Industry, the Manufactured Housing Division of the Department of Business and Industry, the State Forester Firewarden or the State Fire Marshal, as applicable, if such state agency or official has authority to adopt similar regulations which apply to buildings and

~~structures that are not on property of the State or held in trust for a division of the State Government.] (Deleted by amendment.)~~

Sec. 2. NRS 341.100 is hereby amended to read as follows:

341.100 1. The Board shall appoint a Manager and a deputy manager for compliance and code enforcement, each of whom must be approved by the Governor. The Manager and the deputy manager for compliance and code enforcement serve at the pleasure of the Board and the Governor.

2. The Manager, with the approval of the Board, shall appoint:

(a) A deputy manager for professional services; and

(b) A deputy manager for administrative, fiscal and constructional services.

↪ Each deputy manager appointed pursuant to this subsection serves at the pleasure of the Manager.

3. The Manager may appoint such other technical and clerical assistants as may be necessary to carry into effect the provisions of this chapter.

4. The Manager and each deputy manager are in the unclassified service of the State. Except as otherwise provided in NRS 284.143, the Manager and each deputy manager shall devote his or her entire time and attention to the business of the office and shall not pursue any other business or occupation or hold any other office of profit.

5. The Manager and the deputy manager for professional services must each be a licensed professional engineer pursuant to the provisions of chapter 625 of NRS or an architect registered pursuant to the provisions of chapter 623 of NRS.

6. The deputy manager for administrative, fiscal and constructional services must have a comprehensive knowledge of the principles of administration and a working knowledge of the principles of engineering or architecture as determined by the Board.

7. The deputy manager for compliance and code enforcement must have a comprehensive knowledge of building codes and a working knowledge of the principles of engineering or architecture as determined by the Board.

8. The Manager shall:

(a) Serve as the Secretary of the Board.

(b) Manage the daily affairs of the Board.

(c) Represent the Board before the Legislature.

(d) Prepare and submit to the Board, for its approval, the recommended priority for proposed capital improvement projects and provide the Board with an estimate of the cost of each project.

(e) Make recommendations to the Board for the selection of architects, engineers and contractors.

(f) Make recommendations to the Board concerning the acceptance of completed projects.

(g) Submit in writing to the Board, the Governor and the Interim Finance Committee a monthly report regarding all public works projects which are a part of the approved capital improvement program. For each such project, the

monthly report must include, without limitation, a detailed description of the progress of the project which highlights any specific events, circumstances or factors that may result in:

(1) Changes in the scope of the design or construction of the project or any substantial component of the project which increase or decrease the total square footage or cost of the project by 10 percent or more;

(2) Increased or unexpected costs in the design or construction of the project or any substantial component of the project which materially affect the project;

(3) Delays in the completion of the design or construction of the project or any substantial component of the project; or

(4) Any other problems which may adversely affect the design or construction of the project or any substantial component of the project.

(h) Have final authority to approve the architecture of all buildings, plans, designs, types of construction, major repairs and designs of landscaping.

9. The deputy manager for compliance and code enforcement shall ~~{serve}~~:

(a) *Serve* as the building official for all buildings and structures on property of the State or held in trust for any division of the State Government ~~{}~~; and

(b) ~~{Provide}~~ *Consult with an agency or official that is considering adoption of a regulation described in sections 4, 5 or 8 to 11, inclusive, of this act and provide recommendations regarding regulations that the Board adopts pursuant to section 1 of this act concerning the construction, maintenance, operation and safety of how the regulation, as it applies to buildings and structures on property of this State or held in trust for any division of the State Government {}, may be made consistent with other regulations which apply to such buildings or structures.*

Sec. 3. NRS 353.590 is hereby amended to read as follows:

353.590 If an agreement pursuant to NRS 353.500 to 353.630, inclusive, involves the construction, alteration, repair or remodeling of an improvement:

1. Except as otherwise provided in this section, the construction, alteration, repair or remodeling of the improvement may be conducted as specified in the agreement without complying with the provisions of:

(a) Any law requiring competitive bidding; or

(b) Chapter 341 of NRS.

2. The person or entity that enters into the agreement for the actual construction, alteration, repair or remodeling of the improvement shall include in the agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive.

3. The State or a state agency, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the improvement and any subcontractor on the project shall

comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the State or a state agency had undertaken the project or had awarded the contract.

4. The provisions of:

(a) ~~Subsection~~ **Paragraph (b) of subsection 9** of NRS 341.100; and

(b) NRS 341.105,

↪ apply to the construction, alteration, repair or remodeling of the improvement.

Sec. 4. Chapter 446 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[Notwithstanding any provision of law to the contrary,]~~ **Before the State Board of Health may ~~not~~ adopt any regulation concerning the construction, maintenance, operation or safety of a building, ~~for~~ structure ~~for property of~~ or other property in this State ~~for held in trust for any division of the State Government that conflicts with a regulation adopted pursuant to section 1 of this act.~~, the Board shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.**

Sec. 5. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[Notwithstanding any provision of law to the contrary,]~~ **Before the State Department may ~~not~~ adopt any regulation concerning the construction, maintenance, operation or safety of a building, ~~for~~ structure ~~for property of~~ or other property in this State ~~for held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.~~, the State Department shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.**

Sec. 6. NRS 449.250 is hereby amended to read as follows:

449.250 NRS 449.250 to 449.430, inclusive, **and section 5 of this act** may be cited as the Nevada Health Facilities Assistance Act.

Sec. 7. NRS 449.260 is hereby amended to read as follows:

449.260 As used in NRS 449.250 to 449.430, inclusive ~~[-]~~ **, and section 5 of this act:**

1. “Community mental health center” means a facility providing services for the prevention or diagnosis of mental illness, or care and treatment of patients with mental illness, or rehabilitation of such persons, which services are provided principally for persons residing in a particular community in or near which the facility is situated.

2. “Construction” includes the construction of new buildings, modernization, expansion, remodeling and alteration of existing buildings, and initial equipment of such buildings, including medical transportation facilities, and includes architects’ fees, but excludes the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of the land.

3. “Facility for persons with mental retardation” means a facility specially designed for the diagnosis, treatment, education, training or custodial care of persons with mental retardation, including facilities for training specialists and sheltered workshops for persons with mental retardation, but only if such workshops are part of facilities which provide or will provide comprehensive services for persons with mental retardation.

4. “Federal Act” means 42 U.S.C. §§ 291 to 291o-l, inclusive, and 300k to 300t, inclusive, and any other federal law providing for or applicable to the provision of assistance for health facilities.

5. “Federal agency” means the federal department, agency or official designated by law, regulation or delegation of authority to administer the Federal Act.

6. “Health facility” includes a public health center, hospital, facility for hospice care, facility for persons with mental retardation, community mental health center, and other facility to provide diagnosis, treatment, care, rehabilitation, training or related services to persons with physical or mental impairments, including diagnostic or diagnostic and treatment centers, rehabilitation facilities and nursing homes, as those terms are defined in the Federal Act, and such other facilities for which federal aid may be authorized under the Federal Act, but, except for facilities for persons with mental retardation, does not include any facility furnishing primarily domiciliary care.

7. “Nonprofit health facility” means any health facility owned and operated by a corporation or association, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or natural person.

8. “Public health center” means a publicly owned facility for the provision of public health services, including related facilities such as laboratories, clinics and administrative offices operated in connection with public health centers.

9. “State Department” means the Department of Health and Human Services, acting through its appropriate divisions.

Sec. 8. Chapter 455C of NRS is hereby amended by adding thereto a new section to read as follows:

~~[Notwithstanding any provision of law to the contrary,]~~ **Before the Division may ~~not~~ adopt any regulation concerning the construction, maintenance, operation or safety of a building, ~~for~~ structure ~~on property off~~ or other property in this State ~~for held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.~~, the Division shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.**

Sec. 9. Chapter 461 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[Notwithstanding any provision of law to the contrary,] Before the Division may ~~not~~ adopt any regulation concerning the construction, maintenance, operation or safety of a building, ~~for~~ structure ~~on property off~~ or other property in this State ~~for held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.], the Division shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.~~~~

Sec. 10. Chapter 472 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[Notwithstanding any provision of law to the contrary,] Before the State Forester Firewarden may ~~not~~ adopt any regulation concerning the construction, maintenance, operation or safety of a building, ~~for~~ structure ~~on property off~~ or other property in this State ~~for held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.], the State Forester Firewarden shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.~~~~

Sec. 11. Chapter 477 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[Notwithstanding any provision of law to the contrary,] Before the State Fire Marshal may ~~not~~ adopt any regulation concerning the construction, maintenance, operation or safety of a building, ~~for~~ structure ~~on property off~~ or other property in this State ~~for held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.], that is a state-owned building or facility, the State Fire Marshal shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.~~~~

Sec. 12. ~~[Any regulations of the State Board of Health, the Department of Health and Human Services, the Division of Industrial Relations of the Department of Business and Industry, the Manufactured Housing Division of the Department of Business and Industry, the State Forester Firewarden or the State Fire Marshal existing on the effective date of this act which concern the construction, maintenance, operation or safety of buildings or structures on property of this State or held in trust for any division of the State Government remain in effect until the State Public Works Board adopts the regulations required pursuant to section 1 of this act.] (Deleted by amendment.)~~

Sec. 13. This act becomes effective upon passage and approval.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 77.

Bill read second time.

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

Amendment No. 646.

AN ACT relating to notaries public; ~~subjecting a person to punishment for a category C felony if the person knowingly submits an application for appointment as a notary public that contains a substantial and material misstatement or omission of fact;~~ revising provisions relating to the requirements for appointment as a notary public, storage of the stamp and journal of a notary public, documentation of notarial acts, and liability and penalties for certain misconduct and violations of law by a notary public or an employer of a notary public; prohibiting a notary public from performing a notarial act on certain documents or from making or noting a protest of a negotiable instrument under certain circumstances; authorizing the Secretary of State to impose a civil penalty for certain violations; ~~providing a penalty;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Notaries public are appointed by and subject to the authority of the Secretary of State pursuant to the provisions of chapter 240 of NRS. ~~Section 1 of this bill makes it a category C felony for a person applying for appointment as a notary public to knowingly submit an application that contains a substantial and material misstatement or omission of fact.~~ **Section 2** of this bill requires, if required by the Secretary of State, a person applying for appointment as a notary public to submit with the application a complete set of his or her fingerprints and a fee. **Sections 3 and 5** of this bill require a notary public to keep his or her stamp and journal in a secure location when not using the stamp or journal. **Section 5** also revises provisions relating to the documentation of notarial acts performed: (1) at the same time and for the same person; or (2) for a person for whom a notary public has performed a notarial act within the previous 6 months. **Section 4** of this bill prohibits a notary public from performing a notarial act on a document that is not completely filled out and signed and prohibits the notary public from making or noting a protest of a negotiable instrument under certain circumstances. **Section 6** of this bill amends provisions relating to penalties for violations of law by notaries public and employers of notaries public.

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

Section 1. ~~NRS 240.010 is hereby amended to read as follows:~~

~~240.010 1. The Secretary of State may appoint notaries public in this State.~~

~~2. The Secretary of State shall not appoint as a notary public a person:~~

~~(a) Who submits an application containing a substantial and material misstatement or omission of fact.~~

~~(b) Whose previous appointment as a notary public in this State has been revoked;~~

~~(c) Who, except as otherwise provided in subsection 3, has been convicted of:~~

~~(1) A crime involving moral turpitude; or~~

~~(2) Burglary, conversion, embezzlement, extortion, forgery, fraud, identity theft, larceny, obtaining money under false pretenses, robbery or any other crime involving misappropriation of the identity or property of another person or entity;~~

~~→ if the Secretary of State is aware of such a conviction before the Secretary of State makes the appointment.~~

~~(d) Against whom a complaint that alleges a violation of a provision of this chapter is pending;~~

~~(e) Who has not submitted to the Secretary of State proof satisfactory to the Secretary of State that the person has enrolled in and successfully completed a course of study provided pursuant to NRS 240.018.~~

~~3. A person who has been convicted of a crime involving moral turpitude may apply for appointment as a notary public if the person provides proof satisfactory to the Secretary of State that:~~

~~(a) More than 10 years have elapsed since the date of the person's release from confinement or the expiration of the period of his or her parole, probation or sentence, whichever is later;~~

~~(b) The person has made complete restitution for his or her crime involving moral turpitude, if applicable;~~

~~(c) The person possesses his or her civil rights; and~~

~~(d) The crime for which the person was convicted is not one of the crimes enumerated in subparagraph (2) of paragraph (c) of subsection 2.~~

~~4. A notary public may cancel his or her appointment by submitting a written notice to the Secretary of State.~~

~~5. It is unlawful for a person to:~~

~~(a) Represent himself or herself as a notary public appointed pursuant to this section if the person has not received a certificate of appointment from the Secretary of State pursuant to this chapter.~~

~~(b) Submit an application for appointment as a notary public that contains a substantial and material misstatement or omission of fact.~~

~~6. The Secretary of State may request that the Attorney General bring an action to enjoin any violation of paragraph (a) of subsection 5.~~

~~7. A person who knowingly violates the provisions of paragraph (b) of subsection 5 is guilty of a category C felony and shall be punished as provided in NRS 193.130. (Deleted by amendment.)~~

Sec. 2. NRS 240.030 is hereby amended to read as follows:

240.030 1. Each person applying for appointment as a notary public must:

(a) At the time the applicant submits his or her application, pay to the Secretary of State \$35.

(b) Take and subscribe to the oath set forth in Section 2 of Article 15 of the Constitution of the State of Nevada as if the applicant were a public officer.

(c) Submit to the Secretary of State proof satisfactory to the Secretary of State that the applicant has enrolled in and successfully completed a course of study provided pursuant to NRS 240.018.

(d) Enter into a bond to the State of Nevada in the sum of \$10,000, to be filed with the clerk of the county in which the applicant resides or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. The applicant must submit to the Secretary of State a certificate issued by the appropriate county clerk which indicates that the applicant filed the bond required pursuant to this paragraph.

(e) If required by the Secretary of State, submit:

(1) A complete set of the fingerprints of the applicant and written permission authorizing the Secretary of State to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(2) A fee established by regulation of the Secretary of State which must not exceed the sum of the amounts charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for processing the fingerprints.

2. In addition to the requirements set forth in subsection 1, an applicant for appointment as a notary public who resides in an adjoining state must submit to the Secretary of State with the application:

(a) An affidavit setting forth the adjoining state in which the applicant resides, the applicant's mailing address and the address of the applicant's place of business or employment that is located within the State of Nevada;

(b) A copy of the applicant's state business license issued pursuant to chapter 76 of NRS and any business license required by the local government where the business is located, if the applicant is self-employed; and

(c) Unless the applicant is self-employed, a copy of the state business license of the applicant's employer, a copy of any business license of the applicant's employer that is required by the local government where the business is located and an affidavit from the applicant's employer setting forth the facts which show that the employer regularly employs the applicant at an office, business or facility which is located within the State of Nevada.

3. In completing an application, bond, oath or other document necessary to apply for appointment as a notary public, an applicant must not be required to disclose his or her residential address or telephone number on any such document which will become available to the public.

4. The bond, together with the oath, must be filed and recorded in the office of the county clerk of the county in which the applicant resides when the applicant applies for the appointment or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the

applicant maintains a place of business or is employed. On a form provided by the Secretary of State, the county clerk shall immediately certify to the Secretary of State that the required bond and oath have been filed and recorded. Upon receipt of the application, fee and certification that the required bond and oath have been filed and recorded, the Secretary of State shall issue a certificate of appointment as a notary public to the applicant.

5. The term of a notary public commences on the effective date of the bond required pursuant to paragraph (d) of subsection 1. A notary public shall not perform a notarial act after the effective date of the bond unless the notary public has been issued a certificate of appointment.

6. Except as otherwise provided in this subsection, the Secretary of State shall charge a fee of \$10 for each duplicate or amended certificate of appointment which is issued to a notary. If the notary public does not receive an original certificate of appointment, the Secretary of State shall provide a duplicate certificate of appointment without charge if the notary public requests such a duplicate within 60 days after the date on which the original certificate was issued.

Sec. 3. NRS 240.040 is hereby amended to read as follows:

240.040 1. The statement required by paragraph (d) of subsection 1 of NRS 240.1655 must:

(a) Be imprinted in indelible, photographically reproducible ink with a rubber or other mechanical stamp; and

(b) Set forth:

(1) The name of the notary public;

(2) The phrase "Notary Public, State of Nevada";

(3) The date on which the appointment of the notary public expires;

(4) The number of the certificate of appointment of the notary public;

(5) If the notary public so desires, the Great Seal of the State of Nevada;

and

(6) If the notary public is a resident of an adjoining state, the word "nonresident."

2. After July 1, 1965, an embossed notarial seal is not required on notarized documents.

3. The stamp required pursuant to subsection 1 must:

(a) Be a rectangle, not larger than 1 inch by 2 1/2 inches, and may contain a border design; and

(b) Produce a legible imprint.

4. A notary public shall not affix his or her stamp over printed material.

5. ***A notary public shall keep his or her stamp in a secure location during any period in which the notary public is not using the stamp to perform a notarial act.***

6. As used in this section, "mechanical stamp" includes an imprint made by a computer or other similar technology.

Sec. 4. NRS 240.075 is hereby amended to read as follows:

240.075 A notary public shall not:

1. Influence a person to enter or not enter into a lawful transaction involving a notarial act performed by the notary public.
2. Certify an instrument containing a statement known by the notary public to be false.
3. Perform any act as a notary public with intent to deceive or defraud, including, without limitation, altering the journal that the notary public is required to keep pursuant to NRS 240.120.
4. Endorse or promote any product, service or offering if his or her appointment as a notary public is used in the endorsement or promotional statement.
5. Certify photocopies of a certificate of birth, death or marriage or a divorce decree.
6. Allow any other person to use his or her notary's stamp.
7. Allow any other person to sign the notary's name in a notarial capacity.
8. Perform a notarial act on a document that contains only a signature.
9. ***Perform a notarial act on a document, including a form that requires the signer to provide information within blank spaces, unless the document has been filled out completely and has been signed.***
10. ***Make or note a protest of a negotiable instrument unless the notary public is employed by a depository institution and the protest is made or noted within the scope of that employment. As used in this subsection, "depository institution" has the meaning ascribed to it in NRS 657.037.***

Sec. 5. NRS 240.120 is hereby amended to read as follows:

240.120 1. ~~Each~~ ***Except as otherwise provided in subsection 2, each*** notary public shall keep a journal in his or her office in which the notary public shall enter for each notarial act performed, at the time the act is performed:

- (a) The fees charged, if any;
 - (b) The title of the document;
 - (c) The date on which the notary public performed the service;
 - (d) ~~The~~ ***Except as otherwise provided in subsection 3, the*** name and signature of the person whose signature is being notarized;
 - (e) ~~A~~ ***Subject to the provisions of subsection 4, a*** description of the evidence used by the notary public to verify the identification of the person whose signature is being notarized;
 - (f) An indication of whether the notary public administered an oath; and
 - (g) The type of certificate used to evidence the notarial act, as required pursuant to NRS 240.1655.
2. ***A notary public may make one entry in the journal which documents more than one notarial act if the notarial acts documented are performed:***
 - (a) ***For the same person and at the same time; and***
 - (b) ***On one document or on similar documents.***
 3. ***When taking an acknowledgment for a person, a notary public need not require the person to sign the journal if the notary public has***

performed a notarial act for the person within the previous 6 months and the notary public has personal knowledge of the identity of the person.

4. *If, pursuant to subsection 3, a notary public does not require a person to sign the journal, the notary public shall enter “known personally” as the description required to be entered into the journal pursuant to paragraph (e) of subsection 1.*

5. If the notary verifies the identification of the person whose signature is being notarized on the basis of a credible witness, the notary public shall:

(a) Require the witness to sign the journal in the space provided for the description of the evidence used; and

(b) Make a notation in the journal that the witness is a credible witness.

~~{3.}~~ **6.** The journal must:

(a) Be open to public inspection.

(b) Be in a bound volume with preprinted page numbers.

~~{4.}~~ **7.** A notary public shall, upon request and payment of the fee set forth in NRS 240.100, provide a certified copy of an entry in his or her journal.

~~{5.}~~ **8.** *A notary public shall keep his or her journal in a secure location during any period in which the notary public is not making an entry or notation in the journal pursuant to this section.*

9. A notary public shall retain each journal that the notary public has kept pursuant to this section until 7 years after the date on which he or she ceases to be a notary public.

~~{6.}~~ **10.** A notary public shall file a report with the Secretary of State and the appropriate law enforcement agency if the journal of the notary public is lost or stolen.

~~{7.}~~ **11.** The provisions of this section do not apply to a person who is authorized to perform a notarial act pursuant to paragraph (b), (c) or (d) of subsection 1 of NRS 240.1635.

Sec. 6. NRS 240.150 is hereby amended to read as follows:

240.150 1. For misconduct or neglect in a case in which a notary public appointed pursuant to the authority of this State may act, either by the law of this State or of another state, territory or country, or by the law of nations, or by commercial usage, the notary public is liable on his or her official bond to the parties injured thereby, for all the damages sustained.

2. The employer of a notary public ***may be assessed a civil penalty by the Secretary of State of not more than \$2,000 for each violation specified in subsection 4 committed by the notary public, and the employer*** is liable for any damages proximately caused by the misconduct of the notary public, if:

(a) The notary public was acting within the scope of his or her employment at the time the notary public engaged in the misconduct; and

(b) The employer of the notary public consented to the misconduct of the notary public.

3. The Secretary of State may refuse to appoint or may suspend or revoke the appointment of a notary public who fails to provide to the Secretary of State, within a reasonable time, information that the Secretary of State requests from the notary public in connection with a complaint which alleges a violation of this chapter.

4. Except as otherwise provided in this chapter, for any willful violation or neglect of duty or other violation of this chapter, or upon proof that ~~the~~ **a** notary public has been convicted of a crime ~~involving moral turpitude:~~

~~(a) A notary public or other person who violates a provision of this chapter may be fined not more than \$2000 for each violation;~~

~~(b)}~~ **described in paragraph (c) of subsection 2 of NRS 240.010:**

(a) The appointment of the notary public may be suspended for a period determined by the Secretary of State, but not exceeding the time remaining on the appointment;

~~[(c)]~~ **(b)** The appointment of the notary public may be revoked ~~[-or~~

~~(d)]~~ **after a hearing; or**

(c) The notary public may be ~~fin~~ed and his or her appointment may be:

~~(1) Revoked; or~~

~~(2) Suspended for a period determined by the Secretary of State.]~~

assessed a civil penalty of not more than \$2,000 for each violation.

5. If the Secretary of State revokes or suspends the appointment of a notary public pursuant to this section, the Secretary of State shall:

(a) Notify the notary public in writing of the revocation or suspension; and

(b) Cause notice of the revocation or suspension to be published ~~in a newspaper of general circulation in the county in which the notary public resides or works.]~~ **on the website of the Secretary of State.**

6. Except as otherwise provided by law, the Secretary of State may ~~impose the fine]~~ **assess the civil penalty** that is authorized pursuant to this section upon a notary public whose appointment has expired if the notary public committed the violation that justifies the ~~fine]~~ **civil penalty** before his or her appointment expired.

7. The appointment of a notary public may be suspended or revoked by the Secretary of State pending a hearing if the Secretary of State believes it is in the public interest or is necessary to protect the public.

Sec. 6.5. NRS 240.201 is hereby amended to read as follows:

240.201 1. An electronic notary public shall keep a journal of each electronic notarial act which includes, without limitation, the requirements of subsections 1 and ~~[2]~~ **5** of NRS 240.120.

2. The Secretary of State may suspend the appointment of an electronic notary public who fails to produce any journal entry within 10 days after receipt of a request from the Secretary of State.

3. Upon resignation, revocation or expiration of an appointment as an electronic notary public, all notarial records required pursuant to NRS 240.001 to 240.206, inclusive, must be delivered to the Secretary of State.

Sec. 7. This act becomes effective upon passage and approval for the purpose of adopting regulations by the Secretary of State pursuant to the amendatory provisions of section 2 of this act and on January 1, 2012, for all other purposes.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 97.

Bill read second time and ordered to third reading.

Senate Bill No. 125.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 760.

AN ACT relating to elections; revising the dates by which the contributions to or expenses of a campaign must be reported; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a candidate for state, district, county, township or city office, as well as certain persons who make expenditures in support of a candidate or group of candidates, who advocate passage or defeat of a ballot question or who advocate the recall of a public officer, must report certain contributions and expenditures by certain deadlines. (NRS 294A.120, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360) This bill revises the dates upon which certain reports are required to be made ~~from 7 days before a primary, general or special election to 7 days before the beginning of early voting in a primary, general or special election.~~ **to require the reports to be submitted** before the beginning of early voting in a primary, general or special election.

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

Section 1. NRS 294A.120 is hereby amended to read as follows:

294A.120 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The provisions of this subsection apply to the candidate beginning the year of the general election for that office through the year immediately preceding the next general election for that office.

2. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he or she is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) ~~{Seven}~~ **Twenty-one** days before the ~~{beginning of early voting by personal appearance for the}~~ primary election for that office, for the period from the January 1 immediately preceding the primary election through ~~{12}~~ **25** days before the ~~{beginning of early voting by personal appearance for the}~~ primary election;

(b) ~~{Seven}~~ **Four** days before the ~~{beginning of early voting by personal appearance for the general}~~ **primary** election for that office, for the period from ~~{11}~~ **24** days before the ~~{beginning of early voting by personal appearance for the}~~ primary election through ~~{12}~~ **5** days before the ~~{beginning of early voting by personal appearance for the general election; and~~

~~{c} July 15 of the year of}~~ **primary election;**

~~{c}~~ **Twenty-one days before** the general election for that office, for the period from ~~{11}~~ **4** days before the ~~{beginning of early voting by personal appearance for the general}~~ **primary** election through ~~{June 30 of that year,}~~ **25 days before the general election; and**

~~{d}~~ **Four days before the general election for that office, for the period from 24 days before the general election through 5 days before the general election,**

↪ report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he or she is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) ~~{Seven}~~ **Twenty-one** days before the ~~{beginning of early voting by personal appearance for the}~~ primary election for that office, for the period from the January 1 immediately preceding the primary election through ~~{12}~~ **25** days before the ~~{beginning of early voting by personal appearance for the}~~ primary election; ~~{and}~~

(b) ~~{Seven}~~ **Four** days before the ~~{beginning of early voting by personal appearance for the general}~~ **primary** election for that office, for the period from ~~{11}~~ **24** days before the ~~{beginning of early voting by personal appearance for the}~~ primary election through ~~{12}~~ **5** days before the ~~{beginning of early voting by personal appearance for the general}~~ **primary** election **11;**

(c) Twenty-one days before the general election for that office, for the period from 4 days before the primary election through 25 days before the general election; and

(d) Four days before the general election for that office, for the period from 24 days before the general election through 5 days before the general election.

→ report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

4. Except as otherwise provided in subsection 5, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the ***beginning of early voting by personal appearance for the*** special election, for the period from the candidate's nomination through 12 days before the ***beginning of early voting by personal appearance for the*** special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

→ report each campaign contribution in excess of \$100 received during the period and contributions received during the reporting period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

5. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall list each of the campaign contributions received on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the candidate under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) A district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Reports of campaign contributions must be filed with the officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy. A candidate may mail or transmit the report to that officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

7. Every county clerk who receives from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign contributions pursuant to this section shall file a copy of each report with the Secretary of State within 10 working days after receiving the report.

8. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of \$100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

Sec. 2. NRS 294A.140 is hereby amended to read as follows:

294A.140 1. Every person who is not under the direction or control of a candidate for office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group, and every committee for political action, political party, committee sponsored by a political party and business entity which makes an expenditure on behalf of such a candidate or group of candidates shall, not later than January 15 of each year that the provisions of this subsection apply to the person, committee, political party or business entity, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The provisions of this subsection apply to the person, committee, political party or business entity beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office.

2. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of the candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) ~~Seven~~ Twenty-one days before the ~~beginning of early voting by personal appearance for the~~ primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through ~~12~~ 25 days before the ~~beginning of early voting by personal appearance for the~~ primary election or primary city election;

(b) ~~Seven~~ Four days before the ~~beginning of early voting by personal appearance for the general~~ primary election or ~~general~~ primary city election for that office, for the period from ~~11~~ 24 days before the

~~{beginning of early voting by personal appearance for the}~~ primary election or primary city election through ~~{12}~~ 5 days before the ~~{beginning of early voting by personal appearance for the general}~~ **primary** election or ~~{general}~~ **primary** city election; ~~and~~

~~(c) July 15 of the year of~~

(c) Twenty-one days before the general election or general city election for that office, for the period from ~~{11}~~ 4 days before the ~~{beginning of early voting by personal appearance for the general}~~ **primary** election or ~~{general}~~ **primary** city election through ~~{June 30 of that year}~~ **25 days before the general election or general city election; and**

(d) Four days before the general election or general city election for that office, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election.

↪ report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

3. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of \$100 and contributions which a contributor has made cumulatively in excess of \$100 since the beginning of the current reporting period.

4. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) ~~{Seven}~~ **Twenty-one** days before the ~~{beginning of early voting by personal appearance for the}~~ primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through ~~{12}~~ 25 days before the ~~{beginning of early voting by personal appearance for the}~~ primary election or primary city election; ~~and~~

(b) ~~{Seven}~~ **Four** days before the ~~{beginning of early voting by personal appearance for the general}~~ **primary** election or ~~{general}~~ **primary** city election for that office, for the period from ~~{11}~~ 24 days before the ~~{beginning of early voting by personal appearance for the}~~ primary election or primary city election through ~~{12}~~ 5 days before the ~~{beginning of early voting by personal appearance for the general}~~ **primary** election or ~~{general}~~ **primary** city election. ~~{11}~~;

(c) Twenty-one days before the general election or general city election for that office, for the period from 4 days before the primary election or primary city election through 25 days before the general election or general city election; and

(d) Four days before the general election or general city election for that office, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election.

↪ report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

5. Except as otherwise provided in subsection 6, every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election or on behalf of a group of such candidates shall, not later than:

(a) Seven days before the **beginning of early voting by personal appearance for the** special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the period from the nomination of the candidate through 12 days before the **beginning of early voting by personal appearance for the** special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

↪ report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

6. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of candidates for offices at such special elections shall report each contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the committee, political party or business entity under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of

NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

7. The reports of contributions required pursuant to this section must be filed with:

(a) If the candidate is elected from one county, the county clerk of that county;

(b) If the candidate is elected from one city, the city clerk of that city; or

(c) If the candidate is elected from more than one county or city, the Secretary of State.

8. A person or entity may file the report with the appropriate officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after receiving the report.

10. Every person, committee, political party or business entity described in subsection 1 shall file a report required by this section even if the person, committee, political party or business entity receives no contributions.

Sec. 3. NRS 294A.150 is hereby amended to read as follows:

294A.150 1. Except as otherwise provided in NRS 294A.283, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall, not later than January 15 of each year that the provisions of this subsection apply to the person, group of persons or business entity, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of \$1,000 received during that period and contributions received during the period from a contributor which cumulatively exceed \$1,000. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group or business entity under penalty of perjury. The provisions of this subsection apply to the person, group of persons or business entity:

(a) Each year in which:

(1) An election or city election is held for each question for which the person, group of persons or business entity advocates passage or defeat; or

(2) A person, group of persons or business entity receives or expends money in excess of \$10,000 to advocate the passage or defeat of a question

or group of questions on the ballot at a primary election, primary city election, general election or general city election; and

(b) The year after each year described in paragraph (a).

2. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. A person, group of persons or business entity described in this subsection shall, not later than:

(a) ~~Seven~~ Twenty-one days before the ~~beginning of early voting by personal appearance for the~~ primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through ~~12~~ 25 days before the ~~beginning of early voting by personal appearance for the~~ primary election or primary city election;

(b) ~~Seven~~ Four days before the ~~beginning of early voting by personal appearance for the general~~ primary election or ~~general~~ primary city election, for the period from ~~11~~ 24 days before the ~~beginning of early voting by personal appearance for the~~ primary election or primary city election through ~~12~~ 5 days before the ~~beginning of early voting by personal appearance for the general~~ primary election or ~~general~~ primary city election; ~~and~~

(c) ~~July 15 of the year of~~

(c) Twenty-one days before the general election or general city election, for the period from ~~11~~ 4 days before the ~~beginning of early voting by personal appearance for the general~~ primary election or ~~general~~ primary city election through ~~June 30 of that year,~~ 25 days before the general election or general city election; and

(d) Four days before the general election or general city election, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election,

↪ report each campaign contribution in excess of \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group or business entity under penalty of perjury.

3. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of \$1,000 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

4. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. Except as otherwise provided in NRS 294A.283, if a question is on the ballot at a general election or general city election held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. A person, group of persons or business entity described in this subsection shall, not later than:

(a) ~~{Seven}~~ **Twenty-one** days before the ~~{beginning of early voting by personal appearance for the}~~ primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through ~~{12}~~ **25** days before the ~~{beginning of early voting by personal appearance for the}~~ primary election or primary city election; ~~{and}~~

(b) ~~{Seven}~~ **Four** days before the ~~{beginning of early voting by personal appearance for the general}~~ **primary** election or ~~{general}~~ **primary** city election, for the period from ~~{11}~~ **24** days before the ~~{beginning of early voting by personal appearance for the}~~ primary election or primary city election through ~~{12}~~ **5** days before the ~~{beginning of early voting by personal appearance for the general}~~ **primary** election or ~~{general}~~ **primary** city election. ~~{11}~~

(c) Twenty-one days before the general election or general city election, for the period from 4 days before the primary election or primary city

election through 25 days before the general election or general city election; and

(d) Four days before the general election or general city election, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election,

↪ report each campaign contribution in excess of \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group or business entity under penalty of perjury.

5. Except as otherwise provided in subsection 6, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot at a special election and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall, not later than:

(a) Seven days before the ***beginning of early voting by personal appearance for the*** special election, for the period from the date that the question qualified for the ballot through 12 days before the ***beginning of early voting by personal appearance for the*** special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

↪ report each campaign contribution in excess of \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group or business entity under penalty of perjury.

6. Every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot at a special election to determine whether a public officer will be recalled and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall report each of the contributions received on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group or business entity under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

7. The reports required pursuant to this section must be filed with:

(a) If the question is submitted to the voters of one county, the county clerk of that county;

(b) If the question is submitted to the voters of one city, the city clerk of that city; or

(c) If the question is submitted to the voters of more than one county or city, the Secretary of State.

8. A person may mail or transmit the report to the appropriate officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

9. If the person or group of persons, including a business entity, is advocating passage or defeat of a group of questions, the reports must be itemized by question or petition.

10. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after receiving the report.

Sec. 4. NRS 294A.200 is hereby amended to read as follows:

294A.200 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report each of the campaign expenses in excess of \$100 incurred and each amount in excess of \$100 disposed of pursuant to NRS 294A.160 during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury. The provisions of this subsection apply to the candidate:

(a) Beginning the year of the general election for that office through the year immediately preceding the next general election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160.

2. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he or she is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) ~~Seven~~ **Twenty-one** days before the ~~beginning of early voting by personal appearance for the~~ primary election for that office, for the period from the January 1 immediately preceding the primary election through ~~121~~ **121** days before the ~~beginning of early voting by personal appearance for the~~ primary election;

(b) ~~Seven~~ **Four** days before the ~~beginning of early voting by personal appearance for the general~~ **primary** election for that office, for the period from ~~111~~ **24** days before the ~~beginning of early voting by personal~~

~~appearance for the~~ primary election through ~~{12}~~ 5 days before the ~~{beginning of early voting by personal appearance for the general}~~ **primary** election; ~~and~~

(c) ~~{July 15 of the year of}~~ Twenty-one days before the general election for that office, for the period from ~~{11}~~ 4 days before the ~~{beginning of early voting by personal appearance for the general}~~ **primary** election through ~~{June 30 of that year,}~~ 25 days before the general election; and

(d) Four days before the general election for that office, for the period from 24 days before the general election through 5 days before the general election.

↪ report each of the campaign expenses in excess of \$100 incurred during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he or she is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) ~~{Seven}~~ Twenty-one days before the ~~{beginning of early voting by personal appearance for the}~~ primary election for that office, for the period from the January 1 immediately preceding the primary election through ~~{12}~~ 25 days before the ~~{beginning of early voting by personal appearance for the}~~ primary election; ~~and~~

(b) ~~{Seven}~~ Four days before the ~~{beginning of early voting by personal appearance for the general}~~ **primary** election for that office, for the period from ~~{11}~~ 24 days before the ~~{beginning of early voting by personal appearance for the}~~ primary election through ~~{12}~~ 5 days before the ~~{beginning of early voting by personal appearance for the general}~~ **primary** election ~~{11}~~;

(c) Twenty-one days before the general election for that office, for the period from 4 days before the primary election through 25 days before the general election; and

(d) Four days before the general election for that office, for the period from 24 days before the general election through 5 days before the general election.

↪ report each of the campaign expenses in excess of \$100 incurred during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury.

4. Except as otherwise provided in subsection 5, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the **beginning of early voting by personal appearance for the** special election, for the period from the candidate's nomination through 12 days before the **beginning of early voting by personal appearance for the** special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

↪ report each of the campaign expenses in excess of \$100 incurred during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

5. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall report each of the campaign expenses in excess of \$100 incurred on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the candidate under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Reports of campaign expenses must be filed with the officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy. A candidate may mail or transmit the report to that officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

7. County clerks who receive from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign expenses pursuant to this section shall file a copy of each report with the Secretary of State within 10 working days after receiving the report.

Sec. 5. NRS 294A.210 is hereby amended to read as follows:

294A.210 1. Every person who is not under the direction or control of a candidate for an office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group, and every committee for political action, political party, committee sponsored by a political party or business entity which makes an expenditure on behalf of such a candidate or group of candidates shall, not later than January 15 of each year that the provisions of this subsection apply to the person, committee, political party or business entity, for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period on

behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury. The provisions of this subsection apply to the person, committee, political party or business entity beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office.

2. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) ~~Seven~~ **Twenty-one** days before the ~~beginning of early voting by personal appearance for the~~ primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through ~~121~~ **25** days before the ~~beginning of early voting by personal appearance for the~~ primary election or primary city election;

(b) ~~Seven~~ **Four** days before the ~~beginning of early voting by personal appearance for the general~~ **primary** election or ~~general~~ **primary** city election for that office, for the period from ~~111~~ **24** days before the ~~beginning of early voting by personal appearance for the~~ primary election or primary city election through ~~121~~ **5** days before the ~~beginning of early voting by personal appearance for the general~~ **primary** election or ~~general~~ **primary** city election; ~~and~~

(c) ~~July 15 of the year of~~ **Twenty-one days before** the general election or general city election for that office, for the period from ~~111~~ **4** days before the ~~beginning of early voting by personal appearance for the general~~ **primary** election or ~~general~~ **primary** city election through ~~the June 30 of that year,~~ **25 days before the general election or general city election; and**

(d) Four days before the general election or general city election for that office, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election.

↪ report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

3. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for

office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) ~~Seven~~ **Twenty-one** days before the ~~beginning of early voting by personal appearance for the~~ primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through ~~12~~ **25** days before the ~~beginning of early voting by personal appearance for the~~ primary election or primary city election; ~~and~~

(b) ~~Seven~~ **Four** days before the ~~beginning of early voting by personal appearance for the general~~ **primary** election or ~~general~~ **primary** city election for that office, for the period from ~~11~~ **24** days before the ~~beginning of early voting by personal appearance for the~~ primary election or primary city election through ~~12~~ **5** days before the ~~beginning of early voting by personal appearance for the general~~ **primary** election or ~~general~~ **primary** city election ~~11~~;

(c) Twenty-one days before the general election or general city election for that office, for the period from 4 days before the primary election or primary city election through 25 days before the general election or general city election; and

(d) Four days before the general election or general city election for that office, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election.

↪ report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

4. Except as otherwise provided in subsection 5, every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election or on behalf of a group of such candidates shall, not later than:

(a) Seven days before the **beginning of early voting by personal appearance for the** special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the period from the nomination of the candidate through 12 days before the **beginning of early voting by personal appearance for the** special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

↪ report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of \$100 on the form designed and provided by the Secretary of State pursuant to

NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

5. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of such candidates shall list each expenditure made on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the committee, political party or business entity under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.

7. The reports must be filed with:

(a) If the candidate is elected from one county, the county clerk of that county;

(b) If the candidate is elected from one city, the city clerk of that city; or

(c) If the candidate is elected from more than one county or city, the Secretary of State.

8. If an expenditure is made on behalf of a group of candidates, the reports must be itemized by the candidate. A person may mail or transmit the report to the appropriate officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after receiving the report.

10. Every person, committee, political party or business entity described in subsection 1 shall file a report required by this section even if the person, committee, political party or business entity receives no contributions.

Sec. 6. NRS 294A.220 is hereby amended to read as follows:

294A.220 1. Except as otherwise provided in NRS 294A.283, every person or group of persons organized formally or informally, including a

business entity, who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall, not later than January 15 of each year that the provisions of this subsection apply to the person or group of persons, for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$1,000 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group or business entity under penalty of perjury. The provisions of this subsection apply to the person, group of persons or business entity:

(a) Each year in which:

(1) An election or city election is held for a question for which the person, group of persons or business entity advocates passage or defeat; or

(2) A person, group of persons or business entity receives or expends money in excess of \$10,000 to advocate the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election; and

(b) The year after each year described in paragraph (a).

2. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. A person, group of persons or business entity described in this subsection shall, not later than:

(a) ~~Seven~~ Twenty-one days before the ~~beginning of early voting by personal appearance for the~~ primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through ~~121~~ 25 days before the ~~beginning of early~~

~~voting by personal appearance for the~~ primary election or primary city election;

(b) ~~Seven~~ **Four** days before the ~~beginning of early voting by personal appearance for the general~~ **primary** election or ~~general~~ **primary** city election, for the period from ~~11~~ **24** days before the ~~beginning of early voting by personal appearance for the~~ primary election or primary city election through ~~12~~ **5** days before the ~~beginning of early voting by personal appearance for the general~~ **primary** election or ~~general~~ **primary** city election; ~~and~~

~~(c) July 15 of the year of~~

(c) Twenty-one days before the general election or general city election, for the period from ~~11~~ **4** days before the ~~beginning of early voting by personal appearance for the general~~ **primary** election or ~~general~~ **primary** city election through ~~the June 30 immediately preceding that July 15,~~ **25 days before the general election or general city election; and**

(d) Four days before the general election or general city election, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election.

→ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$1,000 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group or business entity under penalty of perjury.

3. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. Except as otherwise provided in NRS 294A.283, if a question is on the ballot at a general election or general city election held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. A person, group of persons or business entity described in this subsection shall, not later than:

(a) ~~Seven~~ **Twenty-one** days before the ~~beginning of early voting by personal appearance for the~~ primary election or primary city election, for the period from the January 1 immediately preceding the primary election or

primary city election through ~~12~~ **25** days before the ~~beginning of early voting by personal appearance for the~~ primary election or primary city election; ~~and~~

(b) ~~Seven~~ **Four** days before the ~~beginning of early voting by personal appearance for the general~~ **primary** election or ~~general~~ **primary** city election, for the period from ~~11~~ **24** days before the ~~beginning of early voting by personal appearance for the~~ primary election or primary city election through ~~12~~ **5** days before the ~~beginning of early voting by personal appearance for the general~~ **primary** election or ~~general~~ **primary** city election. ~~11~~;

(c) Twenty-one days before the general election or general city election, for the period from 4 days before the primary election or primary city election through 25 days before the general election or general city election; and

(d) Four days before the general election or general city election, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election,

➤ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$1,000 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group or business entity under penalty of perjury.

4. Except as otherwise provided in subsection 5, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot at a special election shall, not later than:

(a) Seven days before the ***beginning of early voting by personal appearance for the*** special election, for the period from the date the question qualified for the ballot through 12 days before the ***beginning of early voting by personal appearance for the*** special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➤ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$1,000 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group or business entity under penalty of perjury.

5. Every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot at a special election to determine whether a public officer will be recalled and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall list each expenditure made during the

period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$1,000 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group or business entity under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.

7. The reports required pursuant to this section must be filed with:

(a) If the question is submitted to the voters of one county, the county clerk of that county;

(b) If the question is submitted to the voters of one city, the city clerk of that city; or

(c) If the question is submitted to the voters of more than one county or city, the Secretary of State.

8. If an expenditure is made on behalf of a group of questions, the reports must be itemized by question or petition. A person may mail or transmit the report to the appropriate filing officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the filing officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the filing officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after receiving the report.

Sec. 7. NRS 294A.270 is hereby amended to read as follows:

294A.270 1. Except as otherwise provided in subsection 3, each committee for the recall of a public officer shall, not later than:

(a) Seven days before the ***beginning of early voting by personal appearance for the*** special election to recall a public officer, for the period from the filing of the notice of intent to circulate the petition for recall through 12 days before the ***beginning of early voting by personal appearance for the*** special election; and

(b) Thirty days after the election, for the remaining period through the election,

↪ report each contribution received or made by the committee in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by a representative of the committee under penalty of perjury.

2. If a petition for the purpose of recalling a public officer is not filed before the expiration of the notice of intent, the committee for the recall of a public officer shall, not later than 30 days after the expiration of the notice of intent, report each contribution received by the committee, and each contribution made by the committee in excess of \$100.

3. If a court does not order a special election for the recall of the public officer, the committee for the recall of a public officer shall, not later than 30 days after the court determines that an election will not be held, for the period from the filing of the notice of intent to circulate the petition for recall through the day the court determines that an election will not be held, report each contribution received by the committee, and each contribution made by the committee in excess of \$100.

4. Each report of contributions must be filed with the Secretary of State. The committee may mail or transmit the report by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the Secretary of State:

- (a) On the date that it was mailed if it was sent by certified mail; or
- (b) On the date that it was received by the Secretary of State if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

5. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution, whether from or to a natural person, association or corporation, in excess of \$100 and contributions which a contributor or the committee has made cumulatively in excess of that amount since the beginning of the current reporting period.

Sec. 8. NRS 294A.280 is hereby amended to read as follows:

294A.280 1. Except as otherwise provided in subsection 3, each committee for the recall of a public officer shall, not later than:

(a) Seven days before the ***beginning of early voting by personal appearance for the*** special election to recall a public officer, for the period from the filing of the notice of intent to circulate the petition for recall through 12 days before the ***beginning of early voting by personal appearance for the*** special election; and

(b) Thirty days after the election, for the remaining period through the election,

↪ report each expenditure made by the committee in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by a representative of the committee under penalty of perjury.

2. If a petition for the purpose of recalling a public officer is not filed before the expiration of the notice of intent, the committee for the recall of a public officer shall, not later than 30 days after the expiration of the notice of intent, report each expenditure made by the committee in excess of \$100.

3. If a court does not order a special election for the recall of the public officer, the committee for the recall of a public officer shall, not later than 30 days after the court determines that an election will not be held, for the period from the filing of the notice of intent to circulate the petition for recall through the day the court determines that an election will not be held, report each expenditure made by the committee in excess of \$100.

4. Each report of expenditures must be filed with the Secretary of State. The committee may mail or transmit the report to the Secretary of State by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the Secretary of State:

- (a) On the date that it was mailed if it was sent by certified mail; or
- (b) On the date that it was received by the Secretary of State if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

Sec. 9. NRS 294A.360 is hereby amended to read as follows:

294A.360 1. Every candidate for city office at a primary city election or general city election shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year. The provisions of this subsection apply to the candidate:

(a) Beginning the year of the general city election for that office through the year immediately preceding the next general city election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160.

2. Every candidate for city office at a primary city election or general city election, if the general city election for the office for which he or she is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than:

(a) ~~Seven~~ **Twenty-one** days before the ~~beginning of early voting by personal appearance for the~~ primary city election for that office, for the period from the January 1 immediately preceding the primary city election through ~~12~~ **25** days before the ~~beginning of early voting by personal appearance for the~~ primary city election;

(b) ~~Seven~~ **Four** days before the ~~beginning of early voting by personal appearance for the general~~ **primary** city election for that office, for the period from ~~11~~ **24** days before the ~~beginning of early voting by personal appearance for the~~ primary city election through ~~12~~ **5** days before the

~~[beginning of early voting by personal appearance for the general]~~ **primary** city election; ~~and~~

~~(c) July 15 of the year of]~~

(c) Twenty-one days before the general city election for that office, for the period from ~~[11] 4~~ days before the ~~[beginning of early voting by personal appearance for the general]~~ **primary** city election through ~~[the June 30 of that year.]~~ **25 days before the general city election; and**

(d) Four days before the general city election for that office, for the period from 24 days before the general city election through 5 days before the general city election.

3. Every candidate for city office at a primary city election or general city election, if the general city election for the office for which he or she is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than:

(a) ~~[Seven]~~ **Twenty-one** days before the ~~[beginning of early voting by personal appearance for the]~~ primary city election for that office, for the period from the January 1 immediately preceding the primary city election through ~~[12] 25~~ days before the ~~[beginning of early voting by personal appearance for the]~~ primary city election; ~~and~~

(b) ~~[Seven]~~ **Four** days before the ~~[beginning of early voting by personal appearance for the general]~~ **primary** city election for that office, for the period from ~~[11] 24~~ days before the ~~[beginning of early voting by personal appearance for the]~~ primary city election through ~~[12] 5~~ days before the ~~[beginning of early voting by personal appearance for the general]~~ **primary** city election. ~~14;~~

(c) Twenty-one days before the general city election for that office, for the period from 4 days before the primary city election through 25 days before the general city election; and

(d) Four days before the general city election for that office, for the period from 24 days before the general city election through 5 days before the general city election.

4. Except as otherwise provided in subsection 5, every candidate for city office at a special election shall so file those reports:

(a) Seven days before the **beginning of early voting by personal appearance for the** special election, for the period from the candidate's nomination through 12 days before the **beginning of early voting by personal appearance for the** special election; and

(b) Thirty days after the special election, for the remaining period through the special election.

5. Every candidate for city office at a special election to determine whether a public officer will be recalled shall so file those reports 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Senate Bill No. 140.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 670.

SPONSORS: ~~[ASSEMBLYMAN]~~ ASSEMBLYMEN Segerblom, ATKINSON, MUNFORD AND SMITH

AN ACT relating to traffic laws; prohibiting a person from using a cellular telephone or other handheld wireless communications device while operating a motor vehicle in certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing traffic laws of this State, it is a crime to engage in various activities while operating a motor vehicle or to operate a motor vehicle in a reckless or unsafe manner. (Chapters 484A-484E of NRS) **Section 1** of this bill makes it a crime for a person to manually type or enter text into a cellular telephone or other similar device, or to send or read data using any such device, while operating a motor vehicle. **Section 1** further prohibits a person from using such a device for voice communications unless the device is used with an accessory which allows the person to communicate without using his or her hands, with certain limited exceptions. **Section 1** provides an exception to the prohibitions when the cellular telephone or other device is used by certain emergency and law enforcement personnel and persons designated by a sheriff or chief of police or the Director of the Department of Public Safety who are acting within the course and scope of their employment. Additional exceptions apply if: (1) the person is using the cellular telephone or other device to report or request assistance relating to a medical emergency, a safety hazard or criminal activity; (2) the person is responding to a situation requiring immediate action and stopping the vehicle would be inadvisable, impractical or dangerous; or (3) the person is a licensed amateur radio operator providing communications services in connection with a disaster or emergency, participating in a drill, test, or other exercise in preparation for a disaster or emergency or otherwise communicating public information. A violation of the provisions added by **section 1** is a misdemeanor and punishable by a fine of \$50 for a first offense within the immediately preceding 7 years, \$100 for a second offense within the immediately preceding 7 years and \$250 for a third or subsequent offense

within the immediately preceding 7 years. However, **section 4** of this bill provides that until January 1, 2012, a law enforcement officer must not issue a citation to a person for violating **section 1** but must give the person a verbal or written warning. **Section 1** further provides that a first offense will not be treated as a moving traffic violation. Additionally, if a person is convicted of a third or subsequent offense, in addition to the fine, the driver's license of the person will be suspended for 6 months. **Section 2** of this bill makes the enhanced penalty for certain traffic violations that occur in a temporary traffic control zone applicable to violations of these new crimes.

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

Section 1. Chapter 484B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a person shall not, while operating a motor vehicle on a highway in this State:

(a) Manually type or enter text into a cellular telephone or other handheld wireless communications device, or send or read data using any such device to access or search the Internet or to engage in nonvoice communications with another person, including, without limitation, texting, electronic messaging and instant messaging.

(b) Use a cellular telephone or other handheld wireless communications device to engage in voice communications with another person, unless the device is used with an accessory which allows the person to communicate without using his or her hands, other than to activate, deactivate or initiate a feature or function on the device.

2. The provisions of this section do not apply to:

(a) A paid or volunteer firefighter, emergency medical technician, ambulance attendant or other person trained to provide emergency medical services who is acting within the course and scope of his or her employment.

(b) A law enforcement officer or any person designated by a sheriff or chief of police or the Director of the Department of Public Safety who is acting within the course and scope of his or her employment.

(c) A person who is reporting a medical emergency, a safety hazard or criminal activity or who is requesting assistance relating to a medical emergency, a safety hazard or criminal activity.

(d) A person who is responding to a situation requiring immediate action to protect the health, welfare or safety of the driver or another person and stopping the vehicle would be inadvisable, impractical or dangerous.

(e) A person who is licensed by the Federal Communications Commission as an amateur radio operator and who is providing a communication service in connection with an actual or impending disaster or emergency, participating in a drill, test, or other exercise in preparation

for a disaster or emergency or otherwise communicating public information.

3. The provisions of this section do not prohibit the use of a ~~voice-activated~~ voice-operated global positioning or navigation system that is affixed to the vehicle.

4. A person who violates any provision of subsection 1 is guilty of a misdemeanor and:

(a) For the first offense within the immediately preceding 7 years, shall pay a fine of \$50.

(b) For the second offense within the immediately preceding 7 years, shall pay a fine of \$100.

(c) For the third or subsequent offense within the immediately preceding 7 years, shall pay a fine of \$250.

5. A person who violates any provision of subsection 1 may be subject to the additional penalty set forth in NRS 484B.130.

6. The Department of Motor Vehicles shall not treat a first violation of this section in the manner statutorily required for a moving traffic violation.

7. For the purposes of this section, a person shall be deemed not to be operating a motor vehicle if the motor vehicle is driven autonomously through the use of artificial-intelligence software and the autonomous operation of the motor vehicle is authorized by law.

8. As used in this section, "handheld wireless communications device" means a handheld device for the transfer of information without the use of electrical conductors or wires and includes, without limitation, a cellular telephone, a personal digital assistant, a pager and a text messaging device. The term does not include a device used for two-way radio communications if:

(a) The person using the device has a license to operate the device, if required; and

(b) All the controls for operating the device, other than the microphone and a control to speak into the microphone, are located on a unit which is used to transmit and receive communications and which is separate from the microphone and is not intended to be held.

Sec. 2. NRS 484B.130 is hereby amended to read as follows:

484B.130 1. Except as otherwise provided in subsections 2 and 6, a person who is convicted of a violation of a speed limit, or of NRS 484B.150, 484B.163, 484B.200 to 484B.217, inclusive, 484B.223, 484B.227, 484B.300, 484B.303, 484B.317, 484B.320, 484B.327, 484B.330, 484B.403, 484B.587, 484B.600, 484B.603, 484B.610, 484B.613, 484B.650, 484B.653, 484B.657, 484C.110 or 484C.120, **or section 1 of this act**, that occurred:

(a) In an area designated as a temporary traffic control zone; and

(b) At a time when the workers who are performing construction, maintenance or repair of the highway or other work are present, or when the effects of the act may be aggravated because of the condition of the highway

caused by construction, maintenance or repair, including, without limitation, reduction in lane width, reduction in the number of lanes, shifting of lanes from the designated alignment and uneven or temporary surfaces, including, without limitation, modifications to road beds, cement-treated bases, chip seals and other similar conditions,

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

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

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

(a) A sign located before the beginning of such an area stating “DOUBLE PENALTIES IN WORK ZONES” to indicate a double penalty may be imposed pursuant to this section;

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

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

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

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

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

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

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

temporary traffic control zone or in damage to property in an amount equal to \$1,000 or more.

Sec. 3. NRS 707.375 is hereby amended to read as follows:

707.375 1. ~~{Aa}~~ ***Except as otherwise provided in section 1 of this act,*** an agency, board, commission or political subdivision of this State, including, without limitation, any agency, board, commission or governing body of a local government, shall not regulate the use of a telephonic device by a person who is operating a motor vehicle.

2. As used in subsection 1, “telephonic device” means a cellular phone, satellite phone, portable phone or any other similar electronic device that is handheld and designed or used to communicate with ~~ta~~ **another** person.

Sec. 4. Notwithstanding the provisions of section 1 of this act, on or before December 31, 2011, a law enforcement officer shall not issue a citation for a violation of the provisions of section 1 of this act but shall issue a verbal or written warning to a person who violates those provisions informing the person that he or she has violated the provisions of section 1 of this act and of the penalties that will apply to such a violation after December 31, 2011.

Assemblywoman Dondero Loop moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 191.

Bill read second time.

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

Amendment No. 701.

SUMMARY—Revises provisions governing pet **cemeteries and** crematories. (BDR 40-979)

AN ACT relating to ~~pet crematories; repealing provisions which require a person who operates a crematory for pets to operate the crematory on the property of a cemetery for~~ pets; **reducing the amount of real property required for the operation of a pet cemetery; revising provisions governing crematories for pets;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

~~{This bill repeals provisions requiring}~~ **Section 2 of this bill authorizes the governing body of a county, city or town to adopt ordinances for the maintenance and operation of a crematory for pets. Section 3 of this bill reduces the amount of real property required to have a pet cemetery from 5 acres to 2.5 acres. Section 4 of this bill removes the requirement that a crematory for pets must be operated by a person who operates a crematory for pets to obtain a certificate of authority from the Nevada State Funeral Board to operate a cemetery for pets and to operate the crematory on the premises of the cemetery. (NRS 452.675))** **is a cemetery authority, who**

has a certificate of authority and who operates the crematory on the property of a pet cemetery. Instead, section 4 requires a crematory for pets which is independent of a cemetery for pets to have an area of a facility that is designated only for the cremation of pets and which complies with any applicable laws. Section 5 of the bill allows the operator of a crematory for pets to dispose of the remains of a pet which have been left with the crematory when arrangements have not been made within 7 days.

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

Section 1. ~~NRS 452.675 is hereby repealed.~~ (Deleted by amendment.)

Sec. 2. NRS 452.650 is hereby amended to read as follows:

452.650 The governing body of a county, city or town may adopt such ordinances for the maintenance and operation of cemeteries for pets ~~and~~ **and crematories for pets,** and for the interment, inurnment and entombment of pets, as it deems appropriate for the public health, safety or welfare. Such an ordinance must not conflict with the provisions of NRS 452.655 to 452.700, inclusive.

Sec. 3. NRS 452.670 is hereby amended to read as follows:

452.670 A person shall not operate a cemetery for pets unless:

1. The trust fund for the endowment care of the cemetery contains a principal sum of not less than that amount required pursuant to NRS 452.705.

2. The cemetery is located on not less than ~~15~~ **2.5** acres of real property which:

(a) Is dedicated for use as a cemetery for pets pursuant to NRS 452.655; and

(b) Is not subject to any liens, mortgages or other encumbrances, except those which are subordinate to the dedication of the property for use as a cemetery for pets.

Sec. 4. NRS 452.675 is hereby amended to read as follows:

452.675 1. A person shall not operate a crematory for pets unless the person ~~is a cemetery authority who:~~

~~(a) Also holds a certificate of authority issued pursuant to NRS 452.340; and~~

~~(b) Operates the crematory on the property to which that certificate of authority relates.~~ **has a facility with an area designated only for the cremation of pets and which complies with any applicable federal or state statute or regulation or local ordinance.**

2. The provisions of this section do not apply to ~~it~~ :

(a) A society:

~~[(a) Formed]~~

(1) Which was formed for the purpose of preventing cruelty to animals as described in NRS 574.010; and

~~[(b)]~~ (2) Which operates a shelter for animals.

(b) A cemetery for pets that operates a crematory for pets.

Sec. 5. NRS 452.680 is hereby amended to read as follows:

452.680 A cemetery authority ~~[(1)]~~ **or an operator of a crematory for pets:**

1. May dispose of the remains of any pet which has been left for more than 7 days at the cemetery ~~[(1)]~~ **or crematory,** if arrangements have not been made with the cemetery authority **or operator of the pet crematory** for the disposition of the pet.

2. Shall post a notice, in a conspicuous place on the grounds of the cemetery ~~[(1)]~~ **or in the portion of the facility of the crematory where the public is allowed** apprising the public of the provisions of subsection 1.

~~[Sec. 2.]~~ **Sec. 6.** This act becomes effective upon passage and approval.

†

~~TEXT OF REPEALED SECTION~~

~~452.675 Restriction on operation of crematory.~~

~~1. A person shall not operate a crematory for pets unless the person is a cemetery authority who:~~

~~(a) Also holds a certificate of authority issued pursuant to NRS 452.340; and~~

~~(b) Operates the crematory on the property to which that certificate of authority relates.~~

~~2. The provisions of this section do not apply to a society:~~

~~(a) Formed for the purpose of preventing cruelty to animals as described in NRS 574.010; and~~

~~(b) Which operates a shelter for animals.]~~

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Senate Bill No. 210.

Bill read second time.

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

Amendment No. 702.

AN ACT relating to food establishments; ~~requiring a food processing establishment that processes or otherwise prepares wholesale food to comply with nationally recognized guidelines for the manufacturing and processing of food; providing for]~~ **allowing a health authority to require** the testing of ~~[such processed]~~ food **processed or otherwise prepared by a food processing establishment** under certain circumstances; requiring ~~the recording and review of]~~ **records of the test results [(1)] to be maintained and the results to be reported if contamination is indicated;** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth provisions governing the regulation of food establishments, including, without limitation, establishments that manufacture or process food intended for human consumption. (Chapter 446 of NRS) Existing law also requires that such provisions be enforced by the officers and agents of the Health Division of the Department of Health and Human Services and the officers and agents of the local boards of health. (NRS 446.050, 446.940) This bill ~~1. (1) requires a food processing establishment that processes or otherwise prepares wholesale food intended for human consumption to comply with nationally recognized guidelines for the manufacturing and processing of food; (2)~~ authorizes the health authority, under certain circumstances, to require that the food processed or otherwise prepared in such establishments be tested for the presence of certain contaminants ~~. 1. (3)~~ **The bill further** requires that the cost of the testing be paid by the establishments ~~1. (4)~~ **and** requires that the testing be conducted in accordance with nationally recognized laboratory standards ~~. 1. (5)~~ **Finally, this bill** requires records of the results of any tests to be retained for at least 2 years and requires timely reporting to the health authority if the testing indicates contamination ~~. 1. (6) requires the recording and review of test results.~~

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

Section 1. Chapter 446 of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. A food processing establishment shall comply with nationally recognized guidelines for the manufacturing and processing of food, including, without limitation:~~

~~(a) Identifying hazards from biological, chemical, physical and radiological sources;~~

~~(b) Establishing and carrying out preventive controls to:~~

~~(1) Minimize significantly the contamination of food; or~~

~~(2) Prevent hazards from contaminating food; and~~

~~(c) Verifying that preventive controls are effectively minimizing or preventing the contamination of food through the use of:~~

~~(1) Programs for environmental testing;~~

~~(2) Programs for the testing of products; or~~

~~(3) Other appropriate means.~~

~~2. Except as otherwise provided in this subsection, whenever the health authority determines there are reasonable grounds to suspect that the food processed or otherwise prepared by a food processing establishment may constitute a substantial health hazard, the health authority may require that the food processing establishment have its food tested for the presence of any contaminants typically associated with the suspected health hazard. When carrying out the provisions of this subsection, the health authority shall comply with the Federal Food Safety~~

Modernization Act, 21 U.S.C. 2201, et seq., and any regulations adopted pursuant thereto. The provisions of this subsection do not apply to the extent that a food processing establishment is under investigation for the same purpose pursuant to federal law.

~~§ 2.~~ 2. If the health authority requires pursuant to subsection ~~§ 1~~ 1 that the food processed or otherwise prepared by a food processing establishment be tested:

(a) The food processing establishment:

(1) Is responsible for the cost of the testing; and

(2) May perform such testing itself or cause the testing to be performed by a third party.

(b) The testing must be conducted in a manner that is consistent with nationally recognized laboratory standards.

~~§ 3.~~ 3. Records of the results of any tests conducted pursuant to this section must be retained by the food processing establishment to which the tests pertain for a period of not less than 2 years. The food processing establishment shall, upon request, make those records available to the health authority for its review.

~~§ 4.~~ 4. If testing required pursuant to subsection ~~§ 1~~ 1 indicates that the food processed or otherwise prepared by a food processing establishment is contaminated, the person or entity that conducted the testing shall, within 24 hours after obtaining the test results, report those test results to the health authority.

~~§ 6.~~ As used in this section:

(a) “Food processing establishment” means a commercial establishment which processes or otherwise prepares and packages wholesale food for human consumption. The term includes, without limitation, establishments that process:

(1) Vitamins;

(2) Food supplements;

(3) Food additives;

(4) Spices;

(5) Tea;

(6) Coffee;

(7) Salsa;

(8) Jelly or jam; or

(9) Condiments.

(b) “Substantial health hazard” includes, without limitation:

(1) Food from an unapproved or unknown source;

(2) Food that is adulterated, labeled improperly, misbranded, contaminated, showing evidence of temperature abuse or otherwise unfit for human consumption;

(3) Food held or kept under any condition that supports the rapid growth of bacteria, unless time is used properly as a public health control;

(4) Food that is or was handled by a person who:

~~(1) Is infected with a communicable disease; or~~

~~(11) Is not practicing strict standards of cleanliness or personal hygiene.~~

~~(5) Food that has come into contact with equipment, utensils or working surfaces which are not cleaned and sanitized effectively.~~

~~(6) Food prepared in an area where sewage or liquid waste is not disposed of in an approved and sanitary manner.~~

~~(7) Food prepared in an area where contamination may result from insects, rodents or other animals.~~

~~(8) Food prepared in an area where contamination may result from toxic materials which are stored or used improperly.~~

~~(c) "Wholesale food" means food that is processed or otherwise prepared at a food processing establishment and is:~~

~~(1) Used subsequently at another food processing establishment; or~~

~~(2) Served to the public at a food establishment.~~

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

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

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 221.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 743.

AN ACT relating to personal financial administration; providing for nonprobate transfers of property to take effect on the death of the owner of the property; establishing provisions relating to transfers of property which are found or presumed to be void and providing the effect of such transfers; providing for the independent administration of estates; revising provisions concerning the administration of trusts and estates; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1-3 of this bill provide for the exemption of certain trust property, interests or powers from execution and attachment. **Sections 6-47** of this bill provide for nonprobate transfers of property, including certain real property, at the death of the owner of the property. Specifically, **sections 41 and 42** govern the registration of property in beneficiary form and the extent to which the designation of a beneficiary may be revoked or changed during the lifetime of the owner of the property or in the owner's will. **Sections 40 and 45** set forth the rights of the beneficiary during the lifetime of the owner of the property and at the owner's death. **Sections 48-64** of this bill adopt provisions governing accounts in financial institutions in which one or more persons have an interest. **Section 49** provides that an account may: (1) be

owned by a single party or by multiple parties; and (2) include a payable-on-death beneficiary designation or an agency designation, or both. **Section 50** provides sample forms for establishing multiple-person accounts. **Section 53** provides that an account is owned by the parties during their lifetimes in accordance with each party's net contribution to the account. **Section 54** sets forth the rights of the parties with respect to an account upon the death of a party.

Existing law generally provides for the enforcement of a no-contest clause in a will or a trust. (NRS 137.005, 163.00195) **Sections 73 and 177** of this bill provide, with certain exceptions, that a devisee's or beneficiary's share may be reduced or eliminated under a no-contest clause by conduct that is set forth by the testator in the will or by the settlor in the trust. Similarly, **sections 70 and 176** of this bill provide that a disposition of property and the appointment of a fiduciary including, without limitation, a personal representative and a trustee, may be dependent on conditions set forth by the testator in a will or by the settlor in the trust. **Sections 76-144** of this bill set forth the Independent Administration of Estates Act, which allows a personal representative to administer most aspects of a decedent's estate without court supervision. Pursuant to **sections 86 and 88**, the court may: (1) grant the personal representative full authority or limited authority to administer the decedent's estate; or (2) revoke the personal representative's authority to administer the decedent's estate without court supervision. **Section 90** provides that if a personal representative is granted limited authority to administer the estate, court supervision is required for certain actions, including the sale of property of the estate, exchange of property of the estate or granting of an option to purchase property of the estate. **Section 90** further provides that if the personal representative has been granted full authority to administer the estate, court supervision for the sale of property of the estate, exchange of property of the estate or granting of an option to purchase property of the estate is required only under certain circumstances. **Sections 93-106 and 128** of this bill require the personal representative to give notice of a proposed action when exercising certain powers without court supervision, including selling real property of the estate. **Sections 107-115** of this bill require the personal representative to give notice of the proposed action under certain circumstances when exercising certain powers. **Sections 116-127** of this bill authorize the personal representative to exercise certain powers without giving notice of the proposed action, including the power to pay taxes and assessments and expenses incurred in the collection, care and administration of the estate.

Sections 202 and 203 of this bill adopt provisions concerning spendthrift trusts. Further, **sections 204-206** of this bill amend existing law concerning the powers and responsibilities of a settlor or trustee for a spendthrift trust.

Section 209 of this bill repeals the Uniform TOD Security Registration Act and other statutes related to nonprobate transfers of certain accounts

because those issues are addressed in **sections 32-64** of this bill which govern nonprobate transfers on death.

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

Section 1. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to
(name of person), the judgment creditor. The judgment creditor has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed \$550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home

and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than \$15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed \$500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust ~~that is a contingent interest,~~ if the ~~interest~~ **contingency** has not been ~~distributed from the trust;~~ **satisfied or removed;**

(b) A ~~remainder~~ **present or future** interest in the **income or principal of** a trust ~~whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;~~

~~(e) A~~ **for which** discretionary power **is** held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

~~[(d)]~~ **(c)** The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

~~[(e)]~~ **(d)** Certain powers held by a trust protector or certain other persons;

~~[(f)]~~ **and**

(e) Any power held by the person who created the trust . ~~[(f)]~~ **and**

~~(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.]~~

17. If a trust contains a spendthrift provision:

(a) A **present or future interest in the income or principal of a trust that is a** mandatory interest ~~[(in the trust)]~~ in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust; **and**

(b) A **present or future interest in the income or principal of a trust that is a** support interest ~~[(in the trust)]~~ in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust . ~~[(f)]~~ **and**

~~(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.]~~

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed \$1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➔ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to indigent or elderly persons).

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court a notarized affidavit claiming the exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless you or the judgment creditor files a motion for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The motion for the hearing to determine the issue of exemption must be filed within 10 days after the affidavit claiming exemption is filed. The hearing to determine whether the property or money is exempt must be held within 10 days after the motion for the hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Sec. 2. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed \$5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed \$12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed \$4,500 in value, belonging to the judgment debtor to be selected by the judgment debtor.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of the judgment debtor and his or her family not to exceed \$10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any mining operations and the mining claim actually worked by the miner or prospector, not exceeding \$4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed \$15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire

departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance, if the annual premium paid does not exceed \$15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the \$15,000 bears to the whole annual premium paid.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself or herself and family, where the amount of equity held by the judgment debtor in the home does not exceed \$550,000 in value and the dwelling is situated upon lands not owned by the judgment debtor.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by the judgment debtor or the judgment debtor's dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed \$500,000 in present value, held in:

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed \$1,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A ~~beneficial~~ **distribution** interest in the trust as defined in NRS ~~163.4145 if the interest has not been distributed;~~ **163.4155 that is a contingent interest, if the contingency has not been satisfied or removed;**

(2) A ~~{remainder}~~ **distribution** interest in the trust as defined in NRS ~~163.416 if the trust does not indicate that the remainder interest is certain to be distributed within 1 year after the date on which the instrument that creates the remainder interest becomes irrevocable;~~

~~(3) A~~ **163.4155 that is a** discretionary interest ~~{in the trust}~~ as described in NRS 163.4185, if the interest has not been distributed;

~~{(4)}~~ (3) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been ~~{distributed or transferred;~~

~~(5)}~~ **exercised;**

(4) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been ~~{distributed or transferred;~~

~~(6)}~~ **exercised; and**

(5) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been ~~{distributed or transferred; and~~

~~(7) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.}~~ **exercised.**

(dd) If a trust contains a spendthrift provision:

(1) A ~~{mandatory}~~ **distribution** interest in the trust as **defined in NRS 163.4155 that is a mandatory interest as** described in NRS 163.4185, if the interest has not been distributed; **and**

(2) Notwithstanding a beneficiary's right to enforce a support interest, a ~~{support}~~ **distribution** interest in the trust as **defined in NRS 163.4155 that is a support interest as** described in NRS 163.4185, if the interest has not been distributed. ~~{; and~~

~~(3) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.}~~

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 3. NRS 31.045 is hereby amended to read as follows:

31.045 1. Execution on the writ of attachment by attaching property of the defendant may occur only if:

(a) The judgment creditor serves the defendant with notice of the execution when the notice of the hearing is served pursuant to NRS 31.013; or

(b) Pursuant to an ex parte hearing, the sheriff serves upon the judgment debtor notice of the execution and a copy of the writ at the same time and in the same manner as set forth in NRS 21.076.

➡ If the attachment occurs pursuant to an ex parte hearing, the clerk of the court shall attach the notice to the writ of attachment at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

Plaintiff, ... (name of person), alleges that you owe the plaintiff money. The plaintiff has begun the procedure to collect that money. To secure satisfaction of judgment, the court has ordered the garnishment of your wages, bank account or other personal property held by third persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed \$550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or

the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than \$15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed \$500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust ~~that is a contingent interest,~~ if the interest has not been ~~distributed from the trust;~~ **satisfied or removed;**

(b) A ~~remainder~~ **present or future** interest in the **income or principal of** a trust ~~whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;~~

~~(c) A~~ **for which** discretionary power **is** held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

~~(d)~~ **(c)** The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

~~(e)~~ **(d)** Certain powers held by a trust protector or certain other persons;

~~[(f)]~~ and

(e) Any power held by the person who created the trust . ~~f; and~~

~~(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.]~~

17. If a trust contains a spendthrift provision:

(a) A **present or future interest in the income or principal of a trust that is a** mandatory interest ~~[in the trust]~~ in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust; **and**

(b) A **present or future interest in the income or principal of a trust that is a** support interest ~~[in the trust]~~ in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust . ~~f; and~~

~~(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.]~~

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed \$1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➡ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a

mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to the indigent or elderly persons).

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk a notarized affidavit claiming the exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless the judgment creditor files a motion for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The hearing must be held within 10 days after the motion for a hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

If you received this notice with a notice of a hearing for attachment and you believe that the money or property which would be taken from you by a writ of attachment is exempt or necessary for the support of you or your family, you are entitled to describe to the court at the hearing why you believe your property is exempt. You may also file a motion with the court for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

Sec. 4. NRS 41B.090 is hereby amended to read as follows:

41B.090 "Governing instrument" means any of the following:

1. A deed or any other instrument that transfers any property, interest or benefit.

2. An annuity or a policy of insurance.

3. A trust, whether created by an instrument executed during the life of the settlor, a testamentary instrument or any other instrument, judgment or decree, including, without limitation, any of the following:

(a) An express trust, whether private or charitable, and any additions to such a trust.

(b) A trust created or determined by a judgment or decree under which the trust is to be administered in the manner of an express trust.

4. A will, a codicil or any other testamentary instrument, including, without limitation, a testamentary instrument that:

(a) Appoints a person to serve in a fiduciary or representative capacity, nominates a guardian or revokes or revises another will, codicil or testamentary instrument; or

(b) Excludes or limits the right of a person or class of persons to succeed to any property, interest or benefit pursuant to the laws of intestate succession.

5. Any account or deposit that is payable or transferable on the death of a person or any instrument that provides for the payment or transfer of any property, interest or benefit on the death of a person.

6. A security registered as transferable on the death of a person . ~~for a security registered in beneficiary form pursuant to NRS 111.480 to 111.650, inclusive.~~

7. Any instrument creating or exercising a power of appointment or a durable or nondurable power of attorney.

8. Any instrument that appoints or nominates a person to serve in any fiduciary or representative capacity, including, without limitation, an agent, guardian, executor, personal representative or trustee.

9. Any public or private plan or system that entitles a person to the payment or transfer of any property, interest or benefit, including, without limitation, a plan or system that involves any of the following:

(a) Pension benefits, retirement benefits or other similar benefits.

(b) Profit-sharing or any other form of participation in profits, revenues, securities, capital or assets.

(c) Industrial insurance, workers' compensation or other similar benefits.

(d) Group insurance.

10. A partnership agreement or an agreement concerning any joint adventure, enterprise or venture.

11. A premarital, antenuptial or postnuptial agreement, a marriage contract or settlement or any other similar agreement, contract or settlement.

12. Any instrument that declares a homestead pursuant to chapter 115 of NRS.

13. Any other dispositive, appointive, nominative or declarative instrument.

Sec. 5. Chapter 111 of NRS is hereby amended by adding thereto the provisions set forth as sections 6 to 64, inclusive, of this act.

Sec. 6. *As used in sections 6 to 64, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 7 to 31, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 7. *“Account” means an agreement of deposit between a depositor and a financial institution and includes a checking account, savings account, certificate of deposit and share account.*

Sec. 8. “Agent” has the meaning ascribed to it in NRS 132.045.

Sec. 9. “Beneficiary” has the meaning ascribed to it in NRS 132.050.

Sec. 10. “Contract” includes an insurance policy, contract of employment, bond, mortgage, promissory note, certificated or uncertificated security, account, custodial agreement, deposit agreement, compensation agreement, deferred compensation plan, pension plan, individual retirement plan, employee benefit plan, trust, conveyance, deed of gift, marital property agreement or other written instrument of a similar nature.

Sec. 11. “Devisee” has the meaning ascribed to it in NRS 132.100.

Sec. 12. “Financial institution” means an organization authorized to do business under state or federal laws relating to financial institutions and includes a bank, thrift company, trust company, savings bank, building and loan association, savings and loan company or association and credit union.

Sec. 13. “Governing instrument” has the meaning ascribed to it in NRS 132.155.

Sec. 14. “Heirs” has the meaning ascribed to it in NRS 132.165.

Sec. 15. “Held in beneficiary form” means the holding of property which has been registered in beneficiary form or another writing that names the owner of the property followed by a transfer-on-death direction and the designation of a beneficiary.

Sec. 16. “Multiple-party account” means an account payable on request to one or more of two or more parties, whether or not a right of survivorship is mentioned.

Sec. 17. 1. “Nonprobate transfer” means a transfer of any property or interest in property from a decedent to one or more other persons by operation of law or by contract that is effective upon the death of the decedent and includes, without limitation:

(a) A transfer by right of survivorship, including a transfer pursuant to subsection 1 of NRS 115.060;

(b) A transfer by deed upon death pursuant to NRS 111.109; and

(c) A security registered as transferable on the death of a person.

2. The term does not include:

(a) Property that is subject to administration in probate of the estate of the decedent;

(b) Property that is set aside, without administration, pursuant to NRS 146.070; and

(c) Property transferred pursuant to an affidavit as authorized by NRS 146.080.

Sec. 18. “Party” means a person who, by the terms of an account, has a present right, subject to request, to payment from the account other than as a beneficiary or agent.

Sec. 19. “Payment,” as it relates to sums on deposit, includes withdrawal, payment to a party or third person pursuant to a check or

other request and a pledge of sums on deposit by a party, or a set-off, reduction or other disposition of all or part of an account pursuant to a pledge.

Sec. 20. *“Personal representative” has the meaning ascribed to it in NRS 132.265.*

Sec. 21. *“POD designation” means the designation of:*

1. *A beneficiary in an account payable on request to one party during the party’s lifetime and on the party’s death to one or more beneficiaries, or to one or more parties during their lifetimes and on death of all the parties to one or more beneficiaries; or*

2. *A beneficiary in an account in the name of one or more parties as trustee for one or more beneficiaries if the relationship is established by the terms of the account and there is no subject of the trust other than the sums on deposit in the account, whether or not payment to the beneficiary is mentioned.*

Sec. 22. *“Receive,” as it relates to notice to a financial institution, means receipt in the office or branch office of the financial institution in which the account is established or, if the terms of the account require notice at a particular place, in the place required.*

Sec. 23. *“Register in beneficiary form” means to title an account record, certificate or other written instrument evidencing ownership of property in the name of the owner followed by a transfer-on-death direction as described in section 42 of this act and the designation of a beneficiary.*

Sec. 24. *“Request” means a request for payment complying with all terms of the account, including special requirements concerning necessary signatures and regulations of the financial institution. For the purposes of sections 6 to 64, inclusive, of this act, if the terms of the account condition payment on advance notice, a request for payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for payment.*

Sec. 25. *“State” includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any territory or possession subject to the jurisdiction of the United States.*

Sec. 26. *“Sums on deposit” means the balance payable on an account, including interest and dividends earned, whether or not included in the current balance, and any deposit life insurance proceeds added to the account by reason of the death of a party.*

Sec. 27. *“Terms of the account” includes the deposit agreement and other terms and conditions, including the form, of the deposit.*

Sec. 28. *“Transferring entity” means a person who owes a debt or is obligated to pay money or benefits, render contract performance, deliver or convey property, or change the record of ownership of property on the books, records and accounts of an enterprise or on a certificate or document of title that evidences property rights, and includes any*

governmental agency or business entity that, or transfer agent who, issues certificates of ownership or title to property and a person acting as a custodial agent for an owner's property.

Sec. 29. "Trust" has the meaning ascribed to it in NRS 132.350.

Sec. 30. "Trustee" has the meaning ascribed to it in NRS 132.355.

Sec. 31. "Will" has the meaning ascribed to it in NRS 132.370.

Sec. 32. 1. A provision for a nonprobate transfer on death in a contract is nontestamentary and includes any written provision that:

(a) Money or other benefits due to, controlled by or owned by a decedent before death must be paid after the decedent's death to a person whom the decedent designates in the contract or in a separate writing, including a will, executed before or at the same time as the contract, or later;

(b) Money due or to become due under the contract ceases to be payable in the event of death of the promisee or the promisor before payment or demand; or

(c) Any property controlled by or owned by the decedent before death which is the subject of the contract passes to a person whom the decedent designates in the contract or in a separate writing, including a will, executed before or at the same time as the contract, or later.

2. A nonprobate transfer described in subsection 1:

(a) Is exempt from the requirements of chapter 133 of NRS;

(b) Is not subject to administration as part of the person's estate at death;

(c) Is not subject to distribution pursuant to the decedent's will or pursuant to chapter 134 of NRS, except to the extent that the beneficiary designation fails; and

(d) May be established in conjunction with the ownership registration of an asset, as provided in section 36 of this act.

3. A beneficiary designation that involves an interest in real property must be done in the form of a deed that satisfies the requirements of NRS 111.109.

4. Upon a decedent's death:

(a) Money or other benefits due to, controlled by or owned by that decedent before death must be paid after the decedent's death to the beneficiary whom the decedent designates in the contract or in a separate writing, including a will, executed before or at the same time as the contract, or later;

(b) If the contract provides that money due or to become due under the contract ceases to be payable in the event of the death of the promisee or the promisor before payment or demand, such provision is effective; and

(c) Any property controlled by or owned by the decedent before death which is the subject of the contract passes to the beneficiary whom the decedent designates in the contract or in a separate writing, including a will, executed before or at the same time as the contract, or later.

5. *Notwithstanding the provisions of this section to the contrary, a writing separate from a contract is not effective to the extent it violates the terms of the contract unless it is signed or otherwise ratified by all parties to the contract.*

6. *Nothing in sections 32 to 64, inclusive, of this act authorizes a married person to transfer or otherwise affect the community property rights of that person's spouse.*

Sec. 33. *For the purpose of discharging its duties under sections 32 to 46, inclusive, of this act, the authority of a transferring entity acting as agent for an owner of property subject to a nonprobate transfer does not cease at the death of the owner. The transferring entity shall transfer the property to the designated beneficiary in accordance with the contract between the transferring entity and the deceased owner and with sections 32 to 46, inclusive, of this act.*

Sec. 34. 1. *Provision for a nonprobate transfer is a matter of agreement between the owner and the transferring entity, under such rules, terms and conditions as the owner and transferring entity may agree. Before a nonprobate transfer is effective, the contract may require:*

(a) Submission to the transferring entity of a beneficiary designation under a governing instrument;

(b) Registration by a transferring entity of a transfer-on-death direction on any certificate or record evidencing ownership of property;

(c) The consent of a contract obligor for a transfer of performance due under the contract;

(d) The consent of a financial institution for a transfer of an obligation of the financial institution;

(e) The consent of a transferring entity for a transfer of an interest in the transferring entity; or

(f) Compliance with any other express condition.

2. *Whenever a contract provision relating to a nonprobate transfer requires any of the conditions set forth in subsection 1, nothing in sections 32 to 46, inclusive, of this act imposes an obligation on a transferring entity to accept an owner's request to make provision for a nonprobate transfer of property unless the conditions have been met.*

3. *When a beneficiary designation, revocation or change is subject to acceptance by a transferring entity, the transferring entity's acceptance of the beneficiary designation, revocation or change relates back to and is effective as of the time when the request was received by the transferring entity.*

Sec. 35. *When a transferring entity accepts a beneficiary designation or beneficiary assignment or registers in beneficiary form certain property, the acceptance or registration constitutes the agreement of the owner and transferring entity that, unless the beneficiary designation is revoked or changed before the death of the owner, on proof of the death of the owner and compliance with the transferring entity's requirements for showing*

proof of entitlement, the property will be transferred to and placed in the name and control of the beneficiary in accordance with the beneficiary designation or transfer-on-death direction, the agreement of the parties and the provisions of sections 32 to 46, inclusive, of this act.

Sec. 36. A beneficiary designation, under a written instrument or law, that authorizes a transfer of property pursuant to a written designation of beneficiary transfers the right to receive the property to the designated beneficiary who survives, effective on the death of the owner, if the beneficiary designation is executed and delivered in proper form to the transferring entity before the death of the owner.

Sec. 37. 1. A written assignment of a contract right which assigns the right to receive any performance remaining due under the contract to an assignee designated by the owner and which expressly states that the assignment is not to take effect until the death of the owner transfers the right to receive performance due under the contract to the designated assignee beneficiary, effective on the death of the owner, if the assignment is executed and delivered in proper form to the contract obligor before the death of the owner or is executed in proper form and acknowledged before a notary public or other person authorized to administer oaths. A beneficiary assignment need not be supported by consideration or be delivered to the assignee beneficiary.

2. This section does not preclude other methods of assignment which are authorized by law and which have the effect of postponing enjoyment of a contract right until the death of the owner.

Sec. 38. 1. A deed of gift, bill of sale or other writing intended to transfer an interest in tangible personal property which expressly states that the transfer is not to take effect until the death of the owner transfers ownership to the designated transferee beneficiary, effective on the death of the owner, if the instrument is in other respects sufficient to transfer the type of property involved and is executed by the owner and acknowledged before a notary public or other person authorized to administer oaths. A beneficiary transfer instrument need not be supported by consideration or be delivered to any transferee beneficiary.

2. This section does not preclude other methods of transferring ownership of tangible personal property which are authorized by law and which have the effect of postponing enjoyment of property until the death of the owner.

Sec. 39. 1. A transferor of property, with or without consideration, may directly transfer the property to a transferee to be held in beneficiary form, as owner of the property.

2. A transferee under an instrument described in subsection 1 of section 32 of this act is the owner of the property for all purposes and has all the rights to the property otherwise provided by law to owners, including the right to revoke or change the beneficiary designation.

3. A direct transfer of property to a transferee to be held in beneficiary form is effective when the writing perfecting the transfer becomes effective to make the transferee the owner.

Sec. 40. 1. Before the death of the owner, a designated beneficiary has no rights in the property by reason of the beneficiary designation and the signature or agreement of the beneficiary is not required for any transaction respecting the property.

2. On the death of one of two or more joint owners, property with respect to which a beneficiary designation has been made belongs to the surviving joint owner or owners and the right of survivorship continues as between two or more surviving joint owners.

3. On the death of a sole owner, property passes by operation of law to the beneficiary.

4. If two or more beneficiaries survive, there is no right of survivorship among the beneficiaries in the event of the death of a beneficiary thereafter unless the beneficiary designation expressly provides for survivorship among them and, unless so expressly provided, surviving beneficiaries hold their separate interests in the property as tenants in common. The share of any subsequently deceased beneficiary belongs to that beneficiary's estate.

5. If no beneficiary survives the owner, the property belongs to the estate of the owner.

Sec. 41. 1. Unless a beneficiary designation is expressly made irrevocable, a beneficiary designation may be revoked or changed in whole or in part during the lifetime of the owner. A revocation or change of a beneficiary designation involving property of joint owners may only be made with the agreement of all owners then living.

2. A subsequent beneficiary designation revokes a previous beneficiary designation unless the subsequent beneficiary designation expressly provides otherwise.

3. A revocation or change in a beneficiary designation must comply with the terms of the governing instrument, the rules of the transferring entity and the applicable law.

4. A beneficiary designation may not be revoked or changed by the provisions of a will unless the beneficiary designation expressly grants the owner the right to revoke or change a beneficiary designation by will. If a beneficiary designation is revoked by will, it must be revoked by an express provision in the will and extrinsic evidence is not admissible to establish the testator's intent concerning the beneficiary designation.

5. A transfer during the owner's lifetime of the owner's interest in property, with or without consideration, terminates the beneficiary designation with respect to the property transferred.

6. The effective date of a revocation or change in a beneficiary designation must be determined in the same manner as the effective date of a beneficiary designation.

Sec. 42. 1. *Property may be held in beneficiary form or registered in beneficiary form by including in the name in which the property is held or registered a direction to transfer the property on the death of the owner to a beneficiary designated by the owner.*

2. *Property is registered in beneficiary form by showing on the account record, security certificate or written instrument evidencing ownership of the property the name of the owner, and the form of ownership by which two or more joint owners hold the property, followed in substance by the words “transfer on death to..... (name of beneficiary).” In lieu of the words “transfer on death to,” the words “pay on death to” or “pay on death to the owner’s lineal descendants, per stirpes” or the abbreviation “TOD,” “POD” or “LDPS” may be used. The designation of a person’s heirs as beneficiaries does not make the property subject to administration as part of the person’s estate, but the identities of the beneficiaries must be determined pursuant to chapter 134 of NRS as they relate to the owner’s separate property.*

3. *A transfer-on-death direction may only be placed on an account record, security certificate or instrument evidencing ownership of property by the transferring entity or a person authorized by the transferring entity.*

4. *A transfer-on-death direction transfers the owner’s interest in the property to the designated beneficiary, effective on the death of the owner, if the property is registered in beneficiary form before the death of the owner or if the request to make the transfer-on-death direction is delivered in proper form to the transferring entity before the death of the owner.*

5. *An account record, security certificate or written instrument evidencing ownership of property that contains a transfer-on-death direction written as part of the name in which the property is held or registered is conclusive evidence in the absence of fraud, duress, undue influence or evidence of clerical mistake by the transferring entity that the direction was regularly made by the owner and accepted by the transferring entity and was not revoked or changed before the death giving rise to the transfer. The transferring entity has no obligation to retain the original writing, if any, by which the owner caused the property to be held in beneficiary form or registered in beneficiary form, more than 6 months after the transferring entity has mailed or delivered to the owner, at the address shown on the registration, an account statement, certificate or instrument that shows the manner in which the property is held in beneficiary form or registered in beneficiary form.*

Sec. 43. *Any interest in property that would be distributed by nonprobate transfer to or for a beneficiary who is disqualified as a beneficiary pursuant to chapter 41B of NRS must be transferred as if the disqualified beneficiary had disclaimed the interest immediately upon the decedent’s death.*

Sec. 44. *An agent, guardian of the person or other fiduciary may not make, revoke or change a beneficiary designation unless:*

1. *The power of attorney or other document establishing the agent, guardian or other fiduciary's right to act or a court order expressly authorizes such action; and*

2. *The action complies with the terms of the governing instrument, the rules of the transferring entity and applicable law.*

Sec. 45. *If property subject to a beneficiary designation is lost, destroyed, damaged or involuntarily converted during the owner's lifetime, the beneficiary succeeds to any right with respect to the loss, destruction, damage or involuntary conversion which the owner would have had if the owner had survived but has no interest in any payment or substitute property received by the owner during the owner's lifetime.*

Sec. 46. 1. *Except as otherwise provided in NRS 21.090 and other applicable law, a transferee of a nonprobate transfer is liable to the probate estate of the decedent for allowed claims against that decedent's probate estate to the extent the estate is insufficient to satisfy those claims.*

2. *The liability of a nonprobate transferee may not exceed the value of nonprobate transfers received or controlled by that transferee.*

3. *Nonprobate transferees are liable for the insufficiency described in subsection 1 in the following order of priority:*

(a) *A transferee specified in the decedent's will or any other governing instrument as being liable for such an insufficiency, in the order of priority provided in the will or other governing instrument;*

(b) *The trustee of a trust serving as the principal nonprobate instrument in the decedent's estate plan as shown by its designation as devisee of the decedent's residuary estate or by other facts or circumstances, to the extent of the value of the nonprobate transfer received or controlled; and*

(c) *Other nonprobate transferees, in proportion to the values received.*

4. *Unless otherwise provided by the trust instrument, interests of beneficiaries in all trusts incurring liabilities under this section abate as necessary to satisfy the liability, as if all the trust instruments were a single will and the interests were devised under it.*

5. *If a nonprobate transferee is a spouse or a minor child, the nonprobate transferee may petition the court to be excluded from the liability imposed by this section as if the nonprobate property received by the spouse or minor child were part of the decedent's estate. Such a petition may be made pursuant to the applicable provisions of chapter 146 of NRS, including, without limitation, the provisions of NRS 146.010, NRS 146.020 without regard to the filing of an inventory and subsection 2 of NRS 146.070.*

6. *A provision made in one instrument may direct the apportionment of the liability among the nonprobate transferees taking under that or any other governing instrument. If a provision in one instrument conflicts with a provision in another, the later one prevails.*

7. Upon due notice to a nonprobate transferee, the liability imposed by this section is enforceable in probate proceedings in this State, whether or not the transferee is located in this State.

8. If a probate proceeding is pending, a proceeding under this section may be commenced by the personal representative of the decedent's estate or, if the personal representative declines to do so, by a creditor in the name of the decedent's estate, at the expense of the creditor and not of the estate. If a creditor successfully establishes an entitlement to payment under this section, the court must order the reimbursement of the costs reasonably incurred by the creditor, including attorney's fees, from the transferee from whom the payment is to be made, subject to the limitations of subsection 2, or from the estate as a cost of administration, or partially from each, as the court deems just. A personal representative who declines in good faith to commence a requested proceeding incurs no personal liability for declining.

9. If a probate proceeding is not pending, a proceeding under this section may be commenced as a civil action by a creditor at the expense of the creditor.

10. If a proceeding is commenced pursuant to this section, it must be commenced:

(a) As to a creditor whose claim was allowed after proceedings challenging disallowance of the claim by the personal representative, within 60 days after final allowance of the claim by the probate court or within 1 year after the decedent's death, whichever is later.

(b) As to a creditor whose claim against the decedent is being adjudicated in a separate proceeding that is still pending 1 year after the decedent's death, within 60 days after the adjudication of the claim in favor of the creditor is final and no longer subject to reconsideration or appeal.

(c) As to the recovery of benefits paid for Medicaid, within 3 years after the decedent's death.

(d) As to all other creditors, within 1 year after the decedent's death.

11. Unless a written notice asserting that a decedent's probate estate is nonexistent or insufficient to pay allowed claims and statutory allowances has been received from the decedent's personal representative, the following rules apply:

(a) Payment or delivery of assets by a financial institution, registrar or other obligor to a nonprobate transferee in accordance with the terms of the governing instrument controlling the transfer releases the obligor from all claims for amounts paid or assets delivered.

(b) A trustee receiving or controlling a nonprobate transfer is released from liability under this section with respect to any assets distributed to the trust's beneficiaries. Each beneficiary to the extent of the distribution received becomes liable for the amount of the trustee's liability attributable to assets received by the beneficiary.

12. Notwithstanding any provision of this section to the contrary:

(a) A creditor has no claim against property transferred pursuant to a power of appointment exercised by a decedent unless it was exercisable in favor of the decedent or the decedent's estate.

(b) A purchaser for value of property or a lender who acquires a security interest in the property from a beneficiary of a nonprobate transfer after the death of the owner, in good faith:

(1) Takes the property free of any claims or of liability to the owner's estate, creditors of the owner's estate, persons claiming rights as beneficiaries under the nonprobate transfer or heirs of the owner's estate, in absence of actual knowledge that the transfer was improper; and

(2) Has no duty to verify sworn information relating to the nonprobate transfer. The protection provided by this subparagraph applies to information that relates to the ownership interest of the beneficiary in the property and the beneficiary's right to sell, encumber and transfer good title to a purchaser or lender and does not relieve a purchaser or lender from the notice imparted by instruments of record respecting the property.

13. As used in this section, "devise" has the meaning ascribed to it in NRS 132.095.

Sec. 47. 1. Except as otherwise provided by the express terms of a governing instrument, a court order or a contract relating to the division of the marital estate made between the divorced persons before or after the marriage, divorce or annulment, the divorce or annulment of a marriage:

(a) Revokes any revocable:

(1) Disposition or appointment of property made by a divorced person to his or her former spouse in a governing instrument and any disposition or appointment created by law or in a governing instrument to a relative of the divorced person's former spouse;

(2) Provision in a governing instrument conferring a general or nongeneral power of appointment on the divorced person's former spouse or on a relative of the divorced person's former spouse; and

(3) Nomination in a governing instrument that nominates a divorced person's former spouse or a relative of the divorced person's former spouse to serve in any fiduciary or representative capacity, including a personal representative capacity, including a personal representative, executor, trustee, conservator, agent or guardian; and

(b) Severs the interest of the former spouses in property held by them at the time of the divorce or annulment as joint tenants with the right of survivorship or as community property with a right of survivorship and transforms the interests of the former spouses into equal tenancies in common.

2. A severance under paragraph (b) of subsection 1 does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the survivor of the former spouses unless a writing declaring the severance has been noted, registered, filed or recorded in records appropriate to the kind and location

of the property which records are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

3. The provisions of a governing instrument are given effect as if the former spouse and relatives of the former spouse disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the former spouse and relatives of the former spouse died immediately before the divorce or annulment.

4. Any provisions revoked solely by this section are revived by the divorced person's remarriage to the former spouse or by a nullification of the divorce or annulment.

5. Unless a court in an action commenced pursuant to chapter 125 of NRS specifically orders otherwise, a restraining order entered pursuant to NRS 125.050 does not preclude a party to such an action from making or changing beneficiary designations that specify who will receive the party's assets upon the party's death.

6. A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by the provisions of this section or for having taken any other action in good faith reliance on the validity of the governing instrument before the payor or other third party received written or actual notice of any event affecting a beneficiary designation. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written or actual notice of a claimed forfeiture or revocation under this section.

7. Written notice of the divorce, annulment or remarriage or written notice of a complaint or petition for divorce or annulment must be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of the divorce, annulment or remarriage, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement or transfer in accordance with the determination. Payments, transfers or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

8. A person who purchases property from a former spouse, relative of a former spouse or any other person for value and without notice, or who receives from a former spouse, relative of a former spouse or any other person a payment or other item of property in partial or full satisfaction of

a legally enforceable obligation, is neither obligated under this section to return the payment, item of property or benefit nor is liable under this section for the amount of the payment or the value of the item of property or benefit. A former spouse, relative of a former spouse or other person who, not for value, received a payment, item of property or any other benefit to which that person is not entitled under this section is obligated to return the payment, item of property or benefit or is personally liable for the amount of the payment or the value of the item of property or benefit to the person who is entitled to it under this section.

9. *If this section or any part of this section is preempted by federal law with respect to a payment, an item of property or any other benefit covered by this section, a former spouse, relative of the former spouse or any other person who, not for value, received a payment, item of property or any other benefit to which that person is not entitled under this section is obligated to return that payment, item of property or benefit or is personally liable for the amount of the payment or the value of the item of property or benefit to the person who would have been entitled to it were this section or part of this section not preempted.*

10. *As used in this section:*

(a) *“Disposition or appointment of property” includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.*

(b) *“Divorce or annulment” means any divorce or annulment or any dissolution or declaration of invalidity of a marriage. A decree of separation that does not terminate the status of husband and wife is not a divorce for purposes of this section.*

(c) *“Divorced person” includes a person whose marriage has been annulled.*

(d) *“Governing instrument” means a governing instrument executed by a divorced person before the divorce or annulment of the person’s marriage to the person’s former spouse.*

(e) *“Relative of the divorced person’s former spouse” means a person who is related to the divorced person’s former spouse by blood, adoption or affinity and who, after the divorce or annulment, is not related to the divorced person by blood, adoption or affinity.*

(f) *“Revocable,” with respect to a disposition, appointment, provision or nomination, means one under which the divorced person, at the time of the divorce or annulment, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the person’s former spouse or former spouse’s relative, whether or not the divorced person was then empowered to designate himself or herself in place of his or her former spouse or in place of his or her former spouse’s relative and whether or not the divorced person then had the capacity to exercise the power.*

Sec. 48. *The provisions of sections 48 to 64, inclusive, of this act:*

1. Apply to accounts in financial institutions in this State for which ownership is determined under Nevada law.

2. Do not apply to:

(a) An account established for a partnership, joint venture or other organization for a business purpose;

(b) An account controlled by one or more persons as an agent or trustee for a corporation, unincorporated association or charitable or civic organization; or

(c) A fiduciary or trust account in which the relationship is established other than by the terms of the account.

Sec. 49. 1. An account may be for a single party or multiple parties. A multiple-party account may be with or without a right of survivorship between the parties. Subject to subsection 3 of section 54 of this act, a single-party account or a multiple-party account may have a POD designation or an agency designation, or both.

2. An account established before, on or after October 1, 2011, whether in the form prescribed in subsection 1 of section 50 of this act or in any other form, is a single-party account or a multiple-party account, with or without right of survivorship, and with or without a POD designation or an agency designation, and is governed by sections 48 to 64, inclusive, of this act.

Sec. 50. 1. An agreement of deposit that contains provisions in substantially the following form establishes the type of account provided, and the account is governed by the provisions of sections 48 to 64, inclusive, of this act applicable to an account of that type:

UNIFORM SINGLE- OR MULTIPLE-PARTY ACCOUNT FORM

PARTIES [Name one or more parties]:

OWNERSHIP [Select one and initial]:

..... **SINGLE-PARTY ACCOUNT**

..... **MULTIPLE-PARTY ACCOUNT**

Parties own the account in proportion to net contributions, unless there is clear and convincing evidence of a different intent.

RIGHTS AT DEATH [Select one and initial]:

..... **SINGLE-PARTY ACCOUNT**

At death of party, ownership passes as part of party's estate.

..... **SINGLE-PARTY ACCOUNT WITH POD (PAY-ON-DEATH) DESIGNATION**

[Name one or more beneficiaries]:

.....

At death of party, ownership passes to POD beneficiaries and is not part of party's estate but may be subject to party's creditors.

..... **MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP**

At death of party, ownership passes to surviving parties.

..... **MULTIPLE-PARTY ACCOUNT WITH RIGHT OF
SURVIVORSHIP AND POD (PAY-ON-DEATH)
DESIGNATION**

[Name one or more beneficiaries]:

.....

*At death of last surviving party, ownership passes to POD
beneficiaries and is not part of last surviving party's estate.*

..... **MULTIPLE-PARTY ACCOUNT WITHOUT RIGHT OF
SURVIVORSHIP**

*At death of party, deceased party's ownership passes as part
of deceased party's estate.*

AGENCY (POWER OF ATTORNEY) DESIGNATION [Optional]

*Agents may make account transactions for parties but have
no ownership or rights at death unless named as POD
beneficiaries.*

*[To add agency designation to account, name one or more
agents]:*

.....

[Select one and initial]:

..... **AGENCY DESIGNATION SURVIVES DISABILITY OR
INCAPACITY OF PARTIES**

..... **AGENCY DESIGNATION TERMINATES ON
DISABILITY OR INCAPACITY OF PARTIES**

2. An agreement of deposit that does not contain provisions in substantially the form provided in this section is governed by the provisions of sections 48 to 64, inclusive, of this act applicable to the type of account that most nearly conforms to the depositor's intent.

Sec. 51. 1. By a writing signed by all parties, the parties may designate as agent of all parties on an account a person other than a party to the account.

2. Unless the terms of an agency designation provide that the authority of the agent terminates on disability or incapacity of a party, the agent's authority survives disability and incapacity. The agent may act for a disabled or incapacitated party until the authority of the agent is terminated.

3. The death of the sole party or last surviving party terminates the authority of an agent.

4. Any designation of an agent on an account is revocable and may be superseded by a subsequent designation:

(a) With regard to a single-party account, by the party; and

(b) With regard to a multiple-party account, by the parties or a surviving party.

↪ Any designation of an agent is superseded by an acknowledged power of attorney, as described in chapter 162A of NRS, when a copy of that power of attorney is delivered to the financial institution.

Sec. 52. *The provisions of sections 52 to 57, inclusive, of this act concerning beneficial ownership as between parties or as between parties and beneficiaries:*

1. *Apply only to controversies between those persons and their creditors and other successors.*

2. *Do not apply to the right of those persons to payment as determined by the terms of the account.*

Sec. 53. 1. *During the lifetime of all parties, an account belongs to the parties in proportion to the net contribution of each to the sums on deposit, unless there is clear and convincing evidence of a different intent. As between parties married to each other, in the absence of proof otherwise, the net contribution of each is presumed to be an equal amount.*

2. *A beneficiary in an account having a POD designation has no right to sums on deposit during the lifetime of any party.*

3. *An agent in an account with an agency designation has no beneficial right to sums on deposit.*

4. *As used in this section, “net contribution” of a party means the sum of all deposits to an account made by or for the party, less all payments from the account made to or for the party which have not been paid to or applied to the use of another party and a proportionate share of any charges deducted from the account, plus a proportionate share of any interest or dividends earned, whether or not included in the current balance. The term includes any deposit life insurance proceeds added to the account by reason of the death of the party whose net contribution is in question.*

Sec. 54. 1. *Except as otherwise provided in sections 48 to 64, inclusive, of this act or in an applicable contract, on the death of a party, sums on deposit in a multiple-party account belong to the surviving party or parties. If two or more parties survive and one is the surviving spouse of the decedent, the amount to which the decedent, immediately before death, was beneficially entitled under section 53 of this act belongs to the surviving spouse. If two or more parties survive and none is the surviving spouse of the decedent, the amount to which the decedent, immediately before death, was beneficially entitled under section 53 of this act belongs to the surviving parties in equal shares and augments the proportion to which each survivor, immediately before the decedent’s death, was beneficially entitled under section 53 of this act, and the right of survivorship continues between the surviving parties.*

2. *In an account with a POD designation:*

(a) *On the death of one of two or more parties, the rights in sums on deposit are governed by subsection 1.*

(b) On the death of the sole party or the last survivor of two or more parties, sums on deposit belong to the surviving beneficiary or beneficiaries. If two or more beneficiaries survive, sums on deposit belong to them in equal and undivided shares and there is no right of survivorship in the event of the death of a beneficiary thereafter. If no beneficiary survives, sums on deposit belong to the estate of the last surviving party.

3. Sums on deposit in a single-party account without a POD designation, or in a multiple-party account that, by the terms of the account, is without right of survivorship, are not affected by the death of a party, but the amount to which the decedent, immediately before death, was beneficially entitled under section 53 of this act is transferred as part of the decedent's estate. A POD designation in a multiple-party account without right of survivorship is ineffective. For the purposes of this section, the designation of an account as a tenancy in common establishes that the account is without right of survivorship.

4. The ownership right of a surviving party or beneficiary, or of the decedent's estate, in sums on deposit is subject to requests for payment made by a party before the party's death, whether paid by the financial institution before or after the death, or unpaid. The surviving party or beneficiary, or the decedent's estate, is liable to the payee of an unpaid request for payment. The liability is limited to a proportionate share of the amount transferred under this section, to the extent necessary to discharge the request for payment.

Sec. 55. 1. The rights at death under section 54 of this act are determined by the type of account at the death of a party. The type of account may be altered by written notice given by a party to the financial institution to change the type of account or to stop or vary payment under the terms of the account. The notice must be signed by a party and received by the financial institution during the party's lifetime.

2. A right of survivorship arising from the express terms of the account, section 54 of this act or a POD designation may not be altered by a will.

Sec. 56. A transfer resulting from the application of section 54 of this act is effective by reason of the terms of the account involved and sections 48 to 64, inclusive, of this act and is not testamentary or subject to estate administration. Nonprobate transfers are effective with or without consideration.

Sec. 57. A deposit of community property in an account does not alter the community character of the property or community rights in the property, but a right of survivorship between parties married to each other arising from the express terms of the account or section 54 of this act may not be altered by a will.

Sec. 58. A financial institution may enter into an agreement of deposit for a multiple-party account to the same extent it may enter into an agreement of deposit for a single-party account, and may provide for a

POD designation and an agency designation in a single-party account or a multiple-party account. A financial institution need not inquire as to the source of a deposit to an account or as to the proposed application of a payment from an account.

Sec. 59. A financial institution, on request, may pay sums on deposit in a multiple-party account to:

1. One or more of the parties, whether or not another party is disabled, incapacitated or deceased when payment is requested and whether or not the party making the request survives another party; or

2. The personal representative, if any, or, if there is none, the heirs or devisees of a deceased party if proof of death is presented to the financial institution showing that the deceased party was the survivor of all other persons named on the account as a party or beneficiary, unless the account is without right of survivorship under section 49 of this act.

Sec. 60. A financial institution, on request, may pay sums on deposit in an account with a POD designation to:

1. One or more of the parties, whether or not another party is disabled, incapacitated or deceased when the payment is requested and whether or not a party survives another party;

2. The beneficiary or beneficiaries, if proof of death is presented to the financial institution showing that the beneficiary or beneficiaries survived all persons named as parties; or

3. The personal representative, if any, or, if there is none, the heirs or devisees of a deceased party, if proof of death is presented to the financial institution showing that the deceased party was the survivor of all other persons named on the account as a party or beneficiary.

Sec. 61. A financial institution, on request of an agent under an agency designation for an account, may pay to the agent sums on deposit in the account, whether or not a party is disabled, incapacitated or deceased when the request is made or received, and whether or not the authority of the agent terminates on the disability or incapacity of a party.

Sec. 62. If a financial institution is required or authorized to make payment pursuant to sections 48 to 64, inclusive, of this act to a minor designated as a beneficiary, payment may be made pursuant to Nevada's Uniform Act on Transfers to Minors, as set forth in chapter 167 of NRS, or an equivalent law in another jurisdiction.

Sec. 63. 1. Payment made pursuant to sections 48 to 64, inclusive, of this act, in accordance with the type of account, discharges the financial institution from all claims for amounts so paid, whether or not the payment is consistent with the beneficial ownership of the account as between parties, beneficiaries or their successors. Payment may be made whether or not a party, beneficiary or agent is disabled, incapacitated or deceased when payment is requested, received or made.

2. Protection under this section does not extend to payments made after a financial institution has received written notice from a party, or from the

personal representative, surviving spouse, or heir or devisee of a deceased party, to the effect that payments in accordance with the terms of the account, including one having an agency designation, should not be authorized, and the financial institution has had a reasonable opportunity to act on it when the payment is made. Unless the notice is withdrawn by the person giving it, the successor of any deceased party must concur in a request for payment if the financial institution is to be protected under this section. Unless a financial institution has been served with process in an action or proceeding, no other notice or other information shown to have been available to the financial institution affects its right to protection under this section.

3. A financial institution that receives written notice pursuant to this section or otherwise has reason to believe that a dispute exists as to the rights of the parties may refuse, without liability, to make payments in accordance with the terms of the account.

4. Protection of a financial institution under this section does not affect the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of sums on deposit in accounts or payments made from accounts.

Sec. 64. A beneficiary of a nonprobate transfer takes the owner's interest in the property at death, subject to all conveyances, assignments, contracts, setoffs, licenses, easements, liens and security interests made by the owner or to which the owner was subject during the owner's lifetime. Subject to the limitation of subsection 2 of section 46:

1. A beneficiary of a nonprobate transfer of an account with a bank, savings and loan association, credit union, broker or mutual fund takes the owner's interest in the property at death, subject to all requests for payment of money issued by the owner before death, whether paid by the transferring entity before or after the death or unpaid.

2. The beneficiary is liable to the payee of an unsatisfied request for payment, to the extent that it represents an obligation that was enforceable against the owner during the owner's lifetime. To the extent that a claim properly paid by the personal representative of the owner's estate includes the amount of an unsatisfied request for payment to the claimant, the personal representative is subrogated to the rights of the claimant as payee.

3. Each beneficiary's liability with respect to an unsatisfied request for payment is limited to the same proportionate share of the request for payment as the beneficiary's proportionate share of the account under the beneficiary designation. Beneficiaries have the right of contribution among themselves with respect to requests for payment which are satisfied after the death of the owner, to the extent the requests for payment would have been enforceable by the payees.

4. In no event may a beneficiary's liability to payees, to the owner's estate and to other beneficiaries pursuant to this section, with respect to all requests for payment, exceed the value of the account received by the

beneficiary. If a request for payment which would not have been enforceable under this section is satisfied from a beneficiary's share of the account, the beneficiary:

(a) Is not liable to any other payee or the owner's estate pursuant to this section for the amount so paid; and

(b) Has no right of contribution against other beneficiaries with respect to that amount.

Sec. 65. Chapter 132 of NRS is hereby amended by adding thereto a new section to read as follows:

“Nonprobate transfer” has the meaning ascribed to it in section 17 of this act.

Sec. 66. NRS 132.025 is hereby amended to read as follows:

132.025 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 132.030 to 132.370, inclusive, **and section 65 of this act** have the meanings ascribed to them in those sections.

Sec. 67. NRS 132.050 is hereby amended to read as follows:

132.050 “Beneficiary,” as it relates to:

1. A trust, includes a person who has a present or future interest, vested or contingent, and the owner of an interest by assignment or other transfer;

2. A charitable trust, includes any person entitled to enforce the trust;

3. An instrument designating a beneficiary, includes a beneficiary of ~~an insurance policy or annuity, of an account designated as payable on death, of a security registered as transferable on death or of a pension, profit sharing, retirement or similar benefit plan or other~~ **any nonprobate transfer ; [at death];** and

4. A beneficiary designated in a governing instrument, includes a grantee of a deed, a devisee, a beneficiary of a trust, a beneficiary under a designation, a donee, an appointee or a taker in default under a power of appointment, or a person in whose favor a power of attorney or a power held in any individual, fiduciary or representative capacity is exercised,

➔ but does not include a person who receives less than \$100 under a will.

Sec. 68. NRS 132.090 is hereby amended to read as follows:

132.090 “Designation of beneficiary” means a governing instrument naming a beneficiary of an insurance policy or annuity, of an account designated as payable on death, of a security registered as transferable on death, or of a pension, profit-sharing, retirement or similar benefit plan or other nonprobate transfer . ~~[at death.]~~

Sec. 69. NRS 132.185 is hereby amended to read as follows:

132.185 **1.** “Interested person” includes, without limitation, an heir, devisee, child, spouse, creditor, **settlor**, beneficiary and any other person having a property right in or claim against a trust estate or the estate of a decedent, including, without limitation, the Director of the Department of Health and Human Services in any case in which money is owed to the Department of Health and Human Services as a result of the payment of benefits for Medicaid. The term includes a person having priority for

appointment as a personal representative and other fiduciaries representing interested persons. The meaning as it relates to particular persons must be determined according to the particular purposes of, and matter involved in, a proceeding.

2. The term does not include:

(a) After a will has been admitted to probate, an heir, child or spouse who is not a beneficiary of the will, except for purposes of NRS 133.110, 133.160 and 137.080.

(b) A person with regard to a motion, petition or proceeding that does not affect an interest of that person.

(c) A creditor whose claim has not been accepted by the personal representative if the enforcement of the claim of the creditor is barred under the provisions of chapter 11 or 147 of NRS or any other applicable statute of limitation.

Sec. 70. Chapter 133 of NRS is hereby amended by adding thereto a new section to read as follows:

Except to the extent that it violates public policy, a testator may:

1. Make a devise conditional upon a devisee's action or failure to take action or upon the occurrence or nonoccurrence of one or more specified events; and

2. Specify the conditions or actions which would disqualify a person from serving or which would constitute cause for removal of a person who is serving in any capacity under the will, including, without limitation, as a personal representative, guardian or trustee.

Sec. 71. NRS 133.200 is hereby amended to read as follows:

133.200 ~~When any estate is devised to any child or other relation of the testator, and the devisee dies before the testator, leaving lineal descendants, those descendants, in~~ In the absence of a provision in the will to the contrary, ~~take the estate so given by the will in the same manner as the devisee would have done if the devisee had survived the testator.~~ if any beneficiary who is a descendant of the testator dies before the testator, leaving lineal descendants, the property, share or beneficial interest that would have been distributed or allocated to that deceased beneficiary must be distributed or allocated to that beneficiary's descendants then living, by right of representation, to be distributed under the same terms that would have applied to the deceased beneficiary.

Sec. 72. Chapter 136 of NRS is hereby amended by adding thereto a new section to read as follows:

The provisions of section 47 of this act concerning the revocation of certain transfers based upon divorce or annulment apply to transfers of property made pursuant to a will.

Sec. 73. NRS 137.005 is hereby amended to read as follows:

137.005 1. Except as otherwise provided in subsections 3 and 4, a no-contest clause in a will must be enforced by the court.

2. A no-contest clause must be construed to carry out the testator's intent. Except to the extent the will is vague or ambiguous, extrinsic evidence is not admissible to establish the testator's intent concerning the no-contest clause. The provisions of this subsection do not prohibit such evidence from being admitted for any other purpose authorized by law. ***Except as otherwise provided in subsections 3 and 4, a devisee's share may be reduced or eliminated under a no-contest clause based upon conduct that is set forth by the testator in the will, including, without limitation, any testamentary trust established in the will. Such conduct may include, without limitation:***

(a) ***Conduct other than formal court action; and***
 (b) ***Conduct which is unrelated to the will itself, including, without limitation:***

(1) ***The commencement of civil litigation against the testator's probate estate or family members;***

(2) ***Interference with the administration of a trust or a business entity;***

(3) ***Efforts to frustrate the intent of the testator's power of attorney; and***

(4) ***Efforts to frustrate the designation of beneficiaries related to a nonprobate transfer by the testator.***

3. Notwithstanding any provision to the contrary in the will, a devisee's share must not be reduced or eliminated if the devisee seeks only to:

(a) Enforce the terms of the will ~~{;}~~ ***or any document referenced in or affected by the will;***

(b) Enforce the devisee's legal rights in the probate proceeding; or

(c) Obtain a court ruling with respect to the construction or legal effect of the will.

4. Notwithstanding any provision to the contrary in the will, a devisee's share must not be reduced or eliminated under a no-contest clause because the devisee institutes legal action seeking to invalidate a will if the legal action is instituted in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that ~~{there was a substantial likelihood that}~~ the will ~~{was}~~ ***is*** invalid.

5. As used in this section, "no-contest clause" means one or more provisions in a will that express a directive to reduce or eliminate the share allocated to a devisee or to reduce or eliminate the distributions to be made to a devisee if the devisee takes action to frustrate or defeat the testator's intent as expressed in the will.

Sec. 74. NRS 141.120 is hereby amended to read as follows:

141.120 ~~{An}~~ ***Except as otherwise provided in section 170 of this act, an*** interested person may appear at the hearing and file allegations in writing, showing that the personal representative should be removed.

Sec. 75. Chapter 143 of NRS is hereby amended by adding thereto the provisions set forth as sections 76 to 144, inclusive, of this act.

Sec. 76. ***Sections 76 to 144, inclusive, of this act may be cited as the Independent Administration of Estates Act.***

Sec. 77. *As used in sections 76 to 144, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 78, 79 and 80 of this act have the meanings ascribed to them in those sections.*

Sec. 78. *“Court supervision” means the judicial order, authorization, approval, confirmation or instructions that would be required if authority to administer the estate had not been granted pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 79. *“Full authority” means the authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act that includes all the powers granted pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 80. *“Limited authority” means authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act that includes all the powers granted pursuant to sections 76 to 144, inclusive, of this act, except the power to do any of the following:*

- 1. Sell real property.*
- 2. Exchange real property.*
- 3. Grant an option to purchase real property.*
- 4. Borrow money with the loan secured by an encumbrance upon real property.*

Sec. 81. *The personal representative may not be granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act if the decedent’s will provides that the estate must not be administered pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 82. *A special administrator may be granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act if the special administrator is appointed with, or has been granted, the powers of a general personal representative.*

Sec. 83. *The provisions of sections 76 to 144, inclusive, of this act apply in any case where authority to administer the estate is granted pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 84. 1. *To obtain authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act, the personal representative must petition the court for that authority in a petition for appointment of the personal representative or in a separate petition filed in the estate proceedings.*

2. The personal representative may request either of the following:

(a) Full authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act; or

(b) Limited authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act.

Sec. 85. 1. *If the authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act is requested in a petition for appointment of the personal representative, notice of the hearing on the petition must be given for the period and in the manner applicable to the petition for appointment.*

2. Where proceedings for the administration of the estate are pending at the time a petition is filed pursuant to section 84 of this act, notice of the hearing on the petition must be given for the period and in the manner provided in NRS 155.010 to all the following persons:

- (a) Each person specified in NRS 155.010;
- (b) Each known heir whose interest in the estate would be affected by the petition;
- (c) Each known devisee whose interest in the estate would be affected by the petition; and
- (d) Each person named as personal representative in the will of the decedent.

3. The notice of hearing of the petition for authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act, whether included in the petition for appointment or in a separate petition, must include a statement in substantially the following form:

The petition requests authority to administer the estate under the Independent Administration of Estates Act. This will avoid the need to obtain court approval for many actions taken in connection with the estate. However, before taking certain actions, the personal representative will be required to give notice to interested persons unless they have waived notice or have consented to the proposed action. Independent administration authority will be granted unless good cause is shown why it should not be.

Sec. 86. 1. Except as otherwise provided in subsection 2, unless an interested person objects in writing at or before the hearing to the granting of authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act and the court determines that the interested person has shown good cause why the authority to administer the estate under those provisions should not be granted, the court shall grant the requested authority.

2. If the interested person has shown good cause why only limited authority should be granted, the court shall grant limited authority.

Sec. 87. 1. If the personal representative is otherwise required to file a bond and has full authority, the court shall fix the amount of the bond at not more than the estimated value of the personal property, the estimated value of the decedent's interest in the real property authorized to be sold pursuant to sections 76 to 144, inclusive, of this act and the probable annual gross income of the estate or, if the bond is to be given by personal sureties, at not less than twice that amount.

2. If the personal representative is otherwise required to file a bond and has limited authority, the court shall fix the amount of the bond at not more than the estimated value of the personal property and the probable annual gross income of the estate or, if the bond is to be given by personal sureties, at not less than twice that amount.

Sec. 88. 1. Any interested person may file a petition requesting that the court make either of the following orders:

(a) An order revoking the authority of the personal representative to continue administration of the estate pursuant to sections 76 to 144, inclusive, of this act; or

(b) An order revoking the full authority of the personal representative to administer the estate pursuant to sections 76 to 144, inclusive, of this act and granting the personal representative limited authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act.

2. The petition must set forth the basis for the requested order.

3. The petitioner shall give notice for the period and in the manner provided in NRS 155.010.

4. If the court determines that good cause has been shown, the court shall make an order revoking the authority of the personal representative to continue administration of the estate pursuant to sections 76 to 144, inclusive, of this act. Upon the making of the order, new letters must be issued without the authority to act pursuant to sections 76 to 144, inclusive, of this act.

5. If the personal representative was granted full authority and the court determines that good cause has been shown, the court shall make an order revoking the full authority and granting the personal representative limited authority. Upon the making of the order, new letters must be issued indicating whether the personal representative is authorized to act pursuant to sections 76 to 144, inclusive, of this act and, if so authorized, whether the independent administration authority includes or excludes the power to do any of the following:

(a) Sell real property;

(b) Exchange real property;

(c) Grant an option to purchase real property; or

(d) Borrow money with the loan secured by an encumbrance upon real property.

Sec. 89. 1. Subject to the limitations and conditions of sections 76 to 144, inclusive, of this act, a personal representative who has been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act may administer the estate as provided pursuant to sections 76 to 144, inclusive, of this act without court supervision, but in all other respects, the personal representative shall administer the estate in the same manner as a personal representative who has not been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act.

2. Notwithstanding the provisions of subsection 1, the personal representative may obtain court supervision of any action to be taken by the personal representative during administration of the estate.

Sec. 90. 1. Notwithstanding any provision of sections 76 to 144, inclusive, of this act to the contrary, whether the personal representative has been granted limited authority or full authority, a personal representative who has obtained authority to administer the estate pursuant

to sections 76 to 144, inclusive, of this act is required to obtain court approval for any of the following actions:

- (a) Allowance of the personal representative's compensation;
- (b) Allowance of compensation of the attorney for the personal representative;
- (c) Settlement of accounts;
- (d) Preliminary and final distributions and discharge;
- (e) Sale of property of the estate to the personal representative or to the attorney for the personal representative;
- (f) Exchange of property of the estate for property of the personal representative or for property of the attorney for the personal representative;
- (g) Grant of an option to purchase property of the estate to the personal representative or to the attorney for the personal representative;
- (h) Allowance, payment or compromise of a claim of the personal representative, or the attorney for the personal representative, against the estate;
- (i) Compromise or settlement of a claim, action or proceeding by the estate against the personal representative or against the attorney for the personal representative;
- (j) Extension, renewal or modification of the terms of a debt or other obligation of the personal representative, or the attorney for the personal representative, owing to or in favor of the decedent or the estate; and
- (k) Any transaction described in this section that would indirectly benefit the personal representative, a relative of the personal representative, the attorney for the personal representative or the attorney for a relative of the personal representative.

2. Notwithstanding any provision of sections 76 to 144, inclusive, of this act to the contrary, a personal representative who has obtained limited authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act is required to obtain court supervision for any of the following actions:

- (a) Sale of real property;
- (b) Exchange of real property;
- (c) Grant of an option to purchase real property; and
- (d) Borrowing money with the loan secured by an encumbrance upon real property.

3. Paragraphs (e) to (k), inclusive, of subsection 1 do not apply to a transaction between the personal representative in his or her capacity as a personal representative and the personal representative as a person if all the following requirements are satisfied:

- (a) The personal representative is the sole beneficiary of the estate or all the known heirs or devisees have consented to the transaction;
- (b) The period for filing creditor claims has expired;

(c) No request for special notice pursuant to NRS 155.030 is on file or all persons who filed a request for special notice have consented to the transaction; and

(d) The claim of each creditor who filed a claim has been paid, settled or withdrawn, or the creditor has consented to the transaction.

4. As used in this section, "relative" has the meaning ascribed to it in NRS 163.020.

Sec. 91. 1. Subject to the conditions and limitations of sections 76 to 144, inclusive, of this act and to the duties and liabilities of the personal representative, a personal representative who has been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act has the powers described in:

(a) Sections 93 to 106, inclusive, of this act with regard to powers that are exercisable only after giving a notice of proposed action;

(b) Sections 107 to 115, inclusive, of this act with regard to powers the exercise of which requires giving a notice of proposed action under certain circumstances; and

(c) Sections 116 to 127, inclusive, of this act with regard to powers that are exercisable without giving a notice of proposed action.

2. The will may restrict the powers that the personal representative may exercise pursuant to sections 76 to 144, inclusive, of this act.

Sec. 92. 1. Subject to the limitations and requirements of sections 76 to 144, inclusive, of this act, when the personal representative exercises the authority to sell property of the estate pursuant to sections 76 to 144, inclusive, of this act, the personal representative may sell the property at public auction or private sale, and with or without notice, for cash or on credit, for such price and upon such terms and conditions as the personal representative may determine.

2. The requirements applicable to court confirmation of sales of real property referenced in subsection 1 include, without limitation:

(a) Publication of the notice of sale;

(b) Court approval of agents' and brokers' commissions;

(c) The sale being not less than 90 percent of appraised value of the real property;

(d) An examination by the court into the necessity for the sale of the real property, including, without limitation, any advantage to the estate and benefit to interested persons; and

(e) The efforts of the personal representative to obtain the highest and best price for the property reasonably attainable.

3. The requirements applicable to court confirmation of sales of real property and sales of personal property do not apply to a sale pursuant to this section.

Sec. 93. The personal representative may exercise the powers described in sections 93 to 106, inclusive, of this act only if the requirements of sections 128 to 140, inclusive, of this act are satisfied.

Sec. 94. *The personal representative who has full authority has the power to sell or exchange real property of the estate.*

Sec. 95. *The personal representative who has limited authority or full authority has the power to sell or incorporate any of the following:*

1. *An unincorporated business or joint venture in which the decedent was engaged at the time of the decedent's death; and*

2. *An unincorporated business or joint venture which was wholly or partly owned by the decedent at the time of the decedent's death.*

Sec. 96. *The personal representative who has limited authority or full authority has the power to abandon tangible personal property where the cost of collecting, maintaining and safeguarding the property would exceed its fair market value.*

Sec. 97. 1. *Subject to the limitations provided in subsection 2 and NRS 143.180, the personal representative who has limited authority or full authority has the following powers:*

(a) *The power to borrow; and*

(b) *The power to place, replace, renew or extend any encumbrance upon any property of the estate.*

2. *Only a personal representative who has full authority has the power to borrow money with the loan secured by an encumbrance upon real property.*

Sec. 98. *The personal representative who has full authority has the power to grant an option to purchase real property of the estate for a period within or beyond the period of administration.*

Sec. 99. *If the will gives a person the option to purchase real or personal property and the person has complied with the terms and conditions stated in the will, the personal representative who has limited authority or full authority has the power to convey or transfer the property to the person.*

Sec. 100. *The personal representative who has limited authority or full authority has the power to convey or transfer real or personal property to complete a contract entered into by the decedent to convey or transfer the property.*

Sec. 101. *The personal representative who has limited authority or full authority has the power to allow, compromise or settle any of the following:*

1. *A third-party claim to real or personal property if the decedent died in possession of, or holding title to, the property; or*

2. *The decedent's claim to real or personal property, title to or possession of which is held by another.*

Sec. 102. *The personal representative who has limited authority or full authority has the power to make a disclaimer.*

Sec. 103. *If the time for filing creditor claims has expired and it appears that the distribution may be made without loss to creditors or injury to the estate or any interested person, the personal representative*

who has limited authority or full authority has the power to make preliminary distributions of the following:

1. Income received during administration to the persons entitled thereto pursuant to the decedent's will or by intestate succession.

2. Household furniture and furnishings, motor vehicles, clothing, jewelry and other tangible articles of a personal nature to the persons entitled to the property under the decedent's will, not to exceed an aggregate fair market value to all persons of \$50,000 computed cumulatively through the date of distribution. Fair market value must be determined on the basis of the inventory and appraisal.

3. Cash to general pecuniary devisees entitled to it under the decedent's will, not to exceed \$10,000 to any one person.

Sec. 104. The personal representative who has limited authority or full authority has the power to do all the following:

1. Allow, pay, reject or contest any claim by or against the estate.

2. Compromise or settle a claim, action or proceeding by or for the benefit of, or against, the decedent, the personal representative or the estate.

3. Release, in whole or in part, any claim belonging to the estate to the extent that the claim is uncollectible.

4. Allow a claim to be filed after the expiration of the time for filing the claim.

Sec. 105. The personal representative who has limited authority or full authority has the power to do all the following:

1. Commence and maintain actions and proceedings for the benefit of the estate.

2. Defend actions and proceedings against the decedent, the personal representative or the estate.

Sec. 106. The personal representative who has limited authority or full authority has the power to extend, renew or in any manner modify the terms of an obligation owing to or in favor of the decedent or the estate.

Sec. 107. Except as otherwise provided in sections 107 to 115, inclusive, of this act, the personal representative who has limited authority or full authority may exercise the powers described in sections 107 to 115, inclusive, of this act without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

Sec. 108. 1. The personal representative who has limited authority or full authority has the power to manage and control property of the estate, including making allocations and determinations pursuant to NRS 164.780 to 164.925, inclusive. Except as otherwise provided in subsection 2, such a personal representative may exercise this power without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

2. The personal representative shall comply with the requirements of sections 128 to 140, inclusive, of this act, and shall give notice of a

proposed action in any case where a provision of sections 93 to 103, inclusive, of this act governing the exercise of a specific power so requires.

Sec. 109. 1. The personal representative who has limited authority or full authority has the power to enter into a contract to carry out the exercise of a specific power granted pursuant to sections 76 to 144, inclusive, of this act, including, without limitation, the powers granted by sections 108 and 117 of this act. Except as otherwise provided in subsection 2, the personal representative may exercise this power without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

2. The personal representative shall comply with the requirements of sections 128 to 140, inclusive, of this act and shall give notice of a proposed action where the contract is one that by its provisions is not to be fully performed within 2 years after the date the parties entered into the contract, except that the personal representative is not required to comply with those requirements if the personal representative has the unrestricted right under the contract to terminate the contract within 2 years after the date the parties entered into the contract.

3. Nothing in this section excuses compliance with the requirements of sections 128 to 140, inclusive, of this act when the contract is made to carry out the exercise of a specific power, and the provision that grants that power requires compliance with sections 128 to 140, inclusive, of this act for the exercise of the power.

Sec. 110. 1. The personal representative who has limited authority or full authority has the power to do all the following:

(a) Deposit money belonging to the estate in an insured account in a financial institution in this State;

(b) Invest money of the estate in any one or more of the following:

(1) Direct obligations of the United States, or of the State of Nevada, maturing not later than 1 year after the date of making the investment;

(2) Savings accounts in a bank, credit union or savings and loan association in this State, to the extent that the deposit is insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755;

(3) Interest-bearing obligations of, or fully guaranteed by, the United States;

(4) Interest bearing obligations of the United States Postal Service or the Federal National Mortgage Association;

(5) Interest-bearing obligations of this State or of a county, city or school district of this State; or

(6) Money-market mutual funds that are invested only in obligations listed in subparagraphs (1) to (5), inclusive; or

(c) Invest money of the estate in any manner provided by the will.

2. *The personal representative may exercise the powers described in subsection 1 without giving notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act.*

Sec. 111. 1. *Subject to the partnership agreement and the applicable provisions of chapter 87 of NRS, the personal representative who has limited authority or full authority has the power to continue as a general partner in any partnership in which the decedent was a general partner at the time of death.*

2. *The personal representative who has limited authority or full authority has the power to continue operation of any of the following:*

(a) *An unincorporated business or joint venture in which the decedent was engaged at the time of the decedent's death.*

(b) *An unincorporated business or joint venture which was wholly or partly owned by the decedent at the time of the decedent's death.*

3. *Except as otherwise provided in subsection 4, the personal representative may exercise the powers described in subsections 1 and 2 without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.*

4. *The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act if the personal representative continues as a general partner under subsection 1, or continues the operation of any unincorporated business or joint venture under subsection 2, for a period of more than 6 months after the date on which letters are first issued to a personal representative.*

Sec. 112. 1. *The personal representative who has limited authority or full authority has the power to pay a reasonable family allowance. Except as otherwise provided in subsection 2, the personal representative may exercise this power without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.*

2. *The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act for all the following:*

(a) *Making the first payment of a family allowance.*

(b) *Making the first payment of a family allowance for a period commencing more than 12 months after the death of the decedent.*

(c) *Making any increase in the amount of the payment of a family allowance.*

Sec. 113. 1. *The personal representative who has limited authority or full authority has the power to enter as lessor into a lease of property of the estate for:*

(a) *Any purpose, including, without limitation, exploration for and production or removal of minerals, oil, gas or other hydrocarbon substances or geothermal energy, including a community oil lease or a pooling or unitization agreement;*

(b) *A period within or beyond the period of administration; and*

(c) *Rental or royalty, or both, and upon such other terms and conditions as the personal representative may determine.*

2. *Except as otherwise provided in subsections 3 and 4, the personal representative may exercise this power without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.*

3. *The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act where the personal representative enters into a lease of real property for a term in excess of 1 year. If the lease gives the lessee the right to extend the term of the lease, the lease must be considered as if the right to extend has been exercised.*

4. *The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act where the personal representative enters into a lease of personal property and the lease is one that by its provisions is not to be fully performed within 2 years after the date the parties entered into the lease, except that the personal representative is not required to give notice of a proposed action if the personal representative has the unrestricted right under the lease to terminate the lease within 2 years after the date the parties entered into the lease.*

Sec. 114. 1. *The personal representative who has limited authority or full authority has the power to sell personal property of the estate or to exchange personal property of the estate for other property upon such terms and conditions as the personal representative may determine. Except as otherwise provided in subsection 2, the personal representative shall give notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act in exercising this power.*

2. *The personal representative may exercise the power granted by subsection 1 without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act in case of the sale or exchange of any of the following:*

(a) *A security sold on an established stock or bond exchange;*

(b) *A security designated as a national market system security on an interdealer quotation system, or subsystem thereof, by the National Association of Securities Dealers Automated Quotations System, NASDAQ, sold through a broker-dealer registered under the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a et seq., during the regular course of business of the broker-dealer;*

(c) *Subscription rights for the purchase of additional securities which are owned by the estate by reason of the estate's ownership in securities if those rights are sold for cash; or*

(d) *Personal property which is perishable if the property is sold for cash.*

Sec. 115. 1. *The personal representative who has limited authority or full authority has the following powers:*

(a) *The power to grant an exclusive right to sell property for a period not to exceed 90 days.*

(b) The power to grant to the same broker one or more extensions of an exclusive right to sell property, each extension being for a period not to exceed 90 days.

2. Except as otherwise provided in subsection 3, the personal representative may exercise the powers described in subsection 1 without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

3. The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act where the personal representative grants to the same broker an extension of an exclusive right to sell property and the period of the extension, together with the periods of the original exclusive right to sell the property and any previous extensions of that right, is more than 270 days.

Sec. 116. The personal representative who has limited authority or full authority may exercise the powers described in sections 116 to 127, inclusive, of this act without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

Sec. 117. In addition to the powers granted to the personal representative pursuant to sections 76 to 144, inclusive, of this act, the personal representative who has limited authority or full authority has all the powers that the personal representative could exercise without court supervision if the personal representative had not been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act.

Sec. 118. The personal representative who has limited authority or full authority has the power to convey or transfer property to carry out the exercise of a specific power granted pursuant to sections 76 to 144, inclusive, of this act.

Sec. 119. The personal representative who has limited authority or full authority has the power to pay all the following:

- 1. Taxes and assessments.*
- 2. Expenses incurred in the collection, care and administration of the estate.*

Sec. 120. The personal representative who has limited authority or full authority has the power to purchase an annuity from an insurer admitted to do business in this State to satisfy a devise of an annuity or other direction in the will for periodic payments to a devisee.

Sec. 121. The personal representative who has limited authority or full authority has the power to exercise an option right that is property of the estate.

Sec. 122. The personal representative who has limited authority or full authority has the power to purchase securities or commodities required to perform an incomplete contract of sale where the decedent died having sold but not delivered securities or commodities not owned by the decedent.

Sec. 123. The personal representative who has limited authority or full authority has the power to hold a security in the name of a nominee or in

any other form without disclosure of the estate, so that title to the security may pass by delivery.

Sec. 124. The personal representative who has limited authority or full authority has the power to exercise security subscription or conversion rights.

Sec. 125. The personal representative who has limited authority or full authority has the power to make repairs and improvements to real and personal property of the estate.

Sec. 126. The personal representative who has limited authority or full authority has the power to accept a deed to property which is subject to a mortgage or deed of trust in lieu of foreclosure of the mortgage or sale under the deed of trust.

Sec. 127. The personal representative who has limited authority or full authority has the power to give a partial satisfaction of a mortgage or to cause a partial reconveyance to be executed by a trustee under a deed of trust held by the estate.

Sec. 128. 1. A personal representative who has been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act shall give notice of a proposed action as provided in sections 128 to 140, inclusive, of this act before taking the proposed action without court supervision if the provisions of sections 89 to 127, inclusive, of this act giving the personal representative the power to take the action so require. Nothing in this subsection authorizes a personal representative to take an action pursuant to sections 76 to 144, inclusive, of this act if the personal representative does not have the power to take the action pursuant to those provisions.

2. A personal representative who has been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act may give notice of a proposed action as provided in sections 128 to 140, inclusive, of this act, even if the provisions of sections 89 to 127, inclusive, of this act giving the personal representative the power to take the action authorize the personal representative to take the action without giving notice of the proposed action. Nothing in this subsection requires the personal representative to give notice of a proposed action where not required under subsection 1 or authorizes a personal representative to take any action that the personal representative is not otherwise authorized to take.

Sec. 129. Except as otherwise provided in sections 130 and 131 of this act, notice of a proposed action must be given to all the following:

1. Each known devisee whose interest in the estate would be affected by the proposed action.

2. Each known heir whose interest in the estate would be affected by the proposed action.

3. Each person who has filed a request for special notice pursuant to NRS 155.030.

4. *The Attorney General, at the Office of the Attorney General in Carson City, if any portion of the estate is to escheat to the State and its interest in the estate would be affected by the proposed action.*

Sec. 130. *Notice of a proposed action need not be given to any person who consents in writing to the proposed action. The consent may be executed at any time before or after the proposed action is taken.*

Sec. 131. 1. *Notice of a proposed action need not be given to any person who, in writing, waives the right to notice of a proposed action with respect to the particular proposed action. The waiver may be executed at any time before or after the proposed action is taken. The waiver must describe the particular proposed action and may waive particular aspects of the notice, such as the delivery, mailing or time requirements of section 134 of this act or the giving of the notice in its entirety for the particular proposed action.*

2. *Notice of a proposed action need not be given to any person who has made either of the following:*

(a) *A general waiver of the right to notice of a proposed action.*

(b) *A waiver of the right to notice of a proposed action for all transactions of a type which includes the particular proposed action.*

Sec. 132. 1. *A waiver or consent pursuant to section 130 or 131 of this act may be revoked only in writing and is effective only when the writing is received by the personal representative.*

2. *A copy of the revocation may be filed with the court, but the effectiveness of the revocation is not dependent upon a copy being filed with the court.*

Sec. 133. 1. *The notice of proposed action must state all the following:*

(a) *The name and mailing address of the personal representative.*

(b) *The person and telephone number to call to get additional information.*

(c) *The action proposed to be taken, with a reasonably specific description of the action. If the proposed action involves the sale or exchange of real property or the granting of an option to purchase real property, the notice of proposed action must state the material terms of the transaction, including, if applicable, the sale price and the amount of, or method of calculating, any commission or compensation paid or to be paid to an agent or broker in connection with the transaction.*

(d) *The date on or after which the proposed action is to be taken.*

2. *The notice of proposed action must include a form for objecting to the proposed action.*

Sec. 134. *The notice of proposed action must be mailed or personally delivered to each person required to be given notice of the proposed action not less than 15 days before the date specified in the notice of proposed action on or after which the proposed action is to be taken. If mailed, the notice of proposed action must be addressed to the person at the person's*

last known address. The notice of proposed action must be mailed or delivered in the manner provided in NRS 155.010.

Sec. 135. 1. Any person entitled to notice of a proposed action under section 129 of this act may object to the proposed action as provided in this section.

2. The objection to the proposed action must be made by delivering or mailing a written objection to the proposed action to the personal representative at the address stated in the notice of proposed action. The person objecting to the proposed action may use the form provided in section 143 of this act or may make the objection in any other writing that identifies the proposed action with reasonable certainty and indicates that the person objects to the taking of the proposed action.

3. The personal representative is deemed to have notice of the objection to the proposed action if the notice is delivered or received at the address stated in the notice of proposed action before:

(a) The date specified in the notice of proposed action on or after which the proposed action is to be taken; or

(b) The date on which the proposed action is actually taken,

↪ whichever occurs later.

Sec. 136. 1. Any person who is entitled to notice of a proposed action for a proposed action described in subsection 1 of section 128 of this act, or any person who is given notice of a proposed action described in subsection 2 of section 128 of this act, may apply to the court having jurisdiction over the proceeding for an order restraining the personal representative from taking the proposed action without court supervision. The court shall grant the requested order without requiring notice to the personal representative and without cause being shown for the order.

2. The personal representative is deemed to have notice of the restraining order if the notice is given and served upon the personal representative in the manner provided in NRS 155.040 and 155.050, or in the manner authorized by the court, before:

(a) The date specified in the notice of proposed action on or after which the proposed action is to be taken; or

(b) The date on which the proposed action is actually taken,

↪ whichever occurs later.

Sec. 137. 1. If the proposed action is one that would require court supervision if the personal representative had not been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act, and the personal representative has notice of a written objection made pursuant to section 135 of this act or a restraining order issued pursuant to section 136 of this act, the personal representative shall, if the personal representative desires to take the proposed action, petition the court to obtain approval from the court.

2. If the proposed action is one that would not require court supervision even if the personal representative had not been granted

authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act, but the personal representative has given notice of the proposed action and has notice of a written objection made pursuant to section 135 of this act or a restraining order issued pursuant to section 136 of this act, the personal representative shall, if he or she desires to take the proposed action, request instructions from the court concerning the proposed action. The personal representative may take the proposed action only under such order as may be entered by the court.

3. A person who objects to a proposed action as provided in section 135 of this act or serves a restraining order issued pursuant to section 136 of this act in the manner provided in that section must be given notice of any hearing on a petition for court authorization or confirmation of the proposed action.

Sec. 138. 1. Except as otherwise provided in subsection 3, only a person described in section 129 of this act has a right to have the court review the proposed action after it has been taken or otherwise to object to the proposed action after it has been taken. Except as otherwise provided in subsections 2 and 3, a person described in section 129 of this act waives the right to have the court review the proposed action after it has been taken, or otherwise to object to the proposed action after it has been taken, if:

(a) The person has been given notice of the proposed action, as provided in sections 128 to 134, inclusive, of this act, and fails to object as provided in subsection 4; or

(b) The person has waived notice of or consented to the proposed action as provided in sections 130 and 131 of this act.

2. Unless the person has waived notice of or consented to the proposed action as provided in sections 130 and 131 of this act, the court may review the action taken upon a petition filed by a person described in section 129 of this act who establishes that he or she did not actually receive the notice of proposed action before the time to object pursuant to subsection 4 expired.

3. The court may review the action of the personal representative upon a petition filed by an heir or devisee who establishes all the following:

(a) At the time notice of the proposed action was given, the heir or devisee lacked capacity to object to the proposed action or was a minor;

(b) No notice of proposed action was actually received by the guardian, conservator or other legal representative of the heir or devisee;

(c) The guardian, conservator or other legal representative did not waive notice of the proposed action; and

(d) The guardian, conservator or other legal representative did not consent to the proposed action.

4. For the purposes of this section, an objection to a proposed action is made only by one or both of the following methods:

(a) Delivering or mailing a written objection as provided in section 135 of this act within the time specified in subsection 3 of that section; or

(b) Serving a restraining order obtained pursuant to section 136 of this act in the manner prescribed and within the time specified in subsection 2 of that section.

Sec. 139. 1. The failure of the personal representative who has limited authority or full authority to comply with subsection 1 of section 128 of this act and with sections 129, 133, 134 and 137 of this act, and the taking of the action by the personal representative without such compliance, does not affect the validity of the action so taken or the title to any property conveyed or transferred to bona fide purchasers or the rights of third persons who, dealing in good faith with the personal representative, changed their position in reliance upon the action, conveyance or transfer without actual notice of the failure of the personal representative to comply with those provisions.

2. A person dealing with the personal representative does not have any duty to inquire or investigate whether the personal representative has complied with the provisions listed in subsection 1.

Sec. 140. 1. In a case where notice of a proposed action is required by sections 128 to 140, inclusive, of this act, the court, in its discretion, may remove the personal representative from office unless the personal representative:

(a) Gives notice of the proposed action as provided in sections 128 to 140, inclusive, of this act;

(b) Obtains a waiver of notice of the proposed action as provided in sections 128 to 140, inclusive, of this act; or

(c) Obtains a consent to the proposed action as provided in sections 128 to 140, inclusive, of this act.

2. The court, in its discretion, may remove the personal representative from office if the personal representative takes a proposed action in violation of section 137 of this act.

Sec. 141. Letters testamentary or letters of administration pursuant to the Independent Administration of Estates Act as set forth in sections 76 to 144, inclusive, of this act may be in the following form:

LETTERS TESTAMENTARY / ADMINISTRATION

On....., 20....., the court entered an order admitting the decedent's will to probate and appointing [.....] as personal representative of the decedent's estate. The order includes:

*[] full authority for the personal representative to administer the estate
 qqqqqq Qpursuant to the Independent Administration of Estates Act.*

[] limited authority to administer the estate pursuant to the Independent Administration of Estates Act. (There is no authority, without court supervision, to: (1) sell or exchange real property; (2) grant an option to purchase real property; or (3) borrow money with the loan secured by an encumbrance upon real property.)

☐ a directive for the establishment of a blocked account for sums in excess of \$.....;

☐ a directive for the posting of a bond in the sum of \$.....; or

☐ a directive for both the establishment of a blocked account for sums in excess of \$..... and the posting of a bond in the sum of \$.....

The personal representative, after being duly qualified, may act and has the authority and duties of a personal representative.

In testimony of which, I have this date signed these letters and affixed the seal of the court.

CLERK OF THE COURT

By:

Deputy Clerk

Date:

OATH

I, [.....], whose mailing address is....., solemnly affirm that I will faithfully perform according to law the duties of personal representative, and that all matters stated in any petition or paper filed with the court by me are true of my own knowledge or, if any matters are stated on information and belief, I believe them to be true.

[.....], Personal Representative

SUBSCRIBED AND AFFIRMED

before me this..... (day) of....., 20.....

By:.....

NOTARY PUBLIC

County of....., State of Nevada

Sec. 142. A notice of proposed action pursuant to the Independent Administration of Estates Act as set forth in sections 76 to 144, inclusive, of this act may be in the following form:

NOTICE OF PROPOSED ACTION

Independent Administration of Estates Act

1. The personal representative of the estate of the deceased is.....

2. The personal representative has authority to administer the estate without court supervision pursuant to the Independent Administration of Estates Act:

☐ with full authority pursuant to the Independent Administration of Estates Act; or

☐ with limited authority pursuant to the Independent Administration of Estates Act. (There is no authority, without court

supervision, to: (1) sell or exchange real property; (2) grant an option to purchase real property; or (3) borrow money with the loan secured by an encumbrance upon real property.)

3. On or after.....(date), the personal representative will take the following action without court supervision:

Describe in specific terms the proposed action.

If the action involves the sale or exchange of or a grant of an option to purchase real property, provide the sale price, the amount of or method of calculating any commission or compensation of the real estate broker and the value of the property in the probate inventory.

NOTICE: A sale of real property without court supervision means that the sale will NOT be presented to the court for confirmation at a hearing at which higher bids for the property may be presented and the property sold to the highest bidder.

4. If you OBJECT to the proposed action:

(a) Sign the objection form provided with this Notice of Proposed Action and deliver or mail it to the personal representative at the following address
(specify name and address);

(b) Send your own written objection to the address set forth in paragraph (a), identifying the proposed action and state that you object to it; or

(c) Apply to the court for an order preventing the personal representative from taking the proposed action without court supervision.

NOTE: Your written objection or the court order must be received by the personal representative before the date indicated in item 3 or before the proposed action is taken, whichever is later. If you object, the personal representative may take the proposed action only under court supervision.

5. If you approve of the proposed action, you may sign the consent form provided with this Notice of Proposed Action and return it to the address set forth in paragraph (a) of item 4. If you do not object in writing or obtain a court order, you will be treated as if you consented to the proposed action.

6. If you need more INFORMATION, call:
..... (name) (telephone).

Date:.....
.....

Sec. 143. An objection to a proposed action pursuant to the Independent Administration of Estates Act as set forth in sections 76 to 144, inclusive, of this act may be in the following form:

Date:.....

Date:.....

143.140 1. ~~[(b)]~~ ***Except as otherwise provided in section 101, 104, 106, 126 or 127 of this act, if*** a debtor of the decedent is unable to pay all debts,

the personal representative, with the approval of the court, may give the person a discharge upon such terms as may appear to the court to be for the best interest of the estate.

2. A compromise may also be authorized by the court when it appears to be just and for the best interest of the estate.

3. The court may also authorize the personal representative, on such terms and conditions as may be approved by it, to extend or renew, or in any manner modify the terms of, any obligation owing to or running in favor of the decedent or the estate of the decedent.

4. To obtain approval or authorization the personal representative shall file a petition showing the advantage of the settlement, compromise, extension, renewal or modification. The clerk shall set the petition for hearing by the court, and the petitioner shall give notice for the period and in the manner required by NRS 155.010.

Sec. 147. NRS 143.175 is hereby amended to read as follows:

143.175 1. ~~{A}~~ *Except as otherwise provided in section 110 of this act,* a personal representative may, with court approval:

(a) Invest the property of the estate, make loans and accept security therefor, in the manner and to the extent authorized by the court; and

(b) Exercise options of the estate to purchase or exchange securities or other property.

2. A personal representative may, without prior approval of the court, invest the property of the estate in:

(a) Savings accounts in a bank, credit union or savings and loan association in this State, to the extent that the deposit is insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755;

(b) Interest-bearing obligations of, or fully guaranteed by, the United States;

(c) Interest-bearing obligations of the United States Postal Service or the Federal National Mortgage Association;

(d) Interest-bearing obligations of this State or of a county, city or school district of this State;

(e) Money-market mutual funds that are invested only in obligations listed in paragraphs (a) to (d), inclusive; or

(f) Any other investment authorized by the will of the decedent.

Sec. 148. Chapter 150 of NRS is hereby amended by adding thereto the provisions set forth as sections 149 and 150 of this act.

Sec. 149. *If the estate is set aside pursuant to NRS 146.070, the court may order reasonable attorney's fees and costs to be paid from the assets being set aside directly to the attorney for the petitioner.*

Sec. 150. 1. *Notwithstanding any provision to the contrary in the will, a personal representative who is an attorney retained to perform services for the personal representative may receive compensation for*

services as a personal representative or for services as an attorney for the personal representative, but not both, unless the court:

- (a) Approves a different method of compensation in advance; and*
- (b) Finds that method of compensation to be for the advantage, benefit and best interests of the decedent's estate.*

2. The provisions of this section shall not be construed to disallow compensation for services rendered by an attorney as a personal representative if:

- (a) Such services are included as part of the legal services of the attorney in a manner consistent with NRS 150.060; and*
- (b) The attorney does not receive compensation pursuant to subsection 1 of NRS 150.020.*

3. The services which are rendered by a personal representative who is an attorney and for which compensation is requested pursuant to this section include services rendered by an employee, associate or partner in the same firm of such an attorney and services rendered by an affiliate of such an attorney.

4. As used in this section, "affiliate" has the meaning ascribed to it in NRS 163.020.

Sec. 151. NRS 150.010 is hereby amended to read as follows:

150.010 ~~{The}~~ A personal representative must be allowed all necessary expenses in the administration and settlement of the estate, and fees for services as provided by law, but if the decedent by will makes some other provision for the compensation of the personal representative, this shall be deemed a full compensation for those services, unless within 60 days after his or her appointment the personal representative files a renunciation, in writing, of all claim for the compensation provided by the will.

Sec. 152. NRS 150.050 is hereby amended to read as follows:

150.050 1. A personal representative, at any time after the issuance of letters and upon such notice to the interested persons as the court requires, may apply to the court for an allowance upon his or her fees.

2. On the hearing, the court shall enter an order allowing ~~{the}~~ a personal representative **who applied to the court pursuant to subsection 1** such portion of the fees, for services rendered up to that time, as the court deems proper, and the portion so allowed may be charged against the estate.

Sec. 153. NRS 150.060 is hereby amended to read as follows:

150.060 1. ~~{Attorneys for personal representatives are}~~ **An attorney for a personal representative is** entitled to reasonable compensation for ~~{their}~~ **the attorney's** services, to be paid out of the decedent's estate.

2. An attorney for a personal representative may be compensated based on:

- (a) The applicable hourly rate of the attorney;
- (b) The value of the estate accounted for by the personal representative;
- (c) An agreement as set forth in subsection 4 of NRS 150.061; or

(d) Any other method preapproved by the court pursuant to a request in the initial petition for the appointment of the personal representative.

3. If the attorney is requesting compensation based on the hourly rate of the attorney, he or she may include, as part of that compensation for ordinary services, a charge for legal services or paralegal services performed by a person under the direction and supervision of the attorney.

4. If the attorney is requesting compensation based on the value of the estate accounted for by the personal representative, the allowable compensation of the attorney for ordinary services must be determined as follows:

- (a) For the first \$100,000, at the rate of 4 percent;
- (b) For the next \$100,000, at the rate of 3 percent;
- (c) For the next \$800,000, at the rate of 2 percent;
- (d) For the next \$9,000,000, at the rate of 1 percent;
- (e) For the next \$15,000,000, at the rate of 0.5 percent; and
- (f) For all amounts above \$25,000,000, a reasonable amount to be determined by the court.

5. Before an attorney may receive compensation based on the value of the estate accounted for by the personal representative, the personal representative must sign a written agreement as required by subsection 8. The agreement must be prepared by the attorney and must include detailed information, concerning, without limitation:

- (a) The schedule of fees to be charged by the attorney;
- (b) The manner in which compensation for extraordinary services may be charged by the attorney; and
- (c) The fact that the court is required to approve the compensation of the attorney pursuant to subsection 8 before the personal representative pays any such compensation to the attorney.

6. For the purposes of determining the compensation of an attorney pursuant to subsection 4, the value of the estate accounted for by the personal representative:

- (a) Is the total amount of the appraisal of property in the inventory, plus:
 - (1) The gains over the appraisal value on sales; and
 - (2) The receipts, less losses from the appraisal value on sales; and
- (b) Does not include encumbrances or other obligations on the property of the estate.

7. In addition to the compensation for ordinary services of an attorney set forth in this section, an attorney may also be entitled to receive compensation for extraordinary services as set forth in NRS 150.061.

8. The compensation of the attorney must be fixed by written agreement between the personal representative and the attorney, and is subject to approval by the court, after petition, notice and hearing as provided in this section. If the personal representative and the attorney fail to reach agreement, or if the attorney is also the personal representative, the amount must be determined and allowed by the court. The petition requesting

approval of the compensation of the attorney must contain specific and detailed information supporting the entitlement to compensation, including:

(a) If the attorney is requesting compensation based upon the value of the estate accounted for by the personal representative, the attorney must provide the manner of calculating the compensation in the petition; and

(b) If the attorney is requesting compensation based on an hourly basis, or is requesting compensation for extraordinary services, the attorney must provide the following information to the court:

- (1) Reference to time and hours;
- (2) The nature and extent of services rendered;
- (3) Claimed ordinary and extraordinary services;
- (4) The complexity of the work required; and
- (5) Other information considered to be relevant to a determination of entitlement.

9. The clerk shall set the petition for hearing, and the petitioner shall give notice of the petition to the personal representative if he or she is not the petitioner and to all known heirs in an intestacy proceeding and devisees in a will proceeding. The notice must be given for the period and in the manner provided in NRS 155.010. If a complete copy of the petition is not attached to the notice, the notice must include a statement of the amount of the fee which the court will be requested to approve or allow.

10. On similar petition, notice and hearing, the court may make an allowance to an attorney for services rendered up to a certain time during the proceedings. If the attorney is requesting compensation based upon the value of the estate as accounted for by the personal representative, the court may apportion the compensation as it deems appropriate given the amount of work remaining to close the estate.

11. An heir or devisee may file objections to a petition filed pursuant to this section, and the objections must be considered at the hearing.

12. Except as otherwise provided in this subsection, an attorney for minor, absent, unborn, incapacitated or nonresident heirs is entitled to compensation primarily out of the estate of the distributee so represented by the attorney in those cases and to such extent as may be determined by the court. If the court finds that all or any part of the services performed by the attorney for the minor, absent, unborn, incapacitated or nonresident heirs was of value to the decedent's entire estate as such and not of value only to those heirs, the court shall order that all or part of the attorney's fee be paid to the attorney out of the money of the decedent's entire estate as a general administrative expense of the estate. The amount of these fees must be determined in the same manner as the other attorney's fees provided for in this section.

Sec. 154. NRS 150.063 is hereby amended to read as follows:

150.063 **1.** If there are two or more attorneys for a personal representative, the compensation must be apportioned among the attorneys

by the court according to the services actually rendered by each attorney unless otherwise provided in an agreement by the attorneys.

2. *If there are two or more personal representatives and the personal representatives have separate legal representation, each attorney for each personal representative is entitled to have the compensation for attorneys apportioned among the attorneys by the court according to the services actually rendered by each attorney unless otherwise provided in an agreement by the attorneys.*

Sec. 155. NRS 150.065 is hereby amended to read as follows:

150.065 1. At any time after the expiration of the period for creditors of the estate to file their claims in a summary or full administration pursuant to NRS 145.060 or 147.040, as applicable, ~~the~~ a personal representative or ~~the~~ an attorney for ~~the~~ a personal representative may file a petition with the court for an allowance upon the compensation of the attorney for the personal representative.

2. The clerk shall set the petition for hearing and the petitioner shall give notice of the petition to the personal representative if he or she is not the petitioner and to all known heirs in an intestacy proceeding and devisees in a will proceeding. The notice must be given for the period and in the manner provided in NRS 155.010. If a complete copy of the petition is not attached to the notice, the notice must include a statement of the amount of the compensation which the court will be requested to approve or allow and the manner in which the compensation was determined.

3. On the hearing, the court may enter an order allowing the portion of the compensation of the attorney for the personal representative for such services rendered up to that time as the court deems proper. The order must authorize the personal representative to charge against the estate the amount of compensation allowed by the court pursuant to this subsection.

Sec. 156. Chapter 153 of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided in a will establishing a testamentary trust, a person holding a power of appointment pursuant to a testamentary trust does not owe a fiduciary duty to any person and is not liable to any person with respect to the exercise or nonexercise of the power of appointment.

Sec. 157. NRS 153.031 is hereby amended to read as follows:

153.031 1. A trustee or beneficiary may petition the court regarding any aspect of the affairs of the trust, including:

- (a) Determining the existence of the trust;
- (b) Determining the construction of the trust instrument;
- (c) Determining the existence of an immunity, power, privilege, right or duty;
- (d) Determining the validity of a provision of the trust;
- (e) Ascertaining beneficiaries and determining to whom property is to pass or be delivered upon final or partial termination of the trust, to the extent not provided in the trust instrument;

(f) Settling the accounts and reviewing the acts of the trustee, including the exercise of discretionary powers;

(g) Instructing the trustee;

(h) Compelling the trustee to report information about the trust or account, to the beneficiary;

(i) Granting powers to the trustee;

(j) Fixing or allowing payment of the trustee's compensation, or reviewing the reasonableness of the trustee's compensation;

(k) Appointing or removing a trustee;

(l) Accepting the resignation of a trustee;

(m) Compelling redress of a breach of the trust;

(n) Approving or directing the modification or termination of the trust;

(o) Approving or directing the combination or division of trusts;

(p) Amending or conforming the trust instrument in the manner required to qualify the estate of a decedent for the charitable estate tax deduction under federal law, including the addition of mandatory requirements for a charitable-remainder trust;

(q) Compelling compliance with the terms of the trust or other applicable law; and

(r) Permitting the division or allocation of the aggregate value of community property assets in a manner other than on a pro rata basis.

2. A petition under this section must state the grounds of the petition and the name and address of each interested person, including the Attorney General if the petition relates to a charitable trust, and the relief sought by the petition. Except as otherwise provided in this chapter, the clerk shall set the petition for hearing and the petitioner shall give notice for the period and in the manner provided in NRS 155.010. The court may order such further notice to be given as may be proper.

3. If the court grants any relief to the petitioner, the court may, in its discretion, order any or all of the following additional relief if the court determines that such additional relief is appropriate to redress or avoid an injustice:

(a) Order a reduction in the trustee's compensation.

(b) Order the trustee to pay to the petitioner or any other party all reasonable costs incurred by the party to adjudicate the affairs of the trust pursuant to this section, including, without limitation, reasonable attorney's fees. ~~The~~ ***Except as otherwise provided in section 193 of this act, the*** trustee may not be held personally liable for the payment of such costs unless the court determines that the trustee was negligent in the performance of or breached his or her fiduciary duties.

Sec. 158. Chapter 155 of NRS is hereby amended by adding thereto the provisions set forth as sections 159 to 170, inclusive, of this act.

Sec. 159. *As used in sections 159 to 169, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 160*

to 166, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 160. “Caregiver” means any person who has provided significant assistance or services to or for a person, regardless of whether the person is incompetent, incapacitated or of limited capacity and regardless of whether the person is being compensated for the assistance or services provided.

Sec. 161. “Independent attorney” means an attorney, other than a attorney who:

1. Is described in subsection 2 of section 167 of this act; or
2. Has served as an attorney for a person who is described in subsection 2 of section 167 of this act.

Sec. 162. “Related to, affiliated with or subordinate to any person” includes, without limitation:

1. The person’s spouse;
2. A relative of the person within the third degree of consanguinity or the spouse of such a relative;
3. A co-owner of a business with the person;
4. An employee of a business if the person:
 - (a) Has an ownership interest in the business; or
 - (b) Holds a supervisory position with the business;
5. An attorney or employee of a law firm for which the person is or was a client; and
6. Any entity owned or controlled by a person described in subsections 1 to 5, inclusive.

Sec. 163. “Spouse” includes a domestic partner as defined in NRS 122A.030.

Sec. 164. “Transfer instrument” means the legal document intended to effectuate a transfer effective on or after the transferor’s death and includes, without limitation, a will, trust, deed, form designated as payable on death, contract or other beneficiary designation form.

Sec. 165. “Transferee” means a devisee, a beneficiary of trust, a grantee of a deed, including a grantee of a deed pursuant to NRS 111.109, and any other person designated in a transfer instrument to receive a nonprobate transfer.

Sec. 166. “Transferor” means a testator, settlor, grantor of a deed and a decedent whose interest is transferred pursuant to a nonprobate transfer.

Sec. 167. 1. To the extent the court finds that a transfer was the product of fraud, duress or undue influence, the transfer is void and each transferee who is found responsible for the fraud, duress or undue influence shall bear the costs of the proceedings, including, without limitation, reasonable attorney’s fees.

2. Except as otherwise provided in section 168 of this act, a transfer is presumed to be void if the transfer is effective on or after a transferor’s death and the transfer is to a transferee who is:

- (a) The person who drafted the transfer instrument;

(b) A caregiver of the transferor;

(c) A person who arranged for or paid for the drafting of the transfer instrument; or

(d) A person who is related to, affiliated with or subordinate to any person described in paragraph (a), (b) or (c).

Sec. 168. The presumption established by section 167 of this act does not apply:

1. To a transfer of property under a will if the transferee is an heir of the testator whose share in the estate of the testator under the terms of the testator's will is not greater than the share the transferee would be entitled to pursuant to chapter 134 of NRS if the testator had died intestate.

2. Except as otherwise provided in this subsection, if the court determines, upon clear and convincing evidence, that the transfer was not the product of fraud, duress or undue influence. The determination of the court pursuant to this subsection must not be based solely upon the testimony of a person described in subsection 2 of section 167 of this act.

3. If the transfer instrument is reviewed by an independent attorney who:

(a) Counsels the transferor about the nature and consequences of the intended transfer;

(b) Attempts to determine if the intended consequence is the result of fraud, duress or undue influence; and

(c) Signs and delivers to the transferor an original certificate of that review in substantially the following form:

CERTIFICATE OF INDEPENDENT REVIEW

I,..... (attorney's name), have reviewed.....
(name of transfer instrument) and have counseled my
client,..... (name of client), on the nature and consequences
of the transfer or transfers of property to..... (name of
transferee) contained in the transfer instrument. I am disassociated from
the interest of the transferee to the extent that I am in a position to advise
my client independently, impartially and confidentially as to the
consequences of the transfer. On the basis of this counsel, I conclude that
the transfer or transfers of property in the transfer instrument that
otherwise might be invalid pursuant to section 167 of this act are valid
because the transfer or transfers are not the product of fraud, duress or
undue influence.

.....
(Name of Attorney)

.....
(Date)

4. To a transferee that is:

(a) A federal, state or local public entity; or

(b) An entity that is recognized as exempt under section 501(c)(3) or 501(c)(19) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3) or

501(c)(19), or a trust holding an interest for such an entity but only to the extent of the interest of the entity or the interest of the trustee of the trust.

5. A transfer of property if the fair market value of the property does not exceed \$3,000.

Sec. 169. The provisions of sections 167 and 168 of this act do not abrogate or limit any principle or rule of the common law, unless the common law principle or rule is inconsistent with the provisions of sections 167 and 168 of this act.

Sec. 170. 1. The court may find that a person is a vexatious litigant if the person files a petition, objection, motion or other pleading which is without merit or intended to harass or annoy the personal representative or a trustee. In determining whether the person is a vexatious litigant, the court may take into consideration whether the person has previously filed pleadings in a proceeding that were without merit or intended to harass or annoy a fiduciary.

2. If a court finds that a person is a vexatious litigant pursuant to subsection 1, the court may impose sanctions on the person in an amount sufficient to reimburse the estate or trust for all or part of the expenses incurred by the estate or trust to respond to the petition, objection, motion or other pleading and for any other pecuniary losses which are associated with the actions of the vexatious litigant. The court may make an order directing entry of judgment for the amount of such sanctions.

3. The court may deny standing to an interested party to bring a petition or motion if the court finds that:

(a) The subject matter of the petition or motion is unrelated to the interests of the interested party;

(b) The interests of the interested party are minimal as it relates to the subject matter of the petition or motion; or

(c) The interested party is a vexatious litigant pursuant to subsection 1.

4. If a court finds that a person is a vexatious litigant pursuant to subsection 1, that person does not have standing to:

(a) Object to the issuance of letters; or

(b) Request the removal of a personal representative or a trustee.

Sec. 171. NRS 155.030 is hereby amended to read as follows:

155.030 1. At any time after the issuance of letters in the estate of a decedent, an interested person or the person's attorney may serve upon the personal representative or the personal representative's attorney, and file with the clerk of the court wherein administration of the estate is pending, a written request stating that the interested person desires special notice and a copy of any further filings, steps or proceedings in the administration of the estate.

2. The request must state the post office address of the requester or the requester's attorney, and thereafter a brief notice of the filing of any returns, petitions, accounts, reports or other proceedings, together with a copy of the filing, must be addressed to that person or the person's attorney, at his or her

stated mailing address, and deposited with the United States Postal Service with the postage thereon prepaid, within 2 days after each is filed, or personal service of the notice may be made on the person or the person's attorney within the 2 days, and the personal service is equivalent to deposit in the post office, and proof of mailing or of personal service must be filed with the clerk before the hearing of the proceeding.

3. If, upon the hearing, it appears to the satisfaction of the court that the notice has been regularly given, the court shall so find in its order and the order is final and conclusive upon all persons.

4. An interested person in a testamentary trust or its property, or the attorney for that person, may serve upon the trustee or the trustee's attorney, and file with the clerk of the court wherein administration of the trust is pending, a written request stating that he or she desires notice of the filing of accounts and petitions in connection with the trust. The provisions of subsections 2 and 3 apply to such a request.

5. ***An attorney whose only appearance on behalf of an interested person has been the filing of a written request for notice pursuant to subsection 1 may, without further court order:***

(a) Terminate his or her services;

(b) Serve upon the personal representative or the personal representative's attorney an amended written request for notice directing that any further notice be sent to the interested person at his or her last known address; and

(c) File the amended written request for notice with the clerk of the court wherein administration of the estate is pending.

6. ***Any filing of a motion for substitution of counsel or order authorizing withdrawal of counsel of record for an attorney who has filed a written request for notice on behalf of an interested person pursuant to subsection 1 shall be deemed to be an amended written request for notice as described in subsection 5, and any further notice must be sent to the address provided in the motion for substitution of counsel or the order authorizing the withdrawal of counsel, as applicable.***

7. On the filing of an inventory or a inventory or a supplementary inventory, the personal representative shall mail a copy to each person who has requested special notice.

Sec. 172. NRS 155.140 is hereby amended to read as follows:

155.140 1. In a proceeding involving the estate of a decedent or a testamentary trust:

(a) Interests to be affected must be described in pleadings that give reasonable information to owners by name or class, by reference to the instrument creating the interest or in another appropriate manner.

(b) An order binding the sole holder or all co-holders of a power of revocation or presently exercisable general power of appointment, including a power of amendment, binds other persons to the extent their interests, as objects, takers in default or otherwise, are subject to the power.

(c) To the extent there is no conflict of interest between them or among persons represented:

(1) An order binding a guardian of the estate binds the person whose estate the guardian controls.

(2) An order binding a guardian of the person binds the ward if no separate guardian of the estate of the ward has been appointed.

(3) An order binding a trustee binds beneficiaries of the trust in a proceeding to probate a will establishing or adding to the trust, to review the acts or accounts of a previous fiduciary, or involving creditors or other third parties.

(4) An order binding a personal representative binds persons interested in the undistributed assets of the estate of a decedent in an action or proceeding by or against the estate.

(d) If there is no conflict of interest and no guardian of the estate has been appointed, a parent may represent his or her minor child.

(e) An unborn or unascertained person who is not otherwise represented is bound by an order to the extent his or her interest is adequately represented by another person having a substantially identical interest in the proceeding.

(f) Notice as prescribed by this title must be given to every interested person or to one who can bind an interested person under ~~{subsection}~~ **paragraph** (b), (c) or (d). Notice may be given both to a person and to another who can bind him or her.

(g) Notice is given to unborn or unascertained persons who are not represented under ~~{subsection}~~ **paragraph** (b), (c) or (d) by giving notice to all known persons whose interest in the proceeding is substantially identical to that of the unborn or unascertained persons.

(h) At any stage of a proceeding, the court may appoint a guardian ad litem or an attorney to represent the interest of a minor, an incapacitated, unborn or unascertained person, or a person whose identity or address is unknown, if the court determines that representation of the interest would otherwise be inadequate. If not precluded by conflict of interest, a guardian ad litem or an attorney may be appointed to represent several persons or interests. The court shall set out its reasons for appointing a guardian ad litem or an attorney as a part of the record of the proceeding.

2. If an attorney has been appointed for minors or other interested persons, the attorney, until another may be appointed, shall represent the person or persons for whom the attorney has been appointed in all subsequent proceedings.

3. In any proceeding filed pursuant to this title, the court has jurisdiction and authority to fix and adjudicate fees and costs due an attorney from his or her client for services performed by the attorney in connection with the proceeding.

Sec. 173. NRS 155.170 is hereby amended to read as follows:

155.170 ~~{The testimony of a witness or witnesses in other counties of this State, or in other jurisdictions of the United States, or in foreign~~

~~countries, may be taken by deposition as provided in the Nevada Rules of Civil Procedure.] Unless otherwise ordered by the court, upon the filing of a proceeding pursuant to this title and service of the notice of hearing to other interested persons, an interested person who has appeared in the proceeding and given notice of his or her appearance to other interested persons:~~

1. May obtain discovery, perpetuate testimony or conduct examinations in any manner authorized by law or by the Nevada Rules of Civil Procedure relevant to such proceeding; and

2. Is not required to satisfy any rule requiring the initial disclosure of experts, attendance at an early case conference or the filing of a report on an early case conference as a prerequisite to commencing an action described in subsection 1.

Sec. 174. NRS 159.065 is hereby amended to read as follows:

159.065 1. Except as otherwise provided by law, every guardian shall, before entering upon his or her duties as guardian, execute and file in the guardianship proceeding a bond, with sufficient surety or sureties, in such amount as the court determines necessary for the protection of the ward and the estate of the ward, and conditioned upon the faithful discharge by the guardian of his or her authority and duties according to law. The bond must be approved by the clerk. Sureties must be jointly and severally liable with the guardian and with each other.

2. If a banking corporation, as defined in NRS 657.016, doing business in this state, is appointed guardian of the estate of a ward, no bond is required of the guardian, unless specifically required by the court.

3. Joint guardians may unite in a bond to the ward or wards, or each may give a separate bond.

4. If there are no assets of the ward, no bond is required of the guardian.

5. If a person ~~is appointed in a will~~ **has been nominated** to be guardian **in a will, power of attorney or other written instrument that has been acknowledged before two disinterested witnesses or acknowledged before a notary public** and the will, **power of attorney or other written instrument** provides that no bond is to be required of the guardian, the court may direct letters of guardianship to issue to the guardian after the guardian:

(a) Takes and subscribes the oath of office; and

(b) Files the appropriate documents which contain the full legal name and address of the guardian.

6. In lieu of executing and filing a bond, the guardian may request that access to certain assets be blocked. The court may grant the request and order letters of guardianship to issue to the guardian if sufficient evidence is filed with the court to establish that such assets are being held in a manner that prevents the guardian from accessing the assets without a specific court order.

Sec. 175. Chapter 162 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *An attorney who represents a fiduciary does not, solely as a result of such attorney-client relationship, assume a corresponding duty of care or other fiduciary duty to a principal.*

2. *Nothing in this section limits a principal, fiduciary or successor fiduciary's ability to assert appropriate claims against the attorney resulting from the negligent or intentional acts of the attorney.*

3. *As used in this section:*

(a) *"Fiduciary" has the meaning ascribed to it in NRS 162.020.*

(b) *"Principal" has the meaning ascribed to it in NRS 162.020.*

Sec. 176. Chapter 163 of NRS is hereby amended by adding thereto a new section to read as follows:

Except to the extent that it violates public policy, a settlor may:

1. *Make a devise conditional upon a beneficiary's action or failure to take action or upon the occurrence or nonoccurrence of one or more specified events; and*

2. *Specify the conditions or actions which would disqualify a person from serving or which would constitute cause for removal of a person who is serving in any capacity under the trust, including, without limitation, as a trustee, trust protector or trust adviser.*

Sec. 177. NRS 163.00195 is hereby amended to read as follows:

163.00195 1. Except as otherwise provided in subsections 3 and 4, a no-contest clause in a trust must be enforced by the court.

2. A no-contest clause must be construed to carry out the settlor's intent. Except to the extent the no-contest clause in the trust is vague or ambiguous, extrinsic evidence is not admissible to establish the settlor's intent concerning the no-contest clause. The provisions of this subsection do not prohibit such evidence from being admitted for any other purpose authorized by law. *Except as otherwise provided in subsections 3 and 4, a beneficiary's share may be reduced or eliminated under a no-contest clause based upon conduct that is set forth by the settlor in the trust. Such conduct may include, without limitation:*

(a) *Conduct other than formal court action; and*

(b) *Conduct which is unrelated to the trust itself, including, without limitation:*

(1) *The commencement of civil litigation against the settlor's probate estate or family members;*

(2) *Interference with the administration of another trust or a business entity;*

(3) *Efforts to frustrate the intent of the settlor's power of attorney; and*

(4) *Efforts to frustrate the designation of beneficiaries related to a nonprobate transfer by the settlor.*

3. Notwithstanding any provision to the contrary in the trust, a beneficiary's share must not be reduced or eliminated if the beneficiary seeks only to:

(a) Enforce the terms of the trust , ***any document referenced in or affected by the trust***, or any other trust-related instrument;

(b) Enforce the beneficiary's legal rights related to the trust , ***any document referenced in or affected by the trust***, or any trust-related instrument; or

(c) Obtain a court ruling with respect to the construction or legal effect of the trust , ***any document referenced in or affected by the trust***, or any other trust-related instrument.

4. Notwithstanding any provision to the contrary in the trust, a beneficiary's share must not be reduced or eliminated under a no-contest clause in a trust because the beneficiary institutes legal action seeking to invalidate a trust , ***any document referenced in or affected by the trust***, or any other trust-related instrument if the legal action is instituted in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that ~~{there was a substantial likelihood that}~~ the trust , ***any document referenced in or affected by the trust***, or other trust-related instrument ~~{was}~~ is invalid.

5. As used in this section:

(a) "No-contest clause" means one or more provisions in a trust that express a directive to reduce or eliminate the share allocated to a beneficiary or to reduce or eliminate the distributions to be made to a beneficiary if the beneficiary takes action to frustrate or defeat the settlor's intent as expressed in the trust or in a trust-related instrument.

(b) "Trust" means the original trust instrument and each amendment made pursuant to the terms of the original trust instrument.

(c) "Trust-related instrument" means any document purporting to transfer property to or from the trust or any document made pursuant to the terms of the trust purporting to direct the distribution of trust assets or to affect the management of trust assets, including, without limitation, documents that attempt to exercise a power of appointment.

Sec. 178. NRS 163.004 is hereby amended to read as follows:

163.004 1. A trust may be created for any purpose that is not illegal or against public policy.

2. ~~{A trust created for an indefinite or general purpose is not invalid for that reason if it can be determined with reasonable certainty that a particular use of the trust property is within that purpose.}~~ ***Except as otherwise provided by a specific statute, federal law or common law, the terms of a trust instrument may vary the rights and interests of beneficiaries in any manner that is not illegal or against public policy, including, without limitation, specifying:***

(a) The grounds for removing a fiduciary;

(b) The circumstances, if any, in which the fiduciary must diversify investments; and

(c) A fiduciary's powers, duties, standards of care, rights of indemnification and liability to persons whose interests arise from the trust instrument.

3. Nothing in this section shall be construed to:

(a) Authorize the exculpation or indemnification of a fiduciary for the fiduciary's own willful misconduct or gross negligence; or

(b) Preclude a court of competent jurisdiction from removing a fiduciary because of the fiduciary's willful misconduct or gross negligence.

4. The rule that statutes in derogation of the common law are to be strictly construed has no application to this section. This section must be liberally construed to give maximum effect to the principle of freedom of disposition and to the enforceability of trust instruments.

Sec. 179. NRS 163.556 is hereby amended to read as follows:

163.556 1. Unless the terms of a testamentary instrument or irrevocable trust provide otherwise, a trustee with discretion or authority to distribute trust income or principal to or for a beneficiary of the trust may exercise such discretion or authority by appointing the property subject to such discretion or authority in favor of a second trust for the benefit of one or more of those beneficiaries.

2. Notwithstanding subsection 1, a trustee may not appoint property of the original trust to a second trust if:

(a) The second trust includes a beneficiary who is not a beneficiary of the original trust. For purposes of this paragraph, a permissible appointee of a power of appointment exercised by a beneficiary of the second trust is not considered a beneficiary of the second trust.

(b) Appointing the property will reduce any current fixed income interest, annuity interest or unitrust interest of a beneficiary of the original trust. As used in this paragraph, "unitrust" has the meaning ascribed to it in NRS 164.700.

(c) A contribution made to the original trust qualified for a marital or charitable deduction for federal or state income, gift or estate taxes or qualified for a gift tax exclusion for federal or state tax purposes and the terms of the second trust include a provision which if included in the original trust would prevent the original trust from qualifying for the tax deduction or exclusion.

(d) The property to be appointed is subject to a power of withdrawal which is held by a beneficiary of the original trust and may be executed at the time of the proposed appointment ~~to~~ **, unless after the exercise of such appointment, the beneficiary of the original trust's power of withdrawal is unchanged with respect to the trust property.**

(e) Property specifically allocated for one beneficiary of the original trust is no longer allocated for that beneficiary under either or both trusts, unless the beneficiary consents in writing.

(f) Property held for the benefit of one or more beneficiaries under both the original and the second trust has a lower value than the value of the

property held for the benefit of the same beneficiaries under only the original trust, unless:

(1) The benefit provided is limited to a specific amount or periodic payments of a specific amount; and

(2) The value of the property held in either or both trusts for the benefit of one or more beneficiaries is actuarially adequate to provide the benefit.

(g) Under the second trust:

(1) Discretionary distributions may be made by the trustee to a beneficiary or group of beneficiaries of the original trust;

(2) Distributions are not limited by an ascertainable standard; and

(3) A beneficiary or group of beneficiaries has the power to remove and replace the trustee of the second trust with a beneficiary of the second trust or with a trustee that is related to or subordinate to a beneficiary of the second trust.

(h) A contribution made to the original trust qualified for a gift tax exclusion as described in section 2503(b) of the Internal Revenue Code, 26 U.S.C. § 2503(b), by reason of the application of section 2503(c) of the Internal Revenue Code, 26 U.S.C. § 2503(c), unless the second trust provides that the beneficiary's remainder interest must vest not later than the date upon which such interest would have vested under the terms of the original trust.

3. Notwithstanding the provisions of subsection 1, a trustee who is a beneficiary of the original trust may not exercise the authority to appoint property of the original trust to a second trust if:

(a) Under the terms of the original trust or pursuant to law governing the administration of the original trust:

(1) The trustee does not have discretion to make distributions to himself or herself;

(2) The trustee's discretion to make distributions to himself or herself is limited by an ascertainable standard ~~to~~, ***and under the terms of the second trust, the trustee's discretion to make distributions to himself or herself is not limited by the same ascertainable standard;*** or

(3) The trustee's discretion to make distributions to himself or herself can only be exercised with the consent of a cotrustee or a person holding an adverse interest and under the terms of the second trust the trustee's discretion to make distributions to himself or herself is not limited by an ascertainable standard and may be exercised without consent; or

(b) Under the terms of the original trust or pursuant to law governing the administration of the original trust, the trustee of the original trust does not have discretion to make distributions that will discharge the trustee's legal support obligations but under the second trust the trustee's discretion is not limited.

4. ***The provisions of subsection 3 do not prohibit a trustee who is not a beneficiary of the original trust from exercising the authority to appoint***

property of the original trust to a second trust pursuant to the provisions of subsection 1.

5. Before appointing property pursuant to subsection 1, a trustee may give notice of a proposed action pursuant to NRS 164.725 or may petition a court for approval pursuant to NRS 153.031, 164.015 or 164.725. Any notice of a proposed action or a petition for a court's approval must include the trustee's opinion of how the appointment of property will affect the trustee's compensation and the administration of other trust expenses.

~~{5.}~~ Notwithstanding the provisions of subsection 2 or 3, the

6. The trust instrument of the second trust may:

(a) Grant a power of appointment to one or more of the beneficiaries of the second trust who are proper objects of the exercise of the power in the original trust. The power of appointment includes, without limitation, the power to appoint trust property to the holder of the power, the holder's creditors, the holder's estate, the creditors of the holder's estate or any other person.

(b) Provide that, at a time or occurrence of an event specified in the trust instrument, the remaining trust assets in the second trust must be held for the beneficiaries of the original trust upon terms and conditions that are substantially identical to the terms and conditions of the original trust.

~~{6.}~~ **7.** The power to appoint the property of the original trust pursuant to subsection 1 must be exercised by a writing, signed by the trustee and filed with the records of the trust.

~~{7.}~~ **8.** The exercise of the power to invade principal of the original trust pursuant to subsection 1 is considered the exercise of a power of appointment, other than power to appoint the property to the trustee, the trustee's creditors, the trustee's estate or the creditors of the trustee's estate and the provisions of NRS 111.1031 apply to such power of appointment.

~~{8.}~~ **9.** The provisions of this section do not abridge the right of any trustee who has the power to appoint property which arises under any other law.

~~{9.}~~ **10.** The provisions of this section do not impose upon a trustee a duty to exercise the power to appoint property pursuant to subsection 1.

~~{10.}~~ **11.** The power to appoint property to another trust pursuant to subsection 1 is not a power to amend the trust and a trustee is not prohibited from appointing property to another trust pursuant to subsection 1 if the original trust is irrevocable or provides that it may not be amended.

~~{11.}~~ **12.** A trustee's power to appoint property to another trust pursuant to subsection 1 is not limited by the existence of a spendthrift provision in the original trust.

~~{12.}~~ **13.** A trustee exercising any power granted pursuant to this section may designate himself or herself or any other person permitted to act as a trustee as the trustee of the second trust.

~~{13.}~~ **14.** The trustee of a second trust, resulting from the exercise of the power to appoint property to another trust pursuant to subsection 1, may also

exercise the powers granted pursuant to this section with respect to the second trust.

~~{14.}~~ 15. As used in this section, “ascertainable standard” means a standard relating to an individual’s health, education, support or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code , 26 U.S.C. § 2041(b)(1)(A) or 2514(c)(1), and any regulations of the United States Treasury promulgated thereunder.

Sec. 179.5. ~~{Chapter 164 of NRS is hereby amended by adding thereto the provisions set forth as sections 180 and 180.5 of this act.}~~ **(Deleted by amendment.)**

Sec. 180. **Chapter 164 of NRS is hereby amended by adding thereto a new section to read as follows:**

The provisions of section 47 of this act concerning the revocation of certain transfers based upon divorce or annulment apply to transfers of property made pursuant to a trust.

Sec. 180.5. ~~{The notice that a trustee is required to provide pursuant to subsection 3 of NRS [164.900] may be in the following form:~~

~~NOTICE TO BENEFICIARY~~

~~You are hereby notified, as required by subsection 3 of NRS [164.900], that:~~

~~1. The undersigned is the trustee of the trust that is designated as.....(specify name and date or another type of identification of the trust).~~

~~2. You are being given this notice because, under the terms of the trust instrument, the trustee is authorized or required to make distributions of income to you or for your benefit. The above named trust became irrevocable before October 1, 2011, and the trust instrument does not contain specific direction as to the amount of income that is to be applied toward standard fiduciary compensation and toward expenses for accountings, judicial proceedings or certain other matters. For the purposes of this notice, “standard fiduciary compensation” means the regular compensation of the trustee and any person providing advisory or custodial services to the trustee whose compensation is based on the value of the trust’s principal or a portion of the trust’s principal.~~

~~3. Under the Uniform Principal and Income Act (1997), as adopted in Nevada, one half of the standard fiduciary compensation and the expenses described above are generally paid from trust income and the balance of the standard fiduciary compensation and expenses are generally paid from the trust’s principal.~~

~~4. Subsection 2 of NRS [164.900] places a limit on the amount of income that can be applied toward standard fiduciary compensation and the expenses described above, but that limit does not apply to this trust unless the adult beneficiaries to whom or for whose benefit net income of the trust presently is or may be payable, by majority vote, make an election~~

~~to have the limitation apply as authorized under subsection 7 of NRS [164.900].~~

~~5. If such an election is made, it may or may not increase the income that is available for distribution, but such an election will not reduce distributable income.~~

~~6. If you want to have the limitation authorized under subsection 7 of NRS [164.900] apply to this trust, you must notify the trustee by signing at the bottom of this form and returning the form to the trustee. Failure to sign this form and return it to the trustee will be considered a negative vote with regard to applying the limitation described in subsection 2 of NRS [164.900] to this trust.~~

~~(Signature of Trustee) (Date)~~

~~(Address of Trustee)~~

~~If you would like to make the election under subsection 7 of NRS [164.900], as explained above, please sign below and send the signed copy by certified or registered mail to the trustee or personally deliver the signed copy to the trustee.~~

~~NOTICE OF ELECTION~~

~~UNDER SUBSECTION 7 OF NRS [164.900]~~

~~I, the undersigned beneficiary, hereby make the election authorized under subsection 7 of NRS [164.900] to limit the amount of income that can be paid toward the regular compensation of the trustee and of any person providing advisory or custodial services to the trustee whose compensation is based on the value of the trust's principal or a portion of the trust's principal and toward expenses for accountings, judicial proceedings or certain other matters. I understand that the election will only be effective after the adult beneficiaries to whom or for whose benefit net income of the trust presently is or may be payable, by majority vote, make this election.~~

~~(Signature of Beneficiary) (Date) (Deleted by amendment.)~~

Sec. 181. NRS 164.021 is hereby amended to read as follows:

164.021 1. When a revocable trust becomes irrevocable because of the death of a settlor or by the express terms of the trust, the trustee may, ~~within 90 days~~ after the trust becomes irrevocable, provide notice to any beneficiary of the irrevocable trust, any heir of the settlor or to any other interested person.

2. The notice provided by the trustee must contain:

(a) The identity of the settlor of the trust and the date of execution of the trust instrument;

(b) The name, mailing address and telephone number of any trustee of the trust;

(c) Any provision of the trust instrument which pertains to the beneficiary or notice that the heir or interested person is not a beneficiary under the trust;

(d) Any information required to be included in the notice expressly provided by the trust instrument; and

(e) A statement set forth in a separate paragraph, in 12-point boldface type or an equivalent type which states: "You may not bring an action to contest the trust more than 120 days from the date this notice is served upon you."

3. The trustee shall serve the notice pursuant to the provisions of NRS 155.010.

4. No person upon whom notice is served pursuant to this section may bring an action to contest the validity of the trust more than 120 days from the date the notice is served upon the person, unless the person proves that he or she did not receive actual notice.

Sec. 181.5. ~~[NRS 164.780 is hereby amended to read as follows:~~

~~164.780 NRS 164.700, subsection 2 of NRS 164.720 and NRS 164.780 to 164.925, inclusive, and section 180.5 of this act, may be cited as the Uniform Principal and Income Act (1997).]~~ **(Deleted by amendment.)**

Sec. 182. NRS 164.900 is hereby amended to read as follows:

164.900 **1. A**

~~[1. Except as otherwise provided in the trust instrument or in an order of the court, a]~~ trustee shall make the following disbursements from income to the extent that they are not disbursements to which paragraph (b) or (c) of subsection 2 of NRS 164.800 applies:

~~[1.]~~ **(a) Except as otherwise provided in subsection 2 or otherwise ordered by the court, one-half of the**
~~[(a) One half of:~~

~~(1) Except as otherwise provided in subsection 2:~~

~~(1) The]~~ regular compensation of the trustee and of any person providing investment advisory or custodial services to the trustee ;

~~[2.]~~ **(b) Except as otherwise ordered by the court, one-half of all [whose compensation is based on the value of the trust's principal or a portion thereof; and**

~~(1) All]~~ expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests;

~~[3.]~~ **(c) All the other ordinary [and**

~~(2) All other]~~ expenses incurred in connection with the administration, management or preservation of trust property and the distribution of income, ~~[not specifically mentioned in subparagraph (1) or in paragraph (b),]~~ including interest, ordinary repairs , ~~[on trust property,]~~ regularly recurring taxes assessed against principal , and ~~[recurring premiums on insurance covering the loss of a principal asset.~~

~~(b) All expenses related to the distribution of income, including interest, the]~~ expenses of a proceeding or other matter that concerns primarily the income interest ; and

~~[4.]~~ **(d) All [and the]** recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the [an] asset.

~~[2. The amount payable from income for compensation and other expenses specifically mentioned in subparagraph (1) of paragraph (a) of~~

~~subsection 1 must not exceed the applicable income percentage of income for the accounting period.~~

~~3. The trustee of a trust that became irrevocable before October 1, 2011, and whose trust instrument does not otherwise address the allocation of compensation and other expenses specifically mentioned in subparagraph (1) of paragraph (a) of subsection 1, shall notify each adult beneficiary who, at the time the notice is provided, is a person to whom or for whose benefit net income of the trust presently is or may be payable, of the right to elect to apply the limitation set forth in subsection 2 to the trust.~~

~~4. Such an election:~~

~~(a) Must be evidenced by a written election to apply the limitation set forth in subsection 2 to the trust which is signed by a majority of the adult beneficiaries described in subsection 3; and~~

~~(b) May be applied to the disbursement of income only after a majority of the adult beneficiaries described in subsection 3 have so elected to apply the limitation set forth in subsection 2 to the trust.~~

~~5. For the purposes of determining a majority pursuant to subsection 4, each adult beneficiary described in subsection 3 has:~~

~~(a) One vote if, pursuant to the terms of the trust instrument, the trustee has the discretion to make distributions to two or more such beneficiaries in equal or unequal amounts; and~~

~~(b) One vote for each percentage of income to which that beneficiary is entitled if, pursuant to the terms of the trust instrument, the trustee is required to pay a specific percentage of the net income to two or more such beneficiaries.~~

~~6. Except as otherwise provided in subsection 7, the trustee shall provide the notice required pursuant to this section to each adult beneficiary described in subsection 3 at least three times, not less than 30 days apart. The notice must:~~

~~(a) Be given by personal delivery or by certified or registered mail to the beneficiary's last known address;~~

~~(b) Be in at least 12-point type or font except that the provision in which the beneficiary makes the election to apply the limitation set forth in subsection 2 to the trust must be in at least 16-point bold type or font;~~

~~(c) Describe the availability of such an election;~~

~~(d) Describe the effect of such an election on the distribution of income from the trust; and~~

~~(e) Inform the beneficiary of the manner in which such an election may be made.~~

~~7. An adult beneficiary described in subsection 3 may:~~

~~(a) By written notice given to the trustee by personal delivery or by certified or registered mail or as otherwise directed by the trustee, consent to a different form of notice or waive the right to receive notice pursuant to this section; and~~

~~(b) Elect to apply the limitation set forth in subsection 2 to the trust at any time after the date on which the first notice is personally delivered or mailed to any such beneficiary.~~

~~8. The provisions of subsection 2:~~

~~(a) Apply to a trust that becomes irrevocable on or after October 1, 2011.~~

~~(b) Do not apply to a trust that became irrevocable before October 1, 2011, unless a majority of adult beneficiaries described in subsection 3 elect to apply the limitation in the manner provided in subsection 4.~~

~~9. As used in this section, "applicable income percentage" means:~~

~~(a) For an accounting period that includes a calendar year, the interest rate fixed on January 1 of that year pursuant to subsection 1 of NRS 99.040, plus 2 percentage points; and~~

~~(b) For an accounting period that includes a portion of a calendar year, the income percentage described in paragraph (a) prorated for that portion of the calendar year included in the accounting period.]~~

2. If the amount charged to the income of an irrevocable trust pursuant to paragraph (a) of subsection 1 exceeds 15 percent of the income of the trust in the accounting period, the trustee shall exercise the authority in NRS 164.795 to equitably reduce the amount charged against income for that accounting period unless:

(a) The trustee, after taking into consideration the terms of the trust instrument, reasonably concludes that the reduction is not in the best interest of the beneficiaries of the trust;

(b) The reduction of the amount charged to income would violate the express terms of the trust instrument other than a general directive to comply with the Uniform Principal and Income Act (1997) or with a general provision that contains language similar to that found in paragraph (a) of subsection 1;

(c) The trustee is authorized under the terms of the trust instrument to distribute trust principal to each income beneficiary; or

(d) The trustee gives notice in compliance with NRS 164.725 of the intent not to make the adjustment and no current income beneficiary objects.

Sec. 183. NRS 164.905 is hereby amended to read as follows:

164.905 1. A trustee shall make the following disbursements from principal:

(a) The remaining portion of the disbursements described in ~~{subsections}~~ **paragraph (a) of subsection 1 [and 2]** of NRS 164.900;

(b) All the trustee's compensation calculated on principal as a fee for acceptance, distribution or termination, and disbursements made to prepare property for sale;

(c) Payments on the principal of a trust debt;

(d) Expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property;

(e) Premiums paid on a policy of insurance not described in ***paragraph (d) of*** subsection ~~4~~ **1** of NRS 164.900 of which the trust is the owner and beneficiary;

(f) Estate, inheritance and other transfer taxes, including penalties, apportioned to the trust; and

(g) Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common law claims by third parties, and defending claims based on environmental matters.

2. If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

Sec. 184. Chapter 165 of NRS is hereby amended by adding thereto the provisions set forth as sections 185 to 198, inclusive, of this act.

Sec. 185. *As used in NRS 165.135 and sections 185 to 198, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 186 to 191, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 186. *“Accounting period” means the period for which the trustee is accounting, and except as otherwise provided in this section, commencing with the first day following the previous accounting period and ending on the date specified by the trustee or on the date specified by the court if the account is ordered by the court. If the account is an initial account, the account commences on the day the trustee became the trustee.*

Sec. 187. *“Broad power of appointment” means a power of appointment held by a person, commonly referred to as a power holder, that can be exercised in favor of:*

- 1. The power holder, without any restriction or limitation; or*
- 2. Any person other than one or more of the following:*
 - (a) The power holder;*
 - (b) The power holder’s estate;*
 - (c) The power holder’s creditors; or*
 - (d) The creditors of the power holder’s estate.*

Sec. 188. *“Current beneficiary” means a distribution beneficiary to whom or for whose benefit the trustee is authorized or required to make distributions of income or principal at any time during the accounting period.*

Sec. 189. *“Distribution beneficiary” has the meaning ascribed to it in NRS 163.415.*

Sec. 190. "Remainder beneficiary" means a beneficiary who will become a current beneficiary upon the death of an existing current beneficiary or upon the occurrence of some other event that may occur during the beneficiary's lifetime, regardless of whether the beneficiary's share is subject to elimination under a power of appointment other than a broad power of appointment.

Sec. 191. "Remote beneficiary" means a beneficiary who may become a current beneficiary upon the death of two or more persons or upon the occurrence of some other event that cannot possibly occur during the beneficiary's lifetime.

Sec. 192. 1. The following provisions apply to the extent that the trust instrument does not expressly provide otherwise:

(a) The trustee shall provide an account to each current beneficiary and to each remainder beneficiary upon request but is not required to provide an account to a remote beneficiary;

(b) A trustee is not required to provide an account more than once in any calendar year unless ordered by a court to do so upon good cause shown;

(c) Each account provided to a beneficiary must comply with the provisions of subsection 3 or 4 of NRS 165.135;

(d) In addition to other methods of providing an account to a beneficiary, a trustee may provide an account to a beneficiary by electronic mail or through a secure website on the Internet;

(e) While a trust is revocable, the trustee is not required to provide an account to any person other than a person having the right of revocation except that a trustee of such a trust shall provide an account if:

(1) A court-appointed guardian of the trust estate requests an account on behalf of the settlor; or

(2) The court, in considering a petition filed under NRS 164.015, determines that the settlor is incompetent or is susceptible to undue influence and directs the trustee to provide an account, specifying the nature and extent of the account to be provided and the person or persons who are entitled to receive the account;

(f) While an irrevocable trust in its entirety is subject to a broad power of appointment, the trustee is not required to provide an account for that trust to any person other than the power holder;

(g) The cost of an account must be charged as provided in the Uniform Principal and Income Act (1997) as set forth in chapter 164 of NRS;

(h) An account shall be deemed approved by a beneficiary who received a copy of the account if no written objection thereto is given to the trustee within 120 days after the date on which the trustee provided the account to that beneficiary;

(i) An account shall be deemed approved by a minor, unborn or unknown beneficiary if it is deemed approved as to an adult beneficiary who has a similar interest;

(j) A trustee is not required to provide to a beneficiary information that does not affect the beneficiary's interest in the trust, and an adult beneficiary may, by a written declaration that is signed by that beneficiary, waive the right to receive any information otherwise required to be provided pursuant to the provisions of subsection 3 or 4 of NRS 165.135; and

(k) For the purposes of paragraph (h), a beneficiary shall be deemed to have received a copy of an account provided by the trustee to the beneficiary by electronic mail or through a secure website on the Internet if the trustee:

(1) Sent the beneficiary an electronic mail in a manner that complies with subsection 1 of NRS 719.320 and the beneficiary received the electronic mail in a manner that complies with subsection 2 of NRS 719.320; and

(2) Attached the account to the electronic mail as an electronic record or included in the electronic mail a notice to the beneficiary indicating the availability of the account on the secure website.

2. As used in this section:

(a) "Electronic mail" has the meaning ascribed to it in NRS 41.715.

(b) "Electronic record" has the meaning ascribed to it in NRS 132.117.

Sec. 193. Notwithstanding any provision to the contrary in the trust instrument:

1. If the amount distributable to a current beneficiary is affected by the amount of administrative expenses or is affected by the allocation of receipts and disbursements to income or principal, the trustee shall, upon request, provide an account annually to the current beneficiary. An account provided to a current beneficiary pursuant to this subsection must comply with the provisions of subsection 3 or 4 of NRS 165.135, except to the extent that the current beneficiary agrees otherwise in writing.

2. Except as otherwise provided in this subsection, upon request, an account must be provided annually to each remainder beneficiary of an irrevocable trust. A beneficiary who has been eliminated by the exercise of a power of appointment has no right to request or receive an account pursuant to this subsection.

3. A trustee, at the expense of the trust, may provide:

(a) An unrequested account to one or more beneficiaries at any time; and

(b) More information to beneficiaries, including, without limitation, remote beneficiaries, than is required under the trust instrument or by law.

4. Unless the court determines that there is clear and convincing evidence that the trustee was acting in good faith, a trustee who fails to provide an account when required pursuant to NRS 165.135 and sections 185 to 198, inclusive, of this act is personally liable to each beneficiary who requested the account in writing for all costs reasonably incurred by each such beneficiary to enforce NRS 165.135 and sections 185 to 198,

inclusive, of this act, including, without limitation, reasonable attorney's fees and court costs. The trustee may not expend trust funds therefor.

Sec. 194. A beneficiary may send a written demand for an account pursuant to NRS 165.135 and sections 185 to 198, inclusive, of this act to the trustee in accordance with the following procedure:

1. The demand on the trustee must be sent to the trustee or to the trustee's attorney of record and the demand must include, without limitation:

(a) The identity of the demanding beneficiary, including the beneficiary's mailing address or the address of the beneficiary's attorney;

(b) The accounting period for which an account is demanded; and

(c) The nature and extent of the account demanded and the legal basis for the demand.

2. Within 14 days after the trustee has received a demand for an account from a beneficiary, the trustee shall notify the demanding beneficiary of the trustee's acceptance or rejection of the demand. The trustee shall:

(a) Provide an account within 60 days after receipt of the demand, unless that time is modified by consent of the beneficiary or by order of the court if the trustee accepts the beneficiary's demand for an account; or

(b) Set forth the grounds for rejecting the beneficiary's demand for an account in the notice of rejection and inform the beneficiary that the beneficiary has 60 days in which to petition the court to review the rejection if the trustee rejects the beneficiary's demand for an account.

3. The demand by the beneficiary and the notice of acceptance or rejection of the demand by the trustee must be delivered by first-class mail, personal delivery or commercial carrier. If delivery of the demand or of the notice is in dispute, proof of delivery may be established by a return receipt or other proof of delivery provided by the person making the delivery or by affidavit of the person who arranged for the delivery setting forth the delivery address, the method of delivery arranged for and the actions taken by that person to arrange for the delivery.

4. If the trustee fails to accept or reject a beneficiary's demand for an account as required by subsection 2, the beneficiary's demand shall be deemed rejected.

Sec. 195. 1. A beneficiary whose demand for an account in compliance with section 194 of this act is rejected or deemed rejected must file a petition seeking the court's review of the trustee's rejection within 60 days after the rejection date as described in subsection 2. A petition filed pursuant to this section may also seek additional relief pursuant to NRS 153.031.

2. If the trustee rejects the beneficiary's demand for an account, the rejection date is the date on which the trustee provides the beneficiary with a notice of rejection. If the trustee fails to accept or reject the beneficiary's

demand, the rejection date is deemed to be 14 days after the beneficiary gave the trustee the demand.

3. If the court has not previously accepted jurisdiction over the trust, the beneficiary must petition the court to confirm the appointment of the trustee pursuant to NRS 164.010. Such a petition may be combined with the petition for the court's review of the trustee's rejection.

4. The clerk shall set the petition for hearing, and the petitioner shall give notice to all interested persons for the period and in the manner provided in NRS 155.010. The notice must state the filing of the petition, the object and the time and place of the hearing.

5. If one or more other beneficiaries with interests substantially similar to the petitioner request to join the petition at or before the hearing, the court shall consider the other beneficiaries to be additional petitioners without requiring those beneficiaries to file separate petitions or to give separate notices of the hearing.

6. At the hearing, as to each petitioner, the court may enter an order:

(a) Compelling the trustee to provide an account to the petitioner and specifying the nature and extent of the account to be provided;

(b) Declaring that the petitioner is not entitled to an account and setting forth the reason or reasons the petitioner is not so entitled; or

(c) Compelling the trustee to provide an account to the petitioner as described in paragraph (a) and authorizing an independent review of the account using the procedure set forth in section 196 of this act.

7. Except as otherwise provided in subsection 3 of NRS 153.031 and subsection 4 of section 193 of this act, each petitioner shall pay his or her own expenses, including, without limitation, attorney's fees, that arise in conjunction with filing a petition pursuant to this section.

Sec. 196. If, while considering a petition filed pursuant to section 195 of this act, the court finds that the beneficiary is entitled to an account pursuant to this section and that the trust instrument authorizes or directs the trustee not to provide the account with the disclosures required by this section, the court shall, upon the beneficiary's request, compel the trustee to confidentially provide an account in accordance with the following procedure:

1. If the beneficiary has not been previously provided with a copy of the trust instrument, the court shall direct the trustee to provide the court and each reviewer selected pursuant to subsection 2 with a copy of the trust instrument, or such portions as the court deems to be pertinent to the determination of the adequacy of the trustee's account and to the enforcement of the beneficiary's rights under the trust.

2. The court shall direct the account to be provided confidentially to the court and to one or more reviewers selected by the beneficiary. The court may direct that the account be filed with the court clerk under seal or delivered to the court for in camera review. The account provided must contain the information required by this section without regard to any trust

provision restricting the information to be provided to the requesting beneficiary.

3. A reviewer must be either a certified public accountant or an attorney.

4. Subject to the provisions of paragraph (b) of subsection 5, the beneficiary requesting the account must pay for the services of each reviewer. The expense of preparing the account must be paid as an expense of the trust.

5. Each reviewer must agree that:

(a) The account provided must be reviewed confidentially and must not be provided to the beneficiary except as otherwise provided in paragraph (b) or in an order of the court; and

(b) The reviewer's duty is to review the account and to prepare a written report, which must be filed with the court clerk under seal or submitted to the court for in camera review, informing the court if there is anything that would indicate that the trust, as it affects the beneficiary's interest, has not been or may not have been properly administered or accounted for in accordance with applicable law, the trust instrument and generally accepted accounting principles applicable to trusts. At the same time a copy of the reviewer's report is provided to the court, a copy of each reviewer's report must be delivered to the trustee or to the trustee's attorney of record.

6. The trustee may submit to the court and to each reviewer an objection to the report of a reviewer within 10 days after the trustee received the reviewer's report. The trustee shall submit the objections to the court and to each reviewer in the same manner as the trustee provided the account. The court may consider each reviewer's report and the objections of the trustee with or without a hearing. If the court, after considering the report of any reviewer and any objection submitted by the trustee, finds that the trust, as it affects the beneficiary's interest, has not been or may not have been properly administered or accounted for in accordance with applicable law, the trust instrument and generally accepted accounting principles applicable to trusts, in addition to any other relief granted by the court pursuant to NRS 153.031 or section 195 of this act, the court shall enter an order granting the relief necessary to protect the beneficiary's interests or to allow the beneficiary to enforce his or her rights under the trust.

7. An order granting relief described in subsection 6 may include one or more of the following:

(a) A directive to the trustee to provide the beneficiary an account which complies with the provisions of subsection 3 or 4 of NRS 165.135, together with such additional information as the beneficiary may require to properly enforce his or her rights under the trust;

(b) A directive to the trustee to provide further annual accounts required under this section without further court order;

(c) A directive to the trustee to provide the court and each reviewer a more complete account or such additional information as the court deems necessary to determine if the trust is being properly administered in compliance with the trust instrument and applicable law;

(d) A directive to the trustee to take action to remedy or mitigate the effects of any improper administration of the trust;

(e) A declaration relieving each reviewer from any further obligation of confidentiality; and

(f) Any such additional relief as the court deems proper to ensure the trustee's compliance with the trust instrument and applicable law and to allow enforcement of the beneficiary's rights.

8. If the beneficiary is granted any relief by the court on the basis that the trust was not properly administered or accounted for, the provisions of subsection 3 of NRS 153.031 and subsection 4 of section 193 of this act apply with regard to the reimbursement of costs incurred by the beneficiary.

Sec. 197. 1. Upon request by a beneficiary who is entitled to receive an account pursuant to the terms of NRS 165.135 and sections 185 to 198, inclusive, of this act, a trustee shall provide a copy of the trust instrument to that beneficiary except as expressly provided otherwise in the trust instrument.

2. Notwithstanding the provisions of subsection 1 or any provision to the contrary in the trust instrument, the court may direct the trustee to provide a beneficiary who is entitled to receive an account pursuant to the terms of NRS 165.135 and sections 185 to 198, inclusive, of this act a copy of the trust instrument, or such portions as the court deems to be pertinent to the determination of the adequacy of the trustee's account and to the enforcement of the beneficiary's rights under the trust.

3. Except as otherwise provided in section 196 of this act or by order of the court for good cause shown, the trustee must not be compelled to provide a copy of the trust instrument to a person who is not a beneficiary of the trust or a person who is not entitled to an account of the trust pursuant to the provisions of NRS 165.135 and sections 185 to 198, inclusive, of this act.

Sec. 198. Except as otherwise provided in a trust instrument, a person holding a power of appointment pursuant to a nontestamentary trust does not owe a fiduciary duty to any person and is not liable to any person with respect to the exercise or nonexercise of the power of appointment.

Sec. 199. NRS 165.135 is hereby amended to read as follows:

165.135 1. The trustee of a nontestamentary trust shall ~~not less often than annually,~~ furnish to each beneficiary ~~who is currently entitled to receive income pursuant to the terms of the trust, to each residuary beneficiary who is then living, to each specific beneficiary then living who has not received complete distribution, and to any surety on the bond of the trustee of the trust~~ an account ~~showing:~~

- ~~1. The period which the account covers;~~
- ~~2. In a separate schedule:~~
 - ~~(a) Additions to trust principal during the accounting period with the dates and sources of acquisition;~~
 - ~~(b) Investments collected, sold or charged off during the accounting period;~~
 - ~~(c) Investments made during the accounting period, with the date, source and cost of each;~~
 - ~~(d) Deductions from principal during the accounting period, with the date and purpose of each; and~~
 - ~~(e) The trust principal, invested or uninvested, on hand at the end of the accounting period, reflecting the approximate market value thereof;~~
- ~~3. In a separate schedule:~~
 - ~~(a) Trust income on hand at the beginning of the accounting period, and in what form held;~~
 - ~~(b) Trust income received during the accounting period, when and from what source;~~
 - ~~(c) Trust income paid out during the accounting period, when, to whom and for what purpose; and~~
 - ~~(d) Trust income on hand at the end of the accounting period and how invested;~~
- ~~4. A statement of any unpaid claims with the reason for failure to pay them; and~~
- ~~5. A brief summary of the account.} in accordance with the provisions of this section and sections 185 to 198, inclusive, of this act.~~

2. At a minimum, the trustee shall furnish an account to each beneficiary in accordance with the terms and conditions stated in the trust instrument. The cost of each account must be allocated to income and principal as provided in the trust instrument.

3. Except as otherwise provided in this section, an account provided by a trustee to a beneficiary who is entitled to an account pursuant to this section and sections 185 to 198, inclusive, of this act must include:

- (a) A statement indicating the accounting period;**
- (b) With respect to the trust principal:**
 - (1) The trust principal held at the beginning of the accounting period, and in what form held, and the approximate market value thereof at the beginning of the accounting period;**
 - (2) Additions to the trust principal during the accounting period, with the dates and sources of acquisition;**
 - (3) Investments collected, sold or charged off during the accounting period;**
 - (4) Investments made during the accounting period, with the date, source and cost of each investment;**
 - (5) Any deductions from the trust principal during the accounting period, with the date and purpose of each deduction; and**

(6) *The trust principal, invested or uninvested, on hand at the end of the accounting period, reflecting the approximate market value thereof at that time;*

(c) *With respect to trust income, the trust income:*

(1) *On hand at the beginning of the accounting period, and in what form held;*

(2) *Received during the accounting period, when and from what source;*

(3) *Paid out during the accounting period, when, to whom and for what purpose; and*

(4) *On hand at the end of the accounting period and how invested;*

(d) *A statement of unpaid claims with the reason for failure to pay them; and*

(e) *A brief summary of the account.*

4. *In lieu of the information required to be provided by a trustee to a beneficiary pursuant to subsection 3, a trustee may provide to such a beneficiary a statement indicating the accounting period and a financial report of the trust which is prepared by a certified public accountant and which summarizes the information required by paragraphs (b) to (e), inclusive, of subsection 3. Upon request, the trustee shall make all the information used in the preparation of the financial report available to each beneficiary who was provided a copy of the financial report.*

5. *For the purposes of NRS 165.135 and sections 185 to 198, inclusive, of this act, the information provided by a trustee to a beneficiary pursuant to subsection 4 shall be deemed to be an account.*

Sec. 200. NRS 165.160 is hereby amended to read as follows:

165.160 1. ~~Except for the provisions of NRS 165.135, provisions of this chapter shall have no application to nontestamentary trusts unless the settlor shall expressly so declare in the instrument creating the trust. But no expression of intent by any settlor shall affect the jurisdiction of the courts of this state over inventories and accounts of trustees, insofar as such jurisdiction does not depend upon the provisions of this chapter.]~~ *as otherwise provided by a specific statute, federal law or common law, the terms of a trust instrument may expand, restrict, eliminate or otherwise vary the rights and interests of beneficiaries in any manner that is not illegal or against public policy, including, without limitation, specifying:*

(a) *The right to be informed of the beneficiary's interest for a period of time;*

(b) *The grounds for removing a fiduciary;*

(c) *The circumstances, if any, in which the fiduciary must diversify investments; and*

(d) *A fiduciary's powers, duties, standard of care, rights of indemnification and liability to persons whose interests arise from the trust instrument.*

2. *Nothing in this section shall be construed to:*

(a) Authorize the exculpation or indemnification of a fiduciary for the fiduciary's own willful misconduct or gross negligence; or

(b) Preclude a court of competent jurisdiction from removing a fiduciary because of the fiduciary's willful misconduct or gross negligence.

3. The rule that statutes in derogation of the common law are to be strictly construed has no application to this section. This section must be liberally construed to give maximum effect to the principle of freedom of disposition and to the enforceability of trust instruments.

Sec. 201. Chapter 166 of NRS is hereby amended by adding thereto the provisions set forth as sections 202 and 203 of this act.

Sec. 202. *1. A trust administered under the laws of another state, or under the laws of a foreign jurisdiction, is a spendthrift trust pursuant to this chapter if:*

(a) The trustee of the trust complies with any requirements set forth in the trust instrument and any requirements of the laws of the state or jurisdiction from which the trust is being transferred;

(b) The trustee or other person having the power to transfer the domicile of the trust declares such intent to transfer in writing;

(c) The writing declaring the intent to transfer the domicile of the trust is delivered to the trustee, if it is executed by a person other than the trustee; and

(d) All requirements of this chapter are satisfied simultaneously with, or immediately after, the change of domicile.

2. For purposes of NRS 166.170, if the domicile of an existing trust is transferred from another state or from a foreign jurisdiction to this State and the laws of the other state or jurisdiction are similar to the provisions of this chapter, the transfer shall be deemed to have occurred:

(a) On the date on which the settlor of the trust transferred assets into the trust if the applicable law of the trust has at all times been substantially similar to the provisions of this chapter; or

(b) On the earliest date on which the applicable laws of the trust were substantially similar to the provisions of this chapter.

Sec. 203. *The settlor of a spendthrift trust has only those powers and rights that are conferred to the settlor by the trust instrument. An agreement or understanding, express or implied, between the settlor and the trustee that attempts to grant or permit the retention of greater rights or authority than is stated in the trust instrument is void.*

Sec. 204. NRS 166.015 is hereby amended to read as follows:

166.015 *1. Unless the writing declares to the contrary, expressly, this chapter governs the construction, operation and enforcement, in this State, of all spendthrift trusts created in or outside this State if:*

(a) All or part of the land, rents, issues or profits affected are in this State;

(b) All or part of the personal property, interest of money, dividends upon stock and other produce thereof, affected, are in this State;

(c) The declared domicile of the creator of a spendthrift trust affecting personal property is in this State; or

(d) At least one trustee qualified under subsection 2 has powers that include maintaining records and preparing income tax returns for the trust, and all or part of the administration of the trust is performed in this State.

2. If the settlor is a beneficiary of the trust, at least one trustee of a spendthrift trust must be:

(a) A natural person who resides and has his or her domicile in this State;

(b) A trust company that:

(1) Is organized under federal law or under the laws of this State or another state; and

(2) Maintains an office in this State for the transaction of business; or

(c) A bank that:

(1) Is organized under federal law or under the laws of this State or another state;

(2) Maintains an office in this State for the transaction of business; and

(3) Possesses and exercises trust powers.

~~{3. Except as otherwise provided in subsection 1, this chapter also governs the construction, operation and enforcement, outside of this State, of all spendthrift trusts created in this State, except so far as prohibited by valid laws of other states. Unless the writing declares to the contrary, expressly, it shall be deemed to be made in the light of this chapter and all other acts relating to spendthrift trusts enacted in this State.}~~

Sec. 205. NRS 166.040 is hereby amended to read as follows:

166.040 1. Any person competent by law to execute a will or deed may, by writing only, duly executed, by will, conveyance or other writing, create a spendthrift trust in real, personal or mixed property for the benefit of:

(a) A person other than the settlor;

(b) The settlor if the writing is irrevocable, does not require that any part of the income or principal of the trust be distributed to the settlor, and was not intended to hinder, delay or defraud known creditors; or

(c) Both the settlor and another person if the writing meets the requirements of paragraph (b).

2. For the purposes of this section, a writing {:

~~(a) Is “irrevocable”}~~ **meets the requirements of paragraph (b) of subsection 1** even if ~~{the}~~ **under the terms of the writing:**

~~(a) The settlor may prevent a distribution from the trust {or};~~

~~(b) The settlor holds a special lifetime or testamentary {special} power of appointment {or similar power.}~~

~~(b) Does not “require” a distribution to the settlor if the trust instrument provides that the settlor may receive it only in the discretion of another person.}~~ **that cannot be exercised in favor of the settlor, the settlor’s estate, a creditor of the settlor or a creditor of the settlor’s estate;**

~~(c) The settlor is a beneficiary of a trust that qualifies as a charitable remainder trust pursuant to 26 U.S.C. § 664, or any successor provision,~~

even if the settlor has the right to release the settlor's retained interest in such a trust, in whole or in part, in favor of one or more of the remainder beneficiaries of the trust;

(d) The settlor is authorized or entitled to receive a percentage of the value of the trust each year as specified in the trust instrument of the initial value of the trust assets or their value determined from time to time pursuant to the trust instrument, but not exceeding:

(1) The amount that may be defined as income pursuant to 26 U.S.C. § 643(b); or

(2) With respect to benefits from any qualified retirement plan or any eligible deferred compensation plan, the minimum required distribution as defined in 26 U.S.C. § 4974(b);

(e) The settlor is authorized or entitled to receive income or principal from a grantor retained annuity trust paying out a qualified annuity interest within the meaning of 26 C.F.R. § 25.2702-3(b) or a grantor retained unitrust paying out a qualified unitrust interest within the meaning of 26 C.F.R. § 25.2702-3(c);

(f) The settlor is authorized or entitled to use real property held under a qualified personal residence trust as described in 26 C.F.R. § 25.2702-5(c), and any successor provision, or the settlor may possess or actually possesses a qualified annuity interest within the meaning of that term as described in 26 C.F.R. § 25.2702-3(b), and any successor provision;

(g) The settlor is authorized to receive income or principal from the trust, but only subject to the discretion of another person; or

(h) The settlor is authorized to use real or personal property owned by the trust.

3. Except for the power of the settlor to make distributions to himself or herself without the consent of another person, the provisions of this section shall not be construed to prohibit the settlor of a spendthrift trust from holding other powers under the trust, whether or not the settlor is a cotrustee, including, without limitation, the power to remove and replace a trustee, direct trust investments and execute other management powers.

4. As used in this section, "remainder beneficiary" has the meaning ascribed to it in NRS 164.785.

Sec. 206. NRS 166.170 is hereby amended to read as follows:

166.170 1. A person may not bring an action with respect to a transfer of property to a spendthrift trust:

(a) If the person is a creditor when the transfer is made, unless the action is commenced within:

(1) Two years after the transfer is made; or

(2) Six months after the person discovers or reasonably should have discovered the transfer,

➡ whichever is later.

(b) If the person becomes a creditor after the transfer is made, unless the action is commenced within 2 years after the transfer is made.

2. A person shall be deemed to have discovered a transfer at the time a public record is made of the transfer, including, without limitation, the conveyance of real property that is recorded in the office of the county recorder of the county in which the property is located or the filing of a financing statement pursuant to chapter 104 of NRS.

3. A creditor may not bring an action with respect to transfer of property to a spendthrift trust unless a creditor can prove **by clear and convincing evidence** that the transfer of property was a fraudulent transfer pursuant to chapter 112 of NRS or ~~it was otherwise wrongful as to the~~ **that the transfer violates a legal obligation owed to the creditor under a contract or a valid court order that is legally enforceable by that creditor.** In the absence of such **clear and convincing** proof, the property transferred is not subject to the claims of the creditor. Proof by one creditor that a transfer of property was fraudulent or wrongful does not constitute proof as to any other creditor and proof of a fraudulent or wrongful transfer of property as to one creditor shall not invalidate any other transfer of property.

4. If property transferred to a spendthrift trust is conveyed to the settlor or to a beneficiary for the purpose of obtaining a loan secured by a mortgage or deed of trust on the property and then reconveyed to the trust, for the purpose of subsection 1, the transfer is disregarded and the reconveyance relates back to the date the property was originally transferred to the trust. The mortgage or deed of trust on the property shall be enforceable against the trust.

5. A person may not bring a claim against an adviser to the settlor or trustee of a spendthrift trust unless the person can show by clear and convincing evidence that the adviser acted in violation of the laws of this State, knowingly and in bad faith, and the adviser's actions directly caused the damages suffered by the person.

6. **A person other than a beneficiary or settlor may not bring a claim against a trustee of a spendthrift trust unless the person can show by clear and convincing evidence that the trustee acted in violation of the laws of this State, knowingly and in bad faith, and the trustee's actions directly caused the damages suffered by the person. As used in this subsection, "trustee" includes a cotrustee, if any, and a predecessor trustee.**

7. **If more than one transfer is made to a spendthrift trust:**

(a) **The subsequent transfer to the spendthrift trust must be disregarded for the purpose of determining whether a person may bring an action pursuant to subsection 1 with respect to a prior transfer to the spendthrift trust; and**

(b) **Any distribution to a beneficiary from the spendthrift trust shall be deemed to have been made from the most recent transfer made to the spendthrift trust.**

8. **Notwithstanding any other provision of law, no action of any kind, including, without limitation, an action to enforce a judgment entered by a court or other body having adjudicative authority, may be brought at law or**

in equity against the trustee of a spendthrift trust if, as of the date the action is brought, an action by a creditor with respect to a transfer to the spendthrift trust would be barred pursuant to this section.

9. For purposes of this section, if a trustee exercises his or her discretion or authority to distribute trust income or principal to or for a beneficiary of the spendthrift trust, by appointing the property of the original spendthrift trust in favor of a second spendthrift trust for the benefit of one or more of the beneficiaries as authorized by NRS 163.556, the time of the transfer for purposes of this section shall be deemed to have occurred on the date the settlor of the original spendthrift trust transferred assets into the original spendthrift trust, regardless of the fact that the property of the original spendthrift trust may have been transferred to a second spendthrift trust.

10. As used in this section:

(a) “Adviser” means any person, including, without limitation, an accountant, attorney or investment adviser, who gives advice concerning or was involved in the creation of, transfer of property to, or administration of the spendthrift trust or who participated in the preparation of accountings, tax returns or other reports related to the trust.

(b) “Creditor” has the meaning ascribed to it in subsection 4 of NRS 112.150.

Sec. 207. NRS 253.0415 is hereby amended to read as follows:

253.0415 1. The public administrator shall:

(a) Investigate:

(1) The financial status of any decedent for whom he or she has been requested to serve as administrator to determine the assets and liabilities of the estate.

(2) Whether there is any qualified person who is willing and able to serve as administrator of the estate of an intestate decedent to determine whether he or she is eligible to serve in that capacity.

(3) Whether there are beneficiaries named on any asset of the estate or whether any deed upon death executed pursuant to NRS 111.109 is on file with the county recorder.

(b) Except as otherwise provided in NRS 253.0403 and 253.0425, petition the court for letters of administration of the estate of an intestate decedent if, after investigation, the public administrator finds that there is no other qualified person having a prior right who is willing and able to serve.

(c) Upon court order, act as administrator of the estate of an intestate decedent, regardless of the amount of assets in the estate of the decedent if no other qualified person is willing and able to serve.

2. The public administrator shall not administer any estate:

(a) Held in joint tenancy unless all joint tenants are deceased; **or**

(b) ~~For which a beneficiary form has been registered pursuant to NRS 111.480 to 111.650, inclusive; or~~

~~(c)~~ For which a deed upon death has been executed pursuant to NRS 111.109.

3. As used in this section, “intestate decedent” means a person who has died without leaving a valid will, trust or other estate plan.

Sec. 208. NRS 678.630 is hereby amended to read as follows:

678.630 1. Any account payable to a trustee for another person may be paid to the trustee on demand.

2. ~~Unless a credit union has received written notice of the terms of any trust other than the form of the account, payment may be made to the:~~

~~(a) Personal representative or heirs of a deceased trustee if proof of death is presented to the credit union showing that the decedent was the survivor of all other persons named on the account either as trustee or beneficiary; or~~

~~(b) Beneficiary upon presentation to the credit union of proof of death showing that such beneficiary or beneficiaries survived all persons named as trustees.~~

~~3.~~ The protection provided a credit union in ~~subsections 1 and 2~~ **subsection 1** has no bearing on the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of funds in, or withdrawn from, multiple-party accounts.

Sec. 209. NRS 111.480, 111.490, 111.500, 111.510, 111.520, 111.530, 111.540, 111.550, 111.560, 111.570, 111.580, 111.590, 111.600, 111.610, 111.620, 111.630, 111.640, 111.650, 133.105, 663.025, 673.370, 677.614, 678.580, 678.590, 678.600, 678.610, 678.620 and 678.640 are hereby repealed.

Sec. 210. The amendatory provisions of:

1. Sections 73 and 177 of this act apply to existing wills, whenever created.

2. Sections 185 to 199, inclusive, of this act apply to nontestamentary trusts, whenever created, but shall not be construed to require a trustee to modify or update an account that:

(a) Has been approved by the court or by the trust’s beneficiaries; or

(b) Is deemed approved by the trust’s beneficiaries pursuant to the provisions of the trust instrument or pursuant to paragraph (h) of subsection 1 of section 192 of this act.

LEADLINES OF REPEALED SECTIONS

111.480 Short title; uniformity of application and construction.

111.490 Definitions.

111.500 “Beneficiary” defined.

111.510 “Beneficiary form” defined.

111.520 “Register” defined.

111.530 “Registering entity” defined.

111.540 “Security” defined.

111.550 Applicability.

111.560 Persons eligible to obtain registration; manner in which multiple owners of registered securities hold title.

111.570 Validity of registration.

111.580 Designation of beneficiary required for registration.

111.590 Words or abbreviations indicating registration.

111.600 Effect of designation of beneficiary on ownership of registered securities; cancellation or modification of registration.

111.610 Disposition of registered securities upon death of owner.

111.620 Transfer on death of registered security is contractual and not testamentary; rights of creditors.

111.630 Offer or acceptance of requests for registration by registering entity.

111.640 Right of registering entity to establish terms and conditions for receiving and effectuating registrations; substitution and identification of beneficiaries.

111.650 Liability of registering entity.

133.105 Transfer of security issued in registered form or beneficiary form effective without compliance with formal requirements of chapter.

663.025 Deposits in trust.

673.370 Payment to beneficiary on death of trustee; payment as valid discharge of association.

677.614 Payment of withdrawal value and interest to beneficiary upon death of fiduciary.

678.580 Presumptions concerning ownership of accounts.

678.590 Multiple-party accounts: Proportional ownership; tenancy in common.

678.600 Multiple-party accounts: Survivorship.

678.610 Trust accounts.

678.620 Payment as valid discharge of credit union.

678.640 Payment of multiple-party accounts.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 223.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 681.

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

misdeemeanor under certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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

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

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

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

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

- (a) Peace officer;**
- (b) Officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040; or**
- (c) Animal control officer.**

2. Any report made pursuant to subsection 1 is confidential.

3. Any person, law enforcement agency, society for the prevention of cruelty to animals or animal control agency that willfully releases data or information concerning the reports, except ~~pursuant to~~ for the purposes of a criminal investigation or prosecution, is guilty of a misdemeanor.

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

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

1. "Animal" does not include the human race, but includes every other living creature.

2. "First responder" means a person who has successfully completed the national standard course for first responders.

3. "Police animal" means an animal which is owned or used by a state or local governmental agency and which is used by a peace officer in performing his or her duties as a peace officer.

4. "Torture" or "cruelty" includes every act, omission or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.

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

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

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

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

4. Upon proof that the owner has been notified in accordance with the provisions of subsection 2 or, if the owner has not been found or identified, that the required notice has been posted on the property where the animal was found, a court of competent jurisdiction may, after providing an opportunity for a hearing, order the animal sold at auction, humanely destroyed or continued in the care of the officer for such disposition as the officer sees fit.

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

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

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

Sec. 4. NRS 574.100 is hereby amended to read as follows:

574.100 1. A person shall not:

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

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

(2) Any cat or dog;

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

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

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

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

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

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

(a) Using a tether, chain, tie, trolley or pulley system or other device that:

(1) Is less than 12 feet in length;

(2) Fails to allow the dog to move at least 12 feet or, if the device is a pulley system, fails to allow the dog to move a total of 12 feet; or

(3) Allows the dog to reach a fence or other object that may cause the dog to become injured or die by strangulation after jumping the fence or object or otherwise becoming entangled in the fence or object;

(b) Using a prong, pinch or choke collar or similar restraint; or

(c) For more than 14 hours during a 24-hour period.

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

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

(a) Tethered, chained, tied, restrained or placed in a pen or enclosure by a veterinarian, as defined in NRS 574.330, during the course of the veterinarian's practice;

(b) Being used lawfully to hunt a species of wildlife in this State during the hunting season for that species;

(c) Receiving training to hunt a species of wildlife in this State;

(d) In attendance at and participating in an exhibition, show, contest or other event in which the skill, breeding or stamina of the dog is judged or examined;

(e) Being kept in a shelter or boarding facility or temporarily in a camping area;

(f) Temporarily being cared for as part of a rescue operation or in any other manner in conjunction with a bona fide nonprofit organization formed for animal welfare purposes;

(g) Living on land that is directly related to an active agricultural operation, if the restraint is reasonably necessary to ensure the safety of the dog. As used in this paragraph, "agricultural operation" means any activity that is necessary for the commercial growing and harvesting of crops or the raising of livestock or poultry; or

(h) With a person having custody or control of the dog, if the person is engaged in a temporary task or activity with the dog for not more than 1 hour.

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

(a) Except as otherwise provided in paragraph (b), is guilty of a category D felony and shall be punished as provided in NRS 193.130.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Operating a ranch.

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

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

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

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

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

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

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

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

Sec. 6. NRS 574.500 is hereby amended to read as follows:

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

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

Assemblywoman Carlton moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 234.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 669.

AN ACT relating to vehicles; prohibiting a manufacturer from requiring a dealer to alter substantially an existing facility of the dealer or construct a new facility; prohibiting a manufacturer from taking adverse action against a dealer relating to the exportation of a vehicle outside the United States except under certain circumstances; revising provisions governing the modification or replacement of a franchise; revising provisions relating to unfair practices; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill prohibits a manufacturer from requiring a dealer to alter substantially an existing facility or to construct a new facility for any new vehicles that are handled by the dealer in certain circumstances and provides that any such requirement constitutes a modification of the franchise of the dealer.

Section 3 of this bill prohibits a manufacturer from taking adverse action against a dealer who sells a vehicle which is later exported outside the United States, unless the dealer had actual knowledge of or reasonably should have known of the exportation of the vehicle.

Section 9 of this bill provides that if a manufacturer is purchased by another manufacturer or entity, a dealer must be offered a franchise agreement that is substantially similar to the franchise agreement offered to other dealers of the same line and make of vehicles.

Section 16 of this bill provides that the forms for the application for credit and contracts to be used in the sale of vehicles prescribed by the Commissioner of Financial Institutions must contain a provision which provides that if the seller elects to rescind the contract, the seller must provide notice to the buyer not less than 20 days after the date of the contract.

Section 10 of this bill provides that a refusal to accept an amended claim for parts and labor or a claim that was not filed before the manufacturer's deadline that is submitted within 60 days after the claim was first filed or was due is an unfair practice. **Section 10** also makes an audit confirming a warranty repair, sales incentive or rebate performed more than 9 months after a claim was made an unfair practice. **Section 11** of this bill prohibits a manufacturer from preventing a dealer from disclosing a service, repair guidance or recall notice or providing certain information relating to warranty coverage.

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

Section 1. Chapter 482 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. 1. A manufacturer shall not require a dealer:

(a) To alter substantially an existing facility of the dealer; or

(b) To construct a new facility,

↪ for any new vehicles that are handled by the dealer unless the alteration or new construction constitutes a reasonable facility requirement in accordance with the franchise agreement.

2. If a manufacturer requires a substantial alteration of an existing facility of the dealer or requires the dealer to construct a new facility, that requirement constitutes a modification of the franchise of the dealer for the purposes of this section and NRS 482.36311 to 482.36425, inclusive, and section 3 of this act.

Sec. 3. *A manufacturer shall not modify the franchise of a dealer or take any adverse action against a dealer that sells a vehicle which is later exported outside the United States, unless the dealer had actual knowledge of or reasonably should have known of the exportation of the vehicle.*

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 482.36354 is hereby amended to read as follows:

482.36354 1. A manufacturer or distributor shall not modify the franchise of a dealer or replace the franchise with another franchise if the modification or replacement would have a substantially adverse effect upon the dealer's investment or obligations to provide sales and service, unless:

(a) The manufacturer or distributor has given written notice of its intention to the Director and the dealer affected by the intended modification or replacement; and

(b) Either of the following conditions occurs:

(1) The dealer does not file a protest with the Director within 30 days after receiving the notice; or

(2) After a protest has been filed with the Director and the Director has conducted a hearing, the Director issues an order authorizing the manufacturer or distributor to modify or replace the franchise.

2. The notice required by subsection 1 must be given to the dealer and to the Director at least 60 days before the date on which the intended action is to take place.

3. If a manufacturer or distributor changes the area of primary responsibility of a dealer, the change constitutes a modification of the franchise of the dealer for the purposes of NRS 482.36311 to 482.36425, inclusive. As used in this subsection, "area of primary responsibility" means the geographic area in which a dealer, pursuant to a franchise agreement, is responsible for selling, servicing and otherwise representing the products of a manufacturer or distributor.

4. *Notwithstanding the provisions of this section, if a manufacturer is purchased by another manufacturer or entity, a dealer must be offered a franchise agreement that is substantially similar to the franchise agreement offered to other dealers of the same line and make of vehicles.*

Sec. 10. NRS 482.36385 is hereby amended to read as follows:

482.36385 It is an unfair act or practice for any manufacturer, distributor or factory branch, directly or through any representative, to:

1. Compete with a dealer. A manufacturer or distributor shall not be deemed to be competing when operating a previously existing dealership temporarily for a reasonable period, or in a bona fide retail operation which is for sale to any qualified person at a fair and reasonable price, or in a bona fide relationship in which a person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions.

2. Discriminate unfairly among its dealers, or fail without good cause to comply with franchise agreements, with respect to warranty reimbursement or authority granted to its dealers to make warranty adjustments with retail customers.

3. Fail to compensate a dealer fairly for the work and services which the dealer is required to perform in connection with the delivery and preparation obligations under any franchise, or fail to compensate a dealer fairly for labor, parts and other expenses incurred by the dealer under the

manufacturer's warranty agreements. The manufacturer shall set forth in writing the respective obligations of a dealer and the manufacturer in the preparation of a vehicle for delivery, and as between them a dealer's liability for a defective product is limited to the obligation so set forth. Fair compensation includes diagnosis and reasonable administrative and clerical costs. The dealer's compensation for parts and labor to satisfy a warranty must not be less than the amount of money charged to its various retail customers for parts and labor that are not covered by a warranty. If parts are supplied by the manufacturer, including exchanged parts and assembled components, the dealer is entitled with respect to each part to an amount not less than the dealer's normal retail markup for the part. This subsection does not apply to compensation for any part, system, fixture, appliance, furnishing, accessory or feature of a motor home or recreational vehicle that is designed, used and maintained primarily for nonvehicular, residential purposes.

4. Fail to ~~pay~~ :

(a) Pay all claims made by dealers for compensation for delivery and preparation work, transportation claims, special campaigns and work to satisfy warranties within 30 days after approval, or fail to approve or disapprove such claims within 30 days after receipt ~~[-or disapprove]~~ ;

(b) Disapprove any claim without notice to the dealer in writing of the grounds for disapproval ~~[-]~~ ;

(c) Accept an amended claim for labor and parts if the amended claim is submitted not later than 60 days after the date on which the manufacturer or distributor notifies the dealer that the claim has been disapproved and the disapproval was based on the dealer's failure to comply with a specific requirement for processing the claim, including, without limitation, a clerical error or other administrative technicality that does not relate to the legitimacy of the claim.

↪ Failure to approve or disapprove or to pay within the specified time limits in an individual case does not constitute a violation of this section if the failure is because of reasons beyond the control of the manufacturer, distributor or factory branch.

5. Sell a new vehicle to a person who is not licensed as a new vehicle dealer under the provisions of this chapter.

6. Use false, deceptive or misleading advertising or engage in deceptive acts in connection with the manufacturer's or distributor's business.

7. Perform an audit to confirm a warranty repair, sales incentive or rebate more than ~~[-2]~~ 9 months after the date ~~[-of the transaction.]~~ **on which the claim was made. An audit of a dealer's records pursuant to this subsection may be conducted by the manufacturer or distributor on a reasonable basis, and a dealer's claim for warranty or sales incentive compensation must not be denied except for good cause, including, without limitation, performance of nonwarranty repairs, lack of material documentation, fraud or misrepresentation. A dealer's failure to comply with the specific**

requirements of the manufacturer or distributor for processing the claim does not constitute grounds for the denial of the claim or the reduction of the amount of compensation to the dealer if reasonable documentation or other evidence has been presented to substantiate the claim. The manufacturer or distributor shall not deny a claim or reduce the amount of compensation to the dealer for warranty repairs to resolve a condition discovered by the dealer during the course of a separate repair.

8. Prohibit or prevent a dealer from appealing the results of an audit to confirm a warranty repair, sales incentive or rebate, or to require that such an appeal be conducted at a location other than the dealer's place of business.

Sec. 11. NRS 482.36389 is hereby amended to read as follows:

482.36389 A manufacturer shall not ~~require~~ :

1. **Require** a dealer to disclose information concerning a customer to the manufacturer or a third party if the customer objects or the disclosure is otherwise unlawful ~~§~~ ; or

2. **Prohibit or prevent a dealer from disclosing a service, repair guidance or recall notice that is documented by the manufacturer or notifying customers of available warranty coverage and expiration dates of existing warranty coverage.**

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 15.5. Chapter 97 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding the provisions of any contract to the contrary, default on the part of the buyer is only enforceable to the extent that:

1. The buyer fails to make a payment as required by the agreement; or

2. The prospect of payment, performance or realization of collateral is significantly impaired. The burden of establishing the prospect of significant impairment is on the seller.

Sec. 16. NRS 97.299 is hereby amended to read as follows:

97.299 1. The Commissioner of Financial Institutions shall prescribe, by regulation, forms for the application for credit and contracts to be used in the sale of vehicles if:

(a) The sale involves the taking of a security interest to secure all or a part of the purchase price of the vehicle;

(b) The application for credit is made to or through the seller of the vehicle;

(c) The seller is a dealer; and

(d) The sale is not a commercial transaction.

2. The forms prescribed pursuant to subsection 1 must meet the requirements of NRS 97.165, must be accepted and acted upon by any lender to whom the application for credit is made and, in addition to the information

required in NRS 97.185 and required to be disclosed in such a transaction by federal law, must:

(a) Identify and itemize the items embodied in the cash sale price, including the amount charged for a contract to service the vehicle after it is purchased.

(b) In specifying the amount of the buyer's down payment, identify the amounts paid in money and allowed for property given in trade and the amount of any manufacturer's rebate applied to the down payment.

(c) Contain a description of any property given in trade as part of the down payment.

(d) Contain a description of the method for calculating the unearned portion of the finance charge upon prepayment in full of the unpaid total of payments as prescribed in NRS 97.225.

(e) Contain a provision that default on the part of the buyer is only enforceable to the extent that:

(1) The buyer fails to make a payment as required by the agreement; or

(2) The prospect of payment, performance or realization of collateral is significantly impaired. The burden of establishing the prospect of significant impairment is on the seller.

(f) **Contain a provision which provides that if the seller ~~elects to rescind the contract~~ exercises a valid option to cancel the vehicle sale as a result of being unable to assign the contract to a financial institution with whom the seller regularly does business, the seller must ~~provide~~ hand-deliver or send prepaid by United States mail written notice to the buyer not less than 20 days after the date of the contract.**

(g) Include the following notice in at least 10-point bold type:

NOTICE TO BUYER

Do not sign this agreement before you read it or if it contains any blank spaces. You are entitled to a completed copy of this agreement. If you pay the amount due before the scheduled date of maturity of the indebtedness and you are not in default in the terms of the contract for more than 2 months, you are entitled to a refund of the unearned portion of the finance charge. If you fail to perform your obligations under this agreement, the vehicle may be repossessed and you may be liable for the unpaid indebtedness evidenced by this agreement.

3. The Commissioner shall arrange for or otherwise cause the translation into Spanish of the forms prescribed pursuant to subsection 1.

4. If a change in state or federal law requires the Commissioner to amend the forms prescribed pursuant to subsection 1, the Commissioner need not comply with the provisions of chapter 233B of NRS when making those amendments.

5. As used in this section:

(a) "Commercial transaction" means any sale of a vehicle to a buyer who purchases the vehicle solely or primarily for commercial use or resale.

(b) "Dealer" has the meaning ascribed to it in NRS 482.020.

Sec. 17. (Deleted by amendment.)

Sec. 17.5. The Commissioner of Financial Institutions shall adopt the regulations required by section 16 of this act on or before October 1, 2011.

Sec. 18. 1. This section and sections 16 and 17.5 of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2011, for all other purposes.

2. Sections 1 to ~~15~~ **15.5**, inclusive, and 17 of this act become effective on October 1, 2011.

3. The amendatory provisions of section 16 of this act expire by limitation on September 30, 2012.

Assemblywoman Dondero Loop moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 238.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 668.

AN ACT relating to motor vehicles; increasing the membership and revising the duties of the Advisory Board on Automotive Affairs; establishing certain qualifications for membership on the Board; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Advisory Board on Automotive Affairs consists of seven members appointed by the Governor. One member represents the Department of Motor Vehicles, the general public is represented by two members, and body shops, automobile wreckers, garages and salvage pools are each represented by one member. The Board's duties include: (1) studying the regulation of the businesses and industries that are represented on the Board; (2) analyzing and advising the Department with respect to consumer complaints relating to those businesses and industries; and (3) making recommendations to the Department for regulations or legislation concerning those businesses and industries. Before each regular session of the Legislature, the Board prepares a report of its activities and recommendations for submission to the Governor and the Legislature. (NRS 487.002)

This bill increases the membership of the Board to 10 members. Three new members are added, one to represent each of the following businesses or industries: (1) authorized emissions stations; (2) insurers of motor vehicles; and (3) new or used motor vehicle dealers. This bill also establishes certain qualifications for membership on the Board. Every member must have been a resident of this state for at least 5 years immediately preceding his or her appointment. This bill also requires that at least one of the two members appointed to represent the general public be a resident of a county whose

population is less than 55,000 (currently counties other than Clark and Washoe Counties and Carson City). In addition, each member appointed to represent a business or industry must hold the appropriate license or registration to engage in that business or industry and must have been actively engaged in that business or industry for at least 3 of the 5 years immediately preceding his or her appointment. Finally, this bill requires the Board to extend the scope of its existing duties to include all the businesses and industries **, except for insurers of motor vehicles,** that are represented on the Board.

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

Section 1. NRS 487.002 is hereby amended to read as follows:

487.002 1. The Advisory Board on Automotive Affairs, consisting of ~~seven~~ **10** members appointed by the Governor, is hereby created within the Department.

2. The Governor shall appoint to the Board:

- (a) One representative of the Department;
 - (b) One representative of licensed operators of body shops;
 - (c) One representative of licensed automobile wreckers;
 - (d) One representative of registered garage operators;
 - (e) One representative of licensed operators of salvage pools; ~~and~~
 - (f) ~~Two representatives~~ **One representative of licensed operators of authorized emissions stations;**
 - (g) **One representative of licensed insurers of motor vehicles;**
 - (h) **One representative of licensed new or used motor vehicle dealers;**
- and

(i) **Two representatives** of the general public ~~two~~ **, at least one of whom must be a resident of a county whose population is less than 55,000. A member appointed pursuant to this paragraph must not be:**

(1) **A holder of a license or registration identified in paragraphs (b) to (h), inclusive; or**

(2) **The spouse or the parent or child, by blood, marriage or adoption, of a holder of such a license or registration.**

3. **Each member appointed must, at the time of his or her appointment, have been a resident of this State for at least 5 years immediately preceding the appointment. Each member who is appointed to represent a business or industry specified in paragraphs (b) to (h), inclusive, of subsection 2, must, at the time of his or her appointment:**

(a) **Hold a license or registration to engage in the business or industry that the member is appointed to represent; and**

(b) **Have been actively engaged in the business or industry that the member is appointed to represent for at least 3 of the 5 years immediately preceding the appointment.**

4. After the initial terms, each member of the Board serves a term of 4 years. The members of the Board shall annually elect from among their number a Chair and a Vice Chair. ***The Chair is not entitled to a vote except to break a tie.*** The Department shall provide secretarial services for the Board.

~~{4.}~~ 5. The Board shall meet regularly at least twice each year and may meet at other times upon the call of the Chair ~~{}~~ ***or a majority of the members of the Board. Six members of the Board constitute a quorum, and a quorum may exercise all the power and authority conferred on the Board.*** Each member of the Board is entitled to the per diem allowance and travel expenses provided for state officers and employees generally ~~{}~~

~~5.}~~ ***while attending meetings of the Board.***

6. The Board shall:

(a) Study the regulation of garage operators, automobile wreckers, ~~{and}~~ operators of body shops ~~{and}~~, ***operators of salvage pools, operators of authorized emissions stations, insurers of motor vehicles, and new and used motor vehicle dealers,*** including, without limitation, the registration or licensure of such persons and the methods of disciplinary action against such persons;

(b) Analyze and advise the Department relating to any consumer complaints received by the Department concerning garage operators, automobile wreckers, ~~{or}~~ operators of body shops, ~~{or}~~ ***operators of salvage pools, operators of authorized emissions stations, insurers of motor vehicles, and new and used motor vehicle dealers;***

(c) Make recommendations to the Department for any necessary regulations or proposed legislation pertaining to paragraph (a) or (b);

(d) On or before January 15 of each odd-numbered year, prepare and submit a report concerning its activities and recommendations to the Governor and to the Director of the Legislative Counsel Bureau for transmission to the Legislature ~~{}~~ ***and the Chairs of the Senate and Assembly Standing Committees on Transportation;*** and

(e) Perform any other duty assigned by the Department.

7. ***As used in this section, "authorized emissions stations" means stations licensed by the Department pursuant to NRS 445B.775 to inspect, repair, adjust or install devices for the control of emissions of motor vehicles.***

Sec. 2. 1. The terms of the current members of the Advisory Board on Automotive Affairs appointed pursuant to paragraph (f) of subsection 2 of NRS 487.002 expire on June 30, 2011.

2. As soon as practicable after July 1, 2011, the Governor shall appoint to the Advisory Board on Automotive Affairs the members required by paragraphs (f) to (i), inclusive, of subsection 2 of NRS 487.002, as amended by section 1 of this act. The initial term of the members appointed pursuant to paragraphs (f) and (g) of subsection 2 of NRS 487.002 as amended by section 1 of this act expire on June 30, 2013. The initial term of the member

appointed pursuant to paragraph (h) of subsection 2 of NRS 487.002 as amended by section 1 of this act expires on June 30, 2015. The initial term of one member appointed pursuant to paragraph (i) of subsection 2 of NRS 487.002 as amended by section 1 of this act expires on June 30, 2013, and the initial term of the other member appointed pursuant to paragraph (i) of subsection 2 of NRS 487.002 as amended by section 1 of this act expires on June 30, 2015.

Sec. 3. Notwithstanding the amendatory provisions of this act, a member of the Advisory Board on Automotive Affairs who was appointed pursuant to paragraphs (a) to (e), inclusive, of subsection 2 of NRS 487.002 and who is serving a term on July 1, 2011, is entitled to serve out the remainder of the term to which he or she was appointed.

Sec. 4. 1. This section and section 2 of this act become effective upon passage and approval.

2. Sections 1 and 3 of this act become effective on July 1, 2011.

Assemblywoman Dondero Loop moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 246.

Bill read second time.

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

Amendment No. 703.

SUMMARY—~~["Makes various changes concerning required training for employees who administer medication to a child at"]~~ **Requires** certain entities that have custody of ~~["the"]~~ **a** child pursuant to the order of a court ~~["to adopt a policy concerning the administration and management of medication."] (BDR 40-796)~~

AN ACT relating to protection of children; requiring ~~["the Administrator of the Health Division of the Department of Health and Human Services to approve or provide, to the extent possible, for training programs"]~~ **certain entities that have custody of children pursuant to the order of a court to adopt a policy** concerning the administration and management of medication ~~["; for employees of certain entities that have custody of children pursuant to the order of a court;"]~~ requiring ~~["certain"]~~ **such entities to ensure that employees [of certain entities that have custody of such children successfully to complete a training program before administering] who will administer medication to a child** ~~[""]~~ **receive a copy of and understand the policy; providing a penalty;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain employees of certain entities that have custody of children pursuant to the order of a court to receive training on a variety of topics, including the administration of medication to children. (NRS 62B.250, 63.190, 424.0365, 432A.177, 433B.175, 449.037) ~~["Section 1"]~~

~~of this bill requires the Administrator of the Health Division of the Department of Health and Human Services, to the extent possible, to ensure that adequate training is available in this State to provide necessary instruction concerning the administration and management of medication to employees of public and private entities that have custody of children pursuant to the order of a court. In addition, the Administrator is required to maintain a list of approved training programs and make the list available on the Internet website of the Department.~~ **Section 2** of this bill requires ~~[certain employees of]~~ a medical facility that accepts custody of children pursuant to the order of a court ~~[successfully to complete a training program that has been approved by the Administrator before the employee may be allowed to administer]~~ to adopt a policy concerning the administration and management of medication and to ensure that each employee of the medical facility who will administer medication to a child in the facility ~~[.]~~ receives a copy of and understands the policy. Sections ~~[8-12]~~ **8.5-12.5** of this bill impose the same requirement ~~[concerning the completion of a training program]~~ on: ~~[an employee of:]~~ (1) a public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children; (2) a state facility for the detention or commitment of children; (3) a specialized foster home or a group foster home; (4) a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court; and (5) a treatment facility and any other facility of the Division of Child and Family Services of the Department of Health and Human Services into which a child may be committed by a court order.

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

Section 1. ~~[Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:]~~

~~**1. The Administrator shall, to the extent possible, ensure that adequate training concerning the administration and management of medication is available to employees of a governmental facility for children, a private facility for children, a group foster home or a specialized foster home that has custody of children pursuant to the order of a court. Such training must include, without limitation, instruction concerning the manner in which to:**~~

- ~~(a) Document the orders of the treating physician;~~
- ~~(b) Administer medication to a child;~~
- ~~(c) Store, handle and dispose of medication;~~
- ~~(d) Document the administration of medication and any errors in the administration of medication;~~
- ~~(e) Minimize errors in the administration of medication; and~~
- ~~(f) Address errors in the administration of medication.~~

~~2. To ensure that adequate training is available pursuant to subsection 1, the Administrator may:~~

~~(a) Approve training programs offered by public or private entities that have the appropriate expertise to provide such training; and~~

~~(b) To the extent that money is available for that purpose, provide for training programs through the Health Division.~~

~~3. The Administrator shall maintain a list of programs that are approved to provide the training described in subsection 1 and shall cause the list to be placed on the Internet website maintained by the Department.~~

~~4. The Administrator is not required to comply with the provisions of chapter 232B of NRS to approve or provide for training programs pursuant to this section.~~

~~5. As used in this section:~~

~~(a) "Governmental facility for children" has the meaning ascribed to it in NRS 218C.520.~~

~~(b) "Group foster home" has the meaning ascribed to it in NRS 424.015.~~

~~(c) "Private facility for children" has the meaning ascribed to it in NRS 218C.535.~~

~~(d) "Specialized foster home" has the meaning ascribed to it in NRS 424.018. (Deleted by amendment.)~~

Sec. 2. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a medical facility that has custody of ~~children~~ a child pursuant to the order of a court shall adopt a policy concerning the manner in which to:

(a) Document the orders of the treating physician of a child;

(b) Administer medication to a child;

(c) Store, handle and dispose of medication;

(d) Document the administration of medication and any errors in the administration of medication;

(e) Minimize errors in the administration of medication; and

(f) Address errors in the administration of medication.

2. Such a medical facility shall ensure that each employee of the medical facility who will administer medication to such ~~children~~ receives training at least annually in the administration and management of medication through a program approved or provided by the Administrator of the Health Division pursuant to section 1 of this act.

~~2. The medical facility shall not allow an employee to administer medication to a child in its custody pursuant to the order of a court unless the employee has successfully completed such training.~~

~~3. The provisions of this section do not apply to an employee of:~~

~~(a) A residential facility for groups who is required to complete the training and examination set forth in subsection 6 of NRS 449.037.~~

~~(b) A medical facility who has a license or certificate issued pursuant to chapter 630, 632 or 633 of NRS.]~~ **a child receives a copy of and understands the policy adopted pursuant to subsection 1.**

Sec. 3. NRS 449.070 is hereby amended to read as follows:

449.070 The provisions of NRS 449.001 to 449.240, inclusive, **and section 2 of this act** do not apply to:

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

2. Foster homes as defined in NRS 424.014.

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

Sec. 4. NRS 449.160 is hereby amended to read as follows:

449.160 1. The Health Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.001 to 449.240, inclusive, **and section 2 of this act** upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.001 to 449.245, inclusive, **and section 2 of this act**, or of any other law of this State or of the standards, rules and regulations adopted thereunder.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 5. NRS 449.163 is hereby amended to read as follows:

449.163 1. If a medical facility or facility for the dependent violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, **and section 2 of this act**, or any condition, standard or regulation adopted by the Board, the Health Division, in accordance with the regulations adopted pursuant to NRS 449.165, may:

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

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

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

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

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

(2) Improvements are made to correct the violation.

2. If a violation by a medical facility or facility for the dependent relates to the health or safety of a patient, an administrative penalty imposed pursuant to paragraph (c) of subsection 1 must be in a total amount of not

less than \$1,000 and not more than \$10,000 for each patient who was harmed or at risk of harm as a result of the violation.

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

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

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

4. The Health Division may require any facility that violates any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, **and section 2 of this act**, or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.

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

Sec. 6. NRS 449.220 is hereby amended to read as follows:

449.220 1. The Health Division may bring an action in the name of the State to enjoin any person, state or local government unit or agency thereof from operating or maintaining any facility within the meaning of NRS 449.001 to 449.240, inclusive ~~[-]~~, **and section 2 of this act**:

(a) Without first obtaining a license therefor; or

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

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

Sec. 7. NRS 449.240 is hereby amended to read as follows:

449.240 The district attorney of the county in which the facility is located shall, upon application by the Health Division, institute and conduct the prosecution of any action for violation of any provisions of NRS 449.001 to 449.245, inclusive ~~[-]~~, **and section 2 of this act**.

Sec. 8. ~~NRS 62B.250 is hereby amended to read as follows:~~

~~62B.250 1. A public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, shall ensure that each employee who comes into direct contact with children who are in custody receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:~~

~~(a) Controlling the behavior of children;~~

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

~~(c) The rights of children in the institution or agency;~~

~~(d) Suicide awareness and prevention;~~

~~(e) The administration of medication to children;~~

~~(f) Applicable state and federal constitutional and statutory rights of children in the institution or agency;~~

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

~~(h) Such other matters as required by the Division of Child and Family Services.~~

~~2. The training received pursuant to paragraph (c) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department of Health and Human Services pursuant to section 1 of this act. A public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, shall not allow an employee to administer medication to a child in its custody unless the employee has successfully completed such training.~~

~~3. The Division of Child and Family Services shall adopt regulations necessary to carry out the provisions of this section.] (Deleted by amendment.)~~

Sec. 8.5. Chapter 62B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, shall adopt a policy concerning the manner in which to:

(a) Document the orders of the treating physician of a child;

(b) Administer medication to a child;

(c) Store, handle and dispose of medication;

(d) Document the administration of medication and any errors in the administration of medication;

(e) Minimize errors in the administration of medication; and

(f) Address errors in the administration of medication.

2. Such an institution or agency shall ensure that each employee of the institution or agency who will administer medication to a child at the institution or agency receives a copy of and understands the policy adopted pursuant to subsection 1.

Sec. 9. [NRS 63.190 is hereby amended to read as follows:

63.190 1. The superintendent of a facility shall ensure that each employee who comes into direct contact with children in the facility receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:

(a) Controlling the behavior of children;

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

(c) The rights of children in the facility;

(d) Suicide awareness and prevention;

- ~~(e) The administration of medication to children;~~
- ~~(f) Applicable state and federal constitutional and statutory rights of children in the home;~~
- ~~(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility; and~~
- ~~(h) Such other matters as required by the Administrator of the Division of Child and Family Services.~~

~~2. The training received pursuant to paragraph (e) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department of Health and Human Services pursuant to section 1 of this act. The superintendent of a facility shall not allow an employee to administer medication to a child in its custody unless the employee has successfully completed such training.~~

~~3. The Administrator of the Division of Child and Family Services shall provide direction to the superintendent of each facility concerning the manner in which to carry out the provisions of this section.] (Deleted by amendment.)~~

Sec. 9.5. Chapter 63 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The superintendent of a facility shall adopt a policy concerning the manner in which to:

- (a) Document the orders of the treating physician of a child;
- (b) Administer medication to a child;
- (c) Store, handle and dispose of medication;
- (d) Document the administration of medication and any errors in the administration of medication;
- (e) Minimize errors in the administration of medication; and
- (f) Address errors in the administration of medication.

2. The superintendent shall ensure that each employee of the facility who will administer medication to a child at the facility receives a copy of and understands the policy adopted pursuant to subsection 1.

~~Sec. 10. [NRS 424.0365 is hereby amended to read as follows:~~

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

- ~~(a) Controlling the behavior of children;~~
- ~~(b) Policies and procedures concerning the use of force and restraint on children;~~
- ~~(c) The rights of children in the home;~~
- ~~(d) Suicide awareness and prevention;~~
- ~~(e) The administration of medication to children;~~

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

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

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

~~2. The training received pursuant to paragraph (c) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department of Health and Human Services pursuant to section 1 of this act. A licensee that operates a specialized foster home or a group foster home shall not allow an employee to administer medication to a child in such a home unless the employee has successfully completed such training.~~

~~3. The Division shall adopt regulations necessary to carry out the provisions of this section.] (Deleted by amendment.)~~

Sec. 10.5. Chapter 424 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A licensee that operates a specialized foster home or a group foster home shall adopt a policy concerning the manner in which to:

(a) Document the orders of the treating physician of a child;

(b) Administer medication to a child;

(c) Store, handle and dispose of medication;

(d) Document the administration of medication and any errors in the administration of medication;

(e) Minimize errors in the administration of medication; and

(f) Address errors in the administration of medication.

2. The licensee shall ensure that each employee of the specialized foster home or group foster home who will administer medication to a child at the specialized foster home or group foster home receives a copy of and understands the policy adopted pursuant to subsection 1.

Sec. 10.7. NRS 424.090 is hereby amended to read as follows:

424.090 The provisions of NRS 424.020 to 424.090, inclusive, **and section 10.5 of this act,** do not apply to homes in which:

1. Care is provided only for a neighbor's or friend's child on an irregular or occasional basis for a brief period, not to exceed 90 days.

2. Care is provided by the legal guardian.

3. Care is provided for an exchange student.

4. Care is provided to enable a child to take advantage of educational facilities that are not available in his or her home community.

5. Any child or children are received, cared for and maintained pending completion of proceedings for adoption of such child or children, except as otherwise provided in regulations adopted by the Division.

6. Except as otherwise provided in regulations adopted by the Division, care is voluntarily provided to a minor child who is:

- (a) Related to the caregiver by blood, adoption or marriage; and
- (b) Not in the custody of an agency which provides child welfare services.

7. Care is provided to a minor child who is in the custody of an agency which provides child welfare services pursuant to chapter 432B of NRS if:

(a) The caregiver is related to the child within the fifth degree of consanguinity; and

(b) The caregiver is not licensed pursuant to the provisions of NRS 424.020 to 424.090, inclusive ~~11~~, and section 10.5 of this act.

Sec. 11. ~~NRS 432A.177 is hereby amended to read as follows:~~

~~432A.177 1. A licensee that operates a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court, including, without limitation, an emergency shelter, shall ensure that each employee who comes into direct contact with children in the facility receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:~~

- ~~(a) Controlling the behavior of children;~~
- ~~(b) Policies and procedures concerning the use of force and restraint on children;~~
- ~~(c) The rights of children in the facility;~~
- ~~(d) Suicide awareness and prevention;~~
- ~~(e) The administration of medication to children;~~
- ~~(f) Applicable state and federal constitutional and statutory rights of children in the facility;~~
- ~~(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility; and~~
- ~~(h) Such other matters as required by the Board.~~

~~2. The training received pursuant to paragraph (e) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department pursuant to section 1 of this act. A licensee that operates a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court, including, without limitation, an emergency shelter, shall not allow an employee to administer medication to a child in the child care facility unless the employee has successfully completed such training.~~

~~3. The Board shall adopt regulations necessary to carry out the provisions of this section.] (Deleted by amendment.)~~

Sec. 11.5. Chapter 432A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A licensee that operates a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court, including, without limitation, an emergency shelter, shall adopt a policy concerning the manner in which to:

- (a) Document the orders of the treating physician of a child;

(b) Administer medication to a child;

(c) Store, handle and dispose of medication;

(d) Document the administration of medication and any errors in the administration of medication;

(e) Minimize errors in the administration of medication; and

(f) Address errors in the administration of medication.

2. The licensee shall ensure that each employee of the child care facility who will administer medication to a child at the child care facility receives a copy of and understands the policy adopted pursuant to subsection 1.

Sec. 11.7. NRS 432A.220 is hereby amended to read as follows:

432A.220 Any person who operates a child care facility without a license issued pursuant to NRS 432A.131 to 432A.220, inclusive, and section 11.5 of this act is guilty of a misdemeanor.

Sec. 12. ~~[NRS 433B.175 is hereby amended to read as follows:~~

~~433B.175 1. The Administrator shall ensure that each employee who comes into direct contact with children at any treatment facility and any other division facility into which a child may be committed by a court order receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:~~

~~(a) Controlling the behavior of children;~~

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

~~(c) The rights of children in the facility;~~

~~(d) Suicide awareness and prevention;~~

~~(e) The administration of medication to children;~~

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

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

~~(h) Such other matters as required by the Board.~~

~~2. The training received pursuant to paragraph (c) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department pursuant to section 1 of this act. The Administrator of the Division of Child and Family Services shall not allow an employee to administer medication to a child at any treatment facility and any other division facility into which a child may be committed by a court order unless the employee has successfully completed such training.~~

~~3. The Division shall adopt regulations necessary to carry out the provisions of this section.] (Deleted by amendment.)~~

Sec. 12.5. Chapter 433B of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Administrator shall adopt a policy for each treatment facility and any other division facility into which a child may be committed by a court order concerning the manner in which to:

- (a) Document the orders of the treating physician of a child;
- (b) Administer medication to a child;
- (c) Store, handle and dispose of medication;
- (d) Document the administration of medication and any errors in the administration of medication;
- (e) Minimize errors in the administration of medication; and
- (f) Address errors in the administration of medication.

2. The Administrator shall ensure that each employee who comes into direct contact with a child at any treatment facility and any other division facility into which a child may be committed by a court order and who will administer medication to a child receives a copy of and understands the policy adopted pursuant to subsection 1.

Sec. 13. NRS 654.190 is hereby amended to read as follows:

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

- (a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.
- (b) Has obtained his or her license by the use of fraud or deceit.
- (c) Violates any of the provisions of this chapter.
- (d) Aids or abets any person in the violation of any of the provisions of NRS 449.001 to 449.240, inclusive, **and section 2 of this act**, as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

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

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

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

3. The Board may compel the attendance of witnesses or the production of documents or objects by subpoena. The Board may adopt regulations that

set forth a procedure pursuant to which the Chair of the Board may issue subpoenas on behalf of the Board. Any person who is subpoenaed pursuant to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.

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

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

Sec. 14. ~~1. An employee of a governmental facility for children, a group foster home, a private facility for children or a specialized foster home that has custody of a child pursuant to the order of a court who has not successfully completed training in the administration and management of medication through a program that has been approved by the Administrator of the Health Division of the Department of Health and Human Services as required pursuant to sections 2 and 8 to 12, inclusive, of this act, as applicable, on January 1, 2012, may continue to administer medication to a child in the custody of the facility or home if the person is authorized to do so on January 1, 2012, but must complete such training on or before March 31, 2012.~~

~~2. As used in this section:~~

~~(a) "Governmental facility for children" has the meaning ascribed to it in NRS 218G.520.~~

~~(b) "Group foster home" has the meaning ascribed to it in NRS 424.015.~~

~~(c) "Private facility for children" has the meaning ascribed to it in NRS 218G.535.~~

~~(d) "Specialized foster home" has the meaning ascribed to it in NRS 424.018.~~ **(Deleted by amendment.)**

Sec. 15. This act becomes effective ~~upon passage and approval for the purpose of taking such actions as are necessary to ensure that adequate training programs concerning the administration and management of medication are available in this State and for performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and~~ on January 1, 2012. ~~1. for all other purposes.~~

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 299.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 682.

AN ACT relating to animals; requiring the board of county commissioners of each county and the governing body of each incorporated city to adopt an ordinance requiring commercial breeders of dogs or cats to obtain a permit to act as a breeder under certain circumstances; setting forth the requirements for the issuance of those permits; making various changes to the standards of care for dogs and cats; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law specifies standards for the care of dogs and cats by kennel and cattery operators, cat and dog breeders and sellers, and operators of animal shelters. (NRS 574.360-574.440) **Section 1.3** of this bill defines "breeder" as a person who operates a commercial establishment engaged in the business of breeding dogs or cats for sale or trade. **Section 1.3 expressly excludes from that definition any person who breeds dogs or cats as a hobby.** **Section 1.6** of this bill requires the board of county commissioners of each county and the governing body of each incorporated city to adopt an ordinance requiring each breeder to obtain an annual permit to do so from the board or governing body or from the animal control agency of the applicable county or city. **Section 1.6** also requires the applicable authority to issue the permit and assign a permit number to each breeder who applies for a permit, pays ~~any~~ **the** prescribed fee **, if any,** and complies with any other requirement established by the ordinance. Each permit issued must specify the premises at which the person may act as a breeder, and the number of the permit assigned to a breeder must be displayed in all advertising in which the breeder offers a dog or cat for sale or trade and on any receipt of sale of a dog or cat sold by the breeder. **Section 1.6** also authorizes an animal control agent of the applicable board or governing body or animal control agency to enter and inspect the specified premises of a breeder during any reasonable hour for the purpose of enforcing the animal care provisions of chapter 574 of NRS. Finally, **section 1.6** authorizes the ordinances required pursuant to this bill to provide for the suspension, revocation or denial of a permit for violating those animal care provisions.

Section 1.9 of this bill prohibits a breeder from selling a dog or cat unless a registered microchip has been subcutaneously inserted into the dog or cat and the dog or cat has had ~~its~~ **all the** required ~~[vaccination]~~ **vaccinations** for rabies ~~it~~ **which are appropriate for the age of the dog or cat.** In addition, **section 1.9** prohibits a breeder from selling a dog or cat without a written sales contract and further prohibits a breeder from breeding a female dog before she is 18 months old or more than once a year. **Sections 4 and 10-13** ~~9-11~~ of this bill make various changes to certain standards of care for dogs and cats.

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

Section 1. Chapter 574 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3, 1.6 and 1.9 of this act.

Sec. 1.3. *“Breeder” means a dealer, operator or other person who is responsible for the operation of a commercial establishment engaged in the business of breeding dogs or cats for sale or trade. The term does not include a person who breeds dogs or cats as a hobby.*

Sec. 1.6. 1. *In addition to any ordinance adopted pursuant to NRS 244.189, 244.335 or 244.359, the board of county commissioners of each county, if its jurisdiction to enact and enforce ordinances relating to animals is not limited by an interlocal agreement, shall adopt an ordinance requiring each breeder in an unincorporated area of the county to obtain an annual permit to act as a breeder issued by the board or by the animal control agency of the county, if any. Each such board of county commissioners may impose a fee for the issuance of the annual permit which does not exceed the approximate cost of providing the services associated with the issuance of the annual permits.*

2. *In addition to any ordinance adopted pursuant to NRS 266.325 ~~1.1~~ or 266.355, the city council or other governing body of each incorporated city, whether organized under general law or special charter, if its jurisdiction to enact and enforce ordinances relating to animals is not limited by an interlocal agreement, shall adopt an ordinance requiring each breeder in the incorporated area of the city to obtain an annual permit to act as a breeder issued by the city council or other governing body or by the animal control agency, if any. Each such city council or other governing body of an incorporated city may impose a fee for the issuance of the annual permit which does not exceed the approximate cost of providing the services associated with the issuance of the annual permits.*

3. *After a board of county commissioners or a city council or other governing body of an incorporated city adopts an ordinance pursuant to subsection 1 or 2, as applicable, the board or governing body shall issue a permit and assign a permit number to each breeder who:*

(a) Submits an application on a form and in the manner prescribed by the ordinance;

(b) Pays a fee , if any, prescribed by the ordinance; and

(c) Complies with any other requirements prescribed by the ordinance.

4. *Each permit issued pursuant to subsection 3 must specify the address of the premises at which the person may act as a breeder.*

5. *The number of the permit assigned to a breeder pursuant to subsection 3 must be displayed in all advertising in which the breeder offers a dog or cat for sale and on any receipt of sale of a dog or cat sold by the breeder.*

6. *For the purpose of enforcing the provisions of NRS 574.360 to 574.440, inclusive, as those provisions apply to breeders, any animal control agent of the issuing authority may enter and inspect the premises specified on the permit at any reasonable hour.*

7. *An ordinance adopted pursuant to subsection 1 or 2 may provide for the suspension, revocation or denial of a permit for a violation of the provisions of NRS 574.360 to 574.440, inclusive, as those provisions apply to breeders.*

Sec. 1.9. *A breeder shall not:*

1. *Sell a dog or cat:*

(a) *Unless the dog or cat has had:*

(1) *A registered microchip subcutaneously inserted into the dog or cat; and*

(2) *All ~~the~~ the required vaccinations for rabies ~~for~~ which are appropriate based upon the age of the dog or cat; or*

(b) *Without providing a written sales contract to the purchaser; or*

2. *Breed a female dog:*

(a) *Before she is 18 months old; or*

(b) *More than once a year.*

Sec. 2. NRS 574.210 is hereby amended to read as follows:

574.210 As used in NRS 574.210 to 574.510, inclusive, **and sections 1.3, 1.6 and 1.9 of this act**, unless the context otherwise requires, the words and terms defined in NRS 574.220 to 574.330, inclusive, **and section 1.3 of this act** have the meanings ascribed to them in those sections.

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 574.310 is hereby amended to read as follows:

574.310 "Primary enclosure" means a structure used to restrict the immediate movement of a dog or cat to a limited amount of space, such as a room, pen, run, cage, compartment or hutch ~~to~~, **and in which an animal is regularly so restricted for more than 7 hours during a 24-hour period.**

Sec. 5. NRS 574.340 is hereby amended to read as follows:

574.340 1. The provisions of NRS 574.210 to 574.510, inclusive, **and sections 1.3, 1.6 and 1.9 of this act** do not apply to:

~~1-1~~ (a) The exhibition, production, marketing or disposal of any livestock, poultry, fish or other agricultural commodity ~~to~~

~~2-1~~ **or animal.**

(b) Activities for which a license is required by the provisions of chapter 466 of NRS.

~~3-1~~ (c) The housing of domestic cats or dogs kept as pets or cared for, without remuneration other than payment for reasonable expenses relating to the care of the cats or dogs, on behalf of another person in a home environment.

~~4-1~~ (d) The exhibition of dogs or cats.

2. **As used in this section:**

(a) **"Animal" has the meaning ascribed to it in NRS 564.010.**

(b) “Livestock” has the meaning ascribed to it in NRS 569.0085.

Sec. 6. NRS 574.350 is hereby amended to read as follows:

574.350 No member, agent or officer of a society for the prevention of cruelty to animals may enforce the provisions of NRS 574.210 to 574.510, inclusive ~~1.3, 1.6 and 1.9 of this act.~~

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 574.380 is hereby amended to read as follows:

574.380 If dogs or cats are kept outdoors, an operator shall:

1. Provide a suitable method for the rapid drainage of surface water from the area where each dog or cat is kept.

2. Provide each dog or cat with a sufficient amount of shelter to:

(a) Remain dry from rain and snow;

(b) Have enough shade to protect itself from any direct sunlight that is likely to cause overheating or discomfort; ~~and~~

(c) **Remain cool during a period for which the National Weather Service has issued a heat advisory;**

(d) **Protect the animal from wind which creates a wind chill below 50 degrees Fahrenheit or for which the National Weather Service has issued a high wind warning; and**

(e) Remain warm when the atmospheric temperature falls below 50 degrees Fahrenheit. If the ambient temperature falls below ~~the temperature to which a dog or cat is acclimated,~~ **50 degrees Fahrenheit**, the operator shall provide such an additional amount of clean bedding material or other protection as necessary for the dog or cat to remain warm.

3. After considering the ambient temperature, provide each dog or cat with a sufficient amount of food and water necessary to sustain it in a healthy condition at that temperature.

Sec. 10. NRS 574.390 is hereby amended to read as follows:

574.390 **1.** An operator shall ensure that a primary enclosure ~~is~~ :

(a) Has a solid floor;

(b) Is not stacked on top of another primary enclosure; and

(c) Is constructed and maintained in such a manner as to:

~~1.1~~ **(1)** Protect the dogs or cats inside from injury;

~~1.2~~ **(2)** Prevent the dogs or cats inside from escaping;

~~1.3~~ **(3)** Keep other dogs or cats out;

~~1.4~~ **(4)** Allow the dogs or cats inside convenient access to food and water;

~~1.5~~ **(5)** Enable the dogs or cats inside to remain clean and dry; ~~and~~

~~6.1~~ **(6)** Provide sufficient space for each dog or cat inside to turn about freely and to stand, sit and lie in a comfortable, normal position ~~1.1~~ ; **and**

(7) Prevent the dogs or cats inside from biting or otherwise harming an animal or person outside of the primary enclosure.

2. The provisions of paragraphs (a) and (b) of subsection 1 do not apply to an animal shelter.

Sec. 11. NRS 574.430 is hereby amended to read as follows:

574.430 An operator shall ensure that:

1. Insects, ectoparasites and avian, mammalian and reptilian pests are kept under control.

2. Supplies of food and bedding material are stored in facilities that afford adequate protection from infestation or contamination by vermin.

3. ***For primary enclosures used to restrict the immediate movement of a dog or cat:***

(a) Excreta are removed ~~{from primary enclosures}~~ at least once daily to prevent contamination and to reduce to a minimum odors and the risk of disease ~~{A primary enclosure must be}~~; ***and***

(b) ***Each such primary enclosure is*** disinfected at least once daily and before placing another dog or cat in the primary enclosure. If a hosing or flushing method of cleaning is used, all dogs and cats must be removed from the primary enclosure and adequate measures must be taken to protect the dogs and cats in other primary enclosures from being contaminated with water and other wastes.

4. ~~{Other}~~ ***Primary enclosures used to restrict the immediate movement of an animal other than a dog or cat*** are cleaned, washed and disinfected at least once every 2 weeks to prevent any accumulation of debris or excreta and to reduce to a practical minimum substances and organisms injurious to the health of animals or humans.

5. Pens or runs with hard surfaces, and cages and rooms, are sanitized at least once every 2 weeks by:

(a) Washing them with water of a temperature not less than 120 degrees Fahrenheit and with soap or detergent;

(b) Washing all soiled surfaces with a safe and effective disinfectant; or

(c) Cleaning all soiled surfaces with live steam.

6. Pens or runs with gravel, sand or dirt surfaces are cleaned as often as necessary by removing and replacing the soiled gravel, sand or dirt.

7. Sewage, solid wastes, soiled bedding, dead animals and debris are removed from housing facilities regularly and disposed of properly.

8. Facilities for disposal are maintained in such a manner as to reduce to a minimum odors and the risk of disease or infestation by vermin.

9. Adequate facilities, such as washrooms, basins or sinks, are provided for the cleanliness of persons handling animals.

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. **(Deleted by amendment.)**

Assemblywoman Carlton moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 300.

Bill read second time.

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

Amendment No. 712.

AN ACT relating to medical facilities; revising provisions governing billing and related practices of certain larger hospitals; revising requirements relating to notices of billing practices which must be provided to patients of certain hospitals; providing administrative penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires major hospitals with 200 or more beds to reduce by at least 30 percent the total billed charges for hospital services provided to inpatients who: (1) do not have insurance; (2) are not eligible for a government program which provides medical assistance; and (3) make arrangements to pay the hospital bill. (NRS 439B.260) **Section 2** of this bill specifies that the reduction in total billed charges applies only to inpatients who do not have health insurance and specifically excludes policies of insurance such as casualty and property insurance for purposes of determining whether an inpatient has insurance. Existing law requires major hospitals to give patients, upon discharge, notice of the provisions concerning the reduction of billed charges. (NRS 449.730) **Section 2** additionally requires major hospitals to include such a notice on or with the first statement of the hospital bill provided to each patient. Existing law prescribes civil and administrative penalties which are applicable to a violation of the provisions of **section 2**. (NRS 439B.500)

Section 3 of this bill prohibits a hospital from collecting any amount owed to the hospital for hospital care from the proceeds or potential proceeds of a civil action or from an insurer other than a health insurer if the patient was covered by health insurance ~~[-]~~ **and the hospital has a contractual agreement with the insurer of the patient.**

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 439B.260 is hereby amended to read as follows:

439B.260 1. A major hospital shall reduce or discount the total billed charge by at least 30 percent for hospital services provided to an inpatient who:

(a) Has no **policy of health** insurance or other contractual ~~[provision for the payment of the charge by]~~ **agreement with** a third party ~~[-]~~ **that provides health coverage for the charge;**

(b) Is not eligible for coverage by a state or federal program of public assistance that would provide for the payment of the charge; and

(c) Makes reasonable arrangements within 30 days after ~~[discharge]~~ **the date that notice was sent pursuant to subsection 2** to pay the hospital bill.

2. *A major hospital shall include on or with the first statement of the hospital bill provided to the patient after his or her discharge a notice of the reduction or discount available pursuant to this section, including, without limitation, notice of the criteria a patient must satisfy to qualify for a reduction or discount.*

3. A major hospital or patient who disputes the reasonableness of arrangements made pursuant to paragraph (c) of subsection 1 may submit the dispute to the Bureau for Hospital Patients for resolution as provided in NRS 223.575.

~~{3.}~~ 4. A major hospital shall reduce or discount the total billed charge of its outpatient pharmacy by at least 30 percent to a patient who is eligible for Medicare.

5. As used in this section, "third party" means:

(a) An insurer, as that term is defined in NRS 679B.540;

(b) A health benefit plan, as that term is defined in NRS 689A.540, for employees which provides coverage for services and care at a hospital;

(c) A participating public agency, as that term is defined in NRS 287.04052, and any other local governmental agency of the State of Nevada which provides a system of health insurance for the benefit of its officers and employees, and the dependents of officers and employees, pursuant to chapter 287 of NRS; or

(d) Any other insurer or organization providing health coverage or benefits in accordance with state or federal law.

↪ The term does not include an insurer that provides coverage under a policy of casualty or property insurance.

Sec. 3. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsection 2, if a hospital provides hospital care to a person who has a policy of health insurance issued by a third party that provides health coverage for care provided at that hospital ~~{1.}~~ and the hospital has a contractual agreement with the third party, the hospital shall proceed with any efforts to collect on any amount owed to the hospital for the hospital care in accordance with the provisions of NRS 449.757 and shall not collect or attempt to collect that amount from:*

(a) Any proceeds or potential proceeds of a civil action brought by or on behalf of the patient, including, without limitation, any amount awarded for medical expenses; or

(b) An insurer other than a health insurer, including, without limitation, an insurer that provides coverage under a policy of casualty or property insurance.

2. This section does not apply to:

(a) Amounts owed to the hospital under the policy of health insurance that are not collectible; or

(b) Medicaid, the Children's Health Insurance Program or any other public program which may pay all or part of the bill.

3. This section does not limit any rights of a patient to contest an attempt to collect an amount owed to a hospital, including, without limitation, contesting a lien obtained by a hospital.

4. As used in this section, “third party” has the meaning ascribed to it in NRS 439B.260.

Sec. 4. NRS 449.751 is hereby amended to read as follows:

449.751 As used in NRS 449.751 to 449.759, inclusive, **and section 3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 449.753 and 449.755 have the meanings ascribed to them in those sections.

Sec. 5. NRS 449.757 is hereby amended to read as follows:

449.757 1. When a person receives hospital care, the hospital must not proceed with any efforts to collect on any amount owed to the hospital for the hospital care from the responsible party, other than for any copayment or deductible, if the responsible party has health insurance or may be eligible for Medicaid, the Children’s Health Insurance Program or any other public program which may pay all or part of the bill, until the hospital has submitted a bill to the **health** insurance company or public program and the **health** insurance company or public program has made a determination concerning payment of the claim.

2. Collection efforts may begin and interest may begin to accrue on any amount owed to the hospital for hospital care which remains unpaid by the responsible party not sooner than 30 days after the responsible party is sent a bill by mail stating the amount that he or she is responsible to pay which has been established after receiving a determination concerning payment of the claim by any insurer or public program and after applying any discounts. Interest must accrue at a rate which does not exceed the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date on which the payment becomes due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the payment is satisfied.

3. Except for the interest authorized pursuant to subsection 2 and any court costs and attorney’s fees awarded by a court, no other fees may be charged concerning the amount that remains unpaid, including, without limitation, collection fees, other attorney’s fees or any other fees or costs.

Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 314.

Bill read second time.

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

Amendment No. 717.

AN ACT relating to real property; **exempting property managers from certain registration and permitting requirements relating to the practice of asset management;** providing for the registration and regulation of asset management companies; providing for the permitting and regulation of ~~employees and independent contractors of~~ **asset managers employed or independently contracted by** asset management companies; **setting forth the causes for disciplinary action for asset management companies and asset managers;** prohibiting a purchaser of residential property from voluntarily waiving or being required to waive his or her right to a disclosure form; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the licensure or registration and regulation of various professions in this State. (Title 54 of NRS) This bill provides for the registration, permitting and regulation of asset management companies and ~~their employees and agents,~~ **asset managers** by the Real Estate Division of the Department of Business and Industry. Asset management companies provide **asset** management services for real property which is in foreclosure and which is owned by a bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, or any subsidiary thereof, **a mortgage holding entity chartered by Congress** or a **federal, state or local** governmental entity. Such companies **and persons** manage the property, performing services such as securing the property by changing locks, removing trash and debris, cleaning the home and surrounding property, performing maintenance and repairs of homes and disposing of the personal property of homeowners left in homes which are in foreclosure and which the legal owner has deemed abandoned.

Section 13.5 of this bill exempts from the requirements of registration or requirement to obtain a separate permit a person who holds a current permit to engage in property management but requires the person to comply with the remaining provisions of this bill as well as those regulating the practice of property management. Section 23 of this bill sets forth the requirements an asset management company must meet to be registered in this State, including criminal background checks on all principals, partners, directors and officers of the company. **Section 24** of this bill requires asset management companies to carry sufficient insurance to cover any damage to real property, any wrongful evictions or any wrongful disposal of the personal property of a homeowner or a tenant of a homeowner. **Section 27.5 of this bill imposes a \$2,000 application fee for registration as an asset management company, as well as a \$500 fee for the issuance of a certificate of registration and an annual fee of \$500 to renew the certificate of registration.** Section 29 of this bill requires all ~~employees or independent contractors of~~ **persons employed or independently contracted as an asset manager by** an asset management company to obtain a permit from the Division, ~~and~~ undergo a criminal

background check at the expense of the ~~employee or independent contractor,~~ **asset manager and pay a fee of \$75 for the issuance of the permit.**

Sections 29.3-29.7, 30.3 and 30.7 of this bill set forth the actions for which an asset management company or asset manager may be investigated or disciplined and the procedures the Division is required to follow in conducting disciplinary action. Section 31 of this bill specifies the services an asset management company may provide and the steps an asset management company must take before it may dispose of the personal property of a homeowner or a tenant of a homeowner, including storage of the property for 30 days in a secure location and notifying the homeowner or the tenant in writing of the disposal and where the property may be reclaimed. **Section 32** of this bill makes it a misdemeanor for a person to operate an asset management company in this State without being registered with the Division or for an ~~employee or independent contractor of an asset management company,~~ **asset manager** to engage in asset management without a permit issued by the Division. **Section 33** of this bill makes it a misdemeanor for an asset management company or its agents to: (1) evict a real property owner **or a tenant of a real property owner** without a court order while the real property owner still has time to redeem his or her real property; (2) dispose of any personal property of a homeowner or a tenant of a homeowner except as provided in **section 31**; (3) seize real property that is not in foreclosure; (4) allow any work to be done on real property by a person who is not licensed to do that type of work or allow any work to be done on real property which requires a permit or an inspection unless the permit is obtained or inspection completed; (5) conduct any activities for which a real estate license **or property management permit** is required without such a license ~~or~~ **permit**; (6) fail to provide the real property disclosure to any purchaser of a residence for which the asset management company has provided services ~~or~~ **or (7) receive, collect, hold or manage money which belongs to another person, including, without limitation, rent from a tenant, except in certain circumstances.**

Existing law requires a seller to complete and serve a purchaser of residential property with a disclosure form regarding the property, but allows a purchaser to waive his or her right to receive such a form. (NRS 113.130) **Section 34** of this bill prohibits a purchaser from waiving, or a seller from requiring a purchaser to waive, the purchaser's right to the disclosure form. **In addition, section 34 requires a seller to provide the purchaser with the contact information of any asset management company who repaired or replaced or attempted to repair or replace any defects in the property and requires the asset management company to provide the purchaser with a service report on the property upon request.**

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

Section 1. Title 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 33, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to ~~12.5~~ 12.5, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. “Administrator” means the Real Estate Administrator.

Sec. 4. “Asset management” means to manage, oversee or direct actions taken to maintain any real property, including, without limitation, any actions taken to preserve, restore or improve the value and to lessen the risk of damage to the property on behalf of a client before a foreclosure sale ~~or in preparation for liquidation of real property owned by the client pursuant to a foreclosure sale.~~

Sec. 5. “Asset management company” means a person, limited-liability company, partnership, association or corporation which, for compensation and pursuant to a contractual agreement, power of attorney or other legal authorization, ~~provides services in the maintenance, repair and preparation for liquidation of real property that is owned or secured by a mortgage or lien on the property for an obligation owned by or~~ engages in asset management on behalf of:

1. A bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, or any subsidiary ~~of such~~ thereof which is authorized to transact business in this State;

2. A mortgage holding entity chartered by Congress; or

3. A federal, state or local governmental entity.

Sec. 5.5. “Asset manager” means a person engaged in the business of asset management who is an employee or independent contractor of a registered asset management company.

Sec. 6. “Client” means ~~as~~ :

1. A bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, or any subsidiary ~~of such or governmental entity~~ thereof that is authorized to transact business in this State;

2. A mortgage holding entity chartered by Congress; or

3. A federal, state or local governmental entity,

↪ for whom an asset management company provides asset management.

Sec. 7. “Division” means the Real Estate Division of the Department of Business and Industry.

Sec. 8. “Foreclosure sale” means a sale of real property to enforce an obligation secured by a mortgage or lien on the property, including, without limitation, the exercise of a trustee’s power of sale pursuant to NRS 107.080.

Sec. 9. “Homeowner” means the owner of record of a residence, including, without limitation, the owner of record of a residence in foreclosure at the time the notice of the pendency of an action for

foreclosure is recorded pursuant to NRS 14.010 or the notice of default and election to sell is recorded pursuant to NRS 107.080.

Sec. 10. “Mortgage banker” has the meaning ascribed to it in NRS 645E.100.

Sec. 11. “Mortgage broker” has the meaning ascribed to it in NRS 645B.0127.

Sec. 11.3. “Real property in foreclosure” includes, without limitation, a residence in foreclosure or commercial real property against which there is an outstanding notice of the pendency of an action for foreclosure recorded pursuant to NRS 14.010 or notice of default and election to sell recorded pursuant to NRS 107.080

Sec. 11.7. “Real property owner” means the owner of record of real property, including, without limitation, a homeowner or an owner of real property in foreclosure.

Sec. 12. “Residence in foreclosure” means any residential real property consisting of:

1. Not more than four family dwelling units, one of which the homeowner or a tenant of the homeowner occupies as his or her principal place of residence; or

2. A single-family residential unit, including, without limitation, a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units,

↪ against which there is an outstanding notice of the pendency of an action for foreclosure recorded pursuant to NRS 14.010 or notice of default and election to sell recorded pursuant to NRS 107.080.

Sec. 12.5. “Service report” means a written report on a form prescribed by the Division which is provided by an asset management company or asset manager and which lists the specific services performed on real property for a client.

Sec. 13. The provisions of this chapter do not apply to:

1. A person who is a regular, full-time employee of a bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, or any subsidiary thereof.

2. A person who takes possession of property from a defendant in connection with a judicial proceeding for eminent domain brought pursuant to chapter 37 of NRS.

Sec. 13.5. 1. The provisions of this chapter which require a certificate of registration or permit do not apply to a person or broker who has a current permit to engage in property management pursuant to chapter 645 of NRS.

2. A person or broker who has a permit to engage in property management pursuant to chapter 645 of NRS may engage in the business of asset management if the provision of asset management services is

included in the property management agreement entered into pursuant to NRS 645.6056.

3. Except as otherwise provided in subsection 1, a person or broker who engages in the business of asset management must comply with the provisions of this chapter and the recordkeeping requirements of chapter 645 of NRS.

Sec. 14. 1. The Division shall administer the provisions of this chapter and may employ legal counsel, investigators and other professional consultants necessary to discharge its duties pursuant to this chapter.

2. An employee of the Division must not be employed by or have an interest in any business that manages residences in foreclosure or other assets.

3. An employee of the Division shall not act as an asset manager or as an agent for an asset management company.

Sec. 15. The Division shall adopt:

1. Regulations prescribing a standard of practice and code of ethics for registered asset management companies. The regulations must include, without limitation, provisions establishing the degree of care that must be exercised by a reasonably prudent registered asset management company.

2. Such other regulations as are necessary for the administration of this chapter.

Sec. 16. 1. The Administrator may adopt regulations which establish procedures for the Division to conduct business electronically pursuant to title 59 of NRS with persons who are regulated pursuant to this chapter and with any other persons with whom the Division conducts business. The regulations may include, without limitation, provisions establishing fees to pay the costs of conducting business electronically with the Division.

2. In addition to the provisions of NRS 719.280, if the Division conducts business electronically with a person and a law requires a signature or record to be notarized, acknowledged, verified or made under oath, the Division may allow the person to substitute a declaration that complies with the provisions of NRS 53.045 to satisfy the legal requirement.

3. The Division may refuse to conduct business electronically with a person who has failed to pay any money which the person owes to the Division.

Sec. 16.5. 1. The Division may inspect any service report, contractual agreement, power of attorney or other legal authorization entered into by an asset management company and a client to ensure compliance with the provisions of this chapter.

2. The Division shall adopt regulations pertaining to those inspections.

Sec. 17. 1. In addition to any other remedy or penalty, the Division may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a certificate of registration or permit or any other authorization is required pursuant to

this chapter, or any regulation adopted pursuant thereto, if the person does not hold the required certificate of registration or permit or has not received the required authorization; or

(b) Assists or offers to assist another person in the commission of a violation described in paragraph (a).

2. If the Division imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine must not exceed the amount of any gain or economic benefit that the person derived from the violation or \$5,000, whichever is greater.

3. In determining the appropriate amount of the administrative fine, the Division shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Division deems to be relevant.

4. Before the Division may impose the administrative fine, the Division must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Division in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the provisions of this chapter if:

(a) A specific statute exempts the person from complying with the provisions of this chapter with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Sec. 18. 1. The Division shall maintain a record of:

(a) Persons whose applications for registration have been denied;

(b) Formal disciplinary proceedings and any investigations conducted by the Division which result in the initiation of those proceedings; and

(c) Rulings or decisions upon complaints filed with the Division.

2. Except as otherwise provided in this section and section 19 of this act, records kept in the office of the Division pursuant to this chapter are open to the public for inspection pursuant to regulations adopted by the Division. Except as otherwise provided in NRS 239.0115, the Division may keep confidential, unless otherwise ordered by a court any criminal and financial records of an asset management company or applicant for a certificate of registration.

Sec. 19. 1. Except as otherwise provided in this section and section 18 of this act, a complaint filed with the Division, all documents and other information filed with the Division relating to the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are

confidential and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement entity, that is investigating a person who holds a certificate of registration or permit issued pursuant to this chapter.

2. The complaint or other document filed by the Division to initiate disciplinary action and all documents and information considered by the Division when determining whether to impose discipline are public records.

Sec. 20. 1. All fees and administrative fines received by the Division pursuant to this chapter must be deposited with the State Treasurer for credit to the State General Fund.

2. Money for the support of the Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.

Sec. 21. 1. The Attorney General shall render to the Division opinions upon questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, submitted to the Attorney General by the Division.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to any of the provisions of this chapter.

Sec. 22. If the Division imposes an administrative fine ~~and~~ or collects a fee for registering an asset management company or issuing or renewing a permit to an asset manager, the Division shall deposit the amount collected with the State Treasurer for credit to the State General Fund. The Division may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay an attorney's fee or the cost of an investigation, or both.

Sec. 23. 1. A person who wishes to be registered as an asset management company in this State must file a written application with the Division upon a form prepared and furnished by the Division ~~and~~ and pay the fee required pursuant to section 27.5 of this act. An application must:

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

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

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

(d) Include a complete set of the fingerprints of the applicant or, if the applicant is not a natural person, a complete set of the fingerprints of each person who will have an interest in the asset management company as a

principal, partner, officer, director or trustee, and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report ~~[-]~~; and

(e) Include a statement signed by the applicant attesting that the applicant has read and understands the provisions of sections 29.5 to 33, inclusive, of this act.

2. Except as otherwise provided in this chapter the Division shall issue a certificate of registration to an applicant as an asset management company if:

(a) The application is verified by the Division and complies with the requirements of this chapter.

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

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

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

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

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

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

(c) The applicant certifies that he or she:

(1) Has a process in place to verify that each employee or independent contractor that ~~provides~~ performs services to ~~as directed by~~ the asset management company or an asset manager employed by or under contract with the asset management company is the holder of a license in good standing in this State to perform the services for which the asset management company will use the employee or independent contractor.

(2) Has a process in place to review the work of each independent contractor that ~~provides~~ performs services to ~~as directed by~~ the asset management company or an asset manager employed by or under contract with the asset management company to ensure that those services are conducted in accordance with all applicable laws and regulations of this State.

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

(d) The applicant submits proof that he or she possesses all business licenses and permits required to do business in this State.

Sec. 24. 1. Before issuing any certificate of registration or annual renewal thereof, the Division shall require satisfactory proof that the asset management company:

(a) Is covered by a policy of insurance written by an insurance company authorized to do business in this State which is sufficient to reimburse real property owners for, without limitation, any damage to real property in foreclosure, the wrongful disposal of property or wrongful eviction; or

(b) Possesses and will continue to possess sufficient means to act as a self-insurer against that liability.

2. Every asset management company shall maintain the policy of insurance or self-insurance required by this section. The registration of every such asset management company is automatically suspended 10 days after receipt by the asset management company of a notice from the Division that the required insurance is not in effect, unless satisfactory proof of insurance is provided to the Division within that period.

3. Proof of insurance or self-insurance must be in such a form as the Division may require.

Sec. 25. 1. If an asset management company is not a natural person, the company must designate a natural person as a qualified employee to act on behalf of the asset management company.

2. As used in this section, "qualified employee" means:

(a) A director, officer, member, employee, manager or trustee of a partnership, corporation or limited-liability company designated by the partnership, corporation or limited-liability company to act on the behalf of the partnership, corporation or limited-liability company; or

(b) A person designated by a sole proprietorship who satisfies the requirements set forth in subsection 2 of section 23 of this act.

Sec. 26. 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance of a certificate of registration as an asset management company or a permit to engage in asset management shall:

(a) Include the social security number of the applicant in the application submitted to the Division.

(b) Submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Division.

3. A certificate of registration or permit may not be issued or renewed by the Division pursuant to this chapter 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 Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 27. A certificate of registration issued pursuant to this chapter expires each year on the date of its issuance, unless it is renewed. To renew the certificate of registration, the registrant must submit to the Division on or before the expiration date:

- 1. An application for renewal; ~~and~~
- 2. The fee required to renew the certificate of registration pursuant to section 27.5 of this act; and
- 3. All information required to complete the renewal.

Sec. 27.5. 1. A person must pay the following fees for the issuance or renewal of a certificate of registration as an asset management company:

(a) For the issuance of a certificate of registration, an application fee of \$2,000 for the principal office and a fee of \$500 for the issuance of the initial certificate of registration.

(b) For the renewal of a certificate of registration, a fee of \$500.

2. The following fees must be charged by and paid to the Division:
For each issuance of a duplicate registration or permit.....\$50
For each change in the name or location of a business.....20
For each change in the name or business address of a holder of a permit 20

Sec. 28. (Deleted by amendment.)

Sec. 29. 1. A person in this State who is employed ~~by~~ or ~~is an independent contractor for~~ independently contracted as an asset manager by an asset management company shall apply to the Division for a permit to engage in asset management ~~and~~ and pay a fee of \$75 for the issuance of the permit.

2. An applicant for a permit must:

- (a) At his or her own expense:

(1) Arrange to have a complete set of fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Division; and

(2) Submit to the Division:

(I) A completed fingerprint card and written permission authorizing the Division to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary; or

(II) Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken by a law enforcement agency or other authorized entity and directly forwarded by electronic or other means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary; ~~and~~

(b) Submit to the Division a signed statement attesting that the applicant has read and understands the provisions of sections 29.5 to 33, inclusive, of this act; and

(c) Comply with all other requirements established by the Division for the issuance of a permit.

3. The Division may:

(a) Unless the applicant's fingerprints are forwarded pursuant to sub-subparagraph (II) of subparagraph (2) of paragraph (a) of subsection 2, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Division deems necessary.

Sec. 29.3. 1. The Administrator may investigate the actions of any asset management company or asset manager or any person who acts in any such capacity within this State.

2. The provisions of this chapter do not limit the authority of the Division to take disciplinary action against a registered asset management company or permit holder for a violation of any of the provisions of this chapter or any regulation adopted pursuant to this chapter, nor does the payment in full of all obligations through any insurance proceeds nullify or modify the effect of any other disciplinary proceeding brought pursuant to the provisions of this chapter or any regulation adopted pursuant to this chapter.

Sec. 29.5. 1. The Division may require an asset management company or asset manager to pay an administrative fine of not more than \$10,000 for each violation he or she commits or suspend, revoke, deny the

renewal of or place conditions upon his or her certificate of registration or permit, or impose any combination of those actions, at any time if the asset management company or asset manager has, by false or fraudulent representation, obtained a certificate of registration or permit, or the asset management company or asset manager, whether or not acting as such, is found guilty of:

(a) Making any material misrepresentation.

(b) Making any false promises of a character likely to influence, persuade or induce.

(c) Failing to maintain, for review and audit by the Division, each service report, contractual agreement, power of attorney or other legal authorization entered into with a client and governed by the provisions of this chapter.

(d) Accepting or collecting any money which belongs to another person.

(e) Violating any order of the Division, any agreement with the Division, any of the provisions of this chapter or chapters 116, 119, 119A, 119B, 645, 645A or 645C of NRS or any regulation adopted pursuant thereto.

(f) Paying a commission, compensation or a finder's fee to any person for performing the services of an asset management company or asset manager who does not have a certificate of registration or permit in this State.

(g) A conviction of, or the entry of a plea of guilty, guilty but mentally ill or nolo contendere to:

(1) A felony relating to the practice of the asset management company or asset manager; or

(2) Any crime involving fraud, deceit, misrepresentation or moral turpitude.

(h) Gross negligence or incompetence in performing any act for which the person is required to hold a certificate of registration, permit or license pursuant to this chapter or chapter 119, 119A, 119B or 645 of NRS.

(i) Any other conduct which constitutes deceitful, fraudulent or dishonest dealing.

(j) Any conduct which took place before the person obtained his or her certificate of registration or permit which was unknown to the Division and which would have been grounds for denial of the certificate of registration or permit had the Division been aware of the conduct.

(k) Knowingly allowing any person whose certificate of registration or permit has been revoked to act as an asset management company or asset manager with or on behalf of the asset management company or asset manager.

(l) Failing to maintain insurance at the level required pursuant to this chapter.

(m) Failing to produce any document, book or record in his or her possession, or under his or her control, concerning any real estate

transaction or asset management service under investigation by the Division.

2. The Division may take action pursuant to this section against a person who is subject to this chapter for the suspension or revocation of a certificate of registration issued to an asset management company or a permit issued to an asset manager by any other jurisdiction.

3. The Division may take action pursuant to this section against any person who:

(a) Is a registered asset management company or holds a permit as an asset manager pursuant to this chapter; and

(b) In connection with any property for which the person is engaging in the business of asset management pursuant to this chapter:

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

(2) Has been notified in writing by the appropriate governmental agency of a potential violation of NRS 244.360, 244.3603 or 268.4124 and has failed to inform the owner of the property of such notification; or

(3) Has been directed in writing by the owner of the property to correct a potential violation of NRS 244.360, 244.3603 or 268.4124 and has failed to correct the potential violation, if such corrective action is within the scope of the person's duties pursuant to a contract power of attorney or other legal authorization entered into with a client.

4. The Division shall maintain a log of any complaints that it receives relating to activities for which the Division may take action against a person holding a certificate of registration or permit to engage in the business of asset management pursuant to this chapter.

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

Sec. 29.7. In addition to any other remedy or penalty, the Division may:

1. Refuse to issue a certificate of registration or permit to a person who has failed to pay any money which the person owes to the Division.

2. Refuse to renew, or suspend or revoke, the certificate of registration or permit of a person who has failed to pay that money.

Sec. 30. 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a holder of a certificate of registration or permit, the Division shall deem the certificate of registration or permit to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the holder of the certificate of registration or permit by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate of registration or permit has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate a certificate of registration or permit that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the holder of the certificate of registration or permit stating that the holder of the certificate of registration or permit has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 30.3. 1. Any unlawful act or violation of any of the provisions of this chapter by any asset management company or asset manager is not cause to suspend, revoke or deny the renewal of the certificate of registration or permit of an asset management company or asset manager associated with an asset management company or asset manager, unless it appears to the satisfaction of the Division that the associate knew or should have known thereof. A course of dealing shown to have been persistently and consistently followed by any asset management company or asset manager constitutes prima facie evidence of such knowledge upon the part of the associate.

2. If it appears that a registered asset management company knew or should have known of any unlawful act or violation on the part of an asset manager employed by the asset management company, in the course of his or her employment, the Division may suspend, revoke or deny the renewal of the certificate of registration of the asset management company and may assess a civil penalty of not more than \$5,000.

3. The Division may suspend, revoke or deny the renewal of the certificate of registration of an asset management company and may assess a civil penalty of not more than \$5,000 against the asset management company if it appears that the asset management company has failed to maintain adequate supervision of an asset manager associated with the asset management company and that asset manager commits any unlawful act or violates any provision of this chapter.

Sec. 30.7. The expiration or revocation of a certificate of registration or permit by operation of law or by order or decision of the Division or a court of competent jurisdiction or the voluntary surrender of a certificate of registration or a permit by an asset management company or asset manager does not:

1. Prohibit the Administrator or Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the asset management company or asset manager as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto against the asset management company or asset manager.

Sec. 31. 1. Subject to the provisions of section 33 of this act, the services an asset management company may provide include, without limitation:

(a) *Securing real property in foreclosure once it has been determined to be abandoned and all notice provisions required by law have been complied with;*

(b) *Providing maintenance for real property in foreclosure, including landscape and pool maintenance;*

(c) *Cleaning the interior or exterior of real property in foreclosure;*

(d) *Providing repair or improvements for real property in foreclosure; and*

(e) *Removing trash and debris from real property in foreclosure and the surrounding property.*

2. *An asset management company may dispose of personal property abandoned on the premises of a residence in foreclosure or left on the premises after the eviction of a homeowner or a tenant of a homeowner without incurring civil or criminal liability in the following manner:*

(a) *The asset management company shall reasonably provide for the safe storage of the property for 30 days after the abandonment or eviction and may charge and collect the reasonable and actual costs of inventory, moving and storage before releasing the property to the homeowner or the tenant of the homeowner or his or her authorized representative rightfully claiming the property within that period. The asset management company is liable to the homeowner or the tenant of the homeowner only for the asset management company's negligent or wrongful acts in storing the property.*

(b) *After the expiration of the 30-day period, the asset management company may dispose of the property and recover his or her reasonable costs from the property or the value thereof if the asset management company has made reasonable efforts to locate the homeowner or the tenant of the homeowner, has notified the homeowner or the tenant of the homeowner in writing of his or her intention to dispose of the property and 14 days have elapsed since the notice was given to the homeowner or the tenant of the homeowner. The notice must be mailed to the homeowner or the tenant of the homeowner at the present address of the homeowner or the tenant of the homeowner and, if that address is unknown, then at the last known address of the homeowner or the tenant of the homeowner.*

(c) *Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.*

3. *Any dispute relating to the amount of the costs claimed by the asset management company pursuant to paragraph (a) of subsection 2 may be resolved using the procedure provided in subsection 7 of NRS 40.253.*

Sec. 31.3. 1. An asset management company that is a natural person or an asset manager shall notify the Division in writing if he or she is convicted of, or enters a plea of guilty, guilty but mentally ill or nolo contendere to, a felony or any offense involving moral turpitude.

2. An asset management company that is a natural person or an asset manager shall submit the notification required by subsection 1:

(a) Not more than 10 days after the conviction or entry of the plea of guilty, guilty but mentally ill or nolo contendere; and

(b) When submitting an application to renew a certificate of registration or permit issued pursuant to this chapter.

Sec. 31.5. 1. An applicant for a certificate of registration pursuant to section 23 of this act or a permit pursuant to section 29 of this act shall file with the Division, on a form prescribed by a regulation adopted by the Division, an irrevocable consent appointing the Administrator as his or her agent for service of process in a noncriminal proceeding against the applicant, a successor or personal representative which arises under this chapter or a regulation adopted pursuant to this chapter after the consent is filed, with the same force and validity as if served personally on the person filing the consent.

2. A person who has filed an irrevocable consent in accordance with subsection 1 in connection with a previous application for a certificate of registration or permit is not required to file an additional consent.

3. If a person, including a nonresident of this State, engages in conduct prohibited or made actionable by this chapter or a regulation adopted pursuant to this chapter and the person has not filed an irrevocable consent to service of process in accordance with subsection 1, engaging in the conduct constitutes the appointment of the Administrator as the person's agent for service of process in a noncriminal proceeding against the person, a successor or personal representative which arises out of the conduct.

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

(a) The plaintiff, who may be the Administrator, sends notice of the service and a copy of the process by registered or certified mail, return receipt requested, to the defendant or respondent at the address set forth in the consent to service of process or, if no consent to service of process has been filed, at the last known address, or takes other steps which are reasonably calculated to give actual notice; and

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

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

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

Sec. 31.7. In any proceeding pursuant to this chapter, the Administrator may appoint hearing officers from the Department of

Business and Industry who shall act as his or her agents and conduct any hearing or investigation which may be conducted by the Administrator pursuant to the provisions of this chapter.

Sec. 32. 1. It is unlawful for any person, limited-liability company, partnership, association or corporation to engage in the business of, act in the capacity of, advertise or assume to act as an asset management company without first obtaining a certificate of registration from the Division pursuant to section 23 of this act.

2. It is unlawful for ~~an employee or independent contractor of an asset management company~~ any asset manager to engage in the business of asset management without first obtaining a permit from the Division pursuant to section 29 of this act.

3. A person who violates a provision of this section is guilty of a misdemeanor.

Sec. 33. 1. It is unlawful for an asset management company or an asset manager or other employee, director, officer or agent of an asset management company to:

(a) Unless the asset management company is acting pursuant to a court order, evict a real property owner or a tenant of a real property owner until after the time during which the real property owner may redeem the real property in foreclosure.

(b) Dispose of the personal property of a homeowner or a tenant of a homeowner except as provided in section 31 of this act.

(c) Seize real property for a client which is not real property in foreclosure.

(d) Perform any repair, maintenance or renovation on the real property in foreclosure:

(1) Which is required to be performed by a person holding a license unless such repair, maintenance or renovation is done by a person licensed in this State to perform such repair, maintenance or renovation; or

(2) Which requires a permit or inspection by any governmental entity in this State, unless the permit is first obtained and the inspection is performed after completion.

(e) Conduct any activity for which a license or permit is required pursuant to chapter 645 of NRS without first obtaining such a license ~~or~~ permit.

(f) Fail to provide the disclosure form required pursuant to NRS 113.130 for a purchaser of a residence in foreclosure for which the asset management company or its asset manager, employee, director, officer or agent has provided asset management.

(g) Receive, collect, hold or manage any money which belongs to another person, including, without limitation, collecting or managing rent from a tenant unless the person holds a permit as a property manager pursuant to chapter 645 of NRS and is receiving, collecting, holding or managing the money pursuant to a property management agreement.

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

Sec. 33.3. Chapter 645 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A broker who enters into an agreement to provide asset management services to a client shall:

(a) Disclose annually to the Division any such agreements to provide asset management services to a client; and

(b) Provide proof satisfactory to the Division on an annual basis that the broker has complied with the requirements of section 24 of this act.

2. In addition to any other remedy or penalty, the Division may take administrative action, including, without limitation, the suspension of a license or permit or the imposition of an administrative fine, against a broker who fails to comply with this section.

3. As used in this section:

(a) "Asset management" has the meaning ascribed to it in section 4 of this act.

(b) "Client" has the meaning ascribed to it in section 6 of this act.

Sec. 33.7. NRS 645.6056 is hereby amended to read as follows:

645.6056 1. A real estate broker who holds a permit to engage in property management shall not act as a property manager unless the broker has first obtained a property management agreement signed by the broker and the client for whom the broker will manage the property.

2. A property management agreement must include, without limitation:

(a) The term of the agreement and, if the agreement is subject to renewal, provisions clearly setting forth the circumstances under which the agreement may be renewed and the term of each such renewal;

(b) A provision for the retention and disposition of deposits of the tenants of the property during the term of the agreement and, if the agreement is subject to renewal, during the term of each such renewal;

(c) The fee or compensation to be paid to the broker;

(d) The extent to which the broker may act as the agent of the client; ~~and~~

(e) If the agreement is subject to cancellation, provisions clearly setting forth the circumstances under which the agreement may be cancelled. The agreement may authorize the broker or the client, or both, to cancel the agreement with cause or without cause, or both, under the circumstances set forth in the agreement ~~11; and~~

(f) If the broker intends to provide asset management services for the client, a provision indicating the extent to which the broker will provide those services. As used in this paragraph, "client" has the meaning ascribed to it in section 6 of this act.

Sec. 34. NRS 113.130 is hereby amended to read as follows:

113.130 1. Except as otherwise provided in ~~subsections~~ **subsection 2 : ~~and 3;~~**

(a) At least 10 days before residential property is conveyed to a purchaser:

(1) The seller shall complete a disclosure form regarding the residential property; and

(2) The seller or the seller's agent shall serve the purchaser or the purchaser's agent with the completed disclosure form.

(b) If, after service of the completed disclosure form but before conveyance of the property to the purchaser, a seller or the seller's agent discovers a new defect in the residential property that was not identified on the completed disclosure form or discovers that a defect identified on the completed disclosure form has become worse than was indicated on the form, the seller or the seller's agent shall inform the purchaser or the purchaser's agent of that fact, in writing, as soon as practicable after the discovery of that fact but in no event later than the conveyance of the property to the purchaser. If the seller does not agree to repair or replace the defect, the purchaser may:

(1) Rescind the agreement to purchase the property; or

(2) Close escrow and accept the property with the defect as revealed by the seller or the seller's agent without further recourse.

2. Subsection 1 does not apply to a sale or intended sale of residential property:

(a) By foreclosure pursuant to chapter 107 of NRS.

(b) Between any co-owners of the property, spouses or persons related within the third degree of consanguinity.

(c) Which is the first sale of a residence that was constructed by a licensed contractor.

(d) By a person who takes temporary possession or control of or title to the property solely to facilitate the sale of the property on behalf of a person who relocates to another county, state or country before title to the property is transferred to a purchaser.

3. A purchaser of residential property may **not** waive any of the requirements of subsection 1. ~~Any such waiver is effective only if it is made in a written document that is signed by the purchaser and notarized.~~ **A seller of residential property may not require a purchaser to waive any of the requirements of subsection 1 as a condition of sale or for any other purpose.**

4. If a sale or intended sale of residential property is exempted from the requirements of subsection 1 pursuant to paragraph (a) of subsection 2, the trustee and the beneficiary of the deed of trust shall, not later than at the time of the conveyance of the property to the purchaser of the residential property, **or upon the request of the purchaser of the residential property,** provide ~~written~~ :

(a) Written notice to the purchaser of any defects in the property of which the trustee or beneficiary, respectively, is aware ~~is~~ ; and

(b) If any defects are repaired or replaced or attempted to be repaired or replaced, the contact information of any asset management company who provided asset management services for the property. The asset

management company shall provide a service report to the purchaser upon request.

5. As used in this section:

(a) "Seller" includes, without limitation, a client as defined in section 6 of this act.

(b) "Service report" has the meaning ascribed to it in section 12.5 of this act.

Sec. 35. 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, an applicant for the issuance of a certificate of registration as an asset management company or a permit to engage in asset management shall ~~be~~

~~(a) Include the social security number of the applicant in the application submitted to the Division.~~

~~(b) Submit~~ **submit** to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Division.

3. A certificate of registration or permit may not be issued or renewed by the Division pursuant to this chapter 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 Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 36. The Real Estate Division of the Department of Business and Industry shall, on or before October 1, 2011, adopt any regulations which are required by or necessary to carry out the provisions of this act.

Sec. 37. 1. This section, sections 1 to 34, inclusive, and section 36 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any preliminary administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2011, for all other purposes.

2. Section 35 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

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

3. Sections 30 and 35 of this act expire by limitation 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

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

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 323.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 672.

AN ACT relating to vehicles; revising provisions governing the reinstatement of the registration of a motor vehicle whose registered owner has allowed his or her policy of liability insurance to lapse; revising provisions governing registration of vehicles in this State by residents of this State; requiring certain nonresidents to register vehicles in this State; **prohibiting the Department of Motor Vehicles from registering a motor vehicle under certain circumstances;** providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a registered owner who failed to have liability insurance on a date specified by the Department of Motor Vehicles is required, with respect to a vehicle that is not dormant, to pay to the Department a fee of \$250 to reinstate the registration of the vehicle.

(NRS 482.480) **Section ~~14~~ 2** of this bill replaces the flat \$250 reinstatement fee with a tiered system of penalties that includes, depending upon how many times the registered owner has allowed his or her insurance to lapse and depending upon the length of time during which the insurance has lapsed, escalating reinstatement fees, escalating fines, requirements to file and maintain a certificate of financial responsibility and possible suspension of the registered owner's driver's license.

Existing law requires a person, within 60 days after becoming a resident of this State, to apply for the registration of each vehicle he or she owns which is operated in this State. A nonresident owner of a noncommercial vehicle is not required to apply for registration of the vehicle unless the vehicle is furnished to a resident for his or her continuous use within this State. (NRS 482.385) **Section ~~14~~ 4** of this bill changes the 60-day period within which a new resident must apply for registration of his or her vehicle to a 30-day period. **Section ~~14~~ 4** also requires certain persons to register their vehicles: (1) if the person is a nonresident and the vehicle is operated in this State for a period of more than 30 days in the aggregate in any 1 calendar year; (2) within ~~140~~ 30 days if the person is a resident or nonresident and engages in a trade, profession or occupation or accepts gainful employment in this State; (3) within ~~140~~ 30 days if the person is a resident or nonresident and enrolls his or her children in a public school in this State; or (4) within 30 days if the person is a resident and operates a vehicle owned by a nonresident. **Section ~~14~~ 4** provides exceptions to the preceding requirements for persons who are on active duty in the military service of the United States, out-of-state students, certain students of institutions of higher education who are present in this State to participate in a work-study program, and migrant or seasonal farm workers.

Under existing law, a constable may issue a citation to an owner or driver, as appropriate, of a vehicle that is required to be registered in this State if the constable determines that the vehicle is not properly registered. Such a constable must, upon the issuance of the citation, charge and collect a fee of \$100 from the person to whom the citation was issued. (NRS 258.070) Section 3 of this bill prohibits the Department of Motor Vehicles from registering a motor vehicle if the Department has received from a local authority notice that the owner of the vehicle has failed to pay a fee imposed by a constable for noncompliance with the provisions of NRS 482.385, unless the owner provides to the Department a receipt indicating that the owner has paid the fee to the local authority or the local authority transmits to the Department a notice stating that the owner has paid the fee.

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

Section 1. Chapter 482 of NRS is hereby amended by adding thereto ~~a new section to read as follows:~~ the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. Except as otherwise provided in subsection 7 of NRS 485.317, if a registered owner failed to have insurance on the date specified by the Department pursuant to NRS 485.317:

(a) For a first offense, the registered owner shall pay to the Department a registration reinstatement fee of \$250, and if the period during which insurance coverage lapsed was:

(1) At least 31 days but not more than 90 days, pay to the Department a fine of \$250.

(2) At least 91 days but not more than 180 days:

(I) Pay to the Department a fine of \$500; and

(II) File and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated.

(3) More than 180 days:

(I) Pay to the Department a fine of \$1,000; and

(II) File and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated.

(b) For a second offense, the registered owner shall pay to the Department a registration reinstatement fee of \$500, and if the period during which insurance coverage lapsed was:

(1) At least 31 days but not more than 90 days, pay to the Department a fine of \$500.

(2) At least 91 days but not more than 180 days:

(I) Pay to the Department a fine of \$500; and

(II) File and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated.

(3) More than 180 days:

(I) Pay to the Department a fine of \$1,000; and

(II) File and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated.

(c) For a third or subsequent offense:

(1) The driver's license of the registered owner must be suspended for a period to be determined by regulation of the Department but not less than 30 days;

(2) The registered owner shall file and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated; and

(3) *The registered owner shall pay to the Department a registration reinstatement fee of \$750, and if the period during which insurance coverage lapsed was:*

(I) At least 31 days but not more than 90 days, pay to the Department a fine of \$500.

(II) At least 91 days but not more than 180 days, pay to the Department a fine of \$750.

(III) More than 180 days, pay to the Department a fine of \$1,000.

2. As used in this section, “certificate of financial responsibility” has the meaning ascribed to it in NRS 485.028.

Sec. 3. 1. Except as otherwise provided in subsection 3, the Department shall not register a motor vehicle if a local authority has filed with the Department a notice stating that the owner of the motor vehicle:

(a) Was cited by a constable pursuant to subsection 2 of NRS 258.070 for failure to comply with the provisions of NRS 482.385; and

(b) Has failed to pay the fee charged by the constable pursuant to subsection 2 of NRS 258.070.

2. The Department shall, upon request, furnish to the owner of the motor vehicle a copy of the notice of nonpayment described in subsection 1.

3. The Department may register a motor vehicle for which the Department has received a notice of nonpayment described in subsection 1 if:

(a) The Department receives:

(1) A receipt from the owner of the motor vehicle which indicates that the owner has paid the fee charged by the constable; or

(2) Notification from the applicable local authority that the owner of the motor vehicle has paid the fee charged by the constable; and

(b) The owner of the motor vehicle otherwise complies with the requirements of this chapter for the registration of the motor vehicle.

~~{Sec. 2.}~~ Sec. 4. NRS 482.385 is hereby amended to read as follows:

482.385 1. Except as otherwise provided in ~~{subsection}~~ **subsections 5 and 7** and NRS 482.390, a nonresident owner of a vehicle of a type subject to registration pursuant to the provisions of this chapter, owning any vehicle which has been registered for the current year in the state, country or other place of which the owner is a resident and which at all times when operated in this State has displayed upon it the registration license plate issued for the vehicle in the place of residence of the owner, may operate or permit the operation of the vehicle within this State without its registration in this State pursuant to the provisions of this chapter and without the payment of any registration fees to this State ~~{-}~~:

(a) For a period of not more than 30 days in the aggregate in any 1 calendar year; and

(b) Notwithstanding the provisions of paragraph (a), during any period in which the owner is:

(1) On active duty in the military service of the United States;

(2) *An out-of-state student;*

(3) *Registered as a student at a college or university located outside this State and who is in the State for a period of not more than 6 months to participate in a work-study program for which the student earns academic credits from the college or university; or*

(4) *A migrant or seasonal farm worker.*

2. This section does not:

(a) Prohibit the use of manufacturers', distributors' or dealers' license plates issued by any state or country by any nonresident in the operation of any vehicle on the public highways of this State.

(b) Require registration of vehicles of a type subject to registration pursuant to the provisions of this chapter operated by nonresident common motor carriers of persons or property, contract motor carriers of persons or property, or private motor carriers of property as stated in NRS 482.390.

(c) Require registration of a vehicle operated by a border state employee.

3. ~~When~~ ***Except as otherwise provided in subsection 5, when*** a person, formerly a nonresident, becomes a resident of this State, the person shall:

(a) Within ~~60~~ **30** days after becoming a resident; or

(b) At the time he or she obtains a driver's license,

➔ whichever occurs earlier, apply for the registration of each vehicle the person owns which is operated in this State. When a person, formerly a nonresident, applies for a driver's license in this State, the Department shall inform the person of the requirements imposed by this subsection and of the penalties that may be imposed for failure to comply with the provisions of this subsection.

4. A citation may be issued pursuant to ~~this~~ subsection ***1, 3 or 5*** only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense. The Department shall maintain or cause to be maintained a list or other record of persons who fail to comply with the provisions of ~~this~~ subsection 3 and shall, at least once each month, provide a copy of that list or record to the Department of Public Safety.

~~4.~~ ***5. Except as otherwise provided in this subsection, a resident or nonresident owner of a vehicle of a type subject to registration pursuant to the provisions of this chapter who engages in a trade, profession or occupation or accepts gainful employment in this State or who enrolls his or her children in a public school in this State shall, within ~~40~~ 30 days after the commencement of such employment or enrollment, apply for the registration of each vehicle the person owns which is operated in this State. The provisions of this subsection do not apply to a nonresident who is:***

(a) *On active duty in the military service of the United States;*

(b) *An out-of-state student;*

(c) *Registered as a student at a college or university located outside this State and who is in the State for a period of not more than 6 months to participate in a work-study program for which the student earns academic credits from the college or university; or*

(d) A migrant or seasonal farm worker.

6. A person who violates the provisions of subsection 1, 3 **or** 5 is guilty of a misdemeanor and, except as otherwise provided in this subsection, shall be punished by a fine of \$1,000. The fine imposed pursuant to this subsection is in addition to any fine or penalty imposed for the other alleged violation or offense for which the vehicle was halted or its driver arrested pursuant to subsection ~~3-1~~ 4. The fine imposed pursuant to this subsection may be reduced to not less than \$200 if the person presents evidence at the time of the hearing that the person has registered the vehicle pursuant to this chapter.

~~5-1~~ 7. Any resident operating upon a highway of this State a motor vehicle which is owned by a nonresident and which is furnished to the resident operator for his or her continuous use within this State, shall cause that vehicle to be registered within ~~60~~ 30 days after beginning its operation within this State.

~~6-1~~ 8. A person registering a vehicle pursuant to the provisions of subsection 1, 3, 5, ~~6-1~~ 7 **or** 9 or pursuant to NRS 482.390:

(a) Must be assessed the registration fees and governmental services tax, as required by the provisions of this chapter and chapter 371 of NRS; and

(b) Must not be allowed credit on those taxes and fees for the unused months of the previous registration.

~~7-1~~ 9. If a vehicle is used in this State for a gainful purpose, the owner shall immediately apply to the Department for registration, except as otherwise provided in NRS 482.390, 482.395 and 706.801 to 706.861, inclusive.

~~8-1~~ 10. An owner registering a vehicle pursuant to the provisions of this section shall surrender the existing nonresident license plates and registration certificates to the Department for cancellation.

~~9-1~~ 11. A vehicle may be cited for a violation of this section regardless of whether it is in operation or is parked on a highway, in a public parking lot or on private property which is open to the public if, after communicating with the owner or operator of the vehicle, the peace officer issuing the citation determines that:

(a) The owner of the vehicle is a resident of this State; ~~10-1~~

(b) The vehicle is used in this State for a gainful purpose ~~1-1~~ ;

(c) ***Except as otherwise provided in paragraph (b) of subsection 1, the owner of the vehicle is a nonresident and has operated the vehicle in this State for more than 30 days in the aggregate in any 1 calendar year; or***

(d) ***The owner of the vehicle is a nonresident required to register the vehicle pursuant to subsection 5.***

➤ As used in this subsection, “peace officer” includes a constable.

~~Sec 3-1~~ **Sec. 5.** NRS 482.480 is hereby amended to read as follows:

482.480 There must be paid to the Department for the registration or the transfer or reinstatement of the registration of motor vehicles, trailers and semitrailers, fees according to the following schedule:

1. Except as otherwise provided in this section, for each stock passenger car and each reconstructed or specially constructed passenger car registered to a person, regardless of weight or number of passenger capacity, a fee for registration of \$33.

2. Except as otherwise provided in subsection 3:

(a) For each of the fifth and sixth such cars registered to a person, a fee for registration of \$16.50.

(b) For each of the seventh and eighth such cars registered to a person, a fee for registration of \$12.

(c) For each of the ninth or more such cars registered to a person, a fee for registration of \$8.

3. The fees specified in subsection 2 do not apply:

(a) Unless the person registering the cars presents to the Department at the time of registration the registrations of all the cars registered to the person.

(b) To cars that are part of a fleet.

4. For every motorcycle, a fee for registration of \$33 and for each motorcycle other than a trimobile, an additional fee of \$6 for motorcycle safety. The additional fee must be deposited in the State Highway Fund for credit to the Account for the Program for the Education of Motorcycle Riders.

5. For each transfer of registration, a fee of \$6 in addition to any other fees.

6. Except as otherwise provided in subsection 7 of NRS 485.317, to reinstate the registration of a motor vehicle that is suspended pursuant to that section:

(a) A fee ~~of \$250~~ **as specified in section ~~44~~ 2 of this act** for a registered owner who failed to have insurance on the date specified by the Department ~~44~~ , **which fee is in addition to any fine or penalty imposed pursuant to section ~~44~~ 2 of this act;** or

(b) A fee of \$50 for a registered owner of a dormant vehicle who cancelled the insurance coverage for that vehicle or allowed the insurance coverage for that vehicle to expire without first cancelling the registration for the vehicle in accordance with subsection 3 of NRS 485.320,

➤ both of which must be deposited in the Account for Verification of Insurance which is hereby created in the State Highway Fund. The money in the Account must be used to carry out the provisions of NRS 485.313 to 485.318, inclusive.

7. For every travel trailer, a fee for registration of \$27.

8. For every permit for the operation of a golf cart, an annual fee of \$10.

9. For every low-speed vehicle, as that term is defined in NRS 484B.637, a fee for registration of \$33.

10. To reinstate the registration of a motor vehicle that is suspended pursuant to NRS 482.451, a fee of \$33.

~~Sec. 4.~~ **Sec. 6.** NRS 485.317 is hereby amended to read as follows:

485.317 1. The Department shall verify that each motor vehicle which is registered in this State is covered by a policy of liability insurance as required by NRS 485.185.

2. Except as otherwise provided in this subsection, the Department may use any information to verify whether a motor vehicle is covered by a policy of liability insurance as required by NRS 485.185. The Department may not use the name of the owner of a motor vehicle as the primary means of verifying that a motor vehicle is covered by a policy of liability insurance.

3. If the Department is unable to verify that a motor vehicle is covered by a policy of liability insurance as required by NRS 485.185, the Department shall send a request for information by first-class mail to the registered owner of the motor vehicle. The owner shall submit all the information which is requested to the Department within 15 days after the date on which the request for information was mailed by the Department. If the Department does not receive the requested information within 15 days after it mailed the request to the owner, the Department shall send to the owner a notice of suspension of registration by certified mail. The notice must inform the owner that unless the Department is able to verify that the motor vehicle is covered by a policy of liability insurance as required by NRS 485.185 within 10 days after the date on which the notice was sent by the Department, the owner's registration will be suspended pursuant to subsection 4.

4. The Department shall suspend the registration and require the return to the Department of the license plates of any vehicle for which the Department cannot verify the coverage of liability insurance required by NRS 485.185.

5. Except as otherwise provided in subsection 6, the Department shall reinstate the registration of the vehicle and reissue the license plates only upon verification of current insurance and ~~payment of the fee~~ **compliance with the requirements** for reinstatement of registration prescribed in paragraph (a) of subsection 6 of NRS 482.480.

6. If a registered owner proves to the satisfaction of the Department that the vehicle was a dormant vehicle during the period in which the information provided pursuant to NRS 485.314 indicated that there was no insurance for the vehicle, the Department shall reinstate the registration and, if applicable, reissue the license plates. If such an owner of a dormant vehicle failed to cancel the registration for the vehicle in accordance with subsection 3 of NRS 485.320, the Department shall not reinstate the registration or reissue the license plates unless the owner pays the fee set forth in paragraph (b) of subsection 6 of NRS 482.480.

7. If the Department suspends the registration of a motor vehicle pursuant to subsection 4 because the registered owner of the motor vehicle failed to have insurance on the date specified in the form for verification, and if the registered owner, in accordance with regulations adopted by the Department, proves to the satisfaction of the Department that the owner was unable to comply with the provisions of NRS 485.185 on that date because of extenuating circumstances, the Department may:

(a) Reinstate the registration of the motor vehicle and reissue the license plates upon payment by the registered owner of a fee of \$50, which must be deposited in the Account for Verification of Insurance created by subsection 6 of NRS 482.480; or

(b) Rescind the suspension of the registration without the payment of a fee.

➔ The Department shall adopt regulations to carry out the provisions of this subsection.

~~{Sec. 5.}~~ **Sec. 7.** Notwithstanding the amendatory provisions of this act:

1. The provisions of subsection 3 of NRS 482.385, as amended by section ~~124~~ **4** of this act, do not require a person specified in that subsection to register a vehicle owned by that person and operated in this State until August 1, 2011.

2. The provisions of subsection 5 of NRS 482.385, as added to that section by section ~~124~~ **4** of this act, do not require a resident of this State specified in that subsection to register a vehicle owned by that person and operated in this State until September 1, 2011.

3. The provisions of subsection 7 of NRS 482.385, as amended by section ~~124~~ **4** of this act, do not require a resident of this State who operates a motor vehicle specified in that subsection to cause that motor vehicle to be registered until August 1, 2011.

~~{Sec. 6.}~~ **Sec. 8.** This act becomes effective upon passage and approval for the purpose of adopting regulations and on July 1, 2011, for all other purposes.

Assemblywoman Dondero Loop moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 339.

Bill read second time.

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

Amendment No. 711.

AN ACT relating to public health; requiring certain medical facilities to provide to patients and to post certain information relating to facility-acquired infections; **requiring providers of health care to provide certain information to a patient who has an infection or a person authorized by the patient to receive such information;** revising requirements for patient safety plans adopted by certain medical facilities; requiring certain medical facilities to designate an infection control officer and establish an infection control program; ~~including facilities for intermediate care and facilities for skilled nursing within the scope of these requirements and other provisions concerning health and safety of patients;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill requires certain medical facilities to provide to their patients certain information relating to facility-acquired infections and to post in public areas of the facilities information on reporting facility-acquired infections.

Section 2.5 of this bill requires a provider of health care or the designee of a provider of health care to inform a patient at a medical facility or the legal guardian or other person authorized by the patient to receive such information of a diagnosis that the patient has an infection as soon as practicable but not later than 5 days after the diagnosis is confirmed, except that such notice may be delayed in certain limited circumstances. Section 2.5 further requires the medical facility to ensure that providers of health care of the medical facility establish protocols for providing such information and for informing a patient or the legal guardian or other person authorized by the patient to receive such information whether the infection was acquired at the medical facility and of the apparent source of the infection. Section ~~2.5~~ 2.5 further provides for immunity from liability for providing certain information to a patient relating to the source of an infection.

Section 3 of this bill requires certain medical facilities to designate an infection control officer to carry out certain duties relating to the prevention and control of infections. **Section 3** also establishes requirements for the qualification and training of infection control officers and requires that at least one employee per 100 occupied beds have certain training in infection control.

~~Section 4.5 of this bill extends the provisions of this bill and other provisions concerning health and safety of patients at certain medical facilities to facilities for intermediate care and facilities for skilled nursing.~~

Existing law requires certain medical facilities to prepare a patient safety plan and to submit a copy of the plan to the Health Division of the Department of Health and Human Services on or before March 1 of each year. (NRS 439.843, 439.865) **Section 6** of this bill requires the patient safety plan which is prepared by each medical facility to **include an infection control program to prevent and control infections within the medical facility. In addition, section 6 requires that the patient safety plan be ~~revised~~ reviewed and updated** annually. ~~and to include a program for the prevention and control of infections.~~ **Section 5** of this bill requires the Department to post each patient safety plan on an Internet website maintained by the Department.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, **2.5** and 3 of this act.

Sec. 2. 1. A medical facility shall:

(a) Provide to each patient of the medical facility, upon admission of the patient, the general and facility-specific information relating to facility-acquired infections required by subsection 2.

(b) Post in publicly accessible areas of the medical facility information on reporting facility-acquired infections, including, without limitation, the contact information for making reports to the Health Division. Such information may be added to other required notices concerning the making of reports to the Health Division.

~~† (c) Ensure that protocols are established for:~~

~~(1) Informing a patient or the legal guardian or other person authorized by the patient to receive such information that the patient has an infection; and~~

~~(2) If known or determined while a patient remains at the medical facility, informing the patient or the legal guardian or other person authorized by the patient to receive such information whether the infection was acquired at the medical facility and the apparent source of the infection.]~~

2. The information provided to each patient pursuant to paragraph (a) of subsection 1 must include, without limitation:

(a) The measures used by the medical facility for preventing infections, including facility-acquired infections;

(b) Information on determining whether a patient had an infection upon admission to the medical facility, risk factors for acquiring infections and determining whether an infection has been acquired;

(c) Information on preventing facility-acquired infections;

(d) Instructions for reporting facility-acquired infections, including, without limitation, the contact information for making reports to the Health Division; and

(e) Any other information that the medical facility deems necessary.

~~† 3. A person or governmental entity who, with reasonable care, informs a patient or the legal guardian or other person authorized by the patient to receive such information that an infection was not acquired at the medical facility and of the apparent source of the infection pursuant to subsection 2 is immune from any criminal or civil liability for providing that information.]~~

Sec. 2.5. 1. Except as otherwise provided in subsection 2, when a provider of health care confirms that a patient at the medical facility has an infection, the provider of health care or the designee of the provider of health care shall, as soon as practicable but not later than 5 days after the diagnosis is confirmed, inform the patient or the legal guardian or other person authorized by the patient to receive such information that the patient has an infection.

2. The provider of health care or the designee of the provider of health care may delay providing information about an infection if the patient does not have a legal guardian, has not authorized any other person to receive such information and:

(a) Is not capable of understanding the information;

(b) Is not conscious; or

(c) In the judgment of the provider of health care, is likely to harm himself or herself if informed about the infection.

3. If the provider of health care or the designee of the provider of health care delays providing information about an infection pursuant to subsection 2, such information must be provided as soon as practicable after:

(a) The patient is capable of understanding the information;

(b) The patient regains consciousness;

(c) In the judgment of the provider of health care, the patient is not likely to harm himself or herself if informed about the infection; or

(d) A legal guardian or other person authorized to receive such information is available.

4. A medical facility shall ensure that the providers of health care of the medical facility establish protocols in accordance with this section that provide the manner in which a provider of health care or his or her designee must:

(a) Inform a patient or the legal guardian or other person authorized by a patient to receive such information that the patient has an infection; and

(b) If known or determined while a patient remains at the medical facility, inform the patient or the legal guardian or other person authorized by the patient to receive such information whether the infection was acquired at the medical facility and of the apparent source of the infection.

5. A person or governmental entity who, with reasonable care, informs a patient or the legal guardian or other person authorized by the patient to receive such information that an infection was not acquired at the medical facility and of the apparent source of the infection pursuant to subsection 4 is immune from any criminal or civil liability for providing that information.

Sec. 3. 1. A medical facility shall designate an officer or employee of the facility to serve as the infection control officer of the medical facility.

2. The person who is designated as the infection control officer of a medical facility:

(a) Shall serve on the patient safety committee.

(b) Shall monitor the occurrences of infections at the medical facility to determine the number and severity of infections.

(c) Shall report to the patient safety committee concerning the number and severity of infections at the medical facility.

(d) Shall take such action as he or she determines is necessary to prevent and control infections alleged to have occurred at the medical facility.

(e) Shall carry out the provisions of the infection control program adopted pursuant to NRS 439.865 and ensure compliance with the program.

3. *If a medical facility has 175 or more beds, the person who is designated as the infection control officer of the medical facility must be certified as an infection preventionist by the Certification Board of Infection Control and Epidemiology, Inc., or a successor organization. A person may serve as the certified infection preventionist for more than one medical facility if the facilities have common ownership.*

4. *A medical facility that designates an infection control officer who is not a certified infection preventionist must ensure that the person has successfully completed a nationally recognized basic training program in infection control, which may include, without limitation, the program offered by the Association for Professionals in Infection Control and Epidemiology, Inc., or a successor organization. A medical facility shall ensure that an infection control officer completes at least 4 hours of continuing education each year on topics relating to current practices in infection control and prevention.*

5. *A medical facility shall ensure that it maintains a ratio of at least one employee who has the training described in subsection 4 for every 100 occupied beds. The number of beds must be determined based upon the most recent annual calendar-year average reported by the medical facility to the Director pursuant to NRS 449.490 and the regulations adopted pursuant thereto.*

6. *A medical facility shall maintain records concerning the certification and training required by this section.*

7. *The Health Division shall provide education and technical assistance relating to infection control and prevention in medical facilities.*

Sec. 4. NRS 439.800 is hereby amended to read as follows:

439.800 As used in NRS 439.800 to 439.890, inclusive, **and sections 2, 2.5 and 3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 439.802 to 439.830, inclusive, have the meanings ascribed to them in those sections.

Sec. 4.5. ~~NRS 439.805 is hereby amended to read as follows:~~

~~439.805 "Medical facility" means:~~

- ~~1. A hospital, as that term is defined in NRS 449.012, [and 449.0151;]~~
- ~~2. An obstetric center, as that term is defined in NRS [449.0151 and] 449.0155;~~
- ~~3. A surgical center for ambulatory patients, as that term is defined in NRS [449.0151 and] 449.019; [and]~~
- ~~4. An independent center for emergency medical care, as that term is defined in NRS 449.013 [and 449.0151.];~~
- ~~5. A facility for intermediate care, as that term is defined in NRS 449.0038; and~~
- ~~6. A facility for skilled nursing, as that term is defined in NRS 449.0039. (Deleted by amendment.)~~

Sec. 5. NRS 439.843 is hereby amended to read as follows:

439.843 1. On or before March 1 of each year, each medical facility shall provide to the Health Division, in the form prescribed by the State Board of Health, a summary of the reports submitted by the medical facility pursuant to NRS 439.835 during the immediately preceding calendar year. The summary must include, without limitation:

(a) The total number and types of sentinel events reported by the medical facility, if any;

(b) A copy of the **most current** patient safety plan established pursuant to NRS 439.865;

(c) A summary of the membership and activities of the patient safety committee established pursuant to NRS 439.875; and

(d) Any other information required by the State Board of Health concerning the reports submitted by the medical facility pursuant to NRS 439.835.

2. On or before June 1 of each year, the Health Division shall submit to the State Board of Health an annual summary of the reports and information received by the Health Division pursuant to this section. The annual summary must include, without limitation, a compilation of the information submitted pursuant to subsection 1 and any other pertinent information deemed necessary by the State Board of Health concerning the reports submitted by the medical facility pursuant to NRS 439.835. The Health Division shall maintain the confidentiality of the reports submitted pursuant to NRS 439.835 and any other information requested by the State Board of Health concerning those reports when preparing the annual summary pursuant to this section.

3. The Department shall post on the Internet website maintained pursuant to NRS 439A.270 or any other website maintained by the Department a copy of the most current patient safety plan submitted by each medical facility pursuant to subsection 1.

Sec. 6. NRS 439.865 is hereby amended to read as follows:

439.865 1. Each medical facility that is located within this state shall develop, in consultation with the providers of health care who provide treatment to patients at the medical facility, an internal patient safety plan to improve the health and safety of patients who are treated at that medical facility.

2. ***The patient safety plan must include an infection control program to prevent and control infections within the medical facility. To carry out the program, the medical facility shall adopt an infection control policy. The policy ~~may~~ must consist of:***

(a) The current guidelines appropriate for the facility's scope of service developed by a nationally recognized infection control organization as approved by the State Board of Health which may include, without limitation, the Association for Professionals in Infection Control and Epidemiology, Inc., the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the World

Health Organization and the Society for Healthcare Epidemiology of America; and

(b) Facility-specific infection control developed under the supervision of a certified infection preventionist. ~~For~~

~~(c) Any combination thereof.~~

3. The program to prevent and control infections within the medical facility must provide for the designation of a person who is responsible for infection control when the infection control officer is absent to ensure that someone is responsible for infection control at all times.

4. A medical facility shall submit its patient safety plan to the governing board of the medical facility for approval in accordance with the requirements of this section.

~~{3-}~~ **5.** After a medical facility's patient safety plan is approved, the medical facility shall notify all providers of health care who provide treatment to patients at the medical facility of the existence of the plan and of the requirements of the plan. A medical facility shall require compliance with its patient safety plan.

6. The patient safety plan must be reviewed and updated annually in accordance with the requirements for approval set forth in this section.

Sec. 7. NRS 439.875 is hereby amended to read as follows:

439.875 1. A medical facility shall establish a patient safety committee.

2. Except as otherwise provided in subsection 3:

(a) A patient safety committee established pursuant to subsection 1 must be composed of:

(1) **The infection control officer of the medical facility.**

(2) The patient safety officer of the medical facility ~~{-}~~, **if he or she is not designated as the infection control officer of the medical facility.**

~~{2-}~~ (3) At least three providers of health care who treat patients at the medical facility, including, without limitation, at least one member of the medical, nursing and pharmaceutical staff of the medical facility.

~~{3-}~~ (4) One member of the executive or governing body of the medical facility.

(b) A patient safety committee shall meet at least once each month.

3. The Administrator shall adopt regulations prescribing the composition and frequency of meetings of patient safety committees at medical facilities having fewer than 25 employees and contractors.

4. A patient safety committee shall:

(a) Receive reports from the patient safety officer pursuant to NRS 439.870.

(b) Evaluate actions of the patient safety officer in connection with all reports of sentinel events alleged to have occurred at the medical facility.

(c) Review and evaluate the quality of measures carried out by the medical facility to improve the safety of patients who receive treatment at the medical facility.

(d) *Review and evaluate the quality of measures carried out by the medical facility to prevent and control infections at the medical facility.*

(e) Make recommendations to the executive or governing body of the medical facility to reduce the number and severity of sentinel events *and infections* that occur at the medical facility.

~~1(e)~~ (f) At least once each calendar quarter, report to the executive or governing body of the medical facility regarding:

(1) The number of sentinel events that occurred at the medical facility during the preceding calendar quarter; ~~and~~

(2) *The number and severity of infections that occurred at the medical facility during the preceding calendar quarter; and*

(3) Any recommendations to reduce the number and severity of sentinel events *and infections* that occur at the medical facility.

5. The proceedings and records of a patient safety committee are subject to the same privilege and protection from discovery as the proceedings and records described in NRS 49.265.

Sec. 8. This act becomes effective ~~1~~.

~~1. Upon~~ **upon** passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out this act ~~1~~.

~~2. Except as provided in subsection 3, 1, and for all other purposes:~~

1. Sections 1 and 2.5 of this act become effective on October 1, 2011.

2. Sections 2 and 4 to 7, inclusive, of this act become effective on January 1, 2012. ~~1, for all other purposes; and~~

~~2. On January 1, 2013,~~

3. Section 3 of this act becomes effective on January 1, 2012, except that, for the purpose of the continuing education required by ~~Section 3 of this act~~ that section for infection control officers ~~1~~, it becomes effective on January 1, 2013.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 361.

Bill read second time.

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

Amendment No. 614.

AN ACT relating to water; authorizing the issuance of a temporary permit to appropriate water to establish fire-resistant vegetative cover in certain areas; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes a person to apply to the State Engineer for the issuance of a temporary permit to appropriate water to establish vegetative cover that is resistant to fire in an area that has been burned by a

wildfire or to prevent or reduce the impact of a wildfire in an area. ~~Unless extended by the State Engineer, the~~ The duration of such a temporary permit is limited to 1 year. **Section 2** of this bill declares the use of water to prevent or reduce the impact of wildfires or to rehabilitate areas burned by wildfires as a policy of the State.

Sections 3-7 of this bill exempt an application for such a temporary permit from several requirements in existing law for applications for permits concerning water rights, including publication of notice of the application in a newspaper and authorization for the filing of protests against the granting of the application. This expedited process is similar to the process for the issuance of environmental permits by the State Engineer. (NRS 533.437-533.4377)

Section 8 of this bill requires the State Forester Firewarden, upon the request of the State Engineer, to review the plan for establishing the vegetative cover that is required to be submitted by the applicant for the temporary permit.

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

Section 1. Chapter 533 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person may apply for a temporary permit to appropriate water to establish vegetative cover that is resistant to fire in an area that has been burned by a wildfire or to prevent or reduce the impact of a wildfire in an area.

2. In addition to the information required by NRS 533.335, an applicant for a temporary permit shall submit to the State Engineer:

(a) A plan for establishing vegetative cover that is resistant to fire in the area;

(b) Any other information which is necessary for a full understanding of the necessity of the appropriation; and

(c) For:

(1) Examining and filing the application for the temporary permit, \$150.

(2) Issuing and recording the temporary permit, \$200.

3. The State Engineer may forward a plan submitted pursuant to subsection 2 to the State Forester Firewarden for his or her review and comments.

4. The State Engineer shall approve an application for a temporary permit if:

(a) The application is accompanied by the prescribed fees;

(b) The appropriation is in the public interest; and

(c) The appropriation does not impair water rights held by other persons.

5. A temporary permit issued pursuant to this section must not exceed 1 year in duration . ~~[, but may be extended by the State Engineer in increments not to exceed 1 year in duration.]~~

Sec. 2. NRS 533.024 is hereby amended to read as follows:

533.024 The Legislature declares that:

1. It is the policy of this State:

(a) To encourage and promote the use of effluent, where that use is not contrary to the public health, safety or welfare, and where that use does not interfere with federal obligations to deliver water of the Colorado River.

(b) To recognize the importance of domestic wells as appurtenances to private homes, to create a protectable interest in such wells and to protect their supply of water from unreasonable adverse effects which are caused by municipal, quasi-municipal or industrial uses and which cannot reasonably be mitigated.

(c) To encourage the State Engineer to consider the best available science in rendering decisions concerning the available surface and underground sources of water in Nevada.

(d) To encourage and promote the use of water to prevent or reduce the spread of wildfire or to rehabilitate areas burned by wildfire, including, without limitation, through the establishment of vegetative cover that is resistant to fire.

2. The procedures in this chapter for changing the place of diversion, manner of use or place of use of water, and for confirming a report of conveyance, are not intended to have the effect of quieting title to or changing ownership of a water right and that only a court of competent jurisdiction has the power to determine conflicting claims to ownership of a water right.

Sec. 3. NRS 533.360 is hereby amended to read as follows:

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

(a) That the application has been filed.

(b) The date of the filing.

(c) The name and address of the applicant.

(d) The name of the source from which the appropriation is to be made.

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

(f) The purpose for which the water is to be appropriated.

➡ The publisher shall add thereto the date of the first publication and the date of the last publication.

2. Except as otherwise provided in subsection 4, proof of publication must be filed within 30 days after the final day of publication. The State

Engineer shall pay for the publication from the application fee. If the application is cancelled for any reason before publication, the State Engineer shall return to the applicant that portion of the application fee collected for publication.

3. If the application is for a proposed well:

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

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

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

4. The provisions of this section do not apply to an environmental permit ~~or~~ **or a temporary permit issued pursuant to section 1 of this act.**

Sec. 4. NRS 533.363 is hereby amended to read as follows:

533.363 1. Except as otherwise provided in subsection 2, if water for which a permit is requested is to be used in a county other than that county in which it is to be appropriated, or is to be diverted from or used in a different county than that in which it is currently being diverted or used, then the State Engineer shall give notice of the receipt of the request for the permit to:

(a) The board of county commissioners of the county in which the water for which the permit is requested will be appropriated or is currently being diverted or used; and

(b) The board of county commissioners of the county in which the water will be diverted or used.

2. The provisions of subsection 1 do not apply:

(a) To an environmental permit ~~or~~ **or a temporary permit issued pursuant to section 1 of this act.**

(b) If:

(1) The water is to be appropriated and used; or

(2) Both the current and requested place of diversion or use of the water are,

➡ within a single, contiguous parcel of real property.

3. A person who requests a permit to which the provisions of subsection 1 apply shall submit to each appropriate board of county commissioners a copy of the application and any information relevant to the request.

4. Each board of county commissioners which is notified of a request for a permit pursuant to this section shall consider the request at the next regular or special meeting of the board held not earlier than 3 weeks after the notice is received. The board shall provide public notice of the meeting for 3

consecutive weeks in a newspaper of general circulation in its county. The notice must state the time, place and purpose of the meeting. At the conclusion of the meeting the board may recommend a course of action to the State Engineer, but the recommendation is not binding on the State Engineer.

Sec. 5. 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 ~~that~~ **or a temporary permit issued pursuant to section 1 of this act.**

12. The provisions of subsection 7 do not authorize the recipient of an approved application to use any state land administered by the Division of State Lands of the State Department of Conservation and Natural Resources without the appropriate authorization for that use from the State Land Registrar.

13. As used in this section:

(a) “County of origin” means the county from which groundwater is transferred or proposed to be transferred.

(b) "Domestic well" has the meaning ascribed to it in NRS 534.350.

Sec. 6. NRS 533.380 is hereby amended to read as follows:

533.380 1. Except as otherwise provided in subsection 5, in an endorsement of approval upon any application, the State Engineer shall:

(a) Set a time before which the construction of the work must be completed, which must be within 5 years after the date of approval.

(b) Except as otherwise provided in this paragraph, set a time before which the complete application of water to a beneficial use must be made, which must not exceed 10 years after the date of the approval. The time set under this paragraph respecting an application for a permit to apply water to a municipal or quasi-municipal use on any land:

(1) For which a final subdivision map has been recorded pursuant to chapter 278 of NRS;

(2) For which a plan for the development of a project has been approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(3) On any land for which a plan for the development of a planned unit development has been recorded pursuant to chapter 278A of NRS,

↪ must not be less than 5 years.

2. The State Engineer may limit the applicant to a smaller quantity of water, to a shorter time for the completion of work, and, except as otherwise provided in paragraph (b) of subsection 1, to a shorter time for the perfecting of the application than named in the application.

3. Except as otherwise provided in subsection 4 and NRS 533.395 and 533.4377, the State Engineer may, for good cause shown, grant any number of extensions of time within which construction work must be completed, or water must be applied to a beneficial use under any permit therefor issued by the State Engineer, but a single extension of time for a municipal or quasi-municipal use for a public water system, as defined in NRS 445A.235, must not exceed 5 years, and any other single extension of time must not exceed 1 year. An application for the extension must in all cases be:

(a) Made within 30 days following notice by registered or certified mail that proof of the work is due as provided for in NRS 533.390 and 533.410; and

(b) Accompanied by proof and evidence of the reasonable diligence with which the applicant is pursuing the perfection of the application.

↪ The State Engineer shall not grant an extension of time unless the State Engineer determines from the proof and evidence so submitted that the applicant is proceeding in good faith and with reasonable diligence to perfect the application. The failure to provide the proof and evidence required pursuant to this subsection is prima facie evidence that the holder is not proceeding in good faith and with reasonable diligence to perfect the application.

4. Except as otherwise provided in subsection 5 and NRS 533.395, whenever the holder of a permit issued for any municipal or quasi-municipal use of water on any land referred to in paragraph (b) of subsection 1, or for

any use which may be served by a county, city, town, public water district or public water company, requests an extension of time to apply the water to a beneficial use, the State Engineer shall, in determining whether to grant or deny the extension, consider, among other factors:

(a) Whether the holder has shown good cause for not having made a complete application of the water to a beneficial use;

(b) The number of parcels and commercial or residential units which are contained in or planned for the land being developed or the area being served by the county, city, town, public water district or public water company;

(c) Any economic conditions which affect the ability of the holder to make a complete application of the water to a beneficial use;

(d) Any delays in the development of the land or the area being served by the county, city, town, public water district or public water company which were caused by unanticipated natural conditions; and

(e) The period contemplated in the:

(1) Plan for the development of a project approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(2) Plan for the development of a planned unit development recorded pursuant to chapter 278A of NRS,

↪ if any, for completing the development of the land.

5. The provisions of subsections 1 and 4 do not apply to an environmental permit ~~[]~~ **or a temporary permit issued pursuant to section 1 of this act.**

6. For the purposes of this section, the measure of reasonable diligence is the steady application of effort to perfect the application in a reasonably expedient and efficient manner under all the facts and circumstances. When a project or integrated system is composed of several features, work on one feature of the project or system may be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system.

Sec. 7. NRS 533.400 is hereby amended to read as follows:

533.400 1. Except as otherwise provided in subsection 2, on or before the date set in the endorsement of a permit for the application of water to beneficial use, or on the date set by the State Engineer under a proper application for extension therefor, any person holding a permit from the State Engineer to appropriate the public waters of the State of Nevada, to change the place of diversion or the manner or place of use, shall file with the State Engineer a statement under oath, on a form prescribed by the State Engineer. The statement must include:

(a) The name and post office address of the person making the proof.

(b) The number and date of the permit for which proof is made.

(c) The source of the water supply.

(d) The name of the canal or other works by which the water is conducted to the place of use.

(e) The name of the original person to whom the permit was issued.

- (f) The purpose for which the water is used.
- (g) If for irrigation, the actual number of acres of land upon which the water granted in the permit has been beneficially used, giving the same by 40-acre legal subdivisions when possible.
- (h) An actual measurement taken by a licensed state water right surveyor or an official or employee of the Office of the State Engineer of the water diverted for beneficial use.
- (i) The capacity of the works of diversion.
- (j) If for power, the dimensions and capacity of the flume, pipe, ditch or other conduit.
- (k) The average grade and difference in elevation between the termini of any conduit.
- (l) The number of months, naming them, in which water has been beneficially used.
- (m) The amount of water beneficially used, taken from actual measurements, together with such other data as the State Engineer may require to become acquainted with the amount of the appropriation for which the proof is filed.

2. The provisions of subsection 1 do not apply to a person holding an environmental permit ~~[-]~~ **or a temporary permit issued pursuant to section 1 of this act.**

Sec. 8. NRS 472.040 is hereby amended to read as follows:

472.040 1. The State Forester Firewarden shall:

- (a) Supervise or coordinate all forestry and watershed work on state-owned and privately owned lands, including fire control, in Nevada, working with federal agencies, private associations, counties, towns, cities or private persons.
- (b) Administer all fire control laws and all forestry laws in Nevada outside of townsite boundaries, and perform any other duties designated by the Director of the State Department of Conservation and Natural Resources or by state law.
- (c) Assist and encourage county or local fire protection districts to create legally constituted fire protection districts where they are needed and offer guidance and advice in their operation.
- (d) Designate the boundaries of each area of the State where the construction of buildings on forested lands creates such a fire hazard as to require the regulation of roofing materials.
- (e) Adopt and enforce regulations relating to standards for fire retardant roofing materials to be used in the construction, alteration, change or repair of buildings located within the boundaries of fire hazardous forested areas.
- (f) Purchase communication equipment which can use the microwave channels of the state communications system and store this equipment in regional locations for use in emergencies.
- (g) Administer money appropriated and grants awarded for fire prevention, fire control and the education of firefighters and award grants of

money for those purposes to fire departments and educational institutions in this State.

(h) Determine the amount of wages that must be paid to offenders who participate in conservation camps and who perform work relating to fire fighting and other work projects of conservation camps.

(i) Cooperate with the State Fire Marshal in the enforcement of all laws and the adoption of regulations relating to the prevention of fire through the management of vegetation in counties located within or partially within the Lake Tahoe Basin and the Lake Mead Basin.

(j) Assess the codes, rules and regulations which are adopted by other agencies that have specific regulatory authority within the Lake Tahoe Basin and the Lake Mead Basin, and which are not subject to the authority of a state or local fire agency, for consistency with fire codes, rules and regulations.

(k) Ensure that any adopted regulations are consistent with those of fire protection districts created pursuant to chapter 318, 473 or 474 of NRS.

(l) Upon the request of the State Engineer, review a plan submitted with an application for the issuance of a temporary permit pursuant to section 1 of this act.

2. The State Forester Firewarden in carrying out the provisions of this chapter may:

(a) Appoint paid foresters and firewardens to enforce the provisions of the laws of this State respecting forest and watershed management or the protection of forests and other lands from fire, subject to the approval of the board of county commissioners of each county concerned.

(b) Appoint suitable citizen-wardens. Citizen-wardens serve voluntarily except that they may receive compensation when an emergency is declared by the State Forester Firewarden.

(c) Appoint, upon the recommendation of the appropriate federal officials, resident officers of the United States Forest Service and the United States Bureau of Land Management as voluntary firewardens. Voluntary firewardens are not entitled to compensation for their services.

(d) Appoint certain paid foresters or firewardens to be arson investigators.

(e) Employ, with the consent of the Director of the State Department of Conservation and Natural Resources, clerical assistance, county and district coordinators, patrol officers, firefighters, and other employees as needed, and expend such sums as may be necessarily incurred for this purpose.

(f) Purchase, or acquire by donation, supplies, material, equipment and improvements necessary to fire protection and forest and watershed management.

(g) With the approval of the Director of the State Department of Conservation and Natural Resources and the State Board of Examiners, purchase or accept the donation of real property to be used for lookout sites and for other administrative, experimental or demonstration purposes. No real property may be purchased or accepted unless an examination of the title

shows the property to be free from encumbrances, with title vested in the grantor. The title to the real property must be examined and approved by the Attorney General.

(h) Expend any money appropriated by the State to the Division of Forestry of the State Department of Conservation and Natural Resources for paying expenses incurred in fighting fires or in emergencies which threaten human life.

3. The State Forester Firewarden, in carrying out the powers and duties granted in this section, is subject to administrative supervision by the Director of the State Department of Conservation and Natural Resources.

Sec. 9. This act becomes effective upon passage and approval.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 414.

Bill read second time.

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

Amendment No. 716.

AN ACT relating to financial institutions; prohibiting a banking or other financial institution from unreasonably delaying a response to an offer for a ~~short~~ sale in lieu of a foreclosure sale on real property secured by a residential mortgage loan; prohibiting a banking or other financial institution from obtaining a deficiency judgment in certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a judgment creditor or a beneficiary of a deed of trust may obtain, after a hearing, a deficiency judgment after a foreclosure sale or trustee's sale if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust. For an obligation secured by a mortgage or deed of trust on or after October 1, 2009, a court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if: (1) the creditor or beneficiary is a financial institution; (2) the real property is a single-family dwelling and the debtor or grantor was the owner of the property; (3) the debtor or grantor used the loan to purchase the property; (4) the debtor or grantor occupied the property continuously after obtaining the loan; and (5) the debtor or grantor did not refinance the loan. (NRS 40.455) **Section ~~44~~ 3.5** of this bill prohibits a court from awarding a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if: (1) the creditor or beneficiary is a banking or other financial institution; (2) the real property is a single-family dwelling and the debtor or grantor was the

owner of the property; (3) the debtor or grantor used the loan to purchase the property; (4) the debtor or grantor occupied the property continuously after obtaining the loan; (5) the debtor or grantor and the banking or other financial institution entered into an agreement ~~to commonly known as a short sale,~~ to sell the real property to a third party for less than the indebtedness; and (6) the agreement does not state the amount of money still owed by the debtor or grantor or does not authorize the banking or other financial institution to recover that money, and contains a statement that the banking or other financial institution has waived its right to recover the amount owed. **Section 3** of this bill prohibits a banking or other financial institution or its officers, managers or employees from unreasonably delaying its response to an offer for a ~~short~~ sale in lieu of a foreclosure sale on real property secured by a residential mortgage loan.

Under existing law, a violation of **section 3** constitutes a misdemeanor and, in addition to any criminal penalty, is punishable by an administrative fine of not more than \$10,000. (NRS 668.112, 668.115)

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

Section 1. Chapter 668 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. 1. *A banking or other financial institution, or an officer, manager or employee of a banking or other financial institution, shall not unreasonably delay responding to an offer for a ~~short~~ sale in lieu of a foreclosure sale on real property secured by a residential mortgage loan.*

2. For the purposes of this section, a person is presumed to have unreasonably delayed responding to an offer for a ~~short~~ sale in lieu of a foreclosure sale on real property secured by a residential mortgage loan when the person fails to respond to an offer for a ~~short~~ sale in lieu of a foreclosure sale with an acceptance or rejection of the offer within 90 days after receipt of the offer, unless the parties have agreed in writing to a delay of more than 90 days after receipt of the offer.

3. As used in this section:

(a) "Banking or other financial institution" means any bank, savings and loan association, savings bank, thrift company, credit union or other financial institution that is licensed, registered or otherwise authorized to do business in this State.

(b) "Indebtedness" has the meaning ascribed to it in NRS 40.451.

(c) "Residential mortgage loan" has the meaning ascribed to it in NRS 645B.0132.

(d) ~~"Short~~ "Sale in lieu of a foreclosure sale" means a sale of real property pursuant to an agreement between a ~~banking or other financial institution and an owner of real property to sell the real property secured by a residential mortgage loan to a third party for an amount less than the~~

~~indebtedness secured thereby;]~~ person to whom an obligation secured by a mortgage or other lien on real property is owed and the debtor of that obligation in which the sales price of the real property is insufficient to pay the full outstanding balance of the obligation and the costs of the sale. The term includes, without limitation, a deed in lieu of foreclosure.

Sec. 3.5. Chapter 40 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the judgment creditor or the beneficiary of the deed of trust who applies for a deficiency judgment is a banking or other financial institution, the court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if:

(a) The real property is a single-family dwelling and the debtor or the grantor of the deed of trust was the owner of the real property at the time of the sale in lieu of a foreclosure sale;

(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;

(c) The debtor or grantor continuously occupied the real property as the debtor's or grantor's principal residence after securing the mortgage or deed of trust;

(d) The debtor or grantor and the banking or other financial institution entered into an agreement to sell the real property secured by the mortgage or deed of trust to a third party for an amount less than the indebtedness secured thereby; and

(e) The agreement entered into pursuant to paragraph (d):

(1) Does not state the amount of money still owed to the banking or other financial institution by the debtor or grantor or does not authorize the banking or other financial institution to recover that amount from the debtor or grantor; and

(2) Contains a conspicuous statement that has been acknowledged by the signature of the debtor or grantor which provides that the banking or other financial institution has waived its right to recover the amount owed by the debtor or grantor and which sets forth the amount of recovery that is being waived.

2. As used in this section:

(a) "Banking or other financial institution" means any bank, savings and loan association, savings bank, thrift company, credit union or other financial institution that is licensed, registered or otherwise authorized to do business in this State.

(b) "Sale in lieu of a foreclosure sale" means a sale of real property pursuant to an agreement between a person to whom an obligation secured by a mortgage or other lien on real property is owed and the debtor of that obligation in which the sales price of the real property is insufficient to pay the full outstanding balance of the obligation and the costs of the sale. The term includes, without limitation, a deed in lieu of foreclosure.

Sec. 4. ~~NRS 40.455 is hereby amended to read as follows:~~

~~40.455 1. Except as otherwise provided in subsection 3 [,] or 4, upon application of the judgment creditor or the beneficiary of the deed of trust within 6 months after the date of the foreclosure sale or the trustee's sale held pursuant to NRS 107.080, respectively, and after the required hearing, the court shall award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due to the judgment creditor or the beneficiary of the deed of trust, respectively.~~

~~2. If the indebtedness is secured by more than one parcel of real property, more than one interest in the real property or more than one mortgage or deed of trust, the 6 month period begins to run after the date of the foreclosure sale or trustee's sale of the last parcel or other interest in the real property securing the indebtedness, but in no event may the application be filed more than 2 years after the initial foreclosure sale or trustee's sale.~~

~~3. If the judgment creditor or the beneficiary of the deed of trust is a financial institution [,] as defined in NRS 363A.050, the court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust, even if there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust, if:~~

~~(a) The real property is a single family dwelling and the debtor or grantor was the owner of the real property at the time of the foreclosure sale or trustee's sale;~~

~~(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;~~

~~(c) The debtor or grantor continuously occupied the real property as the debtor's or grantor's principal residence after securing the mortgage or deed of trust; and~~

~~(d) The debtor or grantor did not refinance the mortgage or deed of trust after securing it.~~

~~4. If the judgment creditor or the beneficiary of the deed of trust is a banking or other financial institution, the court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if:~~

~~(a) The real property is a single family dwelling and the debtor or grantor was the owner of the real property at the time of the foreclosure sale or trustee's sale;~~

~~(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;~~

~~(c) The debtor or grantor continuously occupied the real property as the debtor's or grantor's principal residence after securing the mortgage or deed of trust;~~

~~(d) The debtor or grantor and the banking or other financial institution entered into an agreement to sell the real property secured by the mortgage~~

~~or deed of trust to a third party for an amount less than the indebtedness secured thereby; and~~

~~(e) The agreement entered into pursuant to paragraph (d):~~

~~(1) Does not state the amount of money still owed to the banking or other financial institution by the debtor or grantor or does not authorize the banking or other financial institution to recover that amount from the debtor or grantor []; and~~

~~(2) Contains a conspicuous statement that has been acknowledged by the signature of the debtor or grantor which provides that the banking or other financial institution has waived its right to recover the amount owed by the debtor or grantor and which sets forth the amount of recovery that is being waived.~~

~~5. As used in this section, "banking or other financial institution" [has the meaning ascribed to it in NRS 363A.050.] means any bank, savings and loan association, savings bank, thrift company, credit union or other financial institution that is licensed, registered or otherwise authorized to do business in this State.] (Deleted by amendment.)~~

Sec. 5. This act becomes effective upon passage and approval.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 430.

Bill read second time and ordered to third reading.

Senate Bill No. 444.

Bill read second time and ordered to third reading.

Senate Bill No. 450.

Bill read second time and ordered to third reading.

Senate Bill No. 481.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 148.

Bill read third time.

Remarks by Assemblywoman Mastroluca.

Roll call on Assembly Bill No. 148:

YEAS—42.

NAYS—None.

Assembly Bill No. 148 having received a constitutional majority,

Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 247.

Bill read third time.

Remarks by Assemblyman Goicoechea.

Roll call on Assembly Bill No. 247:

YEAS—42.

NAYS—None.

Assembly Bill No. 247 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 489.

Bill read third time.

Roll call on Assembly Bill No. 489:

YEAS—42.

NAYS—None.

Assembly Bill No. 489 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 528.

Bill read third time.

Roll call on Assembly Bill No. 528:

YEAS—42.

NAYS—None.

Assembly Bill No. 528 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 529.

Bill read third time.

Roll call on Assembly Bill No. 529:

YEAS—42.

NAYS—None.

Assembly Bill No. 529 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 530.

Bill read third time.

Roll call on Assembly Bill No. 530:

YEAS—42.

NAYS—None.

Assembly Bill No. 530 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 531.

Bill read third time.

Roll call on Assembly Bill No. 531:

YEAS—42.

NAYS—None.

Assembly Bill No. 531 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 552.

Bill read third time.

The following amendment was proposed by Assemblyman Horne:

Amendment No. 801.

AN ACT relating to genetic marker analysis; imposing an administrative assessment upon a defendant convicted of any crime; requiring that a biological specimen be obtained from a person arrested for a felony or a sexual offense; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill imposes an additional administrative assessment of \$2.50 on a person convicted of a misdemeanor, gross misdemeanor or felony. **Section 2** also provides that the money collected from the assessments must be used to defray the costs associated with obtaining biological specimens and genetic marker analysis.

Under existing law, if a defendant is convicted of a felony or certain other specified offenses, the court, as part of the defendant's sentence, must order that a biological specimen be obtained from the defendant and that the specimen be used for analysis to determine the genetic markers of the specimen. (NRS 176.0911-176.0917) **Section 3** of this bill requires that a biological specimen be obtained if a person is arrested for a felony or a sexual offense punishable as a misdemeanor. **Section 3** provides that if the person is convicted of the felony or the sexual offense, the specimen must be kept, but if the person is not convicted, the specimen and all records relating thereto must be destroyed and expunged.

Existing law prohibits a person from sharing or disclosing certain information relating to another person's biological specimen or genetic marker analysis and makes such conduct a misdemeanor. (NRS 176.0913) **Sections 3 and 8** of this bill increase the penalty for such conduct from a misdemeanor to a category C felony.

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

Section 1. Chapter 176 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. 1. *In addition to any other administrative assessment imposed, when a defendant pleads guilty, is found guilty or enters a plea of nolo contendere to a misdemeanor, gross misdemeanor or felony, including the violation of any municipal ordinance, the justice or judge of the justice, municipal or district court, as applicable, shall include in the sentence the sum of \$2.50 as an administrative assessment for obtaining a biological*

specimen and conducting genetic marker analysis and shall render a judgment against the defendant for the assessment. If a defendant is sentenced to perform community service in lieu of a fine, the sentence must include the administrative assessment required pursuant to this subsection.

2. The money collected for an administrative assessment for the provision of genetic marker analysis must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the bail pursuant to this subsection must be disbursed pursuant to subsection 3. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible, and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he or she has paid, and the justice or judge shall not recalculate the administrative assessment.

3. If the justice or judge permits the fine and administrative assessment for the provision of genetic marker analysis to be paid in installments, the payments must be applied in the following order:

(a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;

(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to NRS 176.0611;

(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs pursuant to NRS 176.0613;

(d) To pay the unpaid balance of an administrative assessment for the provision of genetic marker analysis pursuant to this section; and

(e) To pay the fine.

4. The money collected for an administrative assessment for the provision of genetic marker analysis must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month for credit to the fund for genetic marker analysis pursuant to NRS 176.0915.

Sec. 3. 1. If a person is arrested for a felony pursuant to a warrant, the law enforcement agency making the arrest shall:

(a) Submit the name, social security number, date of birth and any other information identifying the person to the Central Repository for Nevada Records of Criminal History; and

(b) Upon booking the person into a city or county jail or detention facility, and before the person is released from custody, obtain a biological specimen from the person through a check swab pursuant to the provisions

of this section so that the specimen can be used for an analysis to determine the genetic markers of the specimen. The biological specimen may be collected by any law enforcement agency.

2. If a person is arrested for a felony without a warrant, the law enforcement agency making the arrest shall:

(a) Submit the name, social security number, date of birth and any other information identifying the person to the Central Repository for Nevada Records of Criminal History;

(b) Upon booking the person into a city or county jail or detention facility, and before the person is released from custody, obtain a biological specimen from the person through a check swab pursuant to the provisions of this section so that the specimen can be used for an analysis to determine the genetic markers of the specimen. The biological specimen may be collected by any law enforcement agency; and

(c) Not submit the biological specimen for genetic marker analysis pursuant to subsection 4 until a court or magistrate makes a determination that probable cause existed for the person's arrest.

3. If the person is arrested for a sexual offense that is punishable as a misdemeanor, upon booking the person into a city or county jail or detention facility, and before the person is released from custody, the law enforcement agency making the arrest shall obtain a biological specimen from the person pursuant to the provisions of this section so that the specimen can be used for an analysis to determine the genetic markers of the specimen. The law enforcement agency obtaining the biological specimen shall provide the biological specimen to the forensic laboratory that has been designated in the county in which the person was arrested to conduct or oversee genetic marker analysis for the county pursuant to NRS 176.0917 and shall specifically direct the forensic laboratory to hold the biological specimen in a separate storage area pending notification from:

(a) The Central Repository for Nevada Records of Criminal History resulting from a query of records indicating that the person from whom the biological specimen was obtained has been convicted; or

(b) A court or magistrate indicating that the person from whom the biological specimen was obtained has failed to appear for a scheduled hearing.

☞ Upon receipt of notification pursuant to paragraph (a) or (b), the forensic laboratory shall proceed with any genetic marker analysis pursuant to subsection 4.

4. The law enforcement agency obtaining the biological specimen shall provide the specimen to the forensic laboratory that has been designated by the county in which the person was arrested to conduct or oversee genetic marker analysis for the county pursuant to NRS 176.0917. If the forensic laboratory determines that the biological specimen is inadequate or otherwise unusable, the law enforcement agency may obtain an additional

biological specimen from the person arrested ~~and~~ unless the person arrested is eligible to request expungement of the genetic marker analysis pursuant to subsection 12. Each designated laboratory is authorized to contract with individuals or organizations for services to perform genetic marker analysis. The identification characteristics resulting from the genetic marker analysis must be stored and maintained by the forensic laboratory in CODIS and only may be made available as provided in section 4 of this act. The information stored and maintained by the forensic laboratory and the computer software used by the forensic laboratory for CODIS are confidential and are not public books or records within the meaning of NRS 239.010. The information may only be disclosed and used as specifically authorized by law.

5. Any cost that is incurred to obtain a biological specimen from a person pursuant to this section is a charge against the county in which the person was arrested and must be paid as provided in NRS 176.0915.

6. A law enforcement agency shall not obtain a biological specimen from a person who has previously submitted such a specimen for an arrest or conviction of a prior offense unless the law enforcement agency, court or magistrate determines that an additional specimen is necessary.

7. A court or magistrate shall:

(a) Make the provision of a biological specimen a condition of any person being admitted to bail or released on the person's own recognizance; and

(b) Require the biological specimen to be provided to the forensic laboratory that has been designated by the county in which the person was arrested to conduct or oversee genetic marker analysis for the county pursuant to NRS 176.0917.

↪ Upon receipt of the biological specimen, the forensic laboratory shall proceed with any genetic marker analysis pursuant to subsection 4.

8. The Attorney General or a district attorney may petition a district court for an order requiring a person under this section to:

(a) Provide a biological specimen; or

(b) Provide a biological specimen by alternative means if the person will not cooperate.

↪ Nothing in this subsection shall be construed to prevent the collection of a biological specimen by order of a court of competent jurisdiction or the collection of a biological specimen of persons required to provide such a specimen under this section.

9. The detention, arrest or conviction of a person based upon a match in CODIS or other information in CODIS is not invalidated if it is later determined that the biological specimen was obtained or placed in CODIS by mistake ~~and~~, provided that the forensic laboratory demonstrates that a good faith effort has been made to comply with all laws and regulations governing the inclusion of such information in CODIS.

10. Upon completion of any genetic marker analysis, the forensic laboratory shall inform the Central Repository for Nevada Records of Criminal History of the existence of such information pursuant to this section.

11. The Central Repository for Nevada Records of Criminal History shall include an indication on the criminal history record regarding the collection of a biological specimen, but may not include the results of the genetic marker analysis or any other information relating to the forensic laboratory's records.

12. A person whose genetic marker analysis has been included in the Central Repository for Nevada Records of Criminal History and CODIS pursuant to this section may make a written request to the Central Repository that it be automatically expunged on the grounds:

(a) That the conviction on which the authority for keeping the biological specimen or the result of the genetic marker analysis has been reversed and the case dismissed; or

(b) That the arrest which led to the inclusion of the biological specimen or the result of the genetic marker analysis has:

(1) Resulted in a felony or sexual offense charge that has been resolved by a dismissal, nolle prosequi, successful completion of a preprosecution diversion program or a conditional discharge or acquittal; or

(2) Not resulted in any additional criminal charges for a felony or sexual offense within 10 years after the arrest.

13. Within 90 days after receiving a written request pursuant to subsection 12, the Central Repository for Nevada Records of Criminal History shall forward such request and documentation to the forensic laboratory holding the biological specimen.

14. Except as otherwise provided in subsection 15, the forensic laboratory holding the biological specimen shall automatically purge all records and identifiable information pertaining to the person and destroy all specimens from the person upon receipt and confirmation of a written request that such data be expunged pursuant to this section, and:

(a) A certified copy of the court order reversing and dismissing the conviction; or

(b) For biological specimens included pursuant to arrest:

(1) A certified copy of the dismissal, nolle prosequi, successful completion of a preprosecution diversion program or a conditional discharge, or acquittal; or

(2) A sworn affidavit from the law enforcement agency which submitted the biological specimen that no felony or sexual offense charges arising out of the arrest have been filed within 10 years after the arrest.

15. The forensic laboratory shall not expunge a person's biological specimen and genetic marker analysis if the forensic laboratory is notified by a law enforcement agency that the person has a prior felony or sexual

offense conviction, a new felony or sexual offense arrest or a pending felony or sexual offense charge for which collection of a biological specimen is authorized pursuant to this section.

16. *When a person's biological specimen and genetic marker analysis are expunged pursuant to this section, the forensic laboratory shall ensure that the person's biological specimen and genetic marker analysis are expunged from CODIS and shall inform the Central Repository for Nevada Records of Criminal History that the genetic marker analysis has been expunged from CODIS.*

17. *Except as otherwise authorized by federal law or 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 knowingly be shared with or knowingly 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.

18. *A person who violates any provision of subsection 17 is guilty of a category C felony and shall be punished as provided in NRS 193.130.*

19. *For the purposes of this section:*

(a) "Sexual offense" means any of the following offenses:

(1) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.

(2) Sexual assault pursuant to NRS 200.366.

(3) Statutory sexual seduction pursuant to NRS 200.368.

(4) Battery with intent to commit sexual assault pursuant to subsection 4 of NRS 200.400.

(5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this section.

(6) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this section.

(7) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

(8) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(9) Incest pursuant to NRS 201.180.

(10) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.

(11) Open or gross lewdness pursuant to NRS 201.210.

(12) Indecent or obscene exposure pursuant to NRS 201.220.

(13) Lewdness with a child pursuant to NRS 201.230.

(14) Sexual penetration of a dead human body pursuant to NRS 201.450.

(15) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony.

(16) Any other offense that has an element involving a sexual act or sexual conduct with another.

(17) An attempt or conspiracy to commit an offense listed in subparagraphs (1) to (16), inclusive.

(18) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

(19) An offense committed in another jurisdiction that, if committed in this State, would be an offense listed in this section. This subparagraph includes, without limitation, an offense prosecuted in:

(I) A tribal court.

(II) A court of the United States or the Armed Forces of the United States.

(20) An offense of a sexual nature committed in another jurisdiction, whether or not the offense would be an offense listed in this section, if the person who committed the offense resides or has resided or is or has been a student or worker in any jurisdiction in which the person is or has been required by the laws of that jurisdiction to register as a sex offender because of the offense. This subparagraph includes, without limitation, an offense prosecuted in:

(I) A tribal court.

(II) A court of the United States or the Armed Forces of the United States.

(III) A court having jurisdiction over juveniles.

(b) "Sexual offense" does not include an offense involving consensual sexual conduct if the victim was:

(1) An adult, unless the adult was under the custodial authority of the offender at the time of the offense; or

(2) At least 13 years of age and the offender was not more than 4 years older than the victim at the time of the commission of the offense.

Sec. 4. 1. *If information related to a biological specimen or genetic marker analysis contained in CODIS is requested, the forensic laboratory shall comply with all applicable federal law and specific statutes and regulations governing the release of such information. In addition, the identity and authority of the requester must be verified. All requests must be directed through the forensic laboratory and the CODIS administrator.*

2. To minimize duplication in collection of biological specimens and genetic marker analysis, a forensic laboratory may make information available to local, state and federal law enforcement agencies, the Department of Corrections, city or county jails or any detention facility to verify whether a biological specimen has been collected from a person. Information provided under this subsection must not include any results of genetic marker analysis.

Sec. 5. NRS 176.0611 is hereby amended to read as follows:

176.0611 1. A county or a city, upon recommendation of the appropriate court, may, by ordinance, authorize the justices or judges of the justice or municipal courts within its jurisdiction to impose for not longer than 50 years, in addition to the administrative assessments imposed pursuant to NRS 176.059 and 176.0613, **and section 2 of this act**, an administrative assessment for the provision of court facilities.

2. Except as otherwise provided in subsection 3, in any jurisdiction in which an administrative assessment for the provision of court facilities has been authorized, when a defendant pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of \$10 as an administrative assessment for the provision of court facilities and render a judgment against the defendant for the assessment. If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the administrative assessment required pursuant to this subsection.

3. The provisions of subsection 2 do not apply to:

- (a) An ordinance regulating metered parking; or
- (b) An ordinance that is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

4. The money collected for an administrative assessment for the provision of court facilities must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the amount posted for bail pursuant to this subsection must be disbursed in the manner set forth in subsection 6 or 7. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment the defendant has paid and the justice or judge shall not recalculate the administrative assessment.

5. If the justice or judge permits the fine and administrative assessment for the provision of court facilities to be paid in installments, the payments must be applied in the following order:

(a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;

(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to this section;

(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs pursuant to NRS 176.0613; ~~and~~

(d) To pay the unpaid balance of an administrative assessment for obtaining a biological specimen and conducting genetic marker analysis pursuant to section 2 of this act; and

(e) To pay the fine.

6. The money collected for administrative assessments for the provision of court facilities in municipal courts must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. The city treasurer shall deposit the money received in a special revenue fund. The city may use the money in the special revenue fund only to:

(a) Acquire land on which to construct additional facilities for the municipal courts or a regional justice center that includes the municipal courts.

(b) Construct or acquire additional facilities for the municipal courts or a regional justice center that includes the municipal courts.

(c) Renovate or remodel existing facilities for the municipal courts.

(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the municipal courts or a regional justice center that includes the municipal courts. This paragraph does not authorize the expenditure of money from the fund for furniture, fixtures or equipment for judicial chambers.

(e) Acquire advanced technology for use in the additional or renovated facilities.

(f) 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 municipal courts or a regional justice center that includes the municipal courts.

➡ Any money remaining in the special revenue fund after 5 fiscal years must be deposited in the municipal general fund for the continued maintenance of court facilities if it has not been committed for expenditure pursuant to a plan for the construction or acquisition of court facilities or improvements to court facilities. The city treasurer shall provide, upon request by a municipal court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

7. The money collected for administrative assessments for the provision of court facilities in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall deposit the money received to a special revenue fund. The county may use the money in the special revenue fund only to:

(a) Acquire land on which to construct additional facilities for the justice courts or a regional justice center that includes the justice courts.

(b) Construct or acquire additional facilities for the justice courts or a regional justice center that includes the justice courts.

(c) Renovate or remodel existing facilities for the justice courts.

(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the justice courts or a regional justice center that includes the justice courts. This paragraph does not authorize the expenditure of money from the fund for furniture, fixtures or equipment for judicial chambers.

(e) Acquire advanced technology for use in the additional or renovated facilities.

(f) 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 justice courts or a regional justice center that includes the justice courts.

↪ Any money remaining in the special revenue fund after 5 fiscal years must be deposited in the county general fund for the continued maintenance of court facilities if it has not been committed for expenditure pursuant to a plan for the construction or acquisition of court facilities or improvements to court facilities. The county treasurer shall provide, upon request by a justice court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

8. If money collected pursuant to this section is to be used to acquire land on which to construct a regional justice center, to construct a regional justice center or to pay debt service on bonds issued for these purposes, the county and the participating cities shall, by interlocal agreement, determine such issues as the size of the regional justice center, the manner in which the center will be used and the apportionment of fiscal responsibility for the center.

Sec. 6. NRS 176.0613 is hereby amended to read as follows:

176.0613 1. The justices or judges of the justice or municipal courts shall impose, in addition to an administrative assessment imposed pursuant to NRS 176.059 and 176.0611, **and section 2 of this act**, an administrative assessment for the provision of specialty court programs.

2. Except as otherwise provided in subsection 3, when a defendant pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a misdemeanor, including the violation of any municipal ordinance, the

justice or judge shall include in the sentence the sum of \$7 as an administrative assessment for the provision of specialty court programs and render a judgment against the defendant for the assessment. If a defendant is sentenced to perform community service in lieu of a fine, the sentence must include the administrative assessment required pursuant to this subsection.

3. The provisions of subsection 2 do not apply to:

- (a) An ordinance regulating metered parking; or
- (b) An ordinance which is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

4. The money collected for an administrative assessment for the provision of specialty court programs must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the bail pursuant to this subsection must be disbursed pursuant to subsection 6 or 7. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment the defendant has paid and the justice or judge shall not recalculate the administrative assessment.

5. If the justice or judge permits the fine and administrative assessment for the provision of specialty court programs to be paid in installments, the payments must be applied in the following order:

(a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;

(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to NRS 176.0611;

(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs; ~~and~~

(d) To pay the unpaid balance of an administrative assessment for obtaining a biological specimen and conducting genetic marker analysis pursuant to section 2 of this act; and

(e) To pay the fine.

6. The money collected for an administrative assessment for the provision of specialty court programs in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the city treasurer shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

7. The money collected for an administrative assessment for the provision of specialty court programs in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the county treasurer shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

8. The Office of Court Administrator shall allocate the money credited to the State General Fund pursuant to subsections 6 and 7 to courts to assist with the funding or establishment of specialty court programs.

9. Money that is apportioned to a court from administrative assessments for the provision of specialty court programs must be used by the court to:

(a) Pay for the treatment and testing of persons who participate in the program; and

(b) Improve the operations of the specialty court program by any combination of:

(1) Acquiring necessary capital goods;

(2) Providing for personnel to staff and oversee the specialty court program;

(3) Providing training and education to personnel;

(4) Studying the management and operation of the program;

(5) Conducting audits of the program;

(6) Supplementing the funds used to pay for judges to oversee a specialty court program; or

(7) Acquiring or using appropriate technology.

10. As used in this section:

(a) “Office of Court Administrator” means the Office of Court Administrator created pursuant to NRS 1.320; and

(b) “Specialty court program” means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from a mental illness or abuses alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250, 176A.280 or 453.580.

Sec. 7. NRS 176.0911 is hereby amended to read as follows:

176.0911 As used in NRS 176.0911 to 176.0917, inclusive, **and sections 2, 3 and 4 of this act**, unless the context otherwise requires, “CODIS” means the Combined DNA Indexing System operated by the Federal Bureau of Investigation.

Sec. 8. NRS 176.0913 is hereby amended to read as follows:

176.0913 1. If a defendant is convicted of an offense listed in subsection 4, the court, at sentencing, shall order that:

(a) The name, social security number, date of birth and any other information identifying the defendant be submitted to the Central Repository for Nevada Records of Criminal History; and

(b) A biological specimen be obtained from the defendant pursuant to the provisions of this section and that the specimen be used for an analysis to determine the genetic markers of the specimen.

2. If the defendant is committed to the custody of the Department of Corrections, the Department of Corrections shall arrange for the biological specimen to be obtained from the defendant. The Department of Corrections shall provide the specimen to the forensic laboratory that has been designated by the county in which the defendant was convicted to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917.

3. If the defendant is not committed to the custody of the Department of Corrections, the Division shall arrange for the biological specimen to be obtained from the defendant. The Division shall provide the specimen to the forensic laboratory that has been designated by the county in which the defendant was convicted to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917. Any cost that is incurred to obtain a biological specimen from a defendant pursuant to this subsection is a charge against the county in which the defendant was convicted and must be paid as provided in NRS 176.0915.

4. Except as otherwise provided in subsection 5, the provisions of subsection 1 apply to a defendant who is convicted of:

- (a) A felony;
- (b) A crime against a child as defined in NRS 179D.0357;
- (c) A sexual offense as defined in NRS 179D.097;
- (d) Abuse or neglect of an older person or a vulnerable person pursuant to NRS 200.5099;
- (e) A second or subsequent offense for stalking pursuant to NRS 200.575;
- (f) An attempt or conspiracy to commit an offense listed in paragraphs (a) to (e), inclusive;
- (g) Failing to register with a local law enforcement agency as a convicted person as required pursuant to NRS 179C.100, if the defendant previously was:
 - (1) Convicted in this State of committing an offense listed in paragraph (a), (d), (e) or (f); or
 - (2) Convicted in another jurisdiction of committing an offense that would constitute an offense listed in paragraph (a), (d), (e) or (f) if committed in this State;
- (h) Failing to register with a local law enforcement agency after being convicted of a crime against a child as required pursuant to NRS 179D.450; or
- (i) Failing to register with a local law enforcement agency after being convicted of a sexual offense as required pursuant to NRS 179D.450.

5. A court shall not order a biological specimen to be obtained from a defendant who has previously submitted such a specimen **pursuant to section 3 of this act or** for conviction of a prior offense unless the court determines that an additional sample is necessary.

6. 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.

7. A person who violates any provision of subsection 6 is guilty of a ~~misdemeanor~~ **category C felony and shall be punished as provided in NRS 193.130.**

Sec. 9. NRS 176.0915 is hereby amended to read as follows:

176.0915 1. If a biological specimen is obtained from a ~~defendant~~ **person** pursuant to NRS 176.0913 ~~or section 3 of this act, and the person is convicted of the offense for which the biological specimen was obtained,~~ the court, in addition to any other penalty, shall order the ~~defendant~~ **person**, to the extent of the ~~defendant's~~ **person's** financial ability, to pay the sum of \$150 as a fee for obtaining the specimen and for conducting the analysis to determine the genetic markers of the specimen. The fee:

- (a) Must be stated separately in the judgment of the court or on the docket of the court;
- (b) Must be collected from the ~~defendant~~ **person** before or at the same time that any fine imposed by the court is collected from the ~~defendant~~ **person**; and
- (c) Must not be deducted from any fine imposed by the court.

2. All money that is collected pursuant to subsection 1 must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month.

3. The board of county commissioners of each county shall by ordinance create in the county treasury a fund to be designated as the fund for genetic marker testing. The county treasurer shall deposit money that is collected pursuant to subsection 2 in the fund for genetic marker testing. The money must be accounted for separately within the fund.

4. Each month, the county treasurer shall use the money deposited in the fund for genetic marker testing to pay for the actual amount charged to the county for obtaining a biological specimen from a ~~defendant~~ **person** pursuant to NRS 176.0913 ~~or section 3 of this act.~~

5. The board of county commissioners of each county may apply for and accept grants, gifts, donations, bequests or devises which the board of county commissioners shall deposit with the county treasurer for credit to the fund for genetic marker testing.

6. If money remains in the fund after the county treasurer makes the payments required by subsection 4, the county treasurer shall pay the remaining money each month to the forensic laboratory that is designated by the county pursuant to NRS 176.0917 to conduct or oversee genetic marker testing for the county. A forensic laboratory that receives money pursuant to this subsection shall use the money to cover any expense related to genetic marker testing.

Sec. 10. NRS 176.0917 is hereby amended to read as follows:

176.0917 1. The board of county commissioners of each county shall designate a forensic laboratory to conduct or oversee for the county any genetic marker testing that is ~~ordered or arranged~~ **required** pursuant to NRS 176.0913 or 176.0916 ~~+~~ **or section 3 of this act.**

2. The forensic laboratory designated by the board of county commissioners pursuant to subsection 1:

- (a) Must be operated by this State or one of its political subdivisions; and
- (b) Must satisfy or exceed the standards for quality assurance that are established by the Federal Bureau of Investigation for participation in CODIS.

Sec. 11. NRS 179.225 is hereby amended to read as follows:

179.225 1. If the punishment of the crime is the confinement of the criminal in prison, the expenses must be paid from money appropriated to the Office of the Attorney General for that purpose, upon approval by the State Board of Examiners. After the appropriation is exhausted, the expenses must be paid from the Reserve for Statutory Contingency Account upon approval by the State Board of Examiners. In all other cases, they must be paid out of the county treasury in the county wherein the crime is alleged to have been committed. The expenses are:

(a) If the prisoner is returned to this State from another state, the fees paid to the officers of the state on whose governor the requisition is made;

(b) If the prisoner is returned to this State from a foreign country or jurisdiction, the fees paid to the officers and agents of this State or the United States; or

(c) If the prisoner is temporarily returned for prosecution to this State from another state pursuant to this chapter or chapter 178 of NRS and is then returned to the sending state upon completion of the prosecution, the fees paid to the officers and agents of this State,

➤ and the per diem allowance and travel expenses provided for state officers and employees generally incurred in returning the prisoner.

2. If a person is returned to this State pursuant to this chapter or chapter 178 of NRS and is convicted of, or pleads guilty, guilty but mentally ill or nolo contendere to, the criminal charge for which the person was returned or a lesser criminal charge, the court shall conduct an investigation of the financial status of the person to determine the ability to make restitution. In conducting the investigation, the court shall determine if the person is able to pay any existing obligations for:

- (a) Child support;
- (b) Restitution to victims of crimes; and
- (c) Any administrative assessment required to be paid pursuant to NRS 62E.270, 176.059, 176.0611, 176.0613 and 176.062 ~~[]~~ **and section 2 of this act.**

3. If the court determines that the person is financially able to pay the obligations described in subsection 2, it shall, in addition to any other sentence it may impose, order the person to make restitution for the expenses incurred by the Attorney General or other governmental entity in returning the person to this State. The court shall not order the person to make restitution if payment of restitution will prevent the person from paying any existing obligations described in subsection 2. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of the completion of the sentence.

4. The Attorney General may adopt regulations to carry out the provisions of this section.

Sec. 12. NRS 179A.075 is hereby amended to read as follows:

179A.075 1. The Central Repository for Nevada Records of Criminal History is hereby created within the Records and Technology Division of the Department.

2. Each agency of criminal justice and any other agency dealing with crime or delinquency of children shall:

- (a) Collect and maintain records, reports and compilations of statistical data required by the Department; and
- (b) Submit the information collected to the Central Repository in the manner approved by the Director of the Department.

3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates or issues, and any information in its possession relating to the genetic markers of a biological specimen of a person ~~[who is convicted of an offense listed in subsection 4 of]~~ **from whom a biological specimen is obtained pursuant to NRS 176.0913 ~~[]~~ or section 3 of this act,** to the Division. The information must be submitted to the Division:

- (a) Through an electronic network;
 - (b) On a medium of magnetic storage; or
 - (c) In the manner prescribed by the Director of the Department,
- ↪ within the period prescribed by the Director of the Department. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.

4. The Division shall, in the manner prescribed by the Director of the Department:

(a) Collect, maintain and arrange all information submitted to it relating to:

(1) Records of criminal history; and

(2) The genetic markers of a biological specimen of a person ~~who is convicted of an offense listed in subsection 4 of~~ **from whom a biological specimen is obtained pursuant to** NRS 176.0913 ~~or section 3 of this act.~~

(b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him or her.

(c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.

5. The Division may:

(a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;

(b) Enter into cooperative agreements with repositories of the United States and other states to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and

(c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose record of fingerprints the Central Repository submits to the Federal Bureau of Investigation and:

(1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;

(2) With whom any agency of the State of Nevada or any political subdivision thereof intends to enter into a relationship of employment or a contract for personal services;

(3) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;

(4) For whom such information is required to be obtained pursuant to NRS 427A.735 and 449.179; or

(5) About whom any agency of the State of Nevada or any political subdivision thereof is authorized by law to have accurate personal information for the protection of the agency or the persons within its jurisdiction.

➡ To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to this subsection, the Central Repository must receive the person's complete set of fingerprints from the agency or political subdivision and submit the fingerprints to the Federal Bureau of Investigation for its report.

6. The Central Repository shall:

(a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.

(b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.

(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository.

(d) Investigate the criminal history of any person who:

(1) Has applied to the Superintendent of Public Instruction for a license;
(2) Has applied to a county school district, charter school or private school for employment; or

(3) Is employed by a county school district, charter school or private school,

↪ and notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of the Central Repository indicates that the person has been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude.

(e) Upon discovery, notify the superintendent of each county school district, the governing body of each charter school or the administrator of each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:

(1) Investigated pursuant to paragraph (d); or

(2) Employed by a county school district, charter school or private school whose fingerprints were sent previously to the Central Repository for investigation,

↪ who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.

(f) Investigate the criminal history of each person who submits fingerprints or has fingerprints submitted pursuant to NRS 427A.735, 449.176 or 449.179.

(g) On or before July 1 of each year, prepare and present to the Governor a printed annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be presented to the Governor throughout the year regarding specific areas of crime if they are approved by the Director of the Department.

(h) On or before July 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, a report containing statistical data about domestic violence in this State.

(i) Identify and review the collection and processing of statistical data relating to criminal justice and the delinquency of children by any agency identified in subsection 2 and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.

7. The Central Repository may:

(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime or the delinquency of children.

(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The Central Repository may not collect such a fee from an agency of criminal justice, any other agency dealing with crime or the delinquency of children which is required to submit information pursuant to subsection 2 or the State Disaster Identification Team of the Division of Emergency Management of the Department. All money collected pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.

(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.

8. As used in this section:

(a) "Personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:

(1) The name, driver's license number, social security number, date of birth and photograph or computer-generated image of a person; and

(2) The fingerprints, voiceprint, retina image and iris image of a person.

(b) "Private school" has the meaning ascribed to it in NRS 394.103.

Sec. 13. NRS 179D.150 is hereby amended to read as follows:

179D.150 A record of registration must include, if the information is available:

1. Information identifying the offender or sex offender, including, but not limited to:

(a) The name of the offender or sex offender and all aliases that the offender or sex offender has used or under which he or she has been known;

(b) A complete physical description of the offender or sex offender, a current photograph of the offender or sex offender and the fingerprints and palm prints of the offender or sex offender;

(c) The date of birth and the social security number of the offender or sex offender;

(d) The identification number from a driver's license or an identification card issued to the offender or sex offender by this State or any other jurisdiction and a photocopy of such driver's license or identification card;

(e) ***Information indicating whether the genetic marker analysis of the offender or sex offender has been entered in CODIS;***

(f) A report of the analysis of the genetic markers of the specimen obtained from the offender or sex offender pursuant to NRS 176.0913 ~~to~~ ***or section 3 of this act;*** and

~~to~~ (g) Any other information that identifies the offender or sex offender.

2. Information concerning the residence of the offender or sex offender, including, but not limited to:

(a) The address at which the offender or sex offender resides;

(b) The length of time the offender or sex offender has resided at that address and the length of time the offender or sex offender expects to reside at that address;

(c) The address or location of any other place where the offender or sex offender expects to reside in the future and the length of time the offender or sex offender expects to reside there; and

(d) The length of time the offender or sex offender expects to remain in the county where the offender or sex offender resides and in this State.

3. Information concerning the offender's or sex offender's occupations, employment or work or expected occupations, employment or work, including, but not limited to, the name, address and type of business of all current and expected future employers of the offender or sex offender.

4. Information concerning the offender's or sex offender's volunteer service or expected volunteer service in connection with any activity or organization within this State, including, but not limited to, the name, address and type of each such activity or organization.

5. Information concerning the offender's or sex offender's enrollment or expected enrollment as a student in any public or private educational institution or school within this State, including, but not limited to, the name, address and type of each such educational institution or school.

6. Information concerning whether:

(a) The offender or sex offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of the offender or sex offender's enrollment at an institution of higher education; or

(b) The offender or sex offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of the offender or sex offender's work at an institution of higher education,

➤ including, but not limited to, the name, address and type of each such institution of higher education.

7. The license plate number and a description of all motor vehicles registered to or frequently driven by the offender or sex offender.

8. The level of registration and community notification of the offender or sex offender.

9. The criminal history of the offender or sex offender, including, without limitation:

- (a) The dates of all arrests and convictions of the offender or sex offender;
- (b) The status of parole, probation or supervised release of the offender or sex offender;
- (c) The status of the registration of the offender or sex offender; and
- (d) The existence of any outstanding arrest warrants for the offender or sex offender.

10. The following information for each offense for which the offender or sex offender has been convicted:

- (a) The court in which the offender or sex offender was convicted;
- (b) The text of the provision of law defining each offense;
- (c) The name under which the offender or sex offender was convicted;
- (d) The name and location of each penal institution, school, hospital, mental facility or other institution to which the offender or sex offender was committed;
- (e) The specific location where the offense was committed;
- (f) The age, the gender, the race and a general physical description of the victim; and
- (g) The method of operation that was used to commit the offense, including, but not limited to:
 - (1) Specific sexual acts committed against the victim;
 - (2) The method of obtaining access to the victim, such as the use of enticements, threats, forced entry or violence against the victim;
 - (3) The type of injuries inflicted on the victim;
 - (4) The types of instruments, weapons or objects used;
 - (5) The type of property taken; and
 - (6) Any other distinctive characteristic of the behavior or personality of the offender or sex offender.

11. Any other information required by federal law.

12. As used in this section, "CODIS" means the Combined DNA Index System operated by the Federal Bureau of Investigation.

Sec. 14. NRS 179D.443 is hereby amended to read as follows:

179D.443 When an offender convicted of a crime against a child or a sex offender registers with a local law enforcement agency as required pursuant to NRS 179D.445, 179D.460 or 179D.480, or updates the registration as required pursuant to NRS 179D.447:

1. The offender or sex offender shall provide the local law enforcement agency with the following:

- (a) The name of the offender or sex offender and all aliases that the offender or sex offender has used or under which the offender or sex offender has been known;
- (b) The social security number of the offender or sex offender;
- (c) The address of any residence or location at which the offender or sex offender resides or will reside;

(d) The name and address of any place where the offender or sex offender is a worker or will be a worker;

(e) The name and address of any place where the offender or sex offender is a student or will be a student;

(f) The license plate number and a description of all motor vehicles registered to or frequently driven by the offender or sex offender; and

(g) Any other information required by federal law.

2. If the offender or sex offender has not previously provided a biological specimen pursuant to NRS 176.0913 or 176.0916, **or section 3 of this act**, the offender or sex offender shall provide a biological specimen to the local law enforcement agency. The local law enforcement agency shall provide the specimen to the forensic laboratory that has been designated by the county in which the offender or sex offender resides, is present or is a worker or student to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917.

3. The local law enforcement agency shall ensure that the record of registration of the offender or sex offender includes, without limitation:

(a) A complete physical description of the offender or sex offender, a current photograph of the offender or sex offender and the fingerprints and palm prints of the offender or sex offender;

(b) The text of the provision of law defining each offense for which the offender or sex offender is required to register;

(c) The criminal history of the offender or sex offender, including, without limitation:

(1) The dates of all arrests and convictions of the offender or sex offender;

(2) The status of parole, probation or supervised release of the offender or sex offender;

(3) The status of the registration of the offender or sex offender; and

(4) The existence of any outstanding arrest warrants for the offender or sex offender;

(d) A report of the analysis of the genetic markers of the specimen obtained from the offender or sex offender;

(e) **Information indicating whether the genetic marker analysis of the offender or sex offender has been entered in CODIS;**

(f) The identification number from a driver's license or an identification card issued to the offender or sex offender by this State or any other jurisdiction and a photocopy of such driver's license or identification card; and

~~[(f)]~~ (g) Any other information required by federal law.

4. **As used in this section, "CODIS" means the Combined DNA Index System operated by the Federal Bureau of Investigation.**

Sec. 15. NRS 211.245 is hereby amended to read as follows:

211.245 1. If a prisoner fails to make a payment within 10 days after it is due, the district attorney for a county or the city attorney for an

incorporated city may file a civil action in any court of competent jurisdiction within this State seeking recovery of:

- (a) The amount of reimbursement due;
- (b) Costs incurred in conducting an investigation of the financial status of the prisoner; and
- (c) Attorney's fees and costs.

2. A civil action brought pursuant to this section must:

- (a) Be instituted in the name of the county or city in which the jail, detention facility or alternative program is located;
- (b) Indicate the date and place of sentencing, including, without limitation, the name of the court which imposed the sentence;
- (c) Include the record of judgment of conviction, if available;
- (d) Indicate the length of time served by the prisoner and, if the prisoner has been released, the date of his or her release; and
- (e) Indicate the amount of reimbursement that the prisoner owes to the county or city.

3. The county or city treasurer of the county or incorporated city in which a prisoner is or was confined shall determine the amount of reimbursement that the prisoner owes to the city or county. The county or city treasurer may render a sworn statement indicating the amount of reimbursement that the prisoner owes and submit the statement in support of a civil action brought pursuant to this section. Such a statement is prima facie evidence of the amount due.

4. A court in a civil action brought pursuant to this section may award a money judgment in favor of the county or city in whose name the action was brought.

5. If necessary to prevent the disposition of the prisoner's property by the prisoner, or the prisoner's spouse or agent, a county or city may file a motion for a temporary restraining order. The court may, without a hearing, issue ex parte orders restraining any person from transferring, encumbering, hypothecating, concealing or in any way disposing of any property of the prisoner, real or personal, whether community or separate, except for necessary living expenses.

6. The payment, pursuant to a judicial order, of existing obligations for:

- (a) Child support or alimony;
- (b) Restitution to victims of crimes; and
- (c) Any administrative assessment required to be paid pursuant to NRS 62E.270, 176.059, 176.0611, 176.0613 and 176.062, **and section 2 of this act,**

➡ has priority over the payment of a judgment entered pursuant to this section.

Sec. 16. NRS 249.085 is hereby amended to read as follows:

249.085 On or before the 15th day of each month, the county treasurer shall report to the State Controller the amount of the administrative

assessments paid by each justice court for the preceding month pursuant to NRS 176.059 and 176.0613 ~~§~~ **and section 2 of this act.**

Sec. 17. The amendatory provisions of this act apply to a person arrested on or after July 1, 2012.

Sec. 18. 1. This section and sections 1, 2, 5, 6, 7, 11, 15 and 16 of this act become effective on July 1, 2011.

2. Sections 3, 4, 8, 9, 10, 12, 13, 14 and 17 of this act become effective on July 1, 2012.

Assemblyman Horne moved the adoption of the amendment.

Remarks by Assemblyman Horne.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Assembly Bill No. 562.

Bill read third time.

Roll call on Assembly Bill No. 562:

YEAS—39.

NAYS—Aizley, Brooks, Pierce—3.

Assembly Bill No. 562 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bills Nos. 18, 19, 30, 37, 59, 88, 94, 99, 102, 112, 128, 132, 136, 142, 143, 149, 152, 159, 182, 184, 186, 190, 194, 200, 201, 205, 213, 215, 226, 236, 237, 259, 267, 273, 277, 292, 293, 294, 315, 317, 329, 365, 405, 411, 417, 420, 436, 445; Senate Joint Resolution 3 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 13, 23, 56, 76, 110, 113, 115, 130, 135, 141, 143, 145, 146, 182, 192, 200, 213, and 233.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Benitez-Thompson, the privilege of the floor of the Assembly Chamber for this day was extended to Kit Prendergast, Barbara Klipfel, and Mahnaz Rostrup.

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to Branch Rickey and Don Logan.

On request of Assemblyman Hogan, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Cartwright Elementary School: Elizabeth Beatty, Morgan Huddleston, Sherisse Devina, Julie Hawthorne, Amber Mulholland, Alex Navarro, Taylor Daniels, Zoe Strickland, Ella Marakis, Morgan Daniel, John Rico, Marcos Olivares, Hogan Meyer, Benny Gregorich, Matthew Aragon, Jose Sanchez, Gavin Waldner, Clarence CJ Rebanio, Johnny Coyner, Dylan Olah, John Jenkins, James Phelps, Ellie Cipriano, Abby Mahan, Ainsley Hodge, Kaylee Cox, Ally Smith, Starr Walker, Andrea Hicks, Layla Salazar, Noelle Niemeier, Anaii Salazar, Isabella Maffeo, Arianna Loya, Emily Leech, Ben Welte, Seth Rehkop, Mason Georgi, Pierceson Moniz, Noah Taitz, Daniel Doyle, Cody Brindle, Emmanuel King, Beau Hartley, Brody Storbakken, Cameron Chandler, Isabella Moreno, Brianna Guzman, Julianna D'Angelo, Michelle Angeles, Nkemjika Emenike, Brianna Lovett, Marisa Manzi, Kelsey Truby, Kristyn Lommason, Emilee Mannino, Kiera Nolan, Akosua Fosu, Nya Drake, Terra Flannery, Sienna Lau, Hayley Kilgore, Jada Guerra, Adrian Venzon, Zachary Johnston, Christopher Estrada, Matthew Weise, Max Marberry, Blake Fiorillo, Randy Weise, Butch Venzon, Jenniffer Lau-Pahia, Chandra Ramos, Maria Manzi, Martha Angeles, Steve Kilgore, Jody Kilgore, Laura Mulholland, Bertha Parsha, Les Olah, Steve Waldner, Mark Gregorich, Luis Rico, Francis Marakis, Natalia Navarro, Edith Divina, Alicia Beatty, Giselle Moreno, Kendal Hartley, Steve Niemeier, Tom Georgi, Rebecca Lopez, Sarah Jane Salazar, Noemi Hicks, Anne Cox, Melissa Cipriano, Cheryl Walker, Hana Moniz, Becky Smith, Duane Chandler, Melissa Chandler, Jeff Welte, Allison Stemmerik, Ryan Stemmerik, Karen Carlough, Christopher Carlough, Michael Rehkop, Susan Rehkip, Susan Stemmerik, Helen Welte, Jana Stewart, Ashley Chatham, Stacy Mahan, and Todd Lindberg.

On request of Assemblyman Kite, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Grace Christian Academy: Ruth Boogman, Julia Dreyer, Jo Tkaczyk, Sebastian Zeron, Jefferson Cummings, Megan Penwell, Blake Ranalla, Jacob Rodriguez, Ilena Madraso, Tracey Cummings, and Karina Madraso.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Lauren Denison, Bridgette Zunino, and Jayann Sepich.

Assemblyman Conklin moved that the Assembly adjourn until Friday, May 27, 2011, at 10 a.m.

Motion carried.

Assembly adjourned at 2:26 p.m.

Approved:

JOHN OCEGUERA
Speaker of the Assembly

Attest: SUSAN FURLONG
Chief Clerk of the Assembly