THE ONE HUNDRED TWELFTH DAY

CARSON CITY (Sunday) May 29, 2011

Assembly called to order at 1:41 p.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, April Mastroluca.

Good afternoon. Today I would like to read a passage from 2 Corinthians. The author Paul sends a letter to the church in Corinth to address his concerns by false teachers that Paul was not a genuine Apostle and that he was keeping money that was being collected for the poor.

In Chapter 9 Paul writes:

> "Remember this: Whoever sows sparingly will also reap sparingly, and whoever sows generously will also reap generously. Each man should give what he has decided in his heart to give, not reluctantly or under compulsion, for God loves a cheerful giver.
>
> Now he who supplies seed to the sower and bread for food will also supply and increase your store of seed and will enlarge the harvest of your righteousness. You will be made rich in every way so that you can be generous on every occasion, and through us your generosity will result in thanksgiving to God. This service that you perform is not only supplying the needs of God's people but is also overflowing in many expressions of thanks to God. Because of the service by which you have proved yourselves, men will praise God for the obedience that accompanies your confession of the gospel of Christ, and for your generosity in sharing with them and with everyone else. And in their prayers for you their hearts will go out to you, because of the surpassing grace God has given you. Thanks be to God for his indescribable gift!"

Heavenly Father, we hear Your Word and it reminds us that we are here to share Your Grace that You have generously bestowed upon us with others. Please help us remember this in all that we do. We ask for Your blessing on this day and all we will accomplish. In Matthew chapter 12, Your Son Jesus tells the Pharisees that the law permits a person to do good on the Sabbath. Allow us to do our work for Your good on this Holy day. It is in Your Son's name we pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblywoman Kirkpatrick 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 was referred Senate Bill No. 106, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KELVIN ATKINSON, *Chair*

Mr. Speaker:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 65, 110, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which was rereferred Senate Bill No. 432, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

Mr. Speaker

Your Committee on Health and Human Services, to which was referred Senate Bill No. 419, 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. 187, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which were referred Senate Bills Nos. 24, 47, 55, 381, 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. 304, 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 Transportation, to which was referred Senate Bill No. 48, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Transportation, to which was referred Senate Bill No. 321, 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 was referred Assembly Bill No. 515, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was referred Assembly Bill No. 563, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 171, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 300, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 332, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 432, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 28, 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. 500, 519, 521.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 308, Amendment No. 706; Assembly Bill No. 393, Amendment No. 759; Assembly Bill No. 398, Amendments Nos. 619, 778; Assembly Bill No. 419, Amendment No. 789; Assembly Bill No. 501, Amendment No. 692; Assembly Bill No. 545, Amendment No. 750, 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 respectfully refused to recede from its action on Assembly Bill No. 282, Senate Amendments Nos. 780, and requests a conference, and appointed Senators Kihuen, McGinness and Copening as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 721 to Senate Bill No. 190; Assembly Amendment No. 669 to Senate Bill No. 234; Assembly Amendment No. 638 to Senate Bill No. 237; Assembly Amendment No. 718 to Senate Bill No. 273; Assembly Amendment No. 642 to Senate Bill No. 358.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Joint Resolution No. 15.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bills Nos. 171, 300, and 432, just reported out of committee, be placed at the top of the General File.

Motion carried.

Assemblyman Conklin moved that Assembly Bills Nos. 332, 515, 563; Senate Bills Nos. 24, 47, 48, 55, 65, 106, 110, 187, 304, 321, 381, 419, and 432, just reported out of committee, be placed on the Second Reading File.

Motion carried.

Assemblyman Conklin moved that Assembly Bill No. 300 be taken from the General File and placed on the Chief Clerk’s desk.

Motion carried.

Assemblyman Conklin moved that the action whereby Senate Bill No. 475 was referred to the Committee on Transportation be rescinded.

Motion carried.

Assemblyman Conklin moved that Senate Bill No. 475 be referred to the Committee on Ways and Means.

Motion carried.

Assemblywoman Kirkpatrick moved that Assembly Amendment No. 700 to Senate Bill No. 432 be withdrawn.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 332.

Bill read second time.

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

Amendment No. 784.

AN ACT relating to state financial administration; ~~[requiring the Economic Forum to hold at least one regular meeting during each calendar quarter; providing for a member of the Economic Forum to be considered present at a meeting of the Economic Forum if the member is participating in the meeting by telephone or video conference;]~~ amending certain reporting requirements of the Economic Forum; ~~[authorizing the Chair of the Economic Forum to limit certain deliberations of the Economic Forum;]~~ **requiring the Economic Forum to hold additional meetings;** authorizing the ~~[Chair of the]~~ Economic Forum to request certain information and testimony; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Economic Forum, a panel of economic and financial experts appointed by the Governor, the Majority Floor Leader of the Senate and the Speaker of the Assembly, provides revenue estimates and projections to the Governor and the Legislature. (NRS 353.226, 353.228) This bill makes a number of changes to the operations of the Economic Forum. ~~[Section 1 of this bill requires the Economic Forum to hold at least one meeting during each calendar quarter rather than the current requirement of meeting as often as necessary to accomplish its statutory duties. Section 1 also requires the Chair of the Economic Forum to set the agenda for the meetings and authorizes the Chair to consider a member present at a meeting, for purposes of complying with the Open Meeting Law, if the member is participating in the meeting by telephone or video conference.]~~ **Section 2** of this bill requires certain reports of the Economic Forum that currently must be made, respectively, on or before December 1 before each regular session of the Legislature and on or before May 1 of the following year to instead be made on or before December ~~[1]~~ **3 of each even-numbered year** and May 1 of each **odd-numbered** year. **Section 2** also **requires the Economic Forum to hold additional meetings, on or before June 10 of each even-numbered year and December 10 of each odd-numbered year, to consider current economic indicators and to update the status of actual State General**

Fund revenue accordingly, as compared to the most recent revenue estimates made by the Economic Forum. The Economic Forum then must present the updated information to the Interim Finance Committee and must make the information available to the public on the website of the Legislature. Finally, section 2 authorizes the ~~[Chair to limit certain deliberations of the]~~ Economic Forum ~~[and]~~ to request testimony and ~~[written]~~ information from any state agency, which then must provide the testimony or information.

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

Section 1. ~~[NRS 353.227 is hereby amended to read as follows:~~

~~353.227 1. The Economic Forum impaneled pursuant to NRS 353.226 shall:~~

~~(a) Elect a Chair and Vice Chair from among its members at its first meeting;~~

~~(b) Adopt such rules governing the conduct of the Economic Forum as it deems necessary; and~~

~~(c) Hold [such number of]~~ ~~*(1) One meeting each calendar quarter; and*~~

~~*(2) Such number of additional* meetings as may be necessary to accomplish the tasks assigned to it in the time allotted.~~

~~2. *The Chair of the Economic Forum shall set the agenda for each meeting of the Economic Forum.*~~

~~*3.* The Director of the Legislative Counsel Bureau and Chief of the Budget Division of the Department of Administration shall jointly provide the Economic Forum with:~~

~~(a) Meeting rooms;~~

~~(b) Staff;~~

~~(c) Data processing services; and~~

~~(d) Clerical assistance.~~

~~[3. A]~~ ~~*4. Subject to the provisions of subsection 5, a* majority of the members constitutes a quorum and a majority of those present must concur in any decision.~~

~~[4.]~~ ~~*5. For the purposes of complying with the provisions of chapter 241 of NRS, at the discretion of the Chair, a member is present at a meeting if the member is participating in the meeting by telephone or video conference.*~~

~~*6.* While engaged in the business of the Economic Forum, each member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.~~

~~[5.]~~ ~~*7.* In addition to the per diem allowance and travel expenses provided in subsection ~~[4,]~~ *6,* each member of the Economic Forum who is

~~appointed by the Governor pursuant to subsection 2 of NRS 353.226 is entitled to receive for each meeting of the Economic Forum:~~

~~(a) Eighty dollars for 1 day of preparation for that meeting; and~~

~~(b) Eighty dollars for each day or part of a day during which the meeting lasts.~~**] (Deleted by amendment.)**

Sec. 2. NRS 353.228 is hereby amended to read as follows:

353.228 1. The Economic Forum impaneled pursuant to NRS 353.226 shall:

(a) Make such projections for economic indicators as it deems necessary to ensure that an accurate estimate is produced pursuant to paragraph (b);

(b) Provide an accurate estimate of the revenue that will be collected by the State for general, unrestricted uses, and not for special purposes, during the biennium that begins on July 1 of the year following the date on which the Economic Forum was empaneled;

(c) Request such technical assistance as the Economic Forum deems necessary from the Technical Advisory Committee created by NRS 353.229;

(d) On or before December ~~[1]~~ ***3*** of ~~[the]~~ ***each even-numbered*** year **,** ~~[in which the Economic Forum was empaneled,]~~ prepare a written report of its projections of economic indicators and estimate of future state revenue required by paragraphs (a) and (b) and present the report to the Governor and the Legislature; ~~[and]~~

(e) On or before May 1 of ~~[the]~~ ***each odd-numbered*** year **,** ~~[following the year in which the Economic Forum was empaneled,]~~ prepare a written report confirming or revising the projections of economic indicators and estimate of future state revenue contained in the report prepared pursuant to paragraph (d) and present the report to the Governor and the Legislature ~~[.]~~ ***; and***

(f) Except as otherwise provided in subsection 2, on or before June 10 of each even-numbered year and December 10 of each odd-numbered year, hold a meeting to consider current economic indicators, including, without limitation, employment, unemployment, personal income and any other indicators deemed appropriate by the Economic Forum. Based on current economic indicators, the Economic Forum shall update the status of actual State General Fund revenue compared to the most recent forecast of the Economic Forum. The provisions of this paragraph are not intended to authorize the Economic Forum to make additional forecasts pursuant to paragraph (b). At the next appropriate meeting of the Interim Finance Committee, the Chair of the Economic Forum or a member of the staff of the Economic Forum shall present to the Interim Finance Committee such matters considered at the meeting of the Economic Forum held pursuant to this paragraph, as the Economic Forum determines appropriate. Any such information presented to the Interim Finance Committee must be made available on the Internet website of the Legislature.

2. ***If the deadline for preparing a report or holding a meeting as required in subsection 1 falls on a Saturday, Sunday or legal holiday, the deadline is extended to the second business day following the deadline.***

3. The ~~*[At the discretion of the Chair, the]*~~ Economic Forum may make preliminary projections of economic indicators and estimates of future state revenue at any time. Any such projections and estimates must be made available to the various agencies of the State through the Chief. ~~*[, for the reports prepared and presented pursuant to paragraphs (d) and (e) of subsection 1:*~~

~~*(a) Limit its deliberations regarding future state revenue to major sources of revenue; and*~~

~~*(b) Accept written estimates of other sources of revenue.*~~

~~3.~~ ***4.*** The Economic Forum ~~*[Chair]*~~ may request ~~*[, on behalf of the Economic Forum, written]*~~ information directly from any state agency ~~.~~ ***, including, without limitation, the Nevada System of Higher Education.*** A state agency ***, including, without limitation, the Nevada System of Higher Education,*** that receives a reasonable request for ~~*[written]*~~ information from the Economic Forum shall comply with the request as soon as is reasonably practicable after receiving the request.

~~4.~~ ***5. The*** ~~*[Chair]*~~ ***Economic Forum may request direct testimony from any state agency, including, without limitation, the Nevada System of Higher Education, at a meeting of the Economic Forum or the Technical Advisory Committee. The head, or a designee thereof, of a state agency, including, without limitation, the Nevada System of Higher Education, who receives a reasonable request for direct testimony at a meeting of the Economic Forum or the Technical Advisory Committee shall appear at the meeting and shall comply with the request.***

~~*[5.]*~~ ***6.*** To carry out its duties pursuant to this section, the Economic Forum may consider any ~~*[request]*~~ information ~~*[and direct testimony from the Technical Advisory Committee and from independent sources and may consider any information]*~~ received from ~~*[and direct testimony given by]*~~ the Technical Advisory Committee and any other information received from independent sources.

~~5.~~ ~~*[6.]*~~ ***7.*** Copies of the projections and estimates made pursuant to this section must be made available to the public by the Director of the Legislative Counsel Bureau for the cost of reproducing the material.

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

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 515.

Bill read second time.

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

Amendment No. 786.

AN ACT relating to the promotion of livestock; ~~creating the Fund for the Nevada Junior Livestock Show Board;~~ making various changes to the

Nevada Junior Livestock Show Board; ~~[authorizing the Board to charge and collect a reasonable fee for participation in the Nevada Junior Livestock Show and the Nevada Youth Livestock and Dairy Show;]~~ repealing the requirement that the promotion of livestock be funded by direct legislative appropriation from the State General Fund; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Under existing law, money used to carry out the provisions of chapter 563 of NRS concerning the promotion of livestock is required to be provided by direct legislative appropriation from the State General Fund. (NRS 563.140) Section 7 of this bill repeals that provision, and section 2 of this bill creates the Fund for the Nevada Junior Livestock Show Board for the purpose of funding the activities of the Board. Section 5 of this bill authorizes the Board to impose an entry fee for participation in the Nevada Junior Livestock Show and the Nevada Youth Livestock and Dairy Show. Section 6 of this bill requires participants to pay such a fee if one is imposed by the Board, which must be deposited in the Fund.]~~

Under existing law, members of the **Nevada Junior Livestock Show** Board are entitled to receive compensation, per diem allowances and travel expenses provided for state officers and employees generally. (NRS 563.060) **Section 7** of this bill repeals that provision, and **section 3** of this bill prohibits members of the Board from receiving compensation, per diem allowances and travel expenses.

Under existing law, one of the members of the Board must be a member of the staff of the State Board for Career and Technical Education. (NRS 563.030) **Section 4** of this bill replaces that member with a person who is a secondary agriculture educator nominated by the agriculture education program ~~[specialist]~~ **professional** at the Department of Education.

Existing law requires the Board to maintain possession and care of all property of the Nevada Junior Livestock Show, the Nevada Youth Livestock and Dairy Show and the Nevada State Horse Program and each year to conduct the Nevada Junior Livestock Show, the Nevada Youth Livestock and Dairy Show and the Nevada State Horse Program. (NRS 563.080, 563.100) Sections 5 and 6 of this bill delete the Nevada State Horse Program from those requirements.

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

Section 1. ~~[Chapter 563 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.]~~ **(Deleted by amendment.)**

Sec. 2. ~~*[1. The Fund for the Nevada Junior Livestock Show Board is hereby created. The Fund must be administered by the Board.*~~

~~*2. Any money received by the Board pursuant to NRS 563.010 to 563.140, inclusive, and sections 2 and 3 of this act must be deposited into the Fund.*~~

~~*3. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund.*~~

~~*4. The money in the Fund must only be used for the promotion of agriculture within this State and must not be used to replace or supplant money available from other sources.*~~

~~*5. Any fees collected from participants of the annual Nevada Junior Livestock Show and the Nevada Youth Livestock and Dairy Show must be deposited in the Fund and expended only for the Board and for the annual Nevada Junior Livestock Show and Nevada Youth Livestock and Dairy Show.*~~

~~*6. The money in the Fund does not lapse to the State General Fund at the end of a fiscal year.]*~~ **(Deleted by amendment.)**

Sec. 3. **Chapter 563 of NRS is hereby amended by adding thereto a new section to read as follows:**

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

Sec. 4. NRS 563.030 is hereby amended to read as follows:

563.030 1. One member of the Board must be a member of the teaching staff of the College of Agriculture ***, Biotechnology and Natural Resources*** of the University of Nevada, Reno.

2. One member of the Board must be a member of the staff of the ~~[Agricultural Extension Department of the Public Service Division of the Nevada System of Higher Education.]~~ ***University of Nevada Cooperative Extension.***

3. One member of the Board must be a ~~[member of the staff of the State Board for Career and Technical Education.]~~ ***secondary agriculture educator nominated by the agriculture education program*** ~~*[specialist]*~~ ***professional at the Department of Education.***

4. Four members of the Board must be persons concerned with the raising and improving of livestock in the State of Nevada, not necessarily stock raisers, selected as follows:

(a) Two persons whose interest is in cattle and sheep;

(b) One person whose interest is in ~~[horses;]~~ ***general agriculture;*** and

(c) One person whose interest is in dairying.

5. All members must be residents of the State of Nevada.

Sec. 5. NRS 563.080 is hereby amended to read as follows:

563.080 1. The Board shall have possession and care of all property of the Nevada Junior Livestock Show ~~[,]~~ ***and*** the Nevada Youth Livestock and Dairy Show ~~[and the Nevada State Horse Program]~~ and shall be entrusted with the direction of the entire business and financial affairs of these exhibitions.

2. The Board ~~[shall have the power:]~~ ***may:***

(a) ~~[To appoint]~~ ***Appoint*** employees and define their duties.

(b) ~~[To adopt]~~ ***Adopt*** bylaws, rules and regulations for the government of the Nevada Junior Livestock Show Board, the ***Nevada*** Junior Livestock Show ~~[,]~~ ***and*** the Nevada Youth Livestock and Dairy Show ~~[, the Nevada State Horse Program,]~~ and for all exhibitions of livestock.

(c) ~~[To acquire]~~ ***Acquire*** or lease real and personal property, buildings and improvements.

~~[~~ ~~*(d) Charge and collect a reasonable entry fee from each participant in the Nevada Junior Livestock Show and the Nevada Youth Livestock and Dairy Show.]*~~

Sec. 6. NRS 563.100 is hereby amended to read as follows:

563.100 1. The Nevada Junior Livestock Show Board shall each year conduct the ***Nevada*** Junior Livestock Show ~~[,]~~ ***and*** the Nevada Youth Livestock and Dairy Show ~~[and the Nevada State Horse Program]~~ at places to be determined by the Board.

2. To enter any exhibition named in subsection 1, a person must ***:*** ~~[be:]~~

(a) ~~[Certified]~~ ***Be certified*** by the State 4-H Club Leader or the ~~[State Supervisor of]~~ ~~[Occupational Agricultural]~~ ~~*[Secondary Agriculture]*~~ ***agriculture education program professional at the Department of*** Education ~~*[;]*~~ ; and

(b) ~~[Under]~~ ***Be under*** 19 years of age except that the Board, upon considering the requirements of a specific event involved may allow entry by a person 19 years of age or older who is registered as a regular student in an animal science course under the Nevada System of Higher Education . ~~*[; and*~~

~~*(c) Pay the entry fee imposed pursuant to paragraph (d) of subsection 2 of NRS 563.080, if any.]*~~

3. Entries of animals in any exhibition named in subsection 1 are limited to those owned or controlled according to the requirements of the exhibition.

Sec. 7. NRS 563.060 and 563.140 are hereby repealed.

Sec. 8. Any remaining balance of an appropriation made pursuant to NRS 563.140 must not be committed for expenditure after June 30, 2011, and reverts to the State General Fund as soon as all payments of money committed have been made.

Sec. 9. Notwithstanding the amendatory provisions of this act, the member of the Nevada Junior Livestock Show Board who is a member of the staff of the **Agricultural Extension Department of the Public Service Division of the Nevada System of Higher Education pursuant to subsection 2 of NRS 563.030 and the member of that Board who is a member of the staff of the** State Board for Career and Technical Education appointed pursuant to subsection 3 of NRS 563.030 on July 1, 2011, and who ~~[is]~~ **are** otherwise qualified to serve ~~[in that capacity]~~ **as members of that Board** on that date may continue to serve for the remainder of ~~[his or her]~~ **their respective** unexpired ~~[term]~~ **terms** or until ~~[his or her successor is]~~ **their respective successors are** appointed pursuant to ~~[subsection]~~

subsections 2 and 3 of NRS 563.030, as amended by section 4 of this act, whichever occurs first.

Sec. 10. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTIONS

563.060 Compensation of members and employees.

1. The members of the Board are entitled to receive a salary of not more than $80, as fixed by the Board, for each day's attendance at a meeting of the Board.

2. While engaged in the business of the Board, each member and employee of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

563.140 Legislative appropriations. Funds to carry out the provisions of this chapter shall be provided by direct legislative appropriation from the General Fund, upon the presentation of budgets in the manner required by law, and shall be paid out on claims as other claims against the State are paid.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 563.

Bill read second time.

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

Amendment No. 782.

AN ACT relating to programs for public personnel; establishing for the next biennium the amount to be paid to the Public Employees' Benefits Program for insurance for certain active and retired public officers and employees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill establishes the amount of the State's share of the costs of premiums or contributions for group insurance for active state officers and employees who participate in the Public Employees' Benefits Program. **Section 2** of this bill establishes the base amount that is used to calculate the share of the costs of premiums or contributions for group insurance under the Program that is required to be paid by the State and local governments for retired public officers and employees. **Section 2** of this bill also establishes the base amount that is used to calculate the share of the cost of qualified medical expenses for individual Medicare insurance plans through the Program that is required to be paid by the State and local governments for retired public officers and employees **~~[.]~~ and provides for an increase to that base amount in Fiscal Year 2012-2013 if the Board of the Program determines that additional reserves of the Program are available for this purpose.**

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

Section 1. 1. For the purposes of NRS 287.044 and 287.0445, the State's share of the cost of premiums or contributions for group insurance for each active state officer or employee who elects to participate in the Public Employees' Benefits Program is:

(a) For the Fiscal Year 2011-2012, $644.81 per month.

(b) For the Fiscal Year 2012-2013, $733.64 per month.

2. If the amount of the State's share pursuant to this section exceeds the actual premium or contribution for the plan of the Public Employees' Benefits Program that the state officer or employee selects less any amount paid by the state officer or employee toward the premium or contribution, the balance must be credited to the Fund for the Public Employees' Benefits Program created by NRS 287.0435, which may be used to pay a portion of the premiums or contributions for persons that are eligible to participate in the Public Employees' Benefits Program through such a state officer or employee.

Sec. 2. 1. Except as otherwise provided in subsection 2, for the purposes of NRS 287.023 and 287.046, the base amount for the share of the cost of premiums or contributions for group insurance for each person who has retired with state service and continues to participate in the Public Employees' Benefits Program is:

(a) For the Fiscal Year 2011-2012, $418.41 per month.

(b) For the Fiscal Year 2012-2013, $472.64 per month.

2. For the purposes of NRS 287.023 and 287.046, the base amount for the share of the cost of qualified medical expenses for each person who has retired with state service and whose coverage is provided through the Public Employees' Benefits Program by an individual medical plan offered pursuant to the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., for Fiscal Year 2011-2012 and Fiscal Year 2012-2013 is:

(a) For those persons who retired before January 1, 1994, $150 per month.

(b) For those persons who retired on or after January 1, 1994, $10 per month per year of service, excluding service purchased pursuant to NRS 1A.310 or 286.300, up to a maximum of $200 per month.

➥ For Fiscal Year 2012-2013, the amounts specified in paragraphs (a) and (b) may be increased by an amount based on the percentage increase in the premium for Part B of the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., between the calendar year ending on December 31, 2011, and the calendar year ending on December 31, 2012, which must be rounded to the nearest dollar. The amount of such an increase must be paid from the reserves of the Program if the Board of the Program determines that reserves in excess of the actuarially required reserves of the Program are available for this purpose.

3. No money may be paid by the State Retirees' Health and Welfare Benefits Fund created by NRS 287.0436 on behalf of a person who is initially hired by the State on or after January 1, 2010, and who:

(a) Has not participated in the Program on a continuous basis since his or her retirement from such employment; or

(b) Does not have at least 15 years of service credit upon retirement, unless the person does not have at least 15 years of service credit as a result of a disability for which disability benefits are received under the Public Employees' Retirement System or a retirement program for professional employees offered by or through the Nevada System of Higher Education, and has participated in the Program on a continuous basis since his or her retirement from such employment.

4. If the amount calculated pursuant to this section exceeds the actual premium or contribution for the plan of the Program that the retired participant selects, the balance must be credited to the Fund for the Public Employees' Benefits Program created by NRS 287.0435.

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

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Senate Bill No. 24.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 731.

AN ACT relating to courts; revising provisions concerning writs of execution in justice courts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a writ of execution in a justice court may be issued by the justice of the peace who entered the judgment or any successor in office. (NRS 70.010) A justice of the peace may also renew such a writ of execution. (NRS 70.030) Additionally, existing law requires that a writ of execution in a justice court must contain certain information. (NRS 70.020)

Sections 1 and 2 of this bill authorize a justice of the peace or the clerk of the justice court **, under the direction and supervision of a justice of the peace,** to issue writs of execution in the justice court. **Section 2** also revises the required information that such a writ of execution must contain. **Section 3** of this bill provides that in addition to issuing writs of execution, a justice of the peace or the clerk of the justice court **, under the direction and supervision of a justice of the peace,** may also renew writs of execution.

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

Section 1. NRS 70.010 is hereby amended to read as follows:

70.010 1. Execution for the enforcement of a judgment of a justice court may be issued by ~~[the]~~ ***a*** justice ~~[who entered the judgment, or any successor in office,]~~ ***or the clerk of the court , under the direction and supervision of a justice,*** on the application of the party entitled thereto, at any time within 6 years from the entry of judgment.

2. The court, or any justice thereof, may stay the execution of any judgment, including any judgment in a case of forcible or unlawful detainer, for a period not exceeding 10 days.

Sec. 2. NRS 70.020 is hereby amended to read as follows:

70.020 The execution must:

1. Be directed to a sheriff of any county in the State or to a constable of the county in which the justice court is located.

2. Be ~~[subscribed by the justice.]~~ ***issued in the name of the State of Nevada, sealed with the seal of the court and subscribed by a justice or the clerk of the justice court ~~[.]~~ , under the direction and supervision of a justice.***

3. ~~[Bear date the day of its delivery to the officer.~~

~~4.]~~ Intelligibly refer to the judgment, by stating the ~~[names]~~ ***:***

(a) Justice court in which the judgment was entered;

(b) Date when the judgment was entered;

(c) Names of the parties ~~[, and the name]~~ ***;***

(d) Name of the justice ~~[before whom, and of the county]~~ ***who entered the judgment; and***

(e) County and the township or city where ~~[, and the time when it was rendered.~~

~~5.]~~ ***the judgment was entered.***

4. State the ~~[amount of]~~ judgment, ***and*** if it ~~[be]~~ ***is*** for money, ~~[and, if less than the whole is due,]~~ the ~~[true]~~ amount ***thereof, and the amount actually*** due thereon.

~~[6.]~~ ***5.*** Contain, in like cases, similar directions to the sheriff or constable, as are required by the provisions of chapter 21 of NRS, in an execution to the sheriff.

Sec. 3. NRS 70.030 is hereby amended to read as follows:

70.030 An execution may, at the request of the judgment creditor, be renewed before the expiration of the time fixed for its return, by the word "renewed" written thereon, with the date thereof, and subscribed by ~~[the justice.]~~ ***a justice or the clerk of the justice court ~~[.]~~ , under the direction and supervision of a justice.*** Such renewal has the effect of an original issue ~~[,]~~ and may be repeated as often as necessary. If an execution is returned unsatisfied, another may be afterwards issued.

Sec. 4. NRS 70.050 is hereby amended to read as follows:

70.050 ~~[The]~~ ***Except as otherwise provided in this chapter, the*** provisions of chapter 21 of NRS are applicable to justice courts, the word "justice" being inserted in lieu of the ~~[words]~~ ***word*** "judge" ~~[and "clerk" whenever they occur,]~~ ***wherever the word appears*** and the word "constable"

being ~~[substituted to that end for]~~ ***inserted in lieu of*** the word ~~[“sheriff.”]~~ ***“sheriff” wherever the word appears.***

Sec. 5. This act becomes effective upon passage and approval.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 47.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 736.

SUMMARY— ~~[Clarifies the definition of]~~ **Defines the term** “minor” for the purposes of ~~[certain criminal statutes.]~~ **the crime of kidnapping in the first degree.** (BDR 15-121)

AN ACT relating to crimes; ~~[clarifying the definition of]~~ **defining the term** “minor” for the purposes of ~~[certain criminal statutes;]~~ **the crime of kidnapping in the first degree;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

~~[On July 30, 2009, the Fourth Judicial District Court, in and for the County of Elko, held that the provisions of NRS 200.710 concerning the unlawful use of a minor in producing pornography or as a subject of sexual portrayal in a performance are unconstitutionally vague because it is unclear whether the term “minor” means a person under 16 years of age or a person under 18 years of age. (State of Nevada v. Aaron Taylor Hughes, Nev. Fourth Jud. Dist. Ct. Case No. CR-FP-08-2848 (July 30, 2009))~~

~~This bill defines “minor,” as used in title 15 of NRS (Crimes and Punishments), to mean a person who is under 18 years of age, except as otherwise defined by specific statute.]~~

Existing law establishes degrees of kidnapping and provides that kidnapping in the first degree includes certain actions performed with the intent to keep a minor away from his or her parents, guardians or any person who has lawful custody of the minor, or with the intent to hold the minor to unlawful service, or perpetrate any unlawful act upon the minor. (NRS 200.310) This bill defines the term “minor” as used in those provisions of existing law as a person who is under 18 years of age.

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

Section 1. ~~[Chapter 193 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~***Except as otherwise defined by specific statute, “minor” means a person who is under 18 years of age.]***~~ **(Deleted by amendment.)**

Sec. 2. ~~[NRS 193.010 is hereby amended to read as follows:~~

~~193.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 193.011 to 193.0245, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.]~~ **(Deleted by amendment.)**

Sec. 2.5. **NRS 200.310 is hereby amended to read as follows:**

200.310 1. A person who willfully seizes, confines, inveigles, entices, decoys, abducts, conceals, kidnaps or carries away a person by any means whatsoever with the intent to hold or detain, or who holds or detains, the person for ransom, or reward, or for the purpose of committing sexual assault, extortion or robbery upon or from the person, or for the purpose of killing the person or inflicting substantial bodily harm upon the person, or to exact from relatives, friends, or any other person any money or valuable thing for the return or disposition of the kidnapped person, and a person who leads, takes, entices, or carries away or detains any minor with the intent to keep, imprison, or confine the minor from his or her parents, guardians, or any other person having lawful custody of the minor, or with the intent to hold the minor to unlawful service, or perpetrate upon the person of the minor any unlawful act is guilty of kidnapping in the first degree which is a category A felony.

2. A person who willfully and without authority of law seizes, inveigles, takes, carries away or kidnaps another person with the intent to keep the person secretly imprisoned within the State, or for the purpose of conveying the person out of the State without authority of law, or in any manner held to service or detained against the person's will, is guilty of kidnapping in the second degree which is a category B felony.

3. As used in this section, "minor" means a person who is under 18 years of age.

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

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Senate Bill No. 48.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 671.

AN ACT relating to vehicles; revising provisions relating to the issuance of permits for travel on the highways of this State for certain oversize or overweight vehicles; revising provisions regarding administrative fines and penalties for certain violations of such permits; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Department of Transportation to issue permits for travel on the highways of this State by vehicles that exceed certain limits

regarding size or weight, and provides criminal penalties for the failure to obtain such a permit or to misuse such a permit. (NRS 484D.600, 484D.620, 484D.680, 484D.745) **Sections 25, 26 and 35** of this bill require the Department of Motor Vehicles to issue permits for vehicles that exceed certain length requirements. **Section 25** also authorizes the Department of Transportation to issue permits that further restrict size or weight limits in certain circumstances, and to allow reciprocity with other states regarding various vehicle permits. **Section 19** of this bill authorizes the Department of Transportation to impose an administrative fine for certain violations of a permit, and **sections 27 and 35** of this bill give the Department of Motor Vehicles similar authority. **Section 19** also requires the Department of Transportation to issue, free of charge, a replacement for a permit that has been lost or stolen, and **section 35** also authorizes the Department of Motor Vehicles to charge a fee for a similar replacement permit. **Section 20** of this bill authorizes both the Department of Transportation and the Department of Motor Vehicles to impose certain penalties for repeated permit violations within 1 year. **Section 32** of this bill authorizes a city, a county, the Department of Transportation and any other agency involved to charge the holder of certain permits for ~~**[**any**]**~~ **certain** costs incurred in the travel of the permitted vehicle**.** ~~**[**, such as traffic escorts, movement of various utilities to allow travel and damage done to any highway of this State.**]**~~

Sections 14 and 17 of this bill provide various definitions to comport with certain federal regulations.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. Chapter 484D of NRS is hereby amended by adding thereto the provisions set forth as sections 14 to 20, inclusive, of this act.

Sec. 14. *"**Divisible" means capable of being separated into smaller loads or vehicle combinations without:*

1. Compromising the intended use of the load or vehicles;

2. Destroying the value of the load or a vehicle; or

3. Requiring more than 8 hours of work, using appropriate equipment, to separate.

Sec. 15. (Deleted by amendment.)

Sec. 16. *"**Longer combination vehicle" means a truck or truck-tractor, coupled with at least two ~~[or three]~~ trailers and any load that is divisible, which is longer than 70 feet and ~~[has been]~~ may be issued a permit ~~[by the Department of Motor Vehicles, in cooperation with the Department of Transportation,]~~ to operate, or to operate at a gross vehicle weight that is over 80,000 pounds but under 129,001 pounds.***

Sec. 17. *"**Over-dimensional vehicle" means a vehicle, including its load, that is nondivisible as defined in 23 C.F.R. § 658.5, and exceeds the weight or size requirements of this chapter.***

Sec. 18. *"**Special mobile equipment" has the meaning ascribed to it in NRS 484A.245.***

Sec. 19. ***1. Except as otherwise provided in subsection 3, the Department of Transportation shall issue, free of charge, a replacement permit to any original purchaser of a permit issued by the Department of Transportation pursuant to this chapter upon receipt from the purchaser of a signed and notarized statement that the original permit was lost or stolen.***

2. The Department of Motor Vehicles shall issue replacement permits for longer combination vehicles for a fee of $50 upon receipt from the purchaser of a signed and notarized statement that the original permit was lost or stolen.

3. Any person who uses or attempts to use a permit issued pursuant to this chapter that has been reported lost or stolen is guilty of a misdemeanor and subject to an administrative fine of $2,500. The Department of Transportation or the Department of Motor Vehicles shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

4. All administrative fines and fees for replacement permits that are collected by the Department of Transportation or the Department of Motor Vehicles pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

5. The administrative remedy provided in this section is not exclusive and is in addition to any other remedy provided by law.

Sec. 20. ***1. If a person to whom a permit is issued pursuant to this chapter receives more than one citation within 12 months for violations of the permit conditions or restrictions, the Department of Transportation or the Department of Motor Vehicles may take the following actions:***

(a) After the second citation within 12 months, the issuance of a warning letter.

(b) After the third citation within 12 months, suspension of permit privileges for 14 days from the date of receipt of written notification of the suspension.

(c) After the fourth and any subsequent citations within 12 months, suspension of permit privileges for 30 days from the date of receipt of written notification of the suspension.

2. The Department of Transportation or the Department of Motor Vehicles shall afford to any person receiving a suspension pursuant to this section an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

3. As used in this section, "suspension of permit privileges" means that the permittee may not operate a vehicle under any permit issued pursuant to this chapter for the duration of the suspension.

Sec. 21. NRS 484D.010 is hereby amended to read as follows:

484D.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 484D.015 to 484D.055, inclusive, ***and sections 14 to 18, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. NRS 484D.445 is hereby amended to read as follows:

484D.445 1. Every motor vehicle, except motorcycles or mopeds, equipped with a windshield ~~[shall]~~ ***must*** be equipped with a self-operating windshield wiper system which ~~[shall]~~ ***must*** be so constructed as to be controlled by the driver.

2. The windshield wiper system with which the vehicle is equipped ~~[shall]~~ ***must*** be maintained in good operating condition and capable of effectively clearing the windshield so as to provide clear vision through the windshield for the driver under all ordinary conditions of rain, snow or other moisture.

3. The wiper system ~~[shall]~~ ***must*** be operated while the vehicle is being driven during conditions of rain, snow or other moisture which obstruct or reduce the driver's clear view through the windshield.

4. Subsection 1 does not apply to ~~[highway maintenance vehicles, special mobile equipment, implements of husbandry, or]~~ vehicles manufactured before July 1, 1935, with adequate manually operated windshield wipers.

Sec. 25. NRS 484D.600 is hereby amended to read as follows:

484D.600 1. Except as otherwise provided in this section, a person shall not drive, move, stop or park any vehicle or combination of vehicles, and an owner shall not cause or knowingly ~~[permit]~~ ***allow*** any vehicle or combination of vehicles to be driven, moved, stopped or parked, on any highway if the vehicle or combination of vehicles exceeds in size or weight or gross loaded weight the maximum limitation specified by law for that size, weight and gross loaded weight unless the person or owner is authorized to drive, move, stop or park the vehicle or combination of vehicles by ~~[a special]~~ ***an oversize or overweight vehicle*** permit issued by the ~~[proper public authority.]~~ ***Department of Transportation or the Department of Motor Vehicles.***

2. ***The Department of Motor Vehicles shall issue longer combination vehicle permits as provided for in this section and pursuant to regulations promulgated by the Department of Transportation.***

3. If the Department of Transportation ***, the Nevada Highway Patrol*** or a local law enforcement agency determines that an emergency exists, the Department ***of Transportation, the Nevada Highway Patrol*** or the local law enforcement agency may authorize ***, orally or in writing,*** a person to drive, move, stop or park a vehicle or combination of vehicles without obtaining ~~[a special]~~ ***an oversize or overweight*** permit pursuant to subsection 1 ~~[. Such an authorization may be given orally and may, if requested by a local law enforcement agency or a public safety agency,]~~ ***in or to the nearest safe location and may*** include driving or moving the vehicle or combination of vehicles to and from the site of the emergency. If a person receives such an authorization, the person shall, on the next business day after receiving the authorization, obtain a ~~[special]~~ permit pursuant to subsection 1.

~~[3. This section does not apply to:~~

~~(a) Fire apparatus, highway machinery or snowplows temporarily moved upon a highway.~~

~~(b) A farm tractor or other implement of husbandry temporarily moved upon a highway other than an interstate highway or a controlled access highway.]~~

4. The Department of Transportation may issue permits that further limit vehicle size, vehicle weight, or the duration or repetition of any authorized movement pursuant to this section or impose other vehicle or movement restrictions as the Department of Transportation deems necessary for public safety and the preservation of the highway infrastructure, in such a manner that does not jeopardize the ability of this State to receive federal money for highway purposes and does not adversely impede interstate or intrastate commerce.

5. All vehicles, including, without limitation, any vehicle exempted from obtaining an oversize or overweight permit pursuant to this chapter, are subject to any highway-specific or bridge-specific size or weight restrictions established by the Department of Transportation, except during an emergency as determined by the Department of Transportation, the Nevada Highway Patrol or a local law enforcement agency.

6. The Department of Transportation may, by regulation, restrict and require permits of those vehicles providing public transit, public safety, military and other governmental functions, in such a manner that does not jeopardize the ability of this State to receive federal money for highway purposes. The Department of Transportation shall issue such permits to government agencies without charge.

7. To facilitate interstate commerce and uniformity and pursuant to this chapter, the Department of Transportation may, by regulation and appropriate agreements, authorize reciprocity with authorities who issue

vehicle permits in other states and with the Western Association of State Highway and Transportation Officials.

Sec. 26. NRS 484D.615 is hereby amended to read as follows:

484D.615 1. Except as otherwise provided in subsection 2, the length of a bus may not exceed 45 feet and the length of a motortruck may not exceed 40 feet.

2. A passenger bus which has three or more axles and two sections joined together by an articulated joint with a trailer which is equipped with a mechanically steered rear axle may not exceed a length of 65 feet.

3. Except as otherwise provided in subsections 4, 7 and 9, no combination of vehicles, including any attachments thereto coupled together, may exceed a length of 70 feet.

4. The Department of Transportation, by regulation, shall provide for the operation of ~~[combinations of]~~ ***longer combination vehicles and over-dimensional*** vehicles in excess of 70 feet in length. The regulations must establish standards for the operation of such vehicles which must be consistent with their safe operation upon the public highways and with the provisions of 23 C.F.R. § 658.23. Such standards must include:

(a) Types and number of vehicles to be permitted in combination;

(b) Horsepower of a motortruck;

(c) Operating speeds;

(d) Braking ability; and

(e) Driver qualifications.

➥ The operation of such vehicles is not permitted on highways where, in the opinion of the Department of Transportation, their use would be inconsistent with the public safety because of a narrow roadway, excessive grades, extreme curvature or vehicular congestion.

5. ~~[Combinations of]~~ ***Longer combination vehicles and over-dimensional*** vehicles operated under the provisions of subsection 4 may, after obtaining a ~~[special]~~ permit ***,*** ~~[issued at the discretion of, and in accordance with procedures established by, the Department of Transportation,]~~ carry loads not to exceed the values set forth in the following formula: W=500 [LN/(N-1) + 12N + 36], wherein:

(a) W equals the maximum load in pounds carried on any group of two or more consecutive axles computed to the nearest 500 pounds;

(b) L equals the distance in feet between the extremes of any group of two or more consecutive axles; and

(c) N equals the number of axles in the group under consideration.

➥ The distance between axles must be measured to the nearest foot. If a fraction is exactly one-half foot, the next largest whole number must be used. The permits may be restricted in such manner as the Department of Transportation ***or the Department of Motor Vehicles*** considers necessary and may, at the option of the Department ~~[,]~~ ***that issued the permit,*** be cancelled without notice. No such permits may be issued for operation on

any highway where that operation would prevent this State from receiving federal money for highway purposes.

6. ~~[Upon approving an application for a permit to operate combinations of vehicles pursuant to subsection 5, the Department of Transportation shall withhold issuance of the permit until the applicant has furnished proof of compliance with the provisions of]~~ ***The Department of Motor Vehicles shall issue permits for longer combination vehicles pursuant to subsection 5 and*** NRS 706.531.

7. The load upon any motor vehicle operated alone, or the load upon any combination of vehicles, must not extend beyond the front or the rear of the vehicle or combination of vehicles for a distance of more than 10 feet, or a total of 10 feet both to the front or the rear, and a combination of vehicles and load thereon may not exceed a total of 75 feet without having secured a permit pursuant to subsection 4 or NRS 484D.600. The provisions of this subsection do not apply to the booms or masts of shovels, cranes or water well drilling and servicing equipment carried upon a vehicle if:

(a) The booms or masts do not extend by a distance greater than two-thirds of the wheelbase beyond the front tires of the vehicle.

(b) The projecting structure or attachments thereto are securely held in place to prevent dropping or swaying.

(c) No part of the structure which extends beyond the front tires is less than 7 feet from the roadway.

(d) The driver's vision is not impaired by the projecting or supporting structure.

8. Lights and other warning devices which are required to be mounted on a vehicle pursuant to this chapter must not be included in determining the length of a vehicle or combination of vehicles and the load thereon.

9. This section does not apply to:

(a) Vehicles used by a public utility for the transportation of poles;

(b) A combination of vehicles consisting of a truck-tractor drawing a semitrailer that does not exceed 53 feet in length;

(c) A combination of vehicles consisting of a truck-tractor drawing a semitrailer and a trailer, neither of which exceeds 28 1/2 feet in length; or

(d) A driveaway saddle mount with full mount vehicle transporter combination that does not exceed 97 feet in length.

10. As used in this section:

(a) "Driveaway saddle mount with full mount vehicle transporter combination" means a vehicle combination designed and specifically used to tow up to three trucks or truck-tractors, each connected by a saddle to the frame or fifth wheel of the forward vehicle of the truck-tractor in front of it.

(b) "Motortruck" has the meaning ascribed to it in NRS 482.073.

Sec. 27. NRS 484D.620 is hereby amended to read as follows:

484D.620 ***1.*** Any person operating or moving any vehicle or equipment over any highway who violates any ~~[length]~~ ***size*** limitation in this chapter is guilty of a misdemeanor.

2. Any size violation of an oversize permit issued pursuant to this chapter is subject to an administrative fine to be administered by the Department of Motor Vehicles in the amount of $100 for each foot and fraction thereof that the size exceeds permit limits. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

3. All administrative fines collected by the Department of Motor Vehicles pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

4. The administrative remedy provided in this section is not exclusive and is in addition to any other remedy provided by law.

Sec. 28. NRS 484D.685 is hereby amended to read as follows:

484D.685 1. ~~[As used in this section and NRS 484D.700, "special mobile equipment" means a vehicle, not self-propelled, not designed or used primarily for the transportation of persons or property, and only incidentally operated or moved over a highway, excepting implements of husbandry.~~

~~2.]~~ The Department of Transportation with respect to highways under its jurisdiction and governing bodies of cities and counties with respect to roads under their jurisdiction may, upon application in writing, authorize the applicant to operate or move ~~[a]~~ ***any*** vehicle, combination of vehicles, special mobile equipment, ***farm tractor, implement of husbandry*** or load thereon of a size or weight exceeding the legal maximum, or to use corrugations on the periphery of the movable tracks on a traction engine or tractor, the propulsive power of which is not exerted through wheels resting on the roadway but by means of a flexible band or chain, or, under emergency conditions, to operate or move a type of vehicle otherwise prohibited by law, upon any highway under the jurisdiction of the Department of Transportation or governing body granting that permit.

~~[3.]~~ ***2.*** Except as otherwise provided in ***this section and*** NRS ~~[484D.690 to 484D.725, inclusive,]~~ ***484D.700,*** the legal maximum ~~[width of any vehicle, combination of vehicles, special mobile equipment or load thereon is]~~ ***size of any vehicle, including combinations of vehicles, special mobile equipment, a farm tractor, implement of husbandry, or load thereon, is:***

(a) Width of 102 inches.

(b) Height of 14 feet.

(c) Length of 70 feet.

(d) Overhang, front or rear, from the vehicle of 10 feet.

~~[4.]~~ ***3.*** If a vehicle is equipped with pneumatic tires, the maximum width from the outside of one wheel and tire to the outside of the opposite outer wheel and tire must not exceed 108 inches, and the outside width of the body of the vehicle or the load thereon must not exceed 102 inches.

~~[5.]~~ ***4.*** Lights ~~[or]~~ ***, mirrors or other*** devices ***for safety*** which must be mounted upon a vehicle under this chapter may extend beyond the permissible width of the vehicle to a distance not exceeding 10 inches on each side of the vehicle, but the maximum width must not exceed 126 inches.

~~[6.]~~ ***5.*** Door handles, hinges, cable cinchers and chain binders may extend 3 inches on each side, but the maximum width of body and door handles, hinges, cable cinchers or chain binders must not exceed 108 inches.

~~[7.]~~ ***6.*** A person shall not operate a passenger vehicle on any highway with any load carried thereon extending beyond the line of the hubcaps on its left side or more than 6 inches beyond the line of the hubcaps on its right side.

7. An awning attached to a recreational vehicle and any hardware required for the awning may extend beyond the permissible width of the vehicle to a distance not exceeding 10 inches on either side of the vehicle, but the maximum width must not exceed 126 inches.

Sec. 29. NRS 484D.700 is hereby amended to read as follows:

484D.700 ***1.*** Subject to the provisions of subsection ~~[2]~~ ***1*** of NRS 484D.685, the following vehicles must not exceed a width of 120 inches:

~~[1. Any trailer or semitrailer, including lift carriers and tip-bed trailers, used exclusively for the transportation of implements of husbandry by farmers or implement dealers.~~

~~2.]~~ ***(a)*** Special mobile equipment.

~~[3. Highway construction or maintenance equipment.]~~

(b) Fire apparatus.

(c) Snow removal equipment.

2. A vehicle carrying a load of loosely piled agricultural products, including, without limitation, hay or leguminous plants, that are in bulk but not crated, boxed, baled or sacked, the load and any racks or other structures or devices retaining the load must not exceed 120 inches in width.

3. A farm tractor or implement of husbandry operated, towed or moved as a load on another vehicle over any highway other than an interstate highway or a controlled-access highway may travel during daylight hours only, must travel as far to the right side of the highway as is practicable, and may not:

(a) Exceed 14 feet in width;

(b) Travel for a distance of more than 25 miles from the point of origin; and

(c) Exceed a speed of 30 miles per hour.

4. Notwithstanding any other provision of law to the contrary, a permit is not required to operate, tow or move a vehicle, farm tractor or implement of husbandry in the manner allowed by this section. If a vehicle, farm tractor or implement of husbandry is not operated, towed or moved in the manner allowed by this section, a permit for the vehicle, farm tractor or implement of husbandry must be obtained pursuant to NRS 484D.725.

Sec. 30. NRS 484D.725 is hereby amended to read as follows:

484D.725 ***1.*** Upon receipt of the necessary application in writing, the Department of Transportation shall issue a permit to operate or move a vehicle ***, including, without limitation, a combination of vehicles, special***

mobile equipment, a farm tractor or implement of husbandry on the highways of this State which has a load that ~~[~~:

~~1.]~~ ***meets the definition of nondivisible in 23 C.F.R. § 658.5 and:***

(a) Exceeds 14 feet in height;

~~[2.]~~ ***(b)*** Exceeds 70 feet in length; ~~[or~~

~~3.]~~ ***(c)*** Exceeds 102 inches in width ~~[.]~~ ***;***

(d) Exceeds 10 feet of front or rear overhang; or

(e) Exceeds 80,000 pounds of gross weight,

➥ unless the Department of Transportation determines that the operation of the vehicle would be a safety hazard or impede the flow of traffic.

2. The Department of Transportation shall issue a permit pursuant to subsection 1 for a farm tractor or implement of husbandry at no cost to any farmer or rancher who is not engaged in a commercial enterprise.

3. As used in this section, the term "commercial enterprise" means the activity of producing goods or services for profit. The term does not include operation of a family farm as that term is defined in 7 C.F.R. § 761.2, or the vehicles and equipment used in that operation.

Sec. 31. NRS 484D.730 is hereby amended to read as follows:

484D.730 The application for a permit under NRS 484D.685 to 484D.725, inclusive, must ~~[:]~~ ***specifically identify:***

1. ~~[Specifically describe the vehicle or special mobile equipment and load to be operated or moved and the particular highways over which the permit to operate is requested.]~~ ***The vehicle to be operated;***

2. ~~[State whether the permit is requested for a single trip, for continuous use or for multiple trips over a limited time.]~~ ***Any load to be moved; and***

3. The intended route for movement.

Sec. 32. NRS 484D.735 is hereby amended to read as follows:

484D.735 1. ~~[No vehicle operated or moved upon any public highway under the authority of a continuous or multiple trip limited time permit may exceed a maximum weight of 20,000 pounds on any single axle. Before any continuous permit is issued,]~~ ***Upon a determination by the Department of Transportation that the potential exists for*** ~~*[significant]*~~ ***substantial traffic impact or substantial damage to the highway or highways based on an application for a permit issued pursuant to this chapter,*** the applicant shall pay a reasonable fee to be determined by the Department of Transportation to pay the costs and expenses of conducting ~~[an initial investigation of]~~ ***a movement impact survey*** ~~*[of]*~~ ***and plan for*** the highway or highways involved.

2. If, after issuance of a ~~[continuous or multiple trip limited time]~~ permit, the Department of Transportation finds that the traffic authorized by such ~~[continuous or multiple trip limited time]~~ permit has caused substantial highway ~~[distress,]~~ ***damage,*** the permit may be revoked summarily, but the revocation does not operate to prevent a subsequent filing of a new application for another ~~[continuous or multiple trip limited time]~~ permit.

3. The Department of Transportation shall consider the recommendation of a city or county regarding whether traffic authorized by the issuance of a ~~[continuous or multiple trip limited time]~~ permit ***may cause or*** has caused substantial ~~[distress]~~ ***damage*** to a highway under the jurisdiction of that city or county, and whether the permit should be ***issued or*** revoked.

4. ~~[A county or city, the]~~ The Department of Transportation and any other agencies involved, including, without limitation, the Nevada Highway Patrol, may charge the permittee for the actual costs incurred by the agency for preparation for, participation in and any documented damages caused by the traffic authorized by the permit.

5. A city or county may charge the permittee for the actual costs incurred by the city or county for any documented damages to specific city or county property, as applicable, caused by the traffic authorized by the permit.

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. NRS 706.531 is hereby amended to read as follows:

706.531 1. The Department ~~[of Transportation]~~ shall approve an application for a permit pursuant to the provisions of subsection 5 of NRS 484D.615. The permit must be carried and displayed in such a manner as the Department determines on every combination so operating. The permit issued may be transferred from one combination to another, under such conditions as the Department may by regulation prescribe, but must not be transferred from one person or operator to another without prior approval of the Department. The permit may be used only on motor vehicles regularly licensed pursuant to the provisions of NRS 482.482.

2. The annual fee for each permit for a ***longer*** combination ~~[of vehicles]~~ ***vehicle*** is $60 for each 1,000 pounds or fraction thereof of gross weight in excess of 80,000 pounds. The fee must be reduced one-twelfth for each month ***or portion thereof*** that ~~[has elapsed since the beginning of each calendar year,]~~ ***the permit is valid,*** rounded to the nearest dollar, but must not be less than $50. The annual fee for each permit for a ***longer*** combination ~~[of vehicles]~~ ***vehicle*** not exceeding 80,000 pounds is $10. The fee must be paid in addition to all other fees required by the provisions of this chapter.

3. Any person operating a ***longer*** combination ~~[of vehicles]~~ ***vehicle*** licensed pursuant to the provisions of subsection 2 who is apprehended operating a combination in excess of the gross weight for which the fee in subsection 2 has been paid is, in addition to all other penalties provided by law, liable for the difference between the fee for the load being carried and the fee paid, for the full licensing period.

4. Any person apprehended operating a ***longer*** combination ~~[of vehicles]~~ ***vehicle*** without having complied with the provisions of this section and NRS 484D.615 is, in addition to all other penalties provided by law, liable for the payment of the fee which would be due pursuant to the provisions of

subsection 2 for the balance of the calendar year for the gross load being carried at the time of apprehension.

5. The holder of an original permit may, ~~[upon surrendering the permit to the Department or]~~ upon delivering to the Department a signed and notarized statement that the permit was lost or stolen and such other documentation as the Department may require, apply to the Department ~~[:~~

~~(a) For a refund of an amount equal to that portion of the fees paid for the permit that is attributable, on a pro rata monthly basis, to the remainder of the calendar year; or~~

~~(b) To have that amount credited against excise taxes due pursuant to the provisions of chapter 366 of NRS.]~~ ***for a replacement permit. The Department shall issue such a replacement permit and may charge a fee not to exceed $50.***

6. Any person who uses or attempts to use a permit issued pursuant to this chapter that has been reported lost or stolen is guilty of a misdemeanor and subject to an administrative fine of $2,500. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

7. All administrative fines collected by the Department pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

8. The administrative remedy provided in this section is not exclusive and is in addition to any other remedy provided by law.

9. As used in this section, "longer combination vehicle" has the meaning ascribed to it in section 16 of this act.

Sec. 36. NRS 484D.645, 484D.690, 484D.695 and 484D.705 are hereby repealed.

Sec. 37. This act becomes effective upon passage and approval for the purpose of adopting regulations and on July 1, 2011, for all other purposes.

TEXT OF REPEALED SECTIONS

484D.645 Limitations on weight for vehicle used by regional transportation commission or its contractor to provide public mass transportation; exception for certain vehicles used as part of demonstration project; definitions.

1. Except as otherwise provided in subsection 2, a vehicle that is used by a regional transportation commission or its contractor to provide public mass transportation may be operated or moved upon a public highway, other than a highway within the designated interstate system, if the maximum weight does not exceed, on a single axle with:

(a) Single tires, 20,000 pounds; or

(b) Dual tires, 25,000 pounds.

2. A vehicle with a maximum weight on a single axle with single tires of more than 20,000 pounds but not more than 29,000 pounds that is used by a regional transportation commission or its contractor to provide public mass

transportation as part of a demonstration project may be operated or moved upon a public highway, other than a highway within the designated interstate system, if the tires are not less than 20 inches in width and the Department of Transportation, after conducting an evaluation of the vehicle:

(a) Determines that such operation or movement of the vehicle is in the best interest of the Department; and

(b) In its discretion, issues a permit authorizing such operation or movement of the vehicle.

3. As used in this section:

(a) "Contractor" means any person or governmental entity that has entered into a contract with a regional transportation commission to provide services related to the provision of public mass transportation, but only during the period in which the contract remains legally effective.

(b) "Regional transportation commission" means any regional transportation commission created and organized in accordance with chapter 277A of NRS, and which provides or sponsors public mass transportation services.

484D.690 Maximum width of bus. The legal maximum width of a bus is 102 inches, excluding mirrors, lights and other devices required for safety.

484D.695 Maximum width of recreational vehicle. The legal maximum width of a recreational vehicle is 102 inches, excluding:

1. Mirrors, lights and other devices required for safety; and

2. An awning and any hardware required for the awning which is attached to the recreational vehicle and which does not extend beyond any mirror specified in subsection 1 which is attached to the side of the recreational vehicle.

484D.705 Width of load of loosely piled agricultural products; restrictions for implement of husbandry moved over highway.

1. If a vehicle is carrying a load of loosely piled agricultural products such as hay, straw or leguminous plants in bulk but not crated, baled, boxed or sacked, the load of loosely piled material and any loading racks retaining the load must not exceed 120 inches in width.

2. The provisions of NRS 484D.685 with respect to maximum widths do not apply to implements of husbandry incidentally operated, transported, moved or towed over a highway other than an interstate highway or a controlled-access highway.

3. If an implement of husbandry is transported or moved as a load on another vehicle over:

(a) An interstate highway or a controlled-access highway, and the load exceeds 102 inches in width, the movement is subject to the provisions of NRS 484D.720 and the regulations adopted pursuant thereto.

(b) Any highway other than an interstate highway or a controlled-access highway, and the load exceeds 120 inches in width, the vehicle and load must

not be operated for a distance of more than 25 miles from the point of origin of the trip and must not be operated at a speed in excess of 30 miles per hour.

Assemblywoman Dondero Loop moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 55.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 625.

AN ACT relating to older persons; revising the crimes against an older person that are subject to an additional civil penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Attorney General to bring a civil action to recover a civil penalty against any person who is found guilty of abuse, neglect, exploitation or isolation of an older person. (NRS 228.280) This bill expands the list of crimes that are subject to an additional civil penalty to include certain crimes committed against a person who is 60 years of age or older.

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

Section 1. NRS 228.280 is hereby amended to read as follows:

228.280 1. In addition to any criminal penalty, a person who is ~~[found guilty]~~ ***convicted*** of ***a crime against an older person for which an additional term of imprisonment may be imposed pursuant to paragraph (h), (i) or (j) of subsection 1 of NRS 193.167 or of the*** abuse, neglect, exploitation or isolation of an older person pursuant to NRS 200.5099 or 200.50995 is liable for a civil penalty to be recovered by the Attorney General in a civil action brought in the name of the State of Nevada:

(a) For the first offense, in an amount which is not less than $5,000 and not more than $20,000.

(b) For a second or subsequent offense, in an amount which is not less than $10,000 and not more than $30,000.

2. The Attorney General shall deposit any money collected for civil penalties pursuant to subsection 1 in equal amounts to:

(a) A separate account in the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260 to provide compensation to older persons who are ~~[abused,]~~ ***:***

(1) Victims of a crime for which an additional term of imprisonment may be imposed pursuant to paragraph (h), (i) or (j) of subsection 1 of NRS 193.167; or

(2) Abused, neglected, exploited or isolated in violation of NRS 200.5099 and 200.50995 ***.*** ~~[; and]~~

(b) The Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons created pursuant to NRS 228.285.

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

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Senate Bill No. 65.

Bill read second time.

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

Amendment No. 645.

SUMMARY—Revises provisions concerning the ~~[quarterly]~~ publication of certain financial information by certain local governments. (BDR 21-400)

AN ACT relating to local financial administration; revising provisions concerning the ~~[quarterly]~~ publication of certain financial information by an incorporated city or a county; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the clerk and council of each city incorporated under general law or charter to publish in a newspaper a quarterly statement of the city's finances that shows the receipts and disbursements and the details of each bill that the city has paid. (NRS 268.030) **Section 2** of this bill requires the publication of only the total amounts of the city's receipts, disbursements and bills paid for the quarter but expressly provides that the receipts, bills and other documents which support each transaction that is included in the published totals are public records which are available for inspection and copying. **Section 2** also requires publication of the financial statement on the Internet website of the city, if the city maintains an Internet website. **Section 1** of this bill eliminates a duplicative requirement for the publication of financial information that only applies to the city clerks of cities incorporated under general law.

Under existing law, a board of county commissioners is required to publish in a newspaper a quarterly financial statement of receipts, expenditures and bills allowed. (NRS 244.225, 354.210) **Sections 3 and ~~[4]~~ 5** of this bill require the publication of only the total amounts of the county's receipts, expenditures and bills allowed but expressly provides that the receipts, bills and other documents which support each transaction that is included in the published totals are public records which are available for inspection and copying. **Sections 3 and ~~[4]~~ 5** also require publication of the financial statement on the Internet website of the county if the county maintains an Internet website.

Section 4 of this bill requires the Committee on Local Government Finance to adopt regulations regarding the appropriate format for the financial statements posted on the Internet website of cities and counties.

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

Section 1. NRS 266.480 is hereby amended to read as follows:

266.480 The city clerk shall:

1. Keep the office of the city clerk at the place of meeting of the city council, or some other place convenient thereto, as the council may direct.

2. Keep the corporate seal and all papers and records of the city.

3. Keep a record of the proceedings of the city council, whose meetings the city clerk shall attend.

4. Countersign all contracts made in behalf of the city, and every such contract or contracts to which the city is a party shall be void unless signed by the city clerk.

~~[5. Cause to be published quarterly in some newspaper published in the city a statement of the finances of the city, showing receipts and disbursements, and bills allowed and paid. The statement shall be signed by the mayor and attested by the city clerk. If there should be no newspaper published in the county, the financial statement shall be published in a newspaper of general circulation in the county.]~~

Sec. 2. NRS 268.030 is hereby amended to read as follows:

268.030 1. After March 23, 1939, the city clerk and city council of every incorporated city in this state, whether incorporated under the provisions of chapter 266 of NRS or under the provisions of a special act, shall cause to be published quarterly in some newspaper, published as hereinafter provided, a statement of the finances of the city, showing ***the total amounts of*** receipts ***,*** ~~[and]~~ disbursements ~~[, exhibiting in detail the]~~ ***and*** bills allowed and paid ~~[.]~~ ***for the period covered by the statement.*** The statement ~~[shall be]~~ ***must:***

(a) Inform the public of the provisions of subsection 3;

(b) If the city maintains an official Internet website, inform the public of where the financial statement is posted on the Internet website pursuant to subsection 2;

(c) Provide a telephone number the public may call for further instructions on how to obtain the detailed financial documents;

(d) Provide the address of the city office or offices where the public may view the detailed financial documents;

(e) Be signed by the mayor and attested by the city clerk ***;*** ~~[,]~~ and ~~[shall be]~~

(f) Be published in a newspaper published in ~~[such]~~ ***the*** city ~~[.]~~ ***for a period of at least 5 consecutive days.*** If ~~[there shall be]~~ no newspaper ***is*** published in ~~[such]~~ ***the*** city, then the financial statement ~~[shall]~~ ***must*** be published in a newspaper published in the county, and if ~~[there be]~~ no newspaper ***is*** published in the county, ~~[such]~~ ***the*** financial statement ~~[shall]~~ ***must*** be ***published in a newspaper of general circulation in the county or*** posted by the city clerk at the door of the city hall.

2. ***If a city maintains an official Internet website, the city clerk and city council shall [cease to be published] maintain and update quarterly on the Internet website of the city a statement of the finances of the city, showing the [total amounts of] receipts, disbursements and bills allowed and paid for the period covered by the statement. The statement must:***

(a) Inform the public of the provisions of subsection 3;

(b) Provide a telephone number the public may call for further instructions on how to obtain the detailed financial documents;

(c) Provide the address of the city office or offices where the public may view the detailed financial documents; and

(d) Be signed by the mayor and attested by the city clerk . [; and

(e) Be published on the Internet website of the city for a period of at least 5 consecutive days.]

3. The original and any duplicate or copy of each receipt, bill, invoice, check, warrant, voucher or other similar document that supports a transaction, the amount of which is [included in the total amounts] shown in the financial statement published pursuant to this section is a public record that is available for inspection and copying by any person pursuant to the provisions of chapter 239 of NRS.

4. Any city officer **[**in this state**]** who **[**shall violate**]** ***violates*** the provisions of this section **[**shall be deemed**]** ***is*** guilty of a misdemeanor.

Sec. 3. NRS 244.225 is hereby amended to read as follows:

244.225 ***1.*** The board of county commissioners shall publish quarterly a statement of the ***total amounts of*** receipts and expenditures of the 3 months next preceding, and the ***total amounts of*** accounts allowed. Publications shall be made by making one insertion of the statement in a newspaper published in the county, but if no newspaper **[**be**]** ***is*** published in the county, then such publication shall be made by posting a copy of the statement at the courthouse door and at two other public places in the county. ***The statement must:***

(a) Inform the public of the provisions of subsection 3;

(b) If the county maintains an official Internet website, inform the public of where the financial statement is posted on the Internet website pursuant to subsection 2;

(c) Provide a telephone number the public may call for further instructions on how to obtain the detailed financial documents;

(d) Provide the address of the county office or offices where the public may view the detailed financial documents; and

(e) Be published for a period of at least 5 consecutive days.

2. If a county maintains an official Internet website, the board of county commissioners shall [publish] maintain and update quarterly on the Internet website of the county a statement of the [total amounts of] receipts and expenditures of the 3 months next preceding and the [total amounts of] accounts allowed. The statement must:

(a) Inform the public of the provisions of subsection 3;

(b) Provide a telephone number the public may call for further instructions on how to obtain the detailed financial documents; and

(c) Provide the address of the county office or offices where the public may view the detailed financial documents . ~~*[; and*~~

~~*(d) Be published on the official Internet website of the county for a period of at least 5 consecutive days.]*~~

3. The original and any duplicate or copy of each receipt, bill, invoice, check, warrant, voucher or other similar document that supports a transaction, the amount of which is ~~*[included in the total amounts]*~~ ***shown in the statement published pursuant to this section, is a public record that is available for inspection and copying by any person pursuant to the provisions of chapter 239 of NRS.***

Sec. 4. **NRS 354.107 is hereby amended to read as follows:**

354.107 1. The Committee on Local Government Finance may adopt such regulations as are necessary for the administration of this chapter.

2. ***The Committee on Local Government Finance shall adopt regulations prescribing the format of the financial statement posted on the Internet website of a city or county pursuant to NRS 244.225, 268.030 and 354.210.***

3. Any regulations adopted by the Committee on Local Government Finance must be adopted in the manner prescribed for state agencies in chapter 233B of NRS.

~~[Sec. 4.]~~ ***Sec. 5.*** NRS 354.210 is hereby amended to read as follows:

354.210 1. Except as provided in subsection 3, the board of county commissioners shall cause ***a statement of*** the ***total*** amount of ~~[all]~~ bills allowed by it ~~[, together with the names of the persons to whom such allowances are made and for what such allowances are made,]~~ to be published in some newspaper published in the county. ***The statement must:***

(a) Inform the public of the provisions of subsection 5;

(b) If the county maintains an official Internet website, inform the public of where the financial statement is posted on the Internet website pursuant to subsection 4;

(c) Provide a telephone number the public may call for further instructions on how to obtain the detailed financial documents;

(d) Provide the address of the county office or offices where the public may view the detailed financial documents; and

(e) Be published for a period of at least 5 consecutive days.

2. The amount paid for such publication shall not exceed the statutory rate for publication of legal notices, and the publication shall not extend beyond a single insertion.

3. Where no newspaper is published in a county, the board of county commissioners may cause to be published, in some newspaper having a general circulation within the county, the allowances provided for in subsection 1, or shall cause the clerk of the board to post such allowances at the door of the courthouse.

4. If a county maintains an official Internet website, the board of county commissioners shall [publish] maintain and update quarterly on the official Internet website of the county a statement of the [total amount of] bills allowed by it. The statement must:

(a) Inform the public of the provisions of subsection 5;

(b) Provide a telephone number the public may call for further instructions on how to obtain the detailed financial documents; and

(c) Provide the address of the county office or offices where the public may view the detailed financial documents . [; and

(d) Be published on the official Internet website of the county for a period of at least 5 consecutive days.]

5. The original and any duplicate or copy of each bill, including, without limitation, the amount of the bill, the name of the person to whom such allowance is made and for what such allowance is made, or any other document that supports a transaction, the amount of which is [included in the total amount] shown in the statement published pursuant to this section, is a public record that is available for inspection and copying by any person pursuant to the provisions of chapter 239 of NRS.

Sec. 6. **The Committee on Local Government Finance shall adopt the regulations required pursuant to subsection 2 of NRS 354.107, as amended by section 4 of this act, on or before January 15, 2012.**

[Sec. 5.**]** ***Sec. 7.*** This act becomes effective upon passage and approval **[**.**]** **for the purpose of adopting regulations and performing any other preparatory tasks that are necessary to carry out the provisions of this act and on January 15, 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. 106.

Bill read second time and ordered to third reading.

Senate Bill No. 110.

Bill read second time.

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

Amendment No. 594.

SUMMARY— **[**Requires the establishment of a**]** **Revises provisions governing the issuance of** business **[**license to engage in contracting**]** **licenses** in certain counties and cities in this State. (BDR 20-820)

AN ACT relating to businesses; requiring a board of county commissioners and the governing bodies of certain incorporated cities to enter into an agreement to establish a business license to allow a licensed contractor to engage in the business of contracting in the county and cities under certain circumstances; **authorizing a board of county commissioners**

and the governing bodies of certain other incorporated cities to enter into such an agreement; revising the circumstances for obtaining a county or city business license; revising certain provisions for the issuance of a license for a food establishment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes counties, cities and towns to issue business licenses and permits to operate a business within the limits of the county, city or town and to collect taxes on those licenses. (NRS 244.335, 266.355, 268.095, 269.170) **Sections 1 and 2** of this bill require the board of county commissioners in a county whose population is 700,000 or more (currently Clark County) and the governing body of each incorporated city whose population is 150,000 or more located in such a county (currently Henderson, Las Vegas and North Las Vegas) to enter into an agreement with each other for the establishment of a business license to allow a licensed contractor to engage in the business of contracting in the county and cities if the contractor: (1) has a place of business in an unincorporated area of the county; or (2) does not have a place of business in the county. **Sections 1 and 2 also require such a board of county commissioners to enter into similar agreements with the governing body of each incorporated city whose population is less than 150,000 located in the county (currently Boulder City and Mesquite) who chooses to enter into such an agreement.** **Sections 1 and 2** further require the board of county commissioners and governing body of each **such** incorporated city to establish by ordinance a system for issuing the business license which sets forth the requirements for obtaining the license and the fees for the issuance and renewal of the license.

Existing law requires an applicant for a county or city business license to sign an affidavit to affirm that he or she has complied with the business licensing provisions of this State. (NRS 244.335, 268.095) Sections 1.5 and 3 of this bill provide for an alternative procedure for an applicant to prove compliance by providing his or her entity number assigned by the Secretary of State for investigation by the city council or board of county commissioners to whom he or she is applying. Existing law also requires an applicant for a city or county business license to sign an affidavit affirming that the business maintains certain insurance requirements. (NRS 244.33505, 268.0955) Sections 1.7 and 3.5 of this bill allow an applicant to attest to his or her compliance with these provisions instead of providing a physical signature if the applicant submits his or her application electronically.

Existing law prohibits a city, county or other licensing authority from issuing a license for the operation of a food establishment until the owner has obtained the required permit by the health authority. (NRS 446.877) Section 3.7 of this bill authorizes the board of county commissioners or the governing body of an incorporated city to issue a

license to a food establishment contingent upon the owner's obtaining the required health permit.

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

Section 1. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of county commissioners in each county whose population is 700,000 or more shall enter into an agreement in accordance with the provisions of NRS 277.080 to 277.180, inclusive, with the governing body of each city whose population is 150,000 or more located within the county and with the governing body of each city located within the county whose population is less than 150,000 who chooses to enter into such an agreement for the establishment of a business license to authorize a person who is licensed as a contractor pursuant to chapter 624 of NRS to engage in the business of contracting within the county and each of those cities.

2. The agreement required pursuant to subsection 1 must set forth the purposes, powers, rights, obligations and responsibilities, financial and otherwise, of the county and each city that enters into the agreement.

3. Upon entering into the agreement required pursuant to subsection 1, the board of county commissioners shall establish by ordinance a system for issuing such a business license that authorizes a person who is licensed as a contractor pursuant to chapter 624 of NRS to engage in the business of contracting within the county and each city that entered into the agreement [.] pursuant to subsection 1 and in which the person intends to conduct business.

4. An ordinance adopted pursuant to the provisions of subsection 3 must include, without limitation:

(a) The requirements for obtaining the business license;

(b) The fees for the issuance and renewal of the business license; and

(c) Any other requirements necessary to establish the system for issuing the business license.

5. A person who is licensed as a contractor pursuant to chapter 624 of NRS is eligible to obtain from the county a business license that authorizes the person to engage in the business of contracting within the county and each city located in the county which enters into an agreement pursuant to subsection 1 and in which the person intends to conduct business if the person meets the requirements set forth in the ordinance to qualify for the license and:

(a) The person maintains only one place of business within the county and the place of business is located within the unincorporated area of the county;

(b) The person maintains more than one place of business within the county and each of those places of business is located within the unincorporated area of the county; or

(c) The person does not maintain any place of business within the county.

6. A person who obtains a business license described in this section is subject to all other licensing and permitting requirements of the State and any other counties and cities in which the person does business.

Sec. 1.5. NRS 244.335 is hereby amended to read as follows:

244.335 1. Except as otherwise provided in subsections 2, 3 and 4, ***and section 1 of this act,*** a board of county commissioners may:

(a) Except as otherwise provided in NRS 244.331 to 244.3345, inclusive, 598D.150 and 640C.100, regulate all character of lawful trades, callings, industries, occupations, professions and business conducted in its county outside of the limits of incorporated cities and towns.

(b) Except as otherwise provided in NRS 244.3359 and 576.128, fix, impose and collect a license tax for revenue or for regulation, or for both revenue and regulation, on such trades, callings, industries, occupations, professions and business.

2. The county license boards have the exclusive power in their respective counties to regulate entertainers employed by an entertainment by referral service and the business of conducting a dancing hall, escort service, entertainment by referral service or gambling game or device permitted by law, outside of an incorporated city. The county license boards may fix, impose and collect license taxes for revenue or for regulation, or for both revenue and regulation, on such employment and businesses.

3. A board of county commissioners shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number of classifications or subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS.

4. The board of county commissioners or county license board shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. ***As used in this subsection, "professional" means a person who:***

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060 or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his or her profession for any type of compensation as an employee.

5. The county license board shall provide upon request an application for a state business license pursuant to chapter 76 of NRS. No license to engage in any type of business may be granted unless the applicant for the license ~~[signs]~~ **:**

(a) Signs an affidavit affirming that the business has complied with the provisions of chapter 76 of NRS ~~[. The county license board shall provide upon request an application for a business license pursuant to chapter 76 of NRS. As used in this subsection, "professional" means a person who:~~

~~(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and~~

~~(b) Practices his or her profession for any type of compensation as an employee.~~

~~5.]~~ ***; or***

(b) Provides to the county license board the entity number of the applicant assigned by the Secretary of State which the county may use to validate that the applicant is currently in good standing with the State and has complied with the provisions of chapter 76 of NRS.

6. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license ~~[presents]~~ ***:***

(a) Presents written evidence that:

~~[(a)]~~ ***(1)*** The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

~~[(b)]~~ ***(2)*** Another regulatory agency of the State has issued or will issue a license required for this activity ~~[.~~

~~6.]~~ ***; or***

(b) Provides to the county license board the entity number of the applicant assigned by the Secretary of State which the county may use to validate that the applicant is currently in good standing with the State and has complied with the provisions of paragraph (a).

7. Any license tax levied for the purposes of NRS 244.3358 or 244A.597 to 244A.655, inclusive, constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien has the same priority as a lien for general taxes. The lien must be enforced:

(a) By recording in the office of the county recorder, within 6 months after the date on which the tax became delinquent or was otherwise determined to be due and owing, a notice of the tax lien containing the following:

(1) The amount of tax due and the appropriate year;

(2) The name of the record owner of the property;

(3) A description of the property sufficient for identification; and

(4) A verification by the oath of any member of the board of county commissioners or the county fair and recreation board; and

(b) By an action for foreclosure against the property in the same manner as an action for foreclosure of any other lien, commenced within 2 years after the date of recording of the notice of the tax lien, and accompanied by appropriate notice to other lienholders.

~~[7.]~~ ***8.*** The board of county commissioners may delegate the authority to enforce liens from taxes levied for the purposes of NRS 244A.597 to 244A.655, inclusive, to the county fair and recreation board. If the authority

is so delegated, the board of county commissioners shall revoke or suspend the license of a business upon certification by the county fair and recreation board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 239.0115 and 244.3357, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the payment of such license taxes or as the result of any audit or examination of the books by any authorized employee of a county fair and recreation board of the county for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, officer or employee of the county fair and recreation board or the county imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the Department of Taxation or Secretary of State for the exchange of information concerning taxpayers.

Sec. 1.7. **NRS 244.33505 is hereby amended to read as follows:**

244.33505 1. In a county in which a license to engage in a business is required, the board of county commissioners shall not issue such a license unless the applicant for the license ~~[signs]~~ ***:***

(a) Signs an affidavit affirming that the business:

~~[(a)]~~ ***(1)*** Has received coverage by a private carrier as required pursuant to chapters 616A to 616D, inclusive, and chapter 617 of NRS;

~~[(b)]~~ ***(2)*** Maintains a valid certificate of self-insurance pursuant to chapters 616A to 616D, inclusive, of NRS;

~~[(c)]~~ ***(3)*** Is a member of an association of self-insured public or private employers; or

~~[(d)]~~ ***(4)*** Is not subject to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS ~~[.]~~ ***; or***

(b) If the applicant submits his or her application electronically, attests to his or her compliance with the provisions of paragraph (a).

2. In a county in which such a license is not required, the board of county commissioners shall require a business, when applying for a post office box, to submit to the board the affidavit ***or attestation*** required by subsection 1.

3. Each board of county commissioners shall submit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry monthly a list of the names of those businesses which have submitted an affidavit ***or attestation*** required by subsections 1 and 2.

4. Upon receiving an affidavit ***or attestation*** required by this section, a board of county commissioners shall provide the owner of the business with a document setting forth the rights and responsibilities of employers and employees to promote safety in the workplace, in accordance with regulations adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.376.

Sec. 2. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of each incorporated city whose population is 150,000 or more and which is located in a county whose population is 700,000 or more, whether organized under general law or special charter, shall enter into an agreement in accordance with the provisions of NRS 277.080 to 277.180, inclusive, with the board of county commissioners of the county in which the city is located [and] , with the governing body of every other city located within the county whose population is 150,000 or more and with the governing body of each city located within the county whose population is less than 150,000 who chooses to enter into such an agreement for the establishment of a business license to authorize a person who is licensed as a contractor pursuant to chapter 624 of NRS to engage in the business of contracting within the county and each of those cities.

2. The agreement required pursuant to subsection 1 must set forth the purposes, powers, rights, obligations and responsibilities, financial and otherwise, of the county and each city that enters into the agreement.

3. Upon entering into the agreement required pursuant to subsection 1, the governing body of the city shall establish by ordinance a system for issuing such a business license that authorizes a person who is licensed as a contractor pursuant to chapter 624 of NRS to engage in the business of contracting within the county and cities that entered into the agreement pursuant to subsection 1 [.] and in which the person intends to conduct business.

4. An ordinance adopted pursuant to the provisions of subsection 3 must include, without limitation:

(a) The requirements for obtaining the business license;

(b) The fees for the issuance and renewal of the business license; and

(c) Any other requirements necessary to establish the system for issuing the business license.

5. A person who is licensed as a contractor pursuant to chapter 624 of NRS is eligible to obtain from the city a business license that authorizes the person to engage in the business of contracting within the county and each city located in the county which enters into an agreement pursuant to subsection 1 and in which the person intends to conduct business if the person meets the requirements set forth in the ordinance to qualify for the license and:

(a) The person maintains only one place of business within the county and the place of business is located within the jurisdiction of the city;

(b) The person maintains more than one place of business within the county and each of those places of business is located within the jurisdiction of the city; or

(c) The person does not maintain any place of business within the county.

6. A person who obtains a business license described in this section is subject to all other licensing and permitting requirements of the State and any other counties and cities in which the person does business.

Sec. 3. NRS 268.095 is hereby amended to read as follows:

268.095 1. Except as otherwise provided in subsection 4 ~~[,]~~ ***and section 2 of this act,*** the city council or other governing body of each incorporated city in this State, whether organized under general law or special charter, may:

(a) Except as otherwise provided in subsection 2 and NRS 268.0968 and 576.128, fix, impose and collect for revenues or for regulation, or both, a license tax on all character of lawful trades, callings, industries, occupations, professions and businesses conducted within its corporate limits.

(b) Assign the proceeds of any one or more of such license taxes to the county within which the city is situated for the purpose or purposes of making the proceeds available to the county:

(1) As a pledge as additional security for the payment of any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive;

(2) For redeeming any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive;

(3) For defraying the costs of collecting or otherwise administering any such license tax so assigned, of the county fair and recreation board and of officers, agents and employees hired thereby, and of incidentals incurred thereby;

(4) For operating and maintaining recreational facilities under the jurisdiction of the county fair and recreation board;

(5) For improving, extending and bettering recreational facilities authorized by NRS 244A.597 to 244A.655, inclusive; and

(6) For constructing, purchasing or otherwise acquiring such recreational facilities.

(c) Pledge the proceeds of any tax imposed on the revenues from the rental of transient lodging pursuant to this section for the payment of any general or special obligations issued by the city for a purpose authorized by the laws of this State.

(d) Use the proceeds of any tax imposed pursuant to this section on the revenues from the rental of transient lodging:

(1) To pay the principal, interest or any other indebtedness on any general or special obligations issued by the city pursuant to the laws of this State;

(2) For the expense of operating or maintaining, or both, any facilities of the city; and

(3) For any other purpose for which other money of the city may be used.

2. The city council or other governing body of an incorporated city shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of

contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number of classifications or subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS.

3. The proceeds of any tax imposed pursuant to this section that are pledged for the repayment of general obligations may be treated as "pledged revenues" for the purposes of NRS 350.020.

4. The city council or other governing body of an incorporated city shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. ***As used in this subsection, "professional" means a person who:***

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060 or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his or her profession for any type of compensation as an employee.

5. The city licensing agency shall provide upon request an application for a state business license pursuant to chapter 76 of NRS. No license to engage in any type of business may be granted unless the applicant for the license ~~[signs]~~ **:**

(a) Signs an affidavit affirming that the business has complied with the provisions of chapter 76 of NRS **[**~~. The city licensing agency shall provide upon request an application for a business license pursuant to chapter 76 of NRS. As used in this subsection, "professional" means a person who:~~

~~(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and~~

~~(b) Practices his or her profession for any type of compensation as an employee.~~

~~5.~~**]** ***; or***

(b) Provides to the city licensing agency the entity number of the applicant assigned by the Secretary of State which the city may use to validate that the applicant is currently in good standing with the State and has complied with the provisions of chapter 76 of NRS.

6. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license ~~[presents]~~ **:**

(a) Presents written evidence that:

~~[(a)]~~ ***(1)*** The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

~~[(b)]~~ ***(2)*** Another regulatory agency of the State has issued or will issue a license required for this activity **[**~~.~~

~~6.~~**]** ***; or***

(b) Provides to the city licensing agency the entity number of the applicant assigned by the Secretary of State which the city may use to

validate that the applicant is currently in good standing with the State and has complied with the provisions of paragraph (a).

7. Any license tax levied under the provisions of this section constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien has the same priority as a lien for general taxes. The lien must be enforced:

(a) By recording in the office of the county recorder, within 6 months following the date on which the tax became delinquent or was otherwise determined to be due and owing, a notice of the tax lien containing the following:

(1) The amount of tax due and the appropriate year;

(2) The name of the record owner of the property;

(3) A description of the property sufficient for identification; and

(4) A verification by the oath of any member of the board of county commissioners or the county fair and recreation board; and

(b) By an action for foreclosure against such property in the same manner as an action for foreclosure of any other lien, commenced within 2 years after the date of recording of the notice of the tax lien, and accompanied by appropriate notice to other lienholders.

~~[7.]~~ ***8.*** The city council or other governing body of each incorporated city may delegate the power and authority to enforce such liens to the county fair and recreation board. If the authority is so delegated, the governing body shall revoke or suspend the license of a business upon certification by the board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 239.0115 and 268.0966, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the payment of those license taxes or as the result of any audit or examination of the books of the city by any authorized employee of a county fair and recreation board for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, official or employee of the county fair and recreation board or the city imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the Department of Taxation or the Secretary of State for the exchange of information concerning taxpayers.

~~[8.]~~ ***9.*** The powers conferred by this section are in addition and supplemental to, and not in substitution for, and the limitations imposed by this section do not affect the powers conferred by, any other law. No part of this section repeals or affects any other law or any part thereof, it being intended that this section provide a separate method of accomplishing its objectives, and not an exclusive one.

Sec. 3.5. **NRS 268.0955 is hereby amended to read as follows:**

268.0955 1. In an incorporated city in which a license to engage in a business is required, the city council or other governing body of the city shall not issue such a license unless the applicant for the license ~~[signs]~~ ***:***

(a) Signs an affidavit affirming that the business:

~~[(a)]~~ ***(1)*** Has received coverage by a private carrier as required pursuant to chapters 616A to 616D, inclusive, and chapter 617 of NRS;

~~[(b)]~~ ***(2)*** Maintains a valid certificate of self-insurance pursuant to chapters 616A to 616D, inclusive, of NRS;

~~[(c)]~~ ***(3)*** Is a member of an association of self-insured public or private employers; or

~~[(d)]~~ ***(4)*** Is not subject to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS ~~[.]~~ ***; or***

(b) If the applicant submits his or her application electronically, attests to his or her compliance with the provisions of paragraph (a).

2. In an incorporated city in which such a license is not required, the city council or other governing body of the city shall require a business, when applying for a post office box, to submit to the governing body the affidavit ***or attestation*** required by subsection 1.

3. Each city council or other governing body of an incorporated city shall submit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry monthly a list of the names of those businesses which have submitted an affidavit ***or attestation*** required by subsections 1 and 2.

4. Upon receiving an affidavit ***or attestation*** required by this section, the city council or other governing body of an incorporated city shall provide the applicant with a document setting forth the rights and responsibilities of employers and employees to promote safety in the workplace in accordance with regulations adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.376.

Sec. 3.7. **NRS 446.877 is hereby amended to read as follows:**

446.877 ~~[No]~~

1. Except as otherwise provided in subsection 2, no license under any license ordinance of ~~[a city, county or other]~~ ***any*** licensing authority ~~[shall]~~ ***may*** be issued for the operation of a food establishment to any person owning or operating such food establishment unless the permit required by this chapter has first been granted by the health authority.

2. A board of county commissioners or the city council or other governing body of an incorporated city, whether organized under general law or special charter, may issue a license to operate a food establishment to any person owning or operating the food establishment contingent upon the person's obtaining the permit required by this chapter from the health authority.

Sec. 4. (Deleted by amendment.)

Sec. 4.5. The governing body of a county whose population is 700,000 or more and each city whose population is 150,000 or more located in the county shall:

1. Enter into the agreements required pursuant to sections 1 and 2 of this act; and

2. Adopt the ordinances required pursuant to section 1 and 2 of this act, ➥ on or before 1 year after the effective date of this act.

Sec. 5. 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. 187.

Bill read second time and ordered to third reading.

Senate Bill No. 304.

Bill read second time.

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

Amendment No. 804.

SUMMARY—~~[Provides for redistricting of election districts in Carson City and the Cities of Henderson, Reno and Sparks, contingent upon voter approval.]~~ **Revises provisions governing elections and officers in certain cities.** (BDR S-731)

AN ACT relating to ~~[redistricting;]~~ **cities;** creating, contingent upon voter approval, a sixth ward for the City of Reno; requiring, contingent upon voter approval, that the candidates for Supervisor in Carson City and for Council Member in the City of Henderson, the City of Reno and the City of Sparks be voted upon in a primary or general election only by the registered voters of the ward that a candidate seeks to represent; **revising the requirements for serving as the City Attorney for the City of Sparks;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The existing Charter of the City of Reno divides the City into five wards, each of which is represented on the City Council by a Council Member. A sixth Council Member represents the City at large. (Reno City Charter §§ 1.050, 2.010) **Section 7** of this bill increases the number of wards in Reno to six, and **sections 8-10** of this bill replace the office of Council Member at large with the office of Council Member to represent the newly created sixth ward.

The existing Charters of the Cities of Reno and Sparks provide that the candidates for Council Member to represent a particular ward must be voted on in a primary election only by the registered voters of that ward but in a general election, must be elected by the registered voters of the City at large. (Reno City Charter §§ 5.010, 5.020; Sparks City Charter §§ 5.010, 5.020)

Sections 9 and 10 of this bill amend the Charter of the City of Reno, and **sections 11 and 12** of this bill amend the Charter of the City of Sparks, to provide that all candidates for Council Member must be elected in a general election by only the registered voters of the ward that a candidate seeks to represent. The existing Charters of Carson City and the City of Henderson provide that the candidates for Supervisor and Council Member, respectively, must be elected by the registered voters of the City at large in both a primary and a general election. (Carson City Charter §§ 2.010, 5.010, 5.020; Henderson City Charter §§ 2.010, 5.010, 5.020) **Sections 1-3** of this bill amend the Charter of Carson City, and **sections 4-6** of this bill amend the Charter of the City of Henderson, to provide that all candidates for Supervisor and Council Member, respectively, must be elected in a primary or general election only by the registered voters of the ward that a candidate seeks to represent.

Sections 15-18 of this bill require Carson City and the Cities of Henderson, Reno and Sparks to place on the ballot for the 2012 general election the question of whether to amend their respective charters to provide that all candidates for Supervisor or Council Member, as appropriate, must be elected in a primary or general election by only the registered voters of the ward that a candidate seeks to represent.

The existing Charter of the City of Sparks provides that all elective officers, including the City Attorney, must be: (1) residents of the City for at least 30 days before the end of the period for filing for office and for the duration of their term of office; and (2) registered voters within the City. (Sparks City Charter § 1.060) Section 10.5 of this bill revises these requirements for the City Attorney, requiring instead that the City Attorney be a resident of and registered to vote in Washoe County, rather than the City of Sparks.

Section 19 of this bill provides that the sections of this bill relating to ~~[each]~~ **Carson** City **and the Cities of Henderson and Sparks** become effective only if the voters of that City approve the ballot question required by this bill. **Section 19 also provides that the sections of this bill relating to the City of Reno and the City Attorney for the City of Sparks become effective on July 1, 2011. Finally, section 19 provides that the sections of this bill relating to the City of Reno expire on June 30, 2015, if the voters of that City do not approve the ballot question required by this bill.**

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

Section 1. Section 2.010 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, as last amended by chapter 118, Statutes of Nevada 1985, at page 474, is hereby amended to read as follows:

Sec. 2.010 Board of Supervisors: Qualifications; election; term of office.

1. The legislative power of Carson City is vested in a Board of Supervisors consisting of five Supervisors, including the Mayor.

2. The Mayor must be:

(a) An actual and bona fide resident of Carson City for at least 6 months immediately preceding his election.

(b) A qualified elector within Carson City.

3. Each Supervisor must be:

(a) An actual and bona fide resident of Carson City for at least 6 months immediately preceding his election.

(b) A qualified elector within the ward which he represents.

(c) A resident of the ward which he represents, except that changes effected in the boundaries of a ward pursuant to the provisions of section 1.060 do not affect the right of any elected Supervisor to continue in office for the term for which he was elected.

4. All Supervisors, including the Mayor, ~~[must be voted upon by the registered voters of Carson City at large and]~~ shall serve for terms of 4 years.

Sec. 2. Section 5.010 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, as last amended by chapter 100, Statutes of Nevada 1999, at page 271, is hereby amended to read as follows:

Sec. 5.010 Primary election.

1. A primary election must be held on the date fixed by the election laws of this state for statewide elections, at which time there must be nominated candidates for offices to be voted for at the next general election.

2. A candidate for any office to be voted for at any primary election must file a declaration of candidacy as provided by the election laws of this state.

3. ***In an election that is held pursuant to this section:***

(a) All candidates for the office of Mayor **,** ~~[and Supervisor,]~~ and candidates for the office of Municipal Judge if a third department of the Municipal Court has been established, must be voted upon by the registered voters of Carson City at large.

(b) A candidate for the office of Supervisor must be elected only by the registered voters of the ward that the candidate seeks to represent.

4. If only two persons file for a particular office, their names must not appear on the primary ballot but their names must be placed on the ballot for the general election.

5. If in the primary election one candidate receives more than a majority of votes cast in that election for the office for which he is a candidate, his name alone must be placed on the ballot for the general election. If in the primary election no candidate receives a majority of votes cast in that election for the office for which he is a candidate, the names of the two candidates receiving the highest numbers of votes must be placed on the ballot for the general election.

Sec. 3. Section 5.020 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, as last amended by chapter 96, Statutes of Nevada 1997, at page 183, is hereby amended to read as follows:

Sec. 5.020 General election.

1. A general election must be held in Carson City on the first Tuesday after the first Monday in November 1970, and on the same day every 2 years thereafter, at which time there must be elected such officers, the offices of which are required next to be filled by election.

2. ***In an election that is held pursuant to this section:***

(a) All candidates for the office of Mayor **,** ~~[and Supervisor,]~~ and all candidates for the office of Municipal Judge if a third department of the Municipal Court has been established, must be voted upon by the registered voters of Carson City at large.

(b) A candidate for the office of Supervisor must be voted upon only by the registered voters of the ward that the candidate seeks to represent.

Sec. 4. Section 2.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 596, Statutes of Nevada 1995, at page 2206, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Councilmen and the Mayor.

2. The Mayor must be:

(a) A bona fide resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

(b) A qualified elector within the City.

3. Each Councilman must be:

(a) A bona fide resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

(b) A qualified elector within the ward which he represents.

(c) A resident of the ward which he represents for at least 30 days immediately preceding the last day for filing a declaration of candidacy for the office, except that changes in ward boundaries pursuant to the provisions of section 1.040 do not affect the right of any elected Councilman to continue in office for the term for which he was elected.

4. All Councilmen, including the Mayor, ~~[must be voted upon by the registered voters of the City at large and]~~ shall serve for terms of 4 years.

5. The Mayor and Councilmen are entitled to receive a salary in an amount fixed by the City Council. The City Council shall not adopt an ordinance which increases or decreases the salary of the Mayor or the Councilmen during the term for which they have been elected or appointed.

Sec. 5. Section 5.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 637, Statutes of Nevada 1999, at page 3565, is hereby amended to read as follows:

Sec. 5.010 Primary election.

1. A primary election must be held on the Tuesday after the first Monday in April of each odd-numbered year, at which time there must be nominated candidates for offices to be voted for at the next general municipal election.

2. A candidate for any office to be voted for at any primary municipal election must file a declaration of candidacy as provided by the election laws of this State.

3. ***In an election that is held pursuant to this section:***

(a) All candidates for ~~[elective office]~~ ***the offices of Mayor and Municipal Judge*** must be voted upon by the registered voters of the City at large.

(b) A candidate for the office of City Council Member must be elected only by the registered voters of the ward that the candidate seeks to represent.

4. If in the primary election no candidate receives a majority of votes cast in that election for the office for which he is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general election. If in the primary election, regardless of the number of candidates for an office, one candidate receives a majority of votes cast in that election for the office for which he is a candidate, he must be declared elected and no general election need be held for that office.

Sec. 6. Section 5.020 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 209, Statutes of Nevada 2001, at page 971, is hereby amended to read as follows:

Sec. 5.020 General municipal election.

1. A general election must be held in the City on the first Tuesday after the first Monday in June of each odd-numbered year and on the same day every 2 years thereafter, at which time the registered voters of the City shall elect city officers to fill the available elective positions.

2. ***In an election that is held pursuant to this section:***

(a) All candidates for the office of Mayor ~~[, Councilman]~~ and Municipal Judge must be voted upon by the registered voters of the City at large.

(b) A candidate for the office of City Council Member must be voted upon only by the registered voters of the ward that the candidate seeks to represent.

3. The term of office for members of the City Council and the Mayor is 4 years. Except as otherwise provided in subsection 3 of section 4.015 of this Charter, the term of office for a Municipal Judge is 6 years.

~~[3.]~~ ***4.*** On the Tuesday after the first Monday in June 2001 and every 6 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 1 who will hold office until his successor has been elected and qualified.

~~[4.]~~ ***5.*** On the Tuesday after the first Monday in June 2003 and every 6 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 2 who will hold office until his successor has been elected and qualified.

~~[5.]~~ ***6.*** On the Tuesday after the first Monday in June 2005 and every 6 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 3 who will hold office until his successor has been elected and qualified.

Sec. 7. Section 1.050 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 327, Statutes of Nevada 1999, at page 1365, is hereby amended to read as follows:

Sec. 1.050 Wards: Creation; boundaries.

1. The City must be divided into ~~[five]~~ ***six*** wards, which must be as nearly equal in population as can be conveniently provided. The territory comprising each ward must be contiguous, except that if any territory of the City which is not contiguous to the remainder of the City does not contain sufficient population to constitute a separate ward, it may be placed in any ward of the City.

2. The boundaries of the wards must be established and changed by ordinance, passed by a vote of at least five-sevenths of the City Council. The boundaries of the wards:

(a) Must be changed whenever the population, as determined by the last preceding national census of the Bureau of the Census of the United States Department of Commerce, in any ward exceeds the population in any other ward by more than 5 percent.

(b) May be changed to include territory that has been annexed, or whenever the population in any ward exceeds the population in another ward by more than 5 percent by any measure that is found to be reliable by the City Council.

Sec. 8. Section 2.010 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 327, Statutes of Nevada 1999, at page 1366, is hereby amended to read as follows:

Sec. 2.010 Mayor and City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of six Councilmen and a Mayor.

2. The Mayor and Councilmen must be qualified electors within the City. Each Councilman ***must be a resident of the ward from which he or she is*** elected ~~[from a ward]~~ ***and*** must continue to live in that ward for as long as he represents the ward.

3. The Mayor ~~[and one Councilman represent]~~ ***represents*** the City at large and one Councilman represents each ward. The Mayor and Councilmen serve for terms of 4 years.

4. The Mayor and Councilmen are entitled to receive a salary in an amount fixed by the City Council.

Sec. 9. Section 5.010 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 87, Statutes of Nevada 2001, at page 557, is hereby amended to read as follows:

Sec. 5.010 General elections.

1. ~~[On the Tuesday after the first Monday in November 1998, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at the general election, a Mayor, Councilmen from the second and fourth wards, a Municipal Judge and a City Attorney, all of whom hold office for a term of 4 years and until their successors have been elected and qualified pursuant to subsection 3 or 4.~~

~~2. On the Tuesday after the first Monday in November 2000, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at the general election, Councilmen from the first, third and fifth wards, one Councilman at large and two Municipal Judges, all of whom hold office for a term of 4 years and until their successors have been elected and qualified pursuant to subsection 5 or 6.~~

~~3.]~~ On the Tuesday after the first Monday in November 2002, and at each successive interval of 6 years, there must be elected **,** ~~[by the qualified voters of the City,]~~ at the general election, a Municipal Judge, who holds office for a term of 6 years and until his successor has been elected and qualified.

~~[4.]~~ ***2.*** On the Tuesday after the first Monday in November 2002, and at each successive interval of 4 years, there must be elected **,** ~~[by the qualified voters of the City,]~~ at the general election, a Mayor, Councilmen from the second and fourth wards, and a City Attorney, all of whom hold office for a term of 4 years and until their successors have been elected and qualified .

~~[5.]~~ ~~*[pursuant to subsection 5.]*~~

3. On the Tuesday after the first Monday in November 2004, and at each successive interval of 6 years, there must be elected **,** ~~[by the qualified voters of the City,]~~ at the general election, three Municipal Judges, all of whom hold office for a term of 6 years and until their successors have been elected and qualified.

~~[6.]~~ ***4.*** On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected **,** ~~[by the qualified voters of the City,]~~ at the general election, Councilmen from the first, third and fifth wards **,** ~~[and one Councilman at large,]~~ all of whom hold office for a term of 4 years and until their successors have been elected and qualified ~~[.]~~ ***pursuant to subsection 5.***

5. On the Tuesday after the first Monday in November ~~*[2014,]*~~ ***2012, and at each successive interval of 4 years, there must be elected, at the general election,*** ~~*[a Mayor,]*~~ ***Council Members from the*** ~~*[second, fourth]*~~ ***first, third, fifth and sixth wards,*** ~~*[and a City Attorney,]*~~ ***all of whom hold office for a term of 4 years and until their successors have been elected and qualified.***

6. In an election held pursuant to this section:

(a) A candidate for the office of City Council Member must be elected only by the registered voters of the ward that the candidate seeks to represent.

(b) Candidates for Mayor, Municipal Judge and City Attorney must be elected by the registered voters of the city at large.

Sec. 10. Section 5.020 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 376, Statutes of Nevada 2005, at page 1438, is hereby amended to read as follows:

Sec. 5.020 Primary elections; declaration of candidacy.

1. A candidate for any office to be voted for at an election must file a declaration of candidacy with the City Clerk. All filing fees collected by the City Clerk must be deposited to the credit of the General Fund of the City.

2. If for any general election, there are three or more candidates for any office to be filled at that election, a primary election for any such office must be held on the date fixed by the election laws of this State for statewide elections, at which time there must be nominated candidates for the office to be voted for at the next general election. If for any general election there are two or fewer candidates for any office to be filled at that election, their names must not be placed on the ballot for the primary election but must be placed on the ballot for the general election.

3. In the primary election:

(a) The names of the two candidates for Municipal Judge, City Attorney or a particular City Council seat, as the case may be, who receive the highest number of votes must be placed on the ballot for the general election.

(b) ~~[~~Candidates~~]~~ ***A candidate*** for ***the office of City*** Councilman ~~[~~who represent a specific ward~~]~~ must be voted upon only by the registered voters of ~~[~~that ward.~~]~~ ***the ward that the candidate seeks to represent.***

(c) Candidates for Mayor ~~[~~and Councilman at large~~]~~ ***, Municipal Judge and City Attorney*** must be voted upon by ~~[~~all~~]~~ ***the*** registered voters of the City ~~[~~.

~~4. The Mayor and all Councilmen must be voted upon by all registered voters of the City at the general election.~~]~~ ***at large.***

Sec. 10.5. **Section 1.060 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 394, is hereby amended to read as follows:**

Sec. 1.060 Elective officers: Qualifications; salaries.

1. The elective officers of the City consist of:

(a) A Mayor.

(b) Five members of the Council.

(c) A City Attorney.

(d) Municipal Judges, the number to be determined pursuant to section 4.010.

2. ~~[~~All~~]~~ ***Except as otherwise provided in subsection 4, all*** elective officers of the City must be:

(a) Bona fide residents of the City for at least 30 days immediately preceding the last day for filing a declaration of candidacy for such an office.

(b) Residents of the City during their term of office, and, in the case of a member of the Council, a resident of the ward the member represents.

(c) Registered voters within the City.

3. No person may be elected or appointed as a member of the Council who was not an actual bona fide resident of the ward to be represented by him for a period of at least 30 days immediately preceding the last day for filing a declaration of candidacy for the office, or, in the case of appointment, 30 days immediately preceding the day the office became vacant.

4. The City Attorney must be ~~[a]~~ **:**

(a) A bona fide resident of Washoe County for at least 30 days immediately preceding the last day for filing a declaration of candidacy for such an office.

(b) A resident of Washoe County during his or her term of office.

(c) Registered to vote within Washoe County.

(d) A licensed member of the State Bar of Nevada.

5. Each elective officer is entitled to receive a salary in an amount fixed by the City Council. At any time before January 1 of the year in which a general election is held, the City Council shall enact an ordinance fixing the initial salary for each elective office for the term beginning on the first Monday following that election. This ordinance may not be amended to increase or decrease the salary for the office of Mayor, City Councilman or City Attorney during the term. If the City Council fails to enact such an ordinance before January 1 of the election year, the succeeding elective officers are entitled to receive the same salaries as their respective predecessors.

Sec. 11. Section 5.010 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 52, Statutes of Nevada 2005, at page 104, is hereby amended to read as follows:

Sec. 5.010 General elections.

1. ~~[On the Tuesday after the first Monday in June 2001, there must be elected by the registered voters of the City, at a general municipal election, Council members to represent the first, third and fifth wards, a Municipal Judge for Department 1 and a City Attorney, all of whom hold office until their successors have been elected and qualified, pursuant to subsection 3 or 4.~~

~~2. On the Tuesday after the first Monday in June 2003, there must be elected by the registered voters of the City, at a general municipal election, Council members to represent the second and fourth wards, a Mayor and a Municipal Judge for Department 2, all of whom hold office until their successors have been elected and qualified, pursuant to subsection 5 or 6.~~

~~3.]~~ On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected **,** ~~[by the registered voters of the City,]~~ at the general election, Council members to represent the first, third and fifth wards and a City Attorney, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.

~~[4. On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected by the registered voters of the City, at the general election, a Municipal Judge for Department 1, who holds office for a term of 4 years and until his successor has been elected and qualified, pursuant to subsection 7.~~

~~5.]~~ ***2.*** On the Tuesday after the first Monday in November 2006, and at each successive interval of 4 years, there must be elected **,** ~~[by the registered voters of the City,]~~ at the general election, Council members to represent the second and fourth wards and a Mayor, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.

~~[6.]~~ ***3.*** On the Tuesday after the first Monday in November 2006, and at each successive interval of 6 years, there must be elected **,** ~~[by the registered voters of the City,]~~ at the general election, a Municipal Judge for Department 2, who holds office for a term of 6 years and until his successor has been elected and qualified.

~~[7.]~~ ***4.*** On the Tuesday after the first Monday in November 2008, and at each successive interval of 6 years, there must be elected **,** ~~[by the registered voters of the City,]~~ at the general election, a Municipal Judge for Department 1, who holds office for a term of 6 years and until his successor has been elected and qualified.

~~[8. All candidates at]~~

5. In an election that is held pursuant to this section ***:***

(a) Candidates for the offices of Mayor, City Attorney and Municipal Judge must be voted upon by the registered voters of the City at large.

(b) A candidate for the office of City Council Member must be voted upon only by the registered voters of the ward that the candidate seeks to represent.

Sec. 12. Section 5.020 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 398, is hereby amended to read as follows:

Sec. 5.020 Primary elections.

1. ***At an election that is held pursuant to this section:***

(a) Candidates for the offices of Mayor, City Attorney and Municipal Judge must be voted upon by the registered voters of the City at large. ~~[Candidates to represent a ward as a member of the City Council]~~

(b) A candidate for the office of City Council Member must be voted upon ***only*** by the registered voters of the ward ~~[to be represented by them.]~~ ***that the candidate seeks to represent.***

2. The names of the two candidates for Mayor, City Attorney and Municipal Judge and the names of the two candidates to represent the ward as a member of the City Council from each ward who receive the highest number of votes at the primary election must be placed on the ballot for the general election.

Sec. 13. The City Council of the City of Reno shall, not later than ~~[July]~~ **October** 1, ~~[2013,]~~ **2011,** establish the boundaries of the ward created by the

amendatory provisions of section 7 of this act, which must be designated the sixth ward, and change the boundaries of the first through fifth wards to comply with the provisions of section 1.050 of the Charter of the City of Reno, as amended by section 7 of this act.

Sec. 13.5. **The City Council of the City of Reno shall, not later than October 1, 2015, change the boundaries of the first through fifth wards to comply with the expiration by limitation of the provisions of section 1.050 of the Charter of the City of Reno, as amended by section 7 of this act.**

Sec. 14. Notwithstanding the amendatory provisions of sections 8 and 9 of this act, a Council Member of the City of Reno who holds office on July 1, ~~[~~2013,~~]~~ **2011,** shall:

1. If elected or appointed to represent a ward, continue to represent that ward for the remainder of his or her term of office.

2. If elected or appointed to represent the City at large, be deemed to represent only the ward created by the amendatory provisions of section 7 of this act **, upon the creation of that ward,** for the remainder of his or her term of office.

Sec. 14.5. **Notwithstanding the expiration by limitation of the amendatory provisions of sections 8 and 9 of this act, a Council Member of the City of Reno who holds office on July 1, 2015, shall:**

1. If elected or appointed to represent the first through fifth ward, continue to represent that ward for the remainder of his or her term of office.

2. If elected or appointed to represent the sixth ward, be deemed to represent the City at large for the remainder of his or her term of office.

Sec. 15. The Board of Supervisors of Carson City shall place on the ballot for the general election to be held on November 6, 2012, a question in substantially the following form:

Shall the Charter of Carson City be amended to provide for a ward system for the election of Supervisors, providing that each Supervisor must be elected in a primary or general election by only the registered voters of the ward that he or she seeks to represent?

Sec. 16. The City Council of the City of Henderson shall place on the ballot for the general election to be held on November 6, 2012, a question in substantially the following form:

Shall the Charter of the City of Henderson be amended to provide for a ward system for the election of Council Members, providing that each Council Member must be elected in a primary or general election by only the registered voters of the ward that he or she seeks to represent?

Sec. 17. The City Council of the City of Reno shall place on the ballot for the general election to be held on November 6, 2012, a question in substantially the following form:

Shall the Charter of the City of Reno be amended to provide for a ward system for the election of Council Members, providing that each Council

Member must be elected in a general election by only the registered voters of the ward that he or she seeks to represent?

Sec. 18. The City Council of the City of Sparks shall place on the ballot for the general election to be held on November 6, 2012, a question in substantially the following form:

Shall the Charter of the City of Sparks be amended to provide for a ward system for the election of Council Members, providing that each Council Member must be elected in a general election by only the registered voters of the ward that he or she seeks to represent?

Sec. 19. 1. This section and sections 15 to 18, inclusive, of this act become effective upon passage and approval.

2. **Sections 7 to 10.5, inclusive, 13 and 14 of this act become effective on July 1, 2011.**

3. Sections 1, 2 and 3 of this act become effective on July 1, 2013, only if a majority of the voters voting on the question placed on the ballot pursuant to section 15 of this act vote affirmatively on the question.

~~[3.]~~ **4.** Sections 4, 5 and 6 of this act become effective on July 1, 2013, only if a majority of the voters voting on the question placed on the ballot pursuant to section 16 of this act vote affirmatively on the question.

~~[4. Sections 7 to 10, inclusive, 13 and 14 of this act become effective on July 1, 2013, only if a majority of the voters voting on the question placed on the ballot pursuant to section 17 of this act vote affirmatively on the question.]~~

5. Sections 11 and 12 of this act become effective on July 1, 2013, only if a majority of the voters voting on the question placed on the ballot pursuant to section 18 of this act vote affirmatively on the question.

6. Sections 7 to 10, inclusive, of this act expire by limitation on June 30, 2015, unless a majority of the voters voting on the question placed on the ballot pursuant to section 17 of this act vote affirmatively on the question.

7. Sections 13.5 and 14.5 of this act become effective on July 1, 2015, only if a majority of the voters voting on the question placed on the ballot pursuant to section 17 of this act disapproves the question.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Senate Bill No. 321.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 799.

AN ACT relating to taxicabs; requiring the Taxicab Authority to establish a system for the use of radio frequency identification or other electronic means in the enforcement of its allocations of taxicabs; providing for the use

of **a physical security seal or** an electronic security seal for a taximeter **; ~~[under certain circumstances;]~~** requiring the establishment of standards for a daily trip sheet in electronic form; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Taxicab Authority regulates taxicabs in a county whose population is 400,000 or more (currently Clark County) and in any county that, by ordinance, has placed itself under the jurisdiction of the Taxicab Authority. (NRS 706.881) The Taxicab Authority is responsible, among other things, for determining whether conditions in a county require the establishment of a system of allocations of the number of taxicabs allowed to operate in the county. If so, the Taxicab Authority is responsible for allocating the taxicabs among the existing operators of taxicab businesses in the county. The Taxicab Authority also performs allocations if it subsequently determines that circumstances require a permanent increase in the number of taxicabs allocated. (NRS 706.8824) Similarly, the Taxicab Authority determines whether circumstances require a temporary increase in the allocations and, if so, the additional number of taxicabs to be allocated, the limits on their operations and the duration of the temporary increase. (NRS 706.88245) **The Administrator of the Taxicab Authority issues each allocated taxicab a medallion which must be affixed on the left rear fender of the taxicab. (NAC 706.450, 706.489) Section 1** of this bill requires the Taxicab Authority to establish by regulation a system for the use of radio frequency identification or other electronic means to verify **~~[and confirm compliance with any terms and conditions placed on the allocations of taxicabs made by]~~ the validity of the medallion on any taxicab located within the jurisdiction of** the Taxicab Authority.

Existing law requires an operator of a taxicab business subject to the jurisdiction of the Taxicab Authority to equip each taxicab with a two-way mobile radio and to maintain central facilities for dispatching the taxicabs. The operator may maintain the facilities individually or in cooperation with other operators, but the facilities must be principally engaged in communication by radio with the taxicabs. (NRS 706.8832) **Section 1.5** of this bill **deletes the requirement that the mobile radio be a two-way radio and** provides a definition of "communication by radio."

Under existing law, each taxicab must be equipped with a taximeter that clearly displays the fare, the miles traveled and certain other information. After installation, the taximeter is sealed by the Administrator of the Taxicab Authority. (NRS 706.8836) **Section 2** of this bill provides that **~~[the Administrator will determine the kind of seal to be used, and also specifies that]~~** the seal may **~~[include]~~ be a physical security seal on each access point of the taximeter or** an electronic security seal that is encrypted and protected by **~~[a password.]~~ an audited authentication and authorization mechanism. Section 2 further authorizes the Administrator to require use of the electronic security seal if the Administrator makes certain findings**

relating to the availability and cost of the sealing method and provides at least 12 months' notice to the operators of taxicabs.

Existing law requires that an operator of a taxicab business subject to the jurisdiction of the Taxicab Authority require its drivers to fill out daily trip sheets that include information such as the time, place of origin and destination of each trip. The operator of the taxicab business is required to maintain the daily trip sheets for at least 3 years and make them available to the Administrator for inspection. (NRS 706.8844) **Section 3** of this bill requires the Administrator to establish requirements for the use of an electronic version of a daily trip sheet. If an operator of a taxicab business requires its drivers to keep the daily trip sheet in electronic form, **section 3** requires the operator to maintain the resulting information in a secure database and provide the Administrator with access to the information in the database.

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Taxicab Authority shall establish by regulation a system for the use of radio frequency identification or other electronic means to verify ~~*[and confirm compliance with any terms and conditions placed on the allocations of taxicabs made by the Taxicab Authority pursuant to NRS 706.8824 and 706.88245.]*~~ ***the validity of a medallion affixed to any taxicab within the jurisdiction of the Taxicab Authority.***

2. As used in this section, "medallion" means the metal plate issued by the Taxicab Authority to be affixed to each taxicab allocated by the Taxicab Authority.

Sec. 1.5. NRS 706.8832 is hereby amended to read as follows:

706.8832 ***1.*** A certificate holder shall have each taxicab equipped with a ~~[two-way]~~ mobile radio and shall maintain central facilities for dispatching taxicabs at all times. The facilities:

~~[1.]~~ ***(a)*** May be maintained individually or in cooperation with other certificate holders.

~~[2.]~~ ***(b)*** Must be principally engaged in communication by radio with the taxicabs of the certificate holder or holders.

2. As used in this section, "communication by radio" means the transmission of writing, signs, signals, pictures, and sounds of all kinds by radio or other wireless methods, including all facilities and services incidental to such transmission, which facilities and services include, without limitation, the receipt, forwarding and delivering of communications.

Sec. 2. NRS 706.8836 is hereby amended to read as follows:

706.8836 1. A certificate holder shall equip each of the certificate holder's taxicabs with a taximeter and shall make provisions when installing the taximeter to allow sealing by the Administrator.

2. The Administrator shall approve the types of taximeters which may be used on a taxicab. All taximeters must conform to a 2-percent plus or minus tolerance on the fare recording, must be equipped with a signal device plainly visible from outside of the taxicab, must be equipped with a device which records fares and is plainly visible to the passenger and must register upon plainly visible counters the following items:

(a) Total miles;

(b) Paid miles;

(c) Number of units;

(d) Number of trips; and

(e) Number of extra passengers or extra charges.

3. The Administrator shall inspect each taximeter before its use in a taxicab and shall, if the taximeter conforms to the standards specified in subsection 2, seal the taximeter.

4. ~~*[The Administrator shall determine the manner in which to seal a]*~~ ***Except as otherwise provided in subsection 5, a taximeter*** ~~*[, which may include, without limitation:]*~~ ***may be sealed by:***

(a) Affixing a ~~*[tamper-evident]*~~ ***physical security seal to each access point of the taximeter; or***

(b) Using an electronic security seal that is encrypted and protected by ~~*[a password.]*~~ ***an audited authentication and authorization mechanism for each user that is accessible only by the Administrator.***

5. The Administrator may require that each taximeter be sealed by an electronic security seal that is encrypted and protected by an audited authentication and authorization mechanism for each user that is accessible only by the Administrator if the Administrator:

(a) Makes a finding that the technology for the sealing method is commercially available and will reduce the costs to the Taxicab Authority for inspecting taximeters; and

(b) Provides notice to each certificate holder at least 12 months before requiring the use of the sealing method.

6. The Administrator may reinspect the taximeter at any reasonable time.

7. For the purposes of this section, "sealing" means prohibiting access to the elements of the taximeter used to calculate the items specified in subsection 2 by anyone other than the Administrator.

Sec. 3. NRS 706.8844 is hereby amended to read as follows:

706.8844 1. A certificate holder shall require the certificate holder's drivers to keep a daily trip sheet in a form to be prescribed by the Taxicab Authority ~~[.]~~ ***, including, without limitation, in electronic form.***

2. At the beginning of each period of duty the driver shall record on the driver's trip sheet:

(a) The driver's name and the number of the taxicab;

(b) The time at which the driver began the period of duty by means of a time clock provided by the certificate holder;

(c) The meter readings for total miles, paid miles, trips, units, extra passengers and extra charges; and

(d) The odometer reading of the taxicab.

3. During each period of duty the driver shall record on the driver's trip sheet:

(a) The time, place of origin and destination of each trip; and

(b) The number of passengers and amount of fare for each trip.

4. At the end of each period of duty the driver shall record on the driver's trip sheet:

(a) The time at which the driver ended the period of duty by means of a time clock provided by the certificate holder;

(b) The meter readings for total miles, paid miles, trips, units and extra passengers; and

(c) The odometer reading of the taxicab.

5. A certificate holder shall furnish a trip sheet form for each taxicab operated by a driver during the driver's period of duty and shall require the drivers to return their completed trip sheets at the end of each period of duty.

6. A certificate holder shall retain all trip sheets of all drivers in a safe place for a period of 3 years immediately succeeding December 31 of the year to which they respectively pertain and shall make such manifests available for inspection by the Administrator upon reasonable demand.

7. Any driver who maintains a trip sheet in a form less complete than that required by subsection 1 is guilty of a misdemeanor.

8. The Administrator shall prescribe the requirements for the use of an electronic version of a daily trip sheet. If a certificate holder requires its drivers to keep a daily trip sheet in electronic form, the certificate holder shall maintain the information collected from the daily trip sheet in a secure database and provide the Administrator with access to the information in the database at regular intervals established by the Administrator and upon reasonable demand.

Sec. 4. NRS 706.885 is hereby amended to read as follows:

706.885 1. Any person who knowingly makes or causes to be made, either directly or indirectly, a false statement on an application, account or other statement required by the Taxicab Authority or the Administrator or who violates any of the provisions of NRS 706.881 to 706.885, inclusive, ***and section 1 of this act*** is guilty of a misdemeanor.

2. The Taxicab Authority or Administrator may at any time, for good cause shown and upon at least 5 days' notice to the grantee of any certificate or driver's permit, and after a hearing unless waived by the grantee, penalize the grantee of a certificate to a maximum amount of $15,000 or penalize the grantee of a driver's permit to a maximum amount of $500 or suspend or revoke the certificate or driver's permit granted by the Taxicab Authority or Administrator, respectively, for:

(a) Any violation of any provision of NRS 706.881 to 706.885, inclusive, ***and section 1 of this act*** or any regulation of the Taxicab Authority or Administrator.

(b) Knowingly permitting or requiring any employee to violate any provision of NRS 706.881 to 706.885, inclusive, ***and section 1 of this act*** or any regulation of the Taxicab Authority or Administrator.

➥ If a penalty is imposed on the grantee of a certificate pursuant to this section, the Taxicab Authority or Administrator may require the grantee to pay the costs of the proceeding, including investigative costs and attorney's fees.

3. When a driver or certificate holder fails to appear at the time and place stated in the notice for the hearing, the Administrator shall enter a finding of default. Upon a finding of default, the Administrator may suspend or revoke the license, permit or certificate of the person who failed to appear and impose the penalties provided in this chapter. For good cause shown, the Administrator may set aside a finding of default and proceed with the hearing.

4. Any person who operates or permits a taxicab to be operated in passenger service without a certificate of public convenience and necessity issued pursuant to NRS 706.8827, is guilty of a gross misdemeanor. If a law enforcement officer witnesses a violation of this subsection, the law enforcement officer may cause the vehicle to be towed immediately from the scene.

5. The conviction of a person pursuant to subsection 1 does not bar the Taxicab Authority or Administrator from suspending or revoking any certificate, permit or license of the person convicted. The imposition of a fine or suspension or revocation of any certificate, permit or license by the Taxicab Authority or Administrator does not operate as a defense in any proceeding brought under subsection 1.

Sec. 5. This act becomes effective upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act and on July 1, 2011, for all other purposes.

Assemblywoman Dondero Loop moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 381.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 730.

AN ACT relating to marriage; revising provisions concerning the issuance of marriage licenses; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that before two people may be joined in marriage, they must obtain a marriage license from the county clerk of any county in the State. (NRS 122.040) **Section 8.5** of this bill requires the board of county commissioners in each county whose population is **100,000 or more but** less than 700,000 (currently ~~[all counties other than Clark]~~ **Washoe** County) and in which a commercial wedding chapel has been in business for 5 years or more to: (1) ensure that an office where marriage licenses may be issued is open to the public for the purpose of issuing such licenses from 8 a.m. to 12 a.m. every day, including holidays; or (2) provide for the establishment of a program whereby a commercial wedding chapel that has been in business in the county for 5 years or more is authorized to issue marriage licenses during the hours when an office where marriage licenses may be issued is not open to the public. **Additionally, section 8.5 authorizes the board of county commissioners in each county whose population is less than 100,000 (currently all counties other than Clark County and Washoe County) and in which a commercial wedding chapel has been in business for 5 years or more to provide for the establishment of a program whereby such a commercial wedding chapel may issue marriage licenses during the hours when an office where marriage licenses may be issued is not open to the public.** Any such program that ~~[is established]~~ **a board of county commissioners is required or authorized to establish** must authorize a commercial wedding chapel that has been in business in the county for 5 years or more to begin issuing marriage licenses upon filing a completed registration form with the county clerk, along with a performance bond in the amount of $50,000.

Section 8.5 also requires a commercial wedding chapel to refer any application for a marriage license that includes the signature of a guardian for a minor applicant to the county clerk for review and issuance of the marriage license, and provides that the persons to whom a commercial wedding chapel issues a marriage license may only be joined in marriage in the county in which the marriage license is issued. **Section 8.5** further provides that a commercial wedding chapel that violates any provision relating to the issuance of marriage licenses is guilty of a misdemeanor.

Section 12 of this act provides that the sections of this bill that provide for the establishment of county programs for the issuance of marriage licenses by certain commercial wedding chapels expire by limitation in 2 years.

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

Section 1. Chapter 122 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8.5, inclusive, of this act.

Sec. 2. "***Commercial wedding chapel" means a permanently affixed structure which operates a business principally for the performance of weddings and which is licensed for that purpose.***

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 8.5. ***1. In each county whose population is 100,000 or more but less than 700,000, in which a commercial wedding chapel has been in business for 5 years or more, the board of county commissioners shall:***

(a) Ensure that an office where marriage licenses may be issued is open to the public for the purpose of issuing such licenses from 8 a.m. to 12 a.m. every day, including holidays; or

(b) Provide for the establishment of a program whereby a commercial wedding chapel that has been in business in the county for 5 years or more is authorized to issue marriage licenses to qualified applicants during the hours when an office where marriage licenses may be issued pursuant to paragraph (a) is not open to the public.

2. In each county whose population is less than 100,000, in which a commercial wedding chapel has been in business in the county for 5 years or more, the board of county commissioners may provide for the establishment of a program whereby a commercial wedding chapel that has been in business in the county for 5 years or more is authorized to issue marriage licenses to qualified applicants during the hours when an office where marriage licenses may be issued is not open to the public.

3. Except as otherwise provided in subsection [3,] 4, a program established pursuant to [paragraph (b) of] subsection 1 or 2 must authorize each commercial wedding chapel that has been in business in the county for 5 years or more to begin issuing marriage licenses upon filing with the county clerk a completed registration form prescribed by the board of county commissioners, along with a performance bond in the amount of $50,000. The performance bond must be conditioned upon the faithful performance of all statutory duties related to the issuance of marriage licenses and compliance with the provisions of chapter 603A of NRS that ensure the security of personal information submitted by applicants for a marriage license.

[3.] 4. A commercial wedding chapel shall refer any application for a marriage license that includes the signature of a guardian for a minor applicant to the county clerk for review and issuance of the marriage license pursuant to NRS 122.040.

[4.] 5. The county clerk of the county in which a commercial wedding chapel that issues marriage licenses pursuant to this section is located shall provide to the commercial wedding chapel, without charge, any materials necessary for the commercial wedding chapel to issue marriage licenses. The number of marriage licenses that the commercial wedding chapel may issue must not be limited.

~~[5.]~~ ***6. A commercial wedding chapel that issues marriage licenses pursuant to this section shall comply with all statutory provisions governing the issuance of marriage licenses in the same manner as the county clerk is required to comply, and shall:***

(a) File the original application for a marriage license with the county clerk on the first available business day after completion of the application;

(b) Collect from an applicant for a marriage license all fees required by law to be collected; and

(c) Remit all fees collected to the county clerk, in the manner required by the standard of practice adopted by the county clerk.

~~[6.]~~ ***7. The records of a commercial wedding chapel that issues marriage licenses pursuant to this section which pertain to the issuance of a marriage license are public records and must be made available for public inspection at reasonable times. Such a commercial wedding chapel shall comply with the provisions of chapter 603A of NRS in the same manner as all other data collectors to ensure the security of all personal information submitted by applicants for a marriage license.***

~~[7.]~~ ***8. The persons to whom a commercial wedding chapel issues a marriage license may not be joined in marriage in any county other than the county in which the marriage license is issued.***

~~[8.]~~ ***9. A commercial wedding chapel that violates any provision of this section is guilty of a misdemeanor.***

Sec. 9. NRS 122.001 is hereby amended to read as follows:

122.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 122.002 and 122.006 ***and section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 9.5. NRS 122.040 is hereby amended to read as follows:

122.040 1. ~~[~~Before~~]~~ ***Except as otherwise provided in section 8.5 of this act, before*** persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State. Except as otherwise provided in this subsection, the license must be issued at the county seat of that county. The board of county commissioners:

(a) In a county whose population is 400,000 or more:

(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and

(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.

(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is

established in a county office building which is located outside of the county seat.

2. Except as otherwise provided in this section, before issuing a marriage license, the county clerk shall require each applicant to provide proof of the applicant's name and age. The county clerk may accept as proof of the applicant's name and age an original or certified copy of any of the following:

(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.

(b) A passport.

(c) A birth certificate and:

(1) Any secondary document that contains the name and a photograph of the applicant; or

(2) Any document for which identification must be verified as a condition to receipt of the document.

➥ If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that provides the applicant's name and age. If the applicant clearly appears over the age of 25 years, no documentation of proof of age is required.

3. Except as otherwise provided in subsection 4, the county clerk issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The county clerk shall, except as otherwise provided in this subsection, require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. The county clerk shall not deny a license to an applicant who states that the applicant does not have a social security number or who states that any requested information concerning the applicant's parents is unknown.

4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk, the county clerk may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk, or may refer the applicant to the district court. If the applicant is referred to the district court, the district

court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk. If the district court waives the requirements of subsection 3, the district court shall notify the county clerk in writing. If the county clerk or the district court waives the requirements of subsection 3, the county clerk shall require the applicant who is able to appear before the county clerk to:

(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.

(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk shall not require any evidence to verify a social security number.

➥ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. The county clerk shall not deny a license to an applicant who states that the applicant does not have a social security number or who states that any requested information concerning the parents of either the person who is responding to the question or the person who is unable to appear is unknown.

5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk shall issue the license if the consent of the parent or guardian is:

(a) Personally given before the clerk;

(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk and make oath that the witness saw the parent or guardian subscribe his or her name to the annexed certificate, or heard him or her acknowledge it; or

(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.

6. If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk shall accept, as proof that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2.

7. If the authorization of a district court is required, the county clerk shall issue the license if that authorization is given to the county clerk in writing.

8. All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.

9. A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

Sec. 10. (Deleted by amendment.)

Sec. 11. The board of county commissioners of each county whose population is **100,000 or more but** less than 700,000, in which a commercial wedding chapel has been in business for 5 years or more, shall take such actions as are necessary to ensure compliance with the provisions of section 8.5 of this act on or before July 1, 2011.

Sec. 12. This act becomes effective upon passage and approval and expires by limitation on June 30, 2013.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

The following amendment was proposed by Assemblyman Horne:

Amendment No. 765.

SUMMARY—Revises provisions concerning ~~[the issuance of marriage licenses.]~~ **counties.** (BDR 11-227)

AN ACT relating to ~~[marriage; revising provisions concerning the issuance of marriage licenses;]~~ **counties; providing for the establishment of county programs for the issuance of marriage licenses by certain commercial wedding chapels; removing the prospective expiration of provisions allowing a county office to deviate from the required hours of operation under certain circumstances;** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that before two people may be joined in marriage, they must obtain a marriage license from the county clerk of any county in the State. (NRS 122.040) **Section 8.5** of this bill requires the board of county commissioners in each county whose population is less than 700,000 (currently all counties other than Clark County) and in which a commercial wedding chapel has been in business for 5 years or more to: (1) ensure that an office where marriage licenses may be issued is open to the public for the purpose of issuing such licenses from 8 a.m. to 12 a.m. every day, including holidays; or (2) provide for the establishment of a program whereby a commercial wedding chapel that has been in business in the county for 5 years or more is authorized to issue marriage licenses during the hours when an office where marriage licenses may be issued is not open to the public. Any such program that is established must authorize a commercial wedding chapel that has been in business in the county for 5 years or more to begin issuing marriage licenses upon filing a completed registration form with the county clerk, along with a performance bond in the amount of $50,000.

Section 8.5 also requires a commercial wedding chapel to refer any application for a marriage license that includes the signature of a guardian for a minor applicant to the county clerk for review and issuance of the marriage license, and provides that the persons to whom a commercial wedding chapel issues a marriage license may only be joined in marriage in the county in

which the marriage license is issued. **Section 8.5** further provides that a commercial wedding chapel that violates any provision relating to the issuance of marriage licenses is guilty of a misdemeanor.

Existing law also establishes the required hours of operation for county offices, including offices where marriage licenses may be issued. (NRS 122.061, 245.040, 252.050) However, for the period between March 11, 2010, and June 30, 2011, county offices are authorized under existing law to deviate from those required hours of operation if the board of county commissioners approves the plan for the deviation submitted by the office. (Chapter 9, Statutes of Nevada 2010, 26th Special Session, p. 50) Section 9.7 of this bill makes the temporary authority to deviate from the required hours of operation permanent.

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

Section 1. Chapter 122 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8.5, inclusive, of this act.

Sec. 2. *"**Commercial wedding chapel" means a permanently affixed structure which operates a business principally for the performance of weddings and which is licensed for that purpose.***

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 8.5. ***1. In each county whose population is less than 700,000, in which a commercial wedding chapel has been in business for 5 years or more, the board of county commissioners shall:***

(a) Ensure that an office where marriage licenses may be issued is open to the public for the purpose of issuing such licenses from 8 a.m. to 12 a.m. every day, including holidays; or

(b) Provide for the establishment of a program whereby a commercial wedding chapel that has been in business in the county for 5 years or more is authorized to issue marriage licenses to qualified applicants during the hours when an office where marriage licenses may be issued pursuant to paragraph (a) is not open to the public.

2. Except as otherwise provided in subsection 3, a program established pursuant to paragraph (b) of subsection 1 must authorize each commercial wedding chapel that has been in business in the county for 5 years or more to begin issuing marriage licenses upon filing with the county clerk a completed registration form prescribed by the board of county commissioners, along with a performance bond in the amount of $50,000. The performance bond must be conditioned upon the faithful performance of all statutory duties related to the issuance of marriage licenses and

compliance with the provisions of chapter 603A of NRS that ensure the security of personal information submitted by applicants for a marriage license.

3. A commercial wedding chapel shall refer any application for a marriage license that includes the signature of a guardian for a minor applicant to the county clerk for review and issuance of the marriage license.

4. The county clerk of the county in which a commercial wedding chapel that issues marriage licenses pursuant to this section is located shall provide to the commercial wedding chapel, without charge, any materials necessary for the commercial wedding chapel to issue marriage licenses. The number of marriage licenses that the commercial wedding chapel may issue must not be limited.

5. A commercial wedding chapel that issues marriage licenses pursuant to this section shall comply with all statutory provisions governing the issuance of marriage licenses in the same manner as the county clerk is required to comply, and shall:

(a) File the original application for a marriage license with the county clerk on the first available business day after completion of the application;

(b) Collect from an applicant for a marriage license all fees required by law to be collected; and

(c) Remit all fees collected to the county clerk, in the manner required by the standard of practice adopted by the county clerk.

6. The records of a commercial wedding chapel that issues marriage licenses pursuant to this section which pertain to the issuance of a marriage license are public records and must be made available for public inspection at reasonable times. Such a commercial wedding chapel shall comply with the provisions of chapter 603A of NRS in the same manner as all other data collectors to ensure the security of all personal information submitted by applicants for a marriage license.

7. The persons to whom a commercial wedding chapel issues a marriage license may not be joined in marriage in any county other than the county in which the marriage license is issued.

8. A commercial wedding chapel that violates any provision of this section is guilty of a misdemeanor.

Sec. 9. NRS 122.001 is hereby amended to read as follows:

122.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 122.002 and 122.006 ***and section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 9.5. NRS 122.040 is hereby amended to read as follows:

122.040 1. ~~[~~Before~~]~~ ***Except as otherwise provided in section 8.5 of this act, before*** persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State. Except as otherwise provided in this subsection, the license must be issued at the county seat of that county. The board of county commissioners:

(a) In a county whose population is 400,000 or more:

(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and

(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.

(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.

2. Except as otherwise provided in this section, before issuing a marriage license, the county clerk shall require each applicant to provide proof of the applicant's name and age. The county clerk may accept as proof of the applicant's name and age an original or certified copy of any of the following:

(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.

(b) A passport.

(c) A birth certificate and:

(1) Any secondary document that contains the name and a photograph of the applicant; or

(2) Any document for which identification must be verified as a condition to receipt of the document.

➥ If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that provides the applicant's name and age. If the applicant clearly appears over the age of 25 years, no documentation of proof of age is required.

3. Except as otherwise provided in subsection 4, the county clerk issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The county clerk shall, except as otherwise provided in this subsection, require each applicant to include the applicant's social security number on the affidavit of application for the

marriage license. If a person does not have a social security number, the person must state that fact. The county clerk shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. The county clerk shall not deny a license to an applicant who states that the applicant does not have a social security number or who states that any requested information concerning the applicant's parents is unknown.

4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk, the county clerk may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk, or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk. If the district court waives the requirements of subsection 3, the district court shall notify the county clerk in writing. If the county clerk or the district court waives the requirements of subsection 3, the county clerk shall require the applicant who is able to appear before the county clerk to:

(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.

(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk shall not require any evidence to verify a social security number.

➥ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. The county clerk shall not deny a license to an applicant who states that the applicant does not have a social security number or who states that any requested information concerning the parents of either the person who is responding to the question or the person who is unable to appear is unknown.

5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk shall issue the license if the consent of the parent or guardian is:

(a) Personally given before the clerk;

(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk and make oath that the witness saw the parent or guardian subscribe his or her name to the annexed certificate, or heard him or her acknowledge it; or

(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.

6. If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk shall accept, as proof that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2.

7. If the authorization of a district court is required, the county clerk shall issue the license if that authorization is given to the county clerk in writing.

8. All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.

9. A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

Sec. 9.7. **Section 5 of chapter 9, Statutes of Nevada 2010, 26th Special Session, at page 52, is hereby amended to read as follows:**

Sec. 5. This act becomes effective upon passage and approval **.** ~~[and expires by limitation on June 30, 2011.]~~

Sec. 10. (Deleted by amendment.)

Sec. 11. The board of county commissioners of each county whose population is less than 700,000, in which a commercial wedding chapel has been in business for 5 years or more, shall take such actions as are necessary to ensure compliance with the provisions of section 8.5 of this act on or before July 1, 2011.

Sec. 12. **1.** This act becomes effective upon passage and approval **.** ~~[and expires]~~

2. This section and sections 1 to 9.5, inclusive, and 10 and 11 of this act expire by limitation on June 30, 2013.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 419.

Bill read second time.

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

Amendment No. 710.

AN ACT relating to public health; requiring certain persons ~~[and entities that]~~ **who** are licensed, registered or certified by the Health Division of the Department of Health and Human Services, certain district boards of health or certain boards which license, register or certify health care professionals to attest that they have knowledge of and are in compliance with certain guidelines concerning safe infection practices as a condition of the issuance or renewal of their licenses, registration or certificates; **requiring certain**

medical laboratories licensed by the Health Division and persons who register a radiation machine with the Health Division to provide similar attestations regarding certain employees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

[This**]** **Sections 1, 24 and 25-30 of this** bill **[**requires**]** **require** the Health Division of the Department of Health and Human Services, certain district boards of health and certain boards that license, register or certify health care professionals to require, as a condition of issuing or renewing a license, registration or certificate, that the applicant for issuance or renewal of the license, registration or certificate must attest to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices. **Sections 24.3 and 31 of this bill similarly require certain medical laboratories licensed by the Health Division and persons who register a radiation machine with the Health Division, as a condition of issuing or renewing a license or registration, to attest that certain employees have such knowledge of and are in compliance with such guidelines.**

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

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

The Health Division shall not issue or renew a license for a home for individual residential care unless the applicant for issuance or renewal of the license attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. Chapter 450B of NRS is hereby amended by adding thereto a new section to read as follows:

The health authority shall not issue or renew:

1. A license to an attendant or firefighter; or

2. A certificate as an emergency medical technician,

↪ unless the applicant for issuance or renewal of the license or certificate attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 24.3. **Chapter 459 of NRS is hereby amended by adding thereto a new section to read as follows:**

The Health Division shall not issue or renew the registration of a radiation machine pursuant to regulations adopted by the State Board of Health unless the applicant for issuance or renewal of the registration attests that the radiologic technologists and nuclear medicine technologists employed by the applicant have knowledge of and are in compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 24.7. **NRS 459.010 is hereby amended to read as follows:**

459.010 As used in NRS 459.010 to 459.290, inclusive, ***and section 24.3 of this act,*** unless the context requires otherwise:

1. "By-product material" means:

(a) Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or making use of special nuclear material; and

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore which is processed primarily for the extraction of the uranium or thorium.

2. "General license" means a license effective pursuant to regulations adopted by the State Board of Health without the filing of an application to transfer, acquire, own, possess or use quantities of, or devices or equipment for utilizing, by-product material, source material, special nuclear material or other radioactive material occurring naturally or produced artificially.

3. "Health Division" means the Health Division of the Department of Health and Human Services.

4. "Ionizing radiation" means gamma rays and X rays, alpha and beta particles, high-speed electrons, neutrons, protons and other nuclear particles, but not sound or radio waves, or visible, infrared or ultraviolet light.

5. "Person" includes any agency or political subdivision of this State, any other state or the United States, but not the Nuclear Regulatory Commission or its successor, or any federal agency licensed by the Nuclear Regulatory Commission or any successor to such a federal agency.

6. "Source material" means:

(a) Uranium, thorium or any other material which the Governor declares by order to be source material after the Nuclear Regulatory Commission or any successor thereto has determined that material to be source material.

(b) Any ore containing one or more of the materials enumerated in paragraph (a) in such concentration as the Governor declares by order to be source material after the Nuclear Regulatory Commission or any successor thereto has determined the material in the concentration to be source material.

7. "Special nuclear material" means:

(a) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235 and any other material which the Governor declares by order to be special nuclear material after the Nuclear Regulatory Commission or any successor thereto has determined such material to be special nuclear material, but does not include source material.

(b) Any material artificially enriched by any of the materials enumerated in paragraph (a), but does not include source material.

8. "Specific license" means a license issued pursuant to the filing of an application to use, manufacture, produce, transfer, receive, acquire, own or possess quantities of, or devices or equipment for utilizing, by-product material, source material, special nuclear material or other radioactive material occurring naturally or produced artificially.

Sec. 25. Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board shall not issue or renew a license to practice as a physician, physician assistant or perfusionist unless the applicant for issuance or renewal of the license attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

2. In addition to the attestation provided pursuant to subsection 1, a physician shall attest that any person:

(a) Who is under the control and supervision of the physician;

(b) Who is not licensed pursuant to this chapter; and

(c) Whose duties involve injection practices,

↳ has knowledge of and is in compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of

transmission of infectious agents through safe and appropriate injection practices.

Sec. 26. Chapter 632 of NRS is hereby amended by adding thereto a new section to read as follows:

The Board shall not issue or renew a license to practice as a professional nurse or a practical nurse unless the applicant for issuance or renewal of the license attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 27. Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

The Board shall not issue or renew a license to practice osteopathic medicine or as a physician assistant unless the applicant for issuance or renewal of the license attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 28. Chapter 634A of NRS is hereby amended by adding thereto a new section to read as follows:

The Board shall not issue or renew a license to practice Oriental medicine unless the applicant for issuance or renewal of the license attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 29. Chapter 635 of NRS is hereby amended by adding thereto a new section to read as follows:

The Board shall not issue or renew a license to practice podiatry unless the applicant for issuance or renewal of the license attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 30. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

The Board shall not approve an application for registration or renewal of registration as a pharmacist or intern pharmacist unless the applicant for issuance or renewal of registration attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 31. Chapter 652 of NRS is hereby amended by adding thereto a new section to read as follows:

The Health Division shall not issue or renew a license to a medical laboratory whose licensed personnel have job duties that include the administration of injections unless the applicant for issuance or renewal of

the license attests that the laboratory director and laboratory personnel whose job duties include the administration of injections have knowledge of and are in compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 432.

Bill read second time.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 812.

AN ACT relating to governmental financing; authorizing regional transportation commissions in certain counties to issue revenue bonds and other securities to finance certain projects under certain circumstances; ~~[deleting]~~ **providing an exception to** certain limitations on the issuance of such bonds and other securities by certain counties under certain circumstances; extending the period within which the repayment of certain bonds or other securities must commence; extending the period within which certain general obligation bonds issued for a water facility or wastewater facility must mature; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes counties to impose a county tax on the sale of motor vehicle fuel. (NRS 373.030, 373.065, 373.066) Existing law also authorizes counties to issue revenue bonds and other revenue securities to obtain money for the payment of the cost of a street and highway construction project, subject to the limitation that the total of all such revenue bonds and other revenue securities issued and outstanding by a county must not be in an amount requiring a total debt service in excess of the estimated receipts to be derived from the county tax on sales of motor vehicle fuel in the county. (NRS 373.028, 373.131) **Sections 1-4** of this bill authorize a regional transportation commission in a county whose population is 100,000 or more (currently Clark and Washoe Counties) to issue revenue bonds and other revenue securities to finance such a project if the commission has executed an interlocal agreement with the county relating to the issuance of such bonds and other securities by the commission.

Existing law authorizes counties to impose a special tax for a public transit system, for the construction, maintenance and repair of public roads or for the improvement of air quality. (NRS 377A.020) Existing law also authorizes counties to issue bonds and other securities to obtain money to pay for the cost of establishing and maintaining a public transit system, for the construction, maintenance and repair of public roads or for the improvement of air quality. (NRS 377A.090) **Sections 5-7** of this bill authorize a regional transportation commission in a county whose population is 100,000 or more

(currently Clark and Washoe Counties) to issue revenue bonds and other revenue securities to finance such a project if the commission has executed an interlocal agreement with the county relating to the issuance of such bonds and other securities by the commission.

Existing law authorizes counties to impose a tax for infrastructure upon the gross receipts of retail sales. (NRS 377B.100, 377B.110) Existing law also authorizes counties to issue bonds and other securities to obtain money to pay for the cost of one or more projects for which the tax was imposed. (NRS 377B.190) **Section 8** of this bill ~~[deletes a requirement that an ordinance imposing]~~ **provides for the continuation of** such a tax in a county whose population is 400,000 or more (currently Clark County) ~~[provide for]~~ **after** the **date of** cessation of the tax ~~[not later than June 30, 2025, or when the total sum collected from the tax exceeds $2.3 billion, whichever occurs earlier.]~~ **specified in the ordinance creating the tax if the board of county commissioners determines by a two-thirds majority vote that the cessation of the tax is not advisable.** **Section 9** of this bill ~~[deletes a prohibition on]~~ **similarly provides for** the **continued** issuance of such bonds or securities in such a county after ~~[June 30, 2025, or when the total sum collected from the tax exceeds $2.3 billion, whichever occurs earlier.]~~ **the date of cessation of the tax specified in the ordinance creating the tax if the board of county commissioners pursuant to section 8 has determined by a two-thirds majority vote that the cessation of the tax is not advisable.**

Section 10 of this bill extends the period within which the repayment of bonds or other securities that are issued by a political subdivision of this State and that pay compound interest must commence from not later than the fifth year after issuance to not later than the fifteenth year after issuance. **Section 11** of this bill extends the period within which general obligation bonds issued for a water facility or wastewater facility must mature to not later than 40 years from their respective dates.

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

Section 1. NRS 373.024 is hereby amended to read as follows:

373.024 "Cost of the project," or any phrase of similar import, means all or any part designated by the board ***or, in the case of a project financed with bonds or other securities issued by a commission, the commission,*** of the cost of any project, or interest therein, being acquired, which cost, at the option of the board ***or, in the case of a project financed with bonds or other securities issued by a commission, the commission,*** may include all or any part of the incidental costs pertaining to the project, including, without limitation, preliminary expenses advanced by the county ***or, in the case of a project financed with bonds or other securities issued by a commission, the commission,*** from money available for use therefor or any other source, or advanced by any city with the approval of the county from money available

therefor or from any other source, or advanced by the State of Nevada or the Federal Government, or any corporation, agency or instrumentality thereof, with the approval of the county, or any combination thereof, in the making of surveys, preliminary plans, estimates of costs, other preliminaries, the costs of appraising, printing, estimates, advice, contracting for the services of engineers, architects, financial consultants, attorneys at law, clerical help, other agents or employees, the costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the project, the taking of options, the issuance of bonds and other securities, contingencies, the capitalization with bond proceeds of any interest on the bonds for any period not exceeding 1 year and of any reserves for the payment of the principal of an interest on the bonds, the filing or recordation of instruments, the costs of medium-term obligations, construction loans and other temporary loans of not exceeding 10 years appertaining to the project and of the incidental expenses incurred in connection with such financing or loans, and all other expenses necessary or desirable and appertaining to any project, as estimated or otherwise ascertained by the board ~~[.]~~ ***or, in the case of a project financed with bonds or other securities issued by a commission, the commission.***

Sec. 2. NRS 373.131 is hereby amended to read as follows:

373.131 1. Money for the payment of the cost of a project within the area embraced by a regional plan for transportation established pursuant to NRS 277A.210 may be obtained by the issuance of revenue bonds and other revenue securities as provided in subsection 2 or, subject to any pledges, liens and other contractual limitations made pursuant to the provisions this chapter and chapter 277A of NRS, may be obtained by direct distribution from the regional street and highway fund, except to the extent any such use is prevented by the provisions of NRS 373.150, or may be obtained both by the issuance of such securities and by such direct distribution, as the board may determine. Money for street and highway construction outside the area embraced by the plan may be distributed directly from the regional street and highway fund as provided in NRS 373.150.

2. The board ***or, in a county whose population is 100,000 or more, a commission,*** may, after the enactment of any ordinance authorized by the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, issue revenue bonds and other revenue securities, on the behalf and in the name of the county ~~[.]~~ ***or the commission, as the case may be:***

(a) The total of all of which, issued and outstanding at any one time, must not be in an amount requiring a total debt service in excess of the estimated receipts to be derived from the taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066;

(b) Which must not be general obligations of the county ***or the commission*** or a charge on any real estate ~~[therein;]~~ ***within the county;*** and

(c) Which may be secured as to principal and interest by a pledge authorized by this chapter of the receipts from the fuel taxes designated in this chapter, except such portion of the receipts as may be required for the direct distributions authorized by NRS 373.150.

3. A county ***or a commission as provided in subsection 2*** is authorized to issue bonds ***or other securities*** without the necessity of their being authorized at any election in such manner and with such terms as provided in this chapter.

4. Subject to the provisions of this chapter and chapter 277A of NRS, for any project authorized therein, the board of any county may, on the behalf and in the name of the county, ***or, in a county whose population is 100,000 or more, a commission may, on behalf and in the name of the commission,*** borrow money, otherwise become obligated, and evidence obligations by the issuance of bonds and other county ***or commission*** securities, and in connection with the undertaking or project, the board ***or the commission, as the case may be,*** may otherwise proceed as provided in the Local Government Securities Law.

5. All such securities constitute special obligations payable from the net receipts of the fuel taxes designated in this chapter except as otherwise provided in NRS 373.150, and the pledge of revenues to secure the payment of the securities must be limited to those net receipts.

6. Except for:

(a) Any notes or warrants which are funded with the proceeds of interim debentures or bonds;

(b) Any interim debentures which are funded with the proceeds of bonds;

(c) Any temporary bonds which are exchanged for definitive bonds;

(d) Any bonds which are reissued or which are refunded; and

(e) The use of any profit from any investment and reinvestment for the payment of any bonds or other securities issued pursuant to the provisions of this chapter,

➥ all bonds and other securities issued pursuant to the provisions of this chapter must be payable solely from the proceeds of fuel taxes collected by or remitted to the county pursuant to chapter 365 of NRS, as supplemented by this chapter. Receipts of the taxes levied in NRS 365.180 and 365.190 and pursuant to the provisions of paragraphs (a) and (b) of subsection 1 of NRS 373.065 and paragraphs (a) and (b) of subsection 1 of NRS 373.066 may be used by the county for the payment of securities issued pursuant to the provisions of this chapter and may be pledged therefor. ***Such taxes may also be used by a commission in a county whose population is 100,000 or more for the payment of bonds or other securities issued pursuant to the provisions of this chapter and may be pledged therefor if the board of the county consents to such use.*** If during any period any securities payable from these tax proceeds are outstanding, the tax receipts must not be used directly for the construction, maintenance and repair of any streets, roads or other highways nor for any purchase of equipment therefor, and the receipts

of the tax levied in NRS 365.190 must not be apportioned pursuant to subsection 2 of NRS 365.560 unless, at any time the tax receipts are so apportioned, provision has been made in a timely manner for the payment of such outstanding securities as to the principal of, any prior redemption premiums due in connection with, and the interest on the securities as they become due, as provided in the securities, the ordinance ***, in the case of securities issued by a county, or the resolution, in the case of securities issued by a commission,*** authorizing their issuance and any other instrument appertaining to the securities.

7. The ordinance ***, in the case of securities issued by a county, or the resolution, in the case of securities issued by a commission,*** authorizing the issuance of any bond or other revenue security under this section must describe the purpose for which it is issued at least in general terms and may describe the purpose in detail. This section does not require the purpose so stated to be set forth in the detail in which the project approved by the commission pursuant to subsection 2 of NRS 373.140 is stated, or prevent the modification by the board ***or commission, as the case may be,*** of details as to the purpose stated in the ordinance authorizing the issuance of any bond or other security after its issuance, subject to approval by the commission of the project as so modified ~~[.]~~ ***, if such bond or other security is issued by the county and not the commission.***

8. Notwithstanding any other provision of this chapter, no commission has authority to issue bonds or other securities pursuant to this chapter unless the commission has executed an interlocal agreement with the county relating to the issuance of bonds or other securities by the commission. Any such interlocal agreement must include an acknowledgment of the authority of the commission to issue bonds and other securities and contain provisions relating to the pledge of revenues for the repayment of the bonds or other securities, the lien priority of the pledge of revenues securing the bonds or other securities, and related matters.

Sec. 3. NRS 373.160 is hereby amended to read as follows:

373.160 1. The ordinance or ordinances ***, or the resolution or resolutions,*** providing for the issuance of any bonds or other securities issued under this chapter payable from the receipts from the fuel excise taxes designated in this chapter may at the discretion of the board ~~[,]~~ ***or, in the case of bonds or other securities issued by a commission, the commission,*** in addition to covenants and other provisions authorized in the Local Government Securities Law, contain covenants or other provisions as to the pledge of and the creation of a lien upon the receipts of the taxes collected for the county pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, excluding any tax proceeds to be distributed directly under the provisions of NRS 373.150, or the proceeds of the bonds or other securities pending their application to defray the cost of the project,

or both such tax proceeds and security proceeds, to secure the payment of revenue bonds or other securities issued under this chapter.

2. If the board ***or, in the case of bonds or other securities issued by a commission, the commission,*** determines in any ordinance ***or resolution*** authorizing the issuance of any bonds or other securities under this chapter that the proceeds of the taxes levied and collected pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 are sufficient to pay all bonds and securities, including the proposed issue, from the proceeds thereof, the board ***or, in the case of bonds or other securities issued by a commission, the commission with the consent of the board as provided in subsection 6 of NRS 373.131,*** may additionally secure the payment of any bonds or other securities issued pursuant to the ordinance ***or resolution*** under this chapter by a pledge of and the creation of a lien upon not only the proceeds of any fuel tax authorized at the time of the issuance of such securities to be used for such payment in subsection 6 of NRS 373.131, but also the proceeds of any such tax thereafter authorized to be used or pledged, or used and pledged, for the payment of such securities, whether such tax be levied or collected by the county, the State of Nevada, or otherwise, or be levied in at least an equivalent value in lieu of any such tax existing at the time of the issuance of such securities or be levied in supplementation thereof.

3. The pledges and liens authorized by subsections 1 and 2 extend to the proceeds of any tax collected for use by the county on any fuel so long as any bonds or other securities issued under this chapter remain outstanding and are not limited to any type or types of fuel in use when the bonds or other securities are issued.

Sec. 4. NRS 373.190 is hereby amended to read as follows:

373.190 The board ***, or a commission authorized to issue bonds or other securities pursuant to subsection 2 of NRS 373.131,*** is authorized to sell such bonds ***or other securities*** from time to time at public or private sale as the board ***or the commission, as the case may be,*** may determine.

Sec. 5. NRS 377A.090 is hereby amended to read as follows:

377A.090 1. Money for the payment of the cost of establishing and maintaining a public transit system, for the construction, maintenance and repair of public roads, for the improvement of air quality or for any combination of those purposes may be obtained by the issuance of bonds and other securities as provided in subsection 2 ***or 3*** or, subject to any pledges, liens and other contractual limitations made pursuant to this chapter, may be obtained by direct distribution from the public transit fund, or may be obtained both by the issuance of such securities and by such direct distribution as the board ***or, in the case of securities issued by a regional transportation commission, the regional transportation commission,*** may determine.

2. The board may, after the enactment of an ordinance authorized by paragraph (a) of subsection 1 of NRS 377A.020, from time to time issue bonds and other securities, which are general or special obligations of the county and which may be secured as to principal and interest by a pledge authorized by this chapter of the receipts from the tax imposed by that ordinance.

3. ***A regional transportation commission authorized to issue bonds or other securities pursuant to subsection 2 of NRS 373.131 may, after the enactment by a board of county commissioners of an ordinance authorized by paragraph (a) of subsection 1 of NRS 377A.020, from time to time issue bonds and other securities, which are special obligations of the regional transportation commission and which may be secured as to principal and interest by a pledge authorized by this chapter or the receipts from the tax imposed by that ordinance.***

4. Notwithstanding any other provision of this chapter, no regional transportation commission may issue bonds or other securities pursuant to this chapter unless the regional transportation commission has executed an interlocal agreement with the county relating to the issuance of bonds or other securities by the regional transportation commission. Any such interlocal agreement must include an acknowledgment of the authority of the regional transportation commission to issue bonds or other securities and contain provisions relating to the pledge of revenues for the repayment of the bonds or other securities, the lien priority of the pledge of revenues securing the bonds or other securities, and related matters.

5. The ordinance ***or resolution*** authorizing the issuance of any bond or other security must describe the purpose for which it is issued.

Sec. 6. NRS 377A.100 is hereby amended to read as follows:

377A.100 1. Each ordinance ***or resolution*** providing for the issuance of any bond or security issued under this chapter payable from the receipts of the tax imposed pursuant to paragraph (b) of subsection 1 of NRS 377A.030 may, in addition to covenants and other provisions authorized in the Local Government Securities Law, contain a covenant or other provision to pledge and create a lien upon the receipts of the tax or upon the proceeds of any bond or security pending their application to defray the cost of establishing or operating a public transit system, constructing, maintaining or repairing public roads or improving air quality, or both tax proceeds and security proceeds, to secure the payment of any bond or security issued under this chapter.

2. Each ordinance providing for the issuance of any bond or security issued under this chapter payable from the receipts of the tax imposed pursuant to paragraph (d) of subsection 1 of NRS 377A.030 may, in addition to covenants and other provisions authorized in the Local Government Securities Law, contain a covenant or other provision to pledge and create a lien upon:

(a) The receipts of the tax;

(b) The proceeds of any bond or security pending their application to defray the cost of acquiring, developing, constructing, equipping, operating, maintaining, improving and managing libraries, parks, recreational programs and facilities, and facilities and services for senior citizens, and for preserving and protecting agriculture, or for any combination of those purposes; or

(c) Both tax proceeds and security proceeds,

➥ to secure the payment of any bond or security issued under this chapter. The provisions of this subsection do not authorize the board of county commissioners of a county to obtain money to acquire, develop, construct, equip, operate, maintain, improve and manage recreational programs by the issuance of bonds.

3. Any money pledged to the payment of bonds or other securities pursuant to subsection 1 or 2 may be treated as pledged revenues of the project for the purposes of subsection 3 of NRS 350.020.

Sec. 7. NRS 377A.110 is hereby amended to read as follows:

377A.110 1. Subject to the provisions of subsection 2, the board may gradually reduce the amount of any tax imposed pursuant to this chapter for a public transit system, for the construction, maintenance and repair of public roads, for the improvement of air quality or for any combination of those purposes as revenue from the operation of those projects permits. The date on which any reduction in the tax becomes effective must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance reducing the amount of tax imposed.

2. No such taxing ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair any outstanding bonds issued under this chapter, or other obligations incurred under this chapter, until all obligations, for which revenues from the ordinance have been pledged or otherwise made payable from such revenues pursuant to this chapter, have been discharged in full, but the board may at any time dissolve the regional transportation commission ***as provided in NRS 373.120*** and provide that no further obligations be incurred thereafter.

Sec. 8. NRS 377B.100 is hereby amended to read as follows:

377B.100 1. The board of county commissioners of any county may by ordinance, but not as in a case of emergency, impose a tax for infrastructure pursuant to this section and NRS 377B.110.

2. An ordinance enacted pursuant to this chapter may not become effective before a question concerning the imposition of the tax is approved by a two-thirds majority of the members of the board of county commissioners. Any proposal to increase the rate of the tax or change the previously approved uses for the proceeds of the tax must be approved by a two-thirds majority of the members of the board of county commissioners. The board of county commissioners shall not change a previously approved use for the proceeds of the tax to a use that is not authorized for that county pursuant to NRS 377B.160.

3. An ordinance enacted pursuant to this section must :

(a) Specify ~~*[specify]*~~ the date on which the tax must first be imposed or on which an increase in the rate of the tax becomes effective, which must occur on the first day of the first month of the next calendar quarter that is at least 120 days after the date on which a two-thirds majority of the board of county commissioners approved the question.

(b) In a county whose population is 400,000 or more, provide for the cessation of the tax not later than:

(1) The last day of the month in which the Department determines that the total sum collected since the tax was first imposed, exclusive of any penalties and interest, exceeds $2.3 billion; or

(2) June 30, 2025,

➥ whichever occurs earlier.

4. ***Notwithstanding the provisions of an ordinance described in subsection 3, in a county whose population is 400,000 or more, the tax may continue to be imposed after the date set forth in the ordinance for the cessation of the tax if the board of county commissioners determines by an affirmative vote of at least two-thirds of its members that the cessation of the tax is not advisable.***

5. The board of county commissioners in a county whose population is 400,000 or more and in which a water authority exists shall review the necessity for the continued imposition of the tax authorized pursuant to this chapter at least once every 10 years.

~~**[5.]**~~ ***6.*** Before enacting an ordinance pursuant to this chapter, the board of county commissioners shall hold a public hearing regarding the imposition of a tax for infrastructure. In a county whose population is 400,000 or more and in which a water authority exists, the water authority shall also hold a public hearing regarding the tax for infrastructure. Notice of the time and place of each hearing must be:

(a) Published in a newspaper of general circulation in the county at least once a week for the 2 consecutive weeks immediately preceding the date of the hearing. Such notice must be a display advertisement of not less than 3 inches by 5 inches.

(b) Posted at the building in which the meeting is to be held and at not less than three other separate, prominent places within the county at least 2 weeks before the date of the hearing.

~~**[6.]**~~ ***7.*** Before enacting an ordinance pursuant to this chapter, the board of county commissioners of a county whose population is less than 400,000 or a county whose population is 400,000 or more and in which no water authority exists, shall develop a plan for the expenditure of the proceeds of a tax imposed pursuant to this chapter for the purposes set forth in NRS 377B.160. The plan may include a regional project for which two or more such counties have entered into an interlocal agreement to expend jointly all or a portion of the proceeds of a tax imposed in each county pursuant to this chapter. Such a plan must include, without limitation, the date on which the

plan expires, a description of each proposed project, the method of financing each project and the costs related to each project. Before adopting a plan pursuant to this subsection, the board of county commissioners of a county in which a regional planning commission has been established pursuant to NRS 278.0262 shall transmit to the regional planning commission a list of the proposed projects for which a tax for infrastructure may be imposed. The regional planning commission shall hold a public hearing at which it shall rank each project in relative priority. The regional planning commission shall transmit its rankings to the board of county commissioners. The recommendations of the regional planning commission regarding the priority of the proposed projects are not binding on the board of county commissioners. The board of county commissioners shall hold at least one public hearing on the plan. Notice of the time and place of the hearing must be provided in the manner set forth in subsection ~~[5.]~~ ***6.*** The plan must be approved by the board of county commissioners at a public hearing. Subject to the provisions of subsection ~~[7.]~~ ***8,*** on or before the date on which a plan expires, the board of county commissioners shall determine whether a necessity exists for the continued imposition of the tax. If the board determines that such a necessity does not exist, the board shall repeal the ordinance that enacted the tax. If the board of county commissioners determines that the tax must be continued for a purpose set forth in NRS 377B.160, the board shall adopt, in the manner prescribed in this subsection, a new plan for the expenditure of the proceeds of the tax for such a purpose.

~~[7.]~~ ***8.*** No ordinance imposing a tax which is enacted pursuant to this chapter may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair any outstanding bonds or other obligations which are payable from or secured by a pledge of a tax enacted pursuant to this chapter until those bonds or other obligations have been discharged in full.

Sec. 8.3. **NRS 377B.150 is hereby amended to read as follows:**

377B.150 1. In a county whose population is less than 400,000 or a county whose population is 400,000 or more and in which no water authority exists, the county treasurer shall deposit the money received from the State Controller pursuant to NRS 377B.130 in the county treasury for credit to a fund to be known as the infrastructure fund. The infrastructure fund must be accounted for as a separate fund and not as a part of any other fund. The money for each project included in the plan adopted pursuant to subsection ~~[6]~~ *7* of NRS 377B.100 must be accounted for separately in the fund.

2. In a county whose population is 400,000 or more and in which a water authority exists, the water authority shall deposit the money received from the State Controller pursuant to NRS 377B.130 in a separate account of the water authority to be known as the infrastructure fund. This fund must be accounted for as a separate fund and not as part of any other fund of the water authority.

Sec. 8.7. **NRS 377B.160 is hereby amended to read as follows:**

377B.160 The money in the infrastructure fund, including interest and any other income from the fund:

1. In a county whose population is 400,000 or more, must only be expended by the water authority, distributed by the water authority to its members, distributed by the water authority pursuant to NRS 377B.170 to a city or town located in the county whose territory is not within the boundaries of the area served by the water authority or to a public entity in the county which provides water or wastewater services and which is not a member of the water authority or, if no water authority exists in the county, expended by the board of county commissioners for:

(a) The acquisition, establishment, construction, improvement or equipping of water and wastewater facilities;

(b) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects described in paragraph (a); or

(c) Any combination of those purposes.

➥ The board of county commissioners may only expend money from the infrastructure fund pursuant to this subsection in the manner set forth in the plan adopted pursuant to subsection ~~[6]~~ *7* of NRS 377B.100.

2. In a county whose population is 100,000 or more but less than 400,000, must only be expended by the board of county commissioners in the manner set forth in the plan adopted pursuant to subsection ~~[6]~~ *7* of NRS 377B.100 for:

(a) The acquisition, establishment, construction or expansion of:

(1) Projects for the management of floodplains or the prevention of floods; or

(2) Facilities relating to public safety;

(b) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects described in paragraph (a);

(c) The ongoing expenses of operation and maintenance of projects described in subparagraph (1) of paragraph (a), if such projects were included in a plan adopted by the board of county commissioners pursuant to subsection ~~[6]~~ *7* of NRS 377B.100 before January 1, 2003;

(d) Any program to provide financial assistance to owners of public and private property in areas likely to be flooded in order to make such property resistant to flood damage that is established pursuant to NRS 244.3653; or

(e) Any combination of those purposes.

3. In a county whose population is less than 100,000, must only be expended by the board of county commissioners in the manner set forth in the plan adopted pursuant to subsection ~~[6]~~ *7* of NRS 377B.100 for:

(a) The acquisition, establishment, construction, improvement or equipping of:

(1) Water facilities; or

(2) Wastewater facilities;

(b) The acquisition, establishment, construction, operation, maintenance or expansion of:

(1) Projects for the management of floodplains or the prevention of floods; or

(2) Facilities for the disposal of solid waste;

(c) The construction or renovation of facilities for schools;

(d) The construction or renovation of facilities having cultural or historical value;

(e) Projects described in subsection 2 of NRS 373.028;

(f) The acquisition, establishment, construction, expansion, improvement or equipping of facilities relating to public safety or to cultural and recreational or judicial functions;

(g) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects, facilities and activities described in paragraphs (a) to (f), inclusive; or

(h) Any combination of those purposes.

Sec. 9. NRS 377B.190 is hereby amended to read as follows:

377B.190 1. Money for the payment of the cost of one or more projects for which the board of county commissioners has imposed all or a portion of the tax authorized pursuant to this chapter may be obtained by the issuance of bonds and other securities as provided in this section, or, subject to any pledges, liens and other contractual limitations made pursuant to this chapter, may be obtained by direct distribution from the infrastructure fund, or may be obtained both by the issuance of such securities and by such direct distribution as determined by the board of county commissioners or, in a county whose population is 400,000 or more and in which a water authority exists, by the water authority.

2. The board of county commissioners of a county whose population is less than 400,000 or of a county whose population is 400,000 or more and in which no water authority exists may, after the enactment of an ordinance imposing a tax for infrastructure as authorized by NRS 377B.100, from time to time issue bonds and other securities, which are general or special obligations of the county and which may be secured as to principal and interest by a pledge authorized by this chapter of the receipts from the taxes imposed by this chapter. The ordinance authorizing the issuance of any bond or other security must describe the purpose for which it was issued.

3. After the enactment of an ordinance imposing a tax for infrastructure by the board of county commissioners of a county whose population is 400,000 or more and in which a water authority exists, the water authority or, if so provided in an interlocal agreement to which the water authority is a party, one or more of the members of the water authority, may from time to time issue bonds and other securities, which are general or special obligations and which may be secured as to principal and interest by a pledge authorized by this chapter of the receipts from the taxes imposed by this chapter.

4. In a county whose population is 400,000 or more, no bonds or other securities may be issued pursuant to this section which are payable from or secured by, in whole or in part, any revenue from a tax enacted pursuant to this chapter to be collected after:

(a) The last day of the month in which the Department determines that the total sum collected since the tax was first imposed, exclusive of any penalties and interest, exceeds $2.3 billion; or

(b) June 30, 2025,

➥ whichever occurs earlier ~~[.]~~ ***, unless the board of county commissioners pursuant to subsection 4 of NRS 377B.100 has determined by an affirmative vote of at least two-thirds of its members that the cessation of the tax is not advisable.***

Sec. 10. NRS 99.065 is hereby amended to read as follows:

99.065 1. Bonds or other securities issued by this state or any of its political subdivisions may provide for the payment of compound interest. The amount of the compound interest must be treated as interest and not as an addition to the principal of the bond or other security.

2. If interest is compounded on some or all of an issue of securities, repayment of the securities:

(a) Must commence no later than the ~~[fifth]~~ ***15th*** year after issue; and

(b) If in installments, must be made no less often than annually.

Sec. 11. NRS 350.630 is hereby amended to read as follows:

350.630 1. As the governing body may determine, any bonds and other municipal securities issued hereunder, except as otherwise provided in the Local Government Securities Law, or in any act supplemental thereto, must:

(a) Be of a convenient denomination or denominations;

(b) Be fully negotiable within the meaning of and for all the purposes of the Uniform Commercial Code—Investment Securities;

(c) Mature at such time or serially at such times in regular numerical order at annual or other designated intervals in amounts designated and fixed by the governing body, except as herein otherwise provided;

(d) Bear interest at a rate or rates which do not exceed the limit provided in NRS 350.2011, payable annually, semiannually or at other designated intervals, but the first interest payment date may be for interest accruing for any other period;

(e) Be made payable in lawful money of the United States, at the office of the treasurer or any commercial bank or commercial banks within or without or both within and without the State as may be provided by the governing body; and

(f) Be printed at such a place, within or without this State, as the governing body may determine.

2. ~~[General]~~ ***Except as otherwise provided in subsection 3, general*** obligation bonds must mature within 30 years from their respective dates and, if they mature serially, commencing not later than the fifth year thereafter, in such manner as the governing body may determine.

3. ***General obligation bonds issued for a water facility or wastewater facility must mature within 40 years from their respective dates and, if they mature serially, commencing not later than the 15th year thereafter, in such manner as the governing body may determine.***

4. Special obligation bonds must mature within 50 years from their respective dates.

5. As used in this section:

(a) "Wastewater facility" has the meaning ascribed to it in NRS 377B.030.

(b) "Water facility" has the meaning ascribed to it in NRS 377B.050.

Sec. 12. NRS 350.678 is hereby amended to read as follows:

350.678 1. Except as otherwise provided in NRS 350.674, the proceeds of taxes, pledged revenues and other money, including without limitation proceeds of bonds to be issued or reissued after the issuance of interim debentures, and bonds issued to secure the payment of interim debentures, or any combination thereof, may be pledged to secure the payment of interim debentures; but the proceeds of taxes and the proceeds of bonds payable from taxes, or any combination thereof, must not be used to pay any special obligation interim debentures nor may their payment be secured by a pledge of any such general obligation bonds.

2. Any bonds pledged as collateral security for the payment of any interim debentures must mature at such time or times as the governing body may determine, except as otherwise provided in subsections 2 **,** ~~[and]~~ 3 ***and 4*** of NRS 350.630.

3. Any bonds pledged as collateral security must not be issued in an aggregate principal amount exceeding the aggregate principal amount of the interim debenture or interim debentures secured by a pledge of such bonds, nor may they bear interest at any time which, with any interest accruing at the same time on the interim debenture or interim debentures so secured, exceeds the rate permitted on the debenture or debentures secured, computed from the appropriate index which was most recently published before the bids are received or a negotiated offer is accepted.

Sec. 13. NRS 350.682 is hereby amended to read as follows:

350.682 1. For the purpose of funding any interim debentures, any bonds pledged as collateral security to secure the payment of such interim debentures, upon their surrender as pledged property, may be reissued without an election, and any bonds not previously issued but authorized to be issued, at an election in the case of bonds required by law so to be authorized, and otherwise merely by the governing body, for a purpose or purposes the same as or encompassing the purpose or purposes for which the interim debentures were issued, may be issued for such a funding.

2. Any such bonds shall mature at such time or times as the governing body may determine, except as otherwise provided in subsections 2 **,** ~~[and]~~ 3 ***and 4*** of NRS 350.630.

3. Bonds for funding, including but not necessarily limited to any such reissued bonds, and bonds for any other purpose or purposes may be issued separately or issued in combination in one series or more.

4. Except as herein otherwise provided in this section and in NRS 350.676, 350.678 and 350.680, any such funding bonds shall be issued as is provided herein for other bonds.

Sec. 14. NRS 350.694 is hereby amended to read as follows:

350.694 1. No bonds may be refunded under this chapter unless the holders thereof voluntarily surrender them for exchange or payment, or unless they either mature or are callable for prior redemption under their terms within 25 years from the date of issuance of the refunding bonds. Provision must be made for paying the securities within that period.

2. The maturity of any bond refunded may not be extended beyond 25 years, or beyond 1 year next following the date of the last outstanding maturity, whichever limitation is later, nor may any interest on any bond refunded be increased to any rate which exceeds the limit provided in NRS 350.2011.

3. The principal amount of the refunding bonds may exceed the principal amount of the refunded bonds, but in the case of any bonds constituting a debt the principal of the bonds may not be increased to any amount in excess of any municipal debt limitation.

4. The principal amount of the refunding bonds may also be less than or the same as the principal amount of the bonds being refunded so long as provision is duly and sufficiently made for their payment.

5. If at the time of the issuance of any issue of general obligation refunding bonds provision is not made for the redemption of all the outstanding bonds of the ~~[or]~~ ***issue refunded or the outstanding bonds of*** each issue refunded, as the case may be, by the use of proceeds of the refunding bonds and any other money available for the redemption, the general obligation refunding bonds may mature but are not required to mature serially ~~[commencing not later than the fifth year after their respective dates]~~ in accordance with ~~[subsection]~~ ***subsections*** 2 ***and 3*** of NRS 350.630.

Sec. 15. This act becomes effective on July 1, 2011.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Remarks by Assemblywoman Kirkpatrick.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Joint Resolution No. 15.

Assemblyman Conklin moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bills Nos. 36, 59, 101, 125, 136, 143, 150, 215, 233, 257, 361, 402, 403, be taken from their position on the General File and placed at the top of the Senate Bills currently on the General File.

Motion carried.

Assemblyman Conklin moved that Senate Bill No. 192 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 171.

Bill read third time.

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

Amendment No. 787.

AN ACT relating to education; revising provisions governing the membership of a committee to form a charter school and the governing body of a charter school; revising provisions for the process of review of an application to form a charter school; authorizing the governing body of a charter school to set a salary for the attendance of its members at meetings of the governing body; revising the requirements for a charter school to be eligible for an exemption from annual performance audits and to receive certain money for facilities; revising provisions governing the employment of licensed employees by a charter school; revising various other provisions governing charter schools; repealing the Subcommittee on Charter Schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill revises the membership of a committee to form a charter school and revises the process for review of an application to form a charter school by the Department of Education.

Section 2 of this bill revises the procedure for the review of an application to form a charter school if the proposed sponsor is the State Board of Education.

Section 3 of this bill provides that if the sponsor of a charter school denies a request for an amendment of a written charter of the charter school, the sponsor must provide written notice to the governing body which sets forth the reasons for the denial.

Section 3.5 of this bill provides that the sponsor of a charter school may revoke the written charter before the expiration of the charter if the sponsor determines that the charter school failed to comply with the material terms and conditions of the written charter.

Section 5 of this bill authorizes the Department to request certain information from a charter school, regardless of whether that information is required by specific statute, and provides that if the Department requests such information, the Department shall include in the request a mechanism by which the Department will pay or reimburse the charter school for the requested information, if the provision of the information will incur any costs for the charter school.

Section 6 of this bill revises the membership of the governing body of a charter school and authorizes the governing body, upon a majority vote of members, to set a salary for the attendance of its members at meetings of the governing body, not to exceed $80 per meeting per month.

Existing law prescribes the requirement for a charter school to be exempt from an annual performance audit and undergo a performance audit every 3 years and to be eligible for available money from legislative appropriations or otherwise for facilities. A charter school is eligible if at least 75 percent of the pupils enrolled in the charter school who are required to take the high school proficiency examination have passed that examination. (NRS 386.5515) **Section 7** of this bill revises this eligibility requirement to require that at least 75 percent of the pupils enrolled in the charter school in grade 12 in the immediately preceding school year who have satisfied the course work requirements for graduation have passed the high school proficiency examination.

Existing law provides that the pupils enrolled in charter schools must be included in the count of pupils for purposes of the apportionments and allowances from the State Distributive School Account and provides for the reimbursement of administrative costs to the sponsor of a charter school. (NRS 386.570) **Section 9** of this bill requires the State Board to prescribe a process which ensures that all charter schools, regardless of the sponsor, have information of all sources of funding for the public schools provided through the Department. ~~[Section 9 also changes the percentage of administrative costs that the State Board or a college or university may receive for sponsorship after the first year of operation of a charter school from 1.5 percent to 1 percent.]~~

Existing law requires a school district to grant a leave of absence to an employee of the school district, not to exceed 3 years, to accept employment with a charter school sponsored by the school district. The school district is required to grant such an employee's request to return to his or her former teaching position or a comparable teaching position within the school district after the approved leave of absence is complete. (NRS 386.595) **Section 9.7** of this bill removes the provision which specifies that the school district which is the sponsor of the charter school shall grant a leave of absence, so that a school district, regardless of sponsor, shall grant such a leave of absence for its licensed employees. **Section 9.7** also removes the provision which provides that the employee may return to his or her former teaching position and instead authorizes the employee to return to a comparable

teaching position. **Section 9.7** further requires that upon the request of a governing body of a charter school, the board of trustees of a school district, with the permission of the licensed employee who is seeking employment with the charter school, transmit to the governing body a copy of the employment record of the employee that is maintained by the school district. **Section 9.7** also requires that upon request of the board of trustees of a school district, the governing body of a charter school, with the permission of the licensed employee who is granted a leave of absence from the school district, transmit to the school district a copy of the employment record of the employee maintained by the charter school. Finally, **section 9.7** authorizes the school district to conduct an investigation of any misconduct of the licensed employee who was granted a leave of absence for employment with a charter school and who requests to return to employment with the school district.

Under existing law, a parent may homeschool a child if the parent submits to the superintendent of schools of the school district in which the child resides a notice of intent to homeschool the child. (NRS 392.700) **Section 10** of this bill requires a charter school, to the extent practicable, to notify the school district in which the child resides if the child who is or was homeschooled enrolls in the charter school and provides that the child may be counted for the purposes of the calculation of basic support whether or not the charter school provides the notice.

Section 11 of this bill repeals the Subcommittee on Charter Schools.

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

Section 1. NRS 386.520 is hereby amended to read as follows:

386.520 1. A committee to form a charter school must consist of ~~[at least three teachers, as defined in subsection 4.]~~ ***:***

(a) One member who is a teacher or other person licensed pursuant to chapter 391 of NRS or who previously held such a license and is retired, as long as his or her license was held in good standing;

(b) One member who:

(1) Satisfies the qualifications of paragraph (a); or

(2) Is a school administrator with a license issued by another state or who previously held such a license and is retired, as long as his or her license was held in good standing;

(c) One parent or legal guardian who is not a teacher or employee of the proposed charter school; and

(d) Two members who possess knowledge and expertise in one or more of the following areas:

(1) Accounting;

(2) Financial services;

(3) Law; or

(4) Human resources.

2. In addition to the ~~[teachers]~~ ***members*** who serve ~~[.]~~ ***pursuant to subsection 1,*** the committee ***to form a charter school*** may ~~[consist of:]~~ ***include, without limitation, not more than four additional members as follows:***

(a) Members of the general public;

(b) Representatives of nonprofit organizations and businesses; or

(c) Representatives of a college or university within the Nevada System of Higher Education.

~~[~~ ***3.*** A majority of the persons ~~[described in paragraphs (a), (b) and (c)]~~ who serve on the committee ***to form a charter school*** must be residents of this State at the time that the application to form the charter school is submitted to the Department.

~~[2.]~~ ***4.*** Before a committee to form a charter school may submit an application to the board of trustees of a school district, ~~[the Subcommittee on Charter Schools,]~~ the State Board or a college or university within the Nevada System of Higher Education, it must submit the application to the Department. The application must include all information prescribed by the Department by regulation and:

(a) A written description of how the charter school will carry out the provisions of NRS 386.500 to 386.610, inclusive.

(b) A written description of the mission and goals for the charter school. A charter school must have as its stated purpose at least one of the following goals:

(1) Improving the opportunities for pupils to learn;

(2) Encouraging the use of effective methods of teaching;

(3) Providing an accurate measurement of the educational achievement of pupils;

(4) Establishing accountability of public schools;

(5) Providing a method for public schools to measure achievement based upon the performance of the schools; or

(6) Creating new professional opportunities for teachers.

(c) The projected enrollment of pupils in the charter school.

(d) The proposed dates ~~[of]~~ ***for accepting applications for*** enrollment ~~[for]~~ ***in the initial year of operation of*** the charter school.

(e) The proposed system of governance for the charter school, including, without limitation, the number of persons who will govern, the method ~~[of selecting]~~ ***for nominating and electing*** the persons who will govern and the term of office for each person.

(f) The method by which disputes will be resolved between the governing body of the charter school and the sponsor of the charter school.

(g) The proposed curriculum for the charter school and, if applicable to the grade level of pupils who are enrolled in the charter school, the requirements for the pupils to receive a high school diploma, including, without limitation, whether those pupils will satisfy the requirements of the

school district in which the charter school is located for receipt of a high school diploma.

(h) The textbooks that will be used at the charter school.

(i) The qualifications of the persons who will provide instruction at the charter school.

(j) Except as otherwise required by NRS 386.595, the process by which the governing body of the charter school will negotiate employment contracts with the employees of the charter school.

(k) A financial plan for the operation of the charter school. The plan must include, without limitation, procedures for the audit of the programs and finances of the charter school and guidelines for determining the financial liability if the charter school is unsuccessful.

(l) A statement of whether the charter school will provide for the transportation of pupils to and from the charter school. If the charter school will provide transportation, the application must include the proposed plan for the transportation of pupils. If the charter school will not provide transportation, the application must include a statement that the charter school will work with the parents and guardians of pupils enrolled in the charter school to develop a plan for transportation to ensure that pupils have access to transportation to and from the charter school.

(m) The procedure for the evaluation of teachers of the charter school, if different from the procedure prescribed in NRS 391.3125. If the procedure is different from the procedure prescribed in NRS 391.3125, the procedure for the evaluation of teachers of the charter school must provide the same level of protection and otherwise comply with the standards for evaluation set forth in NRS 391.3125.

(n) The time by which certain academic or educational results will be achieved.

(o) The kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020, for which the charter school intends to operate.

(p) A statement of whether the charter school will enroll pupils who are in a particular category of at-risk pupils before enrolling other children who are eligible to attend the charter school pursuant to NRS 386.580 and the method for determining eligibility for enrollment in each such category of at-risk pupils served by the charter school.

~~[3.]~~ ***5.*** The Department shall review an application to form a charter school to determine whether it is ***substantially*** complete ~~[.]~~ ***and compliant.*** If an application proposes to convert an existing public school, homeschool or other program of home study into a charter school, the Department shall ~~[deny the application.]~~ ***provide written notice to the applicant that the application is ineligible for consideration by the proposed sponsor.***

6. The Department shall provide written notice to the applicant of its ~~[approval or denial of]~~ ***determination whether*** the application ~~[,]~~ ***is substantially complete and compliant.*** If the Department ~~[denies]~~ ***determines that*** an application ~~[,]~~ ***is not substantially complete and***

compliant, the Department shall include in the written notice the ~~[reason for the denial]~~ ***basis for that determination*** and the deficiencies in the application. ***The staff designated by the Department shall meet with the applicant to confer on the method to correct the identified deficiencies.*** The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

~~[4.]~~ ***7.*** As used in subsection 1, "teacher" means a person who:

(a) Holds a current license to teach issued pursuant to chapter 391 of NRS ~~[,]~~ ***or who previously held such a license and is retired, as long as his or her license was held in good standing;*** and

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

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

Sec. 2. NRS 386.525 is hereby amended to read as follows:

386.525 1. Upon ~~[approval of an application]~~ ***determination*** by the Department ~~[,]~~ ***that an application is substantially complete and compliant,*** a committee to form a charter school may submit the application to the board of trustees of the school district in which the proposed charter school will be located, a college or university within the Nevada System of Higher Education or ~~[directly to the Subcommittee on Charter Schools.]~~ ***the State Board.*** If the board of trustees of a school district, a college or a university, as applicable, receives an application to form a charter school, the board of trustees or the institution, as applicable, shall consider the application at a meeting that must be held not later than 45 days after the receipt of the application, or a period mutually agreed upon by the committee to form the charter school and the board of trustees of the school district or the institution, as applicable, and ensure that notice of the meeting has been provided pursuant to chapter 241 of NRS. The board of trustees, the college, the university or the ~~[Subcommittee on Charter Schools,]~~ ***State Board,*** as applicable, shall review an application to determine whether the application:

(a) Complies with NRS 386.500 to 386.610, inclusive, and the regulations applicable to charter schools; and

(b) Is complete in accordance with the regulations of the Department.

2. The Department shall assist the board of trustees of a school district, the college or the university, as applicable, in the review of an application. The board of trustees, the college or the university, as applicable, may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1. The board of trustees, the college or the university, as applicable, shall provide written notice to the applicant of its approval or denial of the application.

3. If the board of trustees, the college or the university, as applicable, denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

4. If the board of trustees, the college or the university, as applicable, denies an application after it has been resubmitted pursuant to subsection 3, the applicant may submit a written request ***to the State Board*** for sponsorship by the State Board ~~[to the Subcommittee on Charter Schools created pursuant to NRS 386.507]~~ not more than 30 days after receipt of the written notice of denial. Any request that is submitted pursuant to this subsection must be accompanied by the application to form the charter school.

5. If the ~~[Subcommittee on Charter Schools]~~ ***State Board*** receives an application pursuant to subsection 1 or 4, it shall ~~[hold]~~ ***consider the application at*** a meeting ~~[to consider the application. The meeting]~~ ***which*** must be held not later than 45 days after receipt of the application. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The ~~[Subcommittee]~~ ***State Board*** shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1. The ~~[Subcommittee]~~ ***State Board*** may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1.

~~[6. The Subcommittee on Charter Schools shall transmit the application and the recommendation of the Subcommittee for approval or denial of the application to the State Board. Not more than 14 days after the date of the meeting of the Subcommittee pursuant to subsection 5, the State Board shall hold a meeting to consider the recommendation of the Subcommittee. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The State Board shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1. The State Board may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1.]~~ Not more than 30 days after the meeting, the State Board shall provide written notice of its determination to the applicant.

~~[7.]~~ ***6.*** If the State Board denies ***or fails to act upon*** an application, ~~[it]~~ ***the denial or failure to act must be based upon a finding that the applicant failed to adequately address objective criteria established by regulation of the Department or the State Board. The State Board*** shall include in the written notice the reasons for the denial ***or the failure to act*** and the deficiencies in the application. ***The staff designated by the Department shall meet with the applicant to confer on the method to correct the identified deficiencies.*** The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

~~[8.]~~ ***7.*** If the State Board denies an application after it has been resubmitted pursuant to subsection ~~[7,]~~ ***6,*** the applicant may, not more than 30 days after the receipt of the written notice from the State Board, appeal the final determination to the district court of the county in which the proposed charter school will be located.

~~[9.]~~ ***8.*** On or before January 1 of each odd-numbered year, the Superintendent of Public Instruction shall submit a written report to the

Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must include:

(a) A list of each application to form a charter school that was submitted to the board of trustees of a school district, the State Board, a college or a university during the immediately preceding biennium;

(b) The educational focus of each charter school for which an application was submitted;

(c) The current status of the application; and

(d) If the application was denied, the reasons for the denial.

Sec. 3. NRS 386.527 is hereby amended to read as follows:

386.527 1. If the State Board, the board of trustees of a school district or a college or university within the Nevada System of Higher Education approves an application to form a charter school, it shall grant a written charter to the applicant. The State Board, the board of trustees, the college or the university, as applicable, shall, not later than 10 days after the approval of the application, provide written notice to the Department of the approval and the date of the approval. If the board of trustees approves the application, the board of trustees shall be deemed the sponsor of the charter school.

2. If the State Board approves the application:

(a) The State Board shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

3. If a college or university within the Nevada System of Higher Education approves the application:

(a) That institution shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

4. The governing body of a charter school may request, at any time, a change in the sponsorship of the charter school to an entity that is authorized to sponsor charter schools pursuant to NRS 386.515. The State Board shall adopt:

(a) An application process for a charter school that requests a change in the sponsorship of the charter school, which must not require the applicant to undergo the requirements of an initial application to form a charter school; and

(b) Objective criteria for the conditions under which such a request may be granted.

5. Except as otherwise provided in subsection 7, a written charter must be for a term of 6 years unless the governing body of a charter school renews its initial charter after 3 years of operation pursuant to subsection 2 of NRS 386.530. A written charter must include all conditions of operation set forth in subsection ~~[2]~~ ***4*** of NRS 386.520 and include the kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020 for which the

charter school is authorized to operate. If the State Board or a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the written charter must set forth the responsibilities of the sponsor and the charter school with regard to the provision of services and programs to pupils with disabilities who are enrolled in the charter school in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and NRS 388.440 to 388.520, inclusive. As a condition of the issuance of a written charter pursuant to this subsection, the charter school must agree to comply with all conditions of operation set forth in NRS 386.550.

6. The governing body of a charter school may submit to the sponsor of the charter school a written request for an amendment of the written charter of the charter school. Such an amendment may include, without limitation, the expansion of instruction and other educational services to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school **.** ~~[if the expansion of grade levels does not change the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate.]~~ If the proposed amendment complies with the provisions of this section, NRS 386.500 to 386.610, inclusive, and any other statute or regulation applicable to charter schools, the sponsor may amend the written charter in accordance with the proposed amendment. ~~[If a charter school wishes to expand the instruction and other educational services offered by the charter school to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school and the expansion of grade levels changes the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate, the governing body of the charter school must submit a new application to form a charter school. If such an application is approved, the charter school may continue to operate under the same governing body and an additional governing body does not need to be selected to operate the charter school with the expanded grade levels.]~~ ***If the sponsor denies the request for an amendment, the sponsor shall provide written notice to the governing body of the charter school setting forth the reasons for the denial.***

7. The State Board shall adopt objective criteria for the issuance of a written charter to an applicant who is not prepared to commence operation on the date of issuance of the written charter. The criteria must include, without limitation, the:

(a) Period for which such a written charter is valid; and

(b) Timelines by which the applicant must satisfy certain requirements demonstrating its progress in preparing to commence operation.

➥ A holder of such a written charter may apply for grants of money to prepare the charter school for operation. A written charter issued pursuant to this subsection must not be designated as a conditional charter or a

provisional charter or otherwise contain any other designation that would indicate the charter is issued for a temporary period.

8. The holder of a written charter that is issued pursuant to subsection 7 shall not commence operation of the charter school and is not eligible to receive apportionments pursuant to NRS 387.124 until the sponsor has determined that the requirements adopted by the State Board pursuant to subsection 7 have been satisfied and that the facility the charter school will occupy has been inspected and meets the requirements of any applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation. Except as otherwise provided in this subsection, the sponsor shall make such a determination 30 days before the first day of school for the:

(a) Schools of the school district in which the charter school is located that operate on a traditional school schedule and not a year-round school schedule; or

(b) Charter school,

➥ whichever date the sponsor selects. The sponsor shall not require a charter school to demonstrate compliance with the requirements of this subsection more than 30 days before the date selected. However, it may authorize a charter school to demonstrate compliance less than 30 days before the date selected.

Sec. 3.5. NRS 386.535 is hereby amended to read as follows:

386.535 1. The sponsor of a charter school may revoke the written charter of the charter school before the expiration of the charter if the sponsor determines that:

(a) The charter school, its officers or its employees have failed to comply with:

(1) The ***material*** terms and conditions of the written charter;

(2) Generally accepted standards of accounting and fiscal management; or

(3) The provisions of NRS 386.500 to 386.610, inclusive, or any other statute or regulation applicable to charter schools;

(b) The charter school has filed for a voluntary petition of bankruptcy, is adjudicated bankrupt or insolvent, or is otherwise financially impaired such that the charter school cannot continue to operate; or

(c) There is reasonable cause to believe that revocation is necessary to protect the health and safety of the pupils who are enrolled in the charter school or persons who are employed by the charter school from jeopardy, or to prevent damage to or loss of the property of the school district or the community in which the charter school is located.

2. Before the sponsor revokes a written charter, the sponsor shall provide written notice of its intention to the governing body of the charter school. The written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based;

(b) Except as otherwise provided in subsection 4, prescribe a period, not less than 30 days, during which the charter school may correct the deficiencies, including, without limitation, the date on which the period to correct the deficiencies begins and the date on which that period ends;

(c) Prescribe the date on which the sponsor will make a determination regarding whether the charter school has corrected the deficiencies, which determination may be made during the public hearing held pursuant to subsection 3; and

(d) Prescribe the date on which the sponsor will hold a public hearing to consider whether to revoke the charter.

3. Except as otherwise provided in subsection 4, not more than 90 days after the notice is provided pursuant to subsection 2, the sponsor shall hold a public hearing to make a determination regarding whether to revoke the written charter. If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b) of subsection 2, the sponsor shall not revoke the written charter of the charter school. The sponsor may not include in a written notice pursuant to subsection 2 any deficiency which was included in a previous written notice and which was corrected by the charter school, unless the deficiency recurred after being corrected.

4. The sponsor of a charter school and the governing body of the charter school may enter into a written agreement that prescribes different time periods than those set forth in subsections 2 and 3.

Sec. 4. NRS 386.540 is hereby amended to read as follows:

386.540 1. The Department shall adopt regulations that prescribe:

(a) The process for submission of an application by the board of trustees of a school district to the Department for authorization to sponsor charter schools and the contents of the application;

(b) The process for submission of an application to form a charter school to the Department, the board of trustees of a school district, the ~~[~~Subcommittee on Charter Schools~~]~~ ***State Board*** and a college or university within the Nevada System of Higher Education, and the contents of the application;

(c) The process for submission of an application to renew a written charter; ~~[~~and~~]~~

(d) The criteria and type of investigation that must be applied by the board of trustees, ~~[~~the Subcommittee on Charter Schools,~~]~~ the State Board and a college or university within the Nevada System of Higher Education in determining whether to approve an application to form a charter school ***,*** ~~[~~or~~]~~ an application to renew a written charter ~~[~~.~~]~~ ***or a request for an amendment of a written charter; and***

(e) The process for submission of an amendment of a written charter pursuant to NRS 386.527 and the contents of the application.

2. The Department may adopt regulations as it determines are necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, including, without limitation, regulations that prescribe the:

(a) Procedures for accounting and budgeting;

(b) Requirements for performance audits and financial audits of charter schools on an annual basis for charter schools that do not satisfy the requirements of subsection 1 of NRS 386.5515; and

(c) Requirements for performance audits every 3 years and financial audits on an annual basis for charter schools that satisfy the requirements of subsection 1 of NRS 386.5515.

Sec. 5. NRS 386.545 is hereby amended to read as follows:

386.545 1. The Department and the board of trustees of a school district shall:

(a) Upon request, provide information to the general public concerning the formation and operation of charter schools; and

(b) Maintain a list available for public inspection that describes the location of each charter school.

2. The sponsor of a charter school shall:

(a) Provide reasonable assistance to an applicant for a charter school and to a charter school in carrying out the provisions of NRS 386.500 to 386.610, inclusive;

(b) Provide technical and other reasonable assistance to a charter school for the operation of the charter school;

(c) Provide information to the governing body of a charter school concerning the availability of money for the charter school, including, without limitation, money available from the Federal Government; and

(d) Provide timely access to the electronic data concerning the pupils enrolled in the charter school that is maintained pursuant to NRS 386.650.

3. If the board of trustees of a school district is the sponsor of a charter school, the sponsor shall:

(a) Provide the charter school with an updated list of available substitute teachers within the school district.

(b) Provide access to school buses for use by the charter school for field trips. The school district may charge a reasonable fee for the use of the school buses.

(c) If the school district offers summer school or Internet-based credit recovery classes, allow the pupils enrolled in the charter school to participate if space is available. The school district shall apply the same fees, if any, for participation of the pupils enrolled in the charter school as it applies to pupils enrolled in the school district.

4. The Department shall provide appropriate information, education and training for charter schools and the governing bodies of charter schools concerning the applicable provisions of title 34 of NRS and other laws and regulations that affect charter schools and the governing bodies of charter schools.

5. If the Department prescribes a process for charter schools to report certain information, the Department may request the identified information regardless if that information is required to be submitted by charter schools pursuant to a specific statute. Upon such a request, a charter school shall provide the information if the Department includes a detailed description of the requested information and the mechanism by which the Department will pay or reimburse the charter school for the requested information, if the provision of the information will incur any costs for the charter school.

Sec. 6. NRS 386.549 is hereby amended to read as follows:

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

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

~~[(1) At least three teachers, as defined in subsection 5; or~~

~~(2) Two teachers, as defined in subsection 5, and one person~~**]**

(a) One member who is licensed pursuant to chapter 391 of NRS or who previously held such a license and is retired, as long as his or her license was held in good standing;

(b) One member who ~~[~~previously held a license to teach pursuant to chapter 391 of NRS~~]~~ ***:***

(1) Satisfies the qualifications of paragraph (a); or

(2) Is a school administrator with a license issued by another state or who previously held such a license and is retired, as long as his or her license was held in good standing **.** ~~[~~, including, without limitation, a retired teacher.

~~(b)~~**]**

(c) One parent or legal guardian of a pupil enrolled in the charter school who is not a teacher or an administrator at the charter school.

~~[~~May consist of,**]**

(d) Two members who possess knowledge and experience in one or more of the following areas:

(1) Accounting;

(2) Financial services;

(3) Law; or

(4) Human resources.

2. In addition to the members who serve pursuant to subsection 1, the governing body of a charter school may include, without limitation, parents and representatives of nonprofit organizations and businesses. Not more than two persons who serve on the governing body may represent the same organization or business or otherwise represent the interests of the same organization or business. A majority of the members of the governing body must reside in this State. If the membership of the governing body changes, the governing body shall provide written notice to the sponsor of the charter school within 10 working days after such change.

~~[2.]~~ ***3.*** A person may serve on the governing body only if the person submits an affidavit to the Department indicating that the person:

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

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

~~[3.]~~ ***4.*** The governing body of a charter school is a public body. It is hereby given such reasonable and necessary powers, not conflicting with the Constitution and the laws of the State of Nevada, as may be requisite to attain the ends for which the charter school is established and to promote the welfare of pupils who are enrolled in the charter school.

~~[4.]~~ ***5.*** The governing body of a charter school shall, during each calendar quarter, hold at least one regularly scheduled public meeting in the county in which the charter school is located. ***Upon an affirmative vote of a majority of the membership of the governing body, each member is entitled to receive a salary of not more than $80 for attendance at each meeting, as fixed by the governing body, not to exceed payment for more than one meeting per month.***

~~[5.]~~ ***6.*** As used in subsection 1, "teacher" means a person who:

(a) Holds a current license to teach issued pursuant to chapter 391 of NRS ~~[;]~~ ***or who previously held such a license and is retired, as long as his or her license was held in good standing;*** and

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

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

Sec. 7. NRS 386.5515 is hereby amended to read as follows:

386.5515 1. To the extent money is available from legislative appropriation or otherwise, a charter school may apply to the Department for money for facilities if:

(a) The charter school has been operating in this State for at least 5 consecutive years and is in good financial standing;

(b) Each financial audit and each performance audit of the charter school required by the Department contains no major notations, corrections or errors concerning the charter school for at least 5 consecutive years;

(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the State Board, for the majority of the years of its operation;

(d) The charter school offers instruction on a daily basis during the school week of the charter school on the campus of the charter school; and

(e) At least 75 percent of the pupils enrolled in ***grade 12 in*** the charter school ~~[who are required to take]~~ ***in the immediately preceding school year who have completed the required course work for graduation have passed***

the high school proficiency examination **,** ~~[have passed that examination,]~~ if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the Department one time every 3 years. The sponsor of the charter school and the Department shall not request a performance audit of the charter school more frequently than every 3 years without reasonable evidence of noncompliance in achieving the educational goals and objectives of the charter school based upon the annual report submitted to the State Board pursuant to NRS 386.610. If the charter school no longer satisfies the requirements of subsection 1 or if reasonable evidence of noncompliance in achieving the educational goals and objectives of the charter school exists based upon the annual report, the charter school shall, upon written notice from the sponsor, submit to an annual performance audit. Notwithstanding the provisions of paragraph (b) of subsection 1, such a charter school:

(a) May, after undergoing the annual performance audit, reapply to the sponsor to determine whether the charter school satisfies the requirements of paragraphs (a), (c), (d) and (e) of subsection 1.

(b) Is not eligible for any available money pursuant to subsection 1 until the sponsor determines that the charter school satisfies the requirements of that subsection.

3. A charter school that does not satisfy the requirements of subsection 1 shall submit a quarterly report of the financial status of the charter school if requested by the sponsor of the charter school.

Sec. 8. NRS 386.560 is hereby amended to read as follows:

386.560 1. The governing body of a charter school may contract with the board of trustees of the school district in which the charter school is located ***or in which a pupil enrolled in the charter school resides*** or the Nevada System of Higher Education for the provision of facilities to operate the charter school or to perform any service relating to the operation of the charter school, including, without limitation, transportation, the provision of health services for the pupils who are enrolled in the charter school and the provision of school police officers.

2. A charter school may use any public facility located within the school district in which the charter school is located. A charter school may use school buildings owned by the school district only upon approval of the board of trustees of the school district and during times that are not regular school hours.

3. The board of trustees of a school district may donate surplus personal property of the school district to a charter school that is located within the school district.

4. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the pupil resides shall authorize the pupil to participate in a class that is not available to the pupil at

the charter school or participate in an extracurricular activity, ~~[excluding]~~ ***including*** sports, at a public school within the school district if:

(a) Space for the pupil in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate in the class or extracurricular activity.

➥ If the board of trustees of a school district authorizes a pupil to participate in a class or extracurricular activity, ~~[excluding]~~ ***including*** sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to attend the class or activity. The provisions of this subsection do not apply to a pupil who is enrolled in a charter school and who desires to participate on a part-time basis in a program of distance education provided by the board of trustees of a school district pursuant to NRS 388.820 to 388.874, inclusive. Such a pupil must comply with NRS 388.858.

~~5. [Upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the pupil resides shall authorize the pupil to participate in sports at the public school that he or she would otherwise be required to attend within the school district, or upon approval of the board of trustees, any public school within the same zone of attendance as the charter school if:~~

~~(a) Space is available for the pupil to participate; and~~

~~(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate.~~

~~➥ If the board of trustees of a school district authorizes a pupil to participate in sports pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to participate.~~

~~6.]~~ The board of trustees of a school district may revoke its approval for a pupil to participate in a class, extracurricular activity or sports at a public school pursuant to ~~[subsections 4 and 5]~~ ***subsection 4*** if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees, the public school or the Nevada Interscholastic Activities Association. If the board of trustees so revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

Sec. 9. NRS 386.570 is hereby amended to read as follows:

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

the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose. ***The State Board shall prescribe a process which ensures that all charter schools, regardless of the sponsor, have information about all sources of funding for the public schools provided through the Department, including local funds pursuant to NRS 387.1235.***

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

3. Upon completion of each school quarter, the sponsor of a charter school may request reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship for that school quarter if the sponsor provided administrative services during that school quarter. The request must include an itemized list of those costs. Unless a delay is granted pursuant to subsection 9, upon receipt of such a request, the governing body shall pay the reimbursement to the board of trustees of the school district if the board of trustees sponsors the charter school, to the Department if the State Board sponsors the charter school or to the college or university within the Nevada System of Higher Education if that institution sponsors the charter school. If a governing body fails to pay the reimbursement pursuant to this subsection or pursuant to a plan approved by the Superintendent of Public Instruction in accordance with subsection 9, the charter school shall be deemed to have violated its written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary. If the board of trustees of a school district is the sponsor of a charter school, the amount of money that may be paid to the sponsor pursuant to this subsection for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.

(b) For any year after the first year of operation of the charter school, 1 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.

4. If the State Board or a college or university within the Nevada System of Higher Education is the sponsor of a charter school, the amount of money that may be paid to the Department or to the institution, as applicable,

pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.

(b) For any year after the first year of operation of the charter school, 1.5 ~~[1]~~ percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.

5. To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

6. If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

7. The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with applicable federal laws and regulations governing the provision of federal grants for charter schools. The State Board may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

8. If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

9. The governing body of a charter school may submit to the Superintendent of Public Instruction a written request to delay a quarterly payment of a reimbursement for the administrative costs that a charter school

owes pursuant to this section. The written request must be in the form prescribed by the Superintendent and must include, without limitation, documentation that a financial hardship exists for the charter school and a plan for the payment of the reimbursement. The Superintendent may approve or deny the request and shall notify the governing body and the sponsor of the charter school of the approval or denial of the request.

Sec. 9.5. NRS 386.590 is hereby amended to read as follows:

386.590 1. Except as otherwise provided in this subsection, at least 70 percent of the teachers who provide instruction at a charter school must be licensed teachers. If a charter school is a vocational school, the charter school shall, to the extent practicable, ensure that at least 70 percent of the teachers who provide instruction at the school are licensed teachers, but in no event may more than 50 percent of the teachers who provide instruction at the school be unlicensed teachers.

2. A governing body of a charter school shall employ:

(a) If the charter school offers instruction in kindergarten or grade 1, 2, 3, 4, 5, 6, 7 or 8, a licensed teacher to teach pupils who are enrolled in those grades. If required by subsection 3 or 4, such a teacher must possess the qualifications required by 20 U.S.C. § 6319(a).

(b) If the charter school offers instruction in grade 9, 10, 11 or 12, a licensed teacher to teach pupils who are enrolled in those grades for the subjects set forth in subsection 4. If required by subsection 3 or 4, such a teacher must possess the qualifications required by 20 U.S.C. § 6319(a).

(c) In addition to the requirements of paragraphs (a) and (b):

(1) If a charter school specializes in arts and humanities, physical education or health education, a licensed teacher to teach those courses of study.

(2) If a charter school specializes in the construction industry or other building industry, licensed teachers to teach courses of study relating to the industry if those teachers are employed full-time.

(3) If a charter school specializes in the construction industry or other building industry and the school offers courses of study in computer education, technology or business, licensed teachers to teach those courses of study if those teachers are employed full-time.

3. A person who is initially hired by the governing body of a charter school on or after January 8, 2002, to teach in a program supported with money from Title I must possess the qualifications required by 20 U.S.C. § 6319(a). For the purposes of this subsection, a person is not "initially hired" if the person has been employed as a teacher by another school district or charter school in this State without an interruption in employment before the date of hire by his or her current employer.

4. A teacher who is employed by a charter school, regardless of the date of hire, must, on or before July 1, 2006, possess the qualifications required by 20 U.S.C. § 6319(a) if the teacher teaches one or more of the following subjects:

(a) English, reading or language arts;
(b) Mathematics;
(c) Science;
(d) Foreign language;
(e) Civics or government;
(f) Economics;
(g) Geography;
(h) History; or
(i) The arts.

5. Except as otherwise provided in NRS 386.588, a charter school may employ a person who is not licensed pursuant to the provisions of chapter 391 of NRS to teach a course of study for which a licensed teacher is not required pursuant to subsections 2, 3 and 4 if the person has:

(a) A degree, a license or a certificate in the field for which the person is employed to teach at the charter school; and

(b) At least 2 years of experience in that field.

6. Except as otherwise provided in NRS 386.588, a charter school shall employ such administrators for the school as it deems necessary. A person employed as an administrator must possess:

(a) A valid teacher's license issued pursuant to chapter 391 of NRS with an administrative endorsement;

(b) A master's degree in school administration, public administration or business administration; or

(c) At least 5 years of experience in school administration, public administration or business administration and a baccalaureate degree.

7. Except as otherwise provided in subsection 8, the portion of the salary or other compensation of an administrator employed by a charter school that is derived from public funds must not exceed the salary or other compensation, as applicable, of the highest paid administrator in a comparable position in the school district in which the charter school is located. For purposes of determining the salary or other compensation of the highest paid administrator in a comparable position in the school district, the salary or other compensation of the superintendent of schools of that school district must not be included in the determination.

8. If the salary or other compensation paid to an administrator employed by a charter school from public funds exceeds the maximum amount prescribed in subsection 7, the sponsor of the charter school shall conduct an audit of the salary or compensation. The audit must include, without limitation, a review of the reasons set forth by the governing body of the charter school for the salary or other compensation and the interests of the public in using public funds to pay that salary or compensation. If the sponsor determines that the payment of the salary or other compensation from public funds is justified, the sponsor shall provide written documentation of its determination to the governing body of the charter school and to the Department. If the sponsor determines that the payment of

the salary or other compensation from public funds is not justified, the governing body of the charter school shall reduce the salary or compensation paid to the administrator from public funds to an amount not to exceed the maximum amount prescribed in subsection 7.

9. A charter school shall not employ a person pursuant to this section if the person's license to teach or provide other educational services has been revoked or suspended in this State or another state.

10. On or before November 15 of each year, a charter school shall submit to the Department, in a format prescribed by the Superintendent of Public Instruction, the following information for each ***person who is*** licensed ~~[employee]~~ ***pursuant to chapter 391 of NRS and*** who is employed by the governing body on October 1 of that year:

(a) The amount of salary ***or compensation*** of the ~~[employee,]~~ ***licensed person,*** including, without limitation, verification of compliance with subsection 7, if applicable to that ~~[employee;]~~ ***person;*** and

(b) The designated assignment, as that term is defined by the Department, of the ~~[employee.]~~ ***licensed person.***

Sec. 9.7. NRS 386.595 is hereby amended to read as follows:

386.595 1. All employees of a charter school shall be deemed public employees.

2. The governing body of a charter school may make all decisions concerning the terms and conditions of employment with the charter school and any other matter relating to employment with the charter school. In addition, the governing body may make all employment decisions with regard to its employees pursuant to NRS 391.311 to 391.3197, inclusive, unless a collective bargaining agreement entered into by the governing body pursuant to chapter 288 of NRS contains separate provisions relating to the discipline of licensed employees of a school.

3. ***Upon the request of the governing body of a charter school, the board of trustees of a school district shall, with the permission of the licensed employee who is seeking employment with the charter school, transmit to the governing body a copy of the employment record of the employee that is maintained by the school district. The employment record must include, without limitation, each evaluation of the licensed employee conducted by the school district and any disciplinary action taken by the school district against the licensed employee.***

4. Except as otherwise provided in this subsection, if the written charter of a charter school is revoked or if a charter school ceases to operate as a charter school, the ***licensed*** employees of the charter school must be reassigned to employment within the school district in accordance with the applicable collective bargaining agreement. A school district is not required to reassign ~~[an]~~ ***a licensed*** employee of a charter school pursuant to this subsection if the employee:

(a) Was not granted a leave of absence by the school district to ~~[teach]~~ ***accept employment*** at the charter school pursuant to subsection ~~[4; or]~~ ***5;***

(b) Was granted a leave of absence by the school district and did not submit a written request to return to employment with the school district in accordance with subsection ~~[4.~~

~~4.]~~ ***5; or***

(c) Does not comply with or is otherwise not eligible to return to employment pursuant to subsection 6, including, without limitation, the refusal of the licensed employee to allow the school district to obtain the employment record of the employee that is maintained by the charter school.

5. The board of trustees of a school district ~~[that is a sponsor of a charter school]~~ shall grant a leave of absence, not to exceed 3 years, to any ***licensed*** employee who is employed by the board of trustees who requests such a leave of absence to accept employment with ~~[the]~~ ***a*** charter school. After the first school year in which ~~[an]~~ ***a licensed*** employee is on a leave of absence, the employee may return to ~~[his or her former]~~ ***a comparable*** teaching position with the board of trustees. After the third school year, ~~[an]~~ ***a licensed*** employee shall either submit a written request to return to a comparable teaching position or resign from the position for which the employee's leave was granted. The board of trustees shall grant a written request to return to a comparable position pursuant to this subsection even if the return of the ***licensed*** employee requires the board of trustees to reduce the existing workforce of the school district. ***The board of trustees is not required to accept the return of the licensed employee if the employee does not comply with or is otherwise not eligible to return to employment pursuant to subsection 6, including, without limitation, the refusal of the licensed employee to allow the school district to obtain the employment record of the employee that is maintained by the charter school.*** The board of trustees may require that a request to return to a ***comparable*** teaching position submitted pursuant to this subsection be submitted at least 90 days before the employee would otherwise be required to report to duty.

~~[5. An]~~

6. Upon the request of the board of trustees of a school district, the governing body of a charter school shall, with the permission of the licensed employee who is granted a leave of absence from the school district pursuant to this section, transmit to the school district a copy of the employment record of the employee that is maintained by the charter school before the return of the employee to employment with the school district pursuant to subsection 4 or 5. The employment record must include, without limitation, each evaluation of the licensed employee conducted by the charter school and any disciplinary action taken by the charter school against the licensed employee. Before the return of the licensed employee, the board of trustees of the school district may conduct an investigation into any misconduct of the licensed employee during the leave of absence from the school district and take any appropriate

disciplinary action as to the status of the person as an employee of the school district, including, without limitation:

(a) The dismissal of the employee from employment with the school district; or

(b) Upon the employee's return to employment with the school district, documentation of the disciplinary action taken against the employee into the employment record of the employee that is maintained by the school district.

7. If a school district conducts an investigation pursuant to subsection 6:

(a) The licensed employee is not entitled to return to employment with the school district until the investigation is complete; and

(b) The investigation must be conducted within a reasonable time.

8. A licensed employee who is on a leave of absence from a school district pursuant to this section:

(a) Shall contribute to and be eligible for all benefits for which the employee would otherwise be entitled, including, without limitation, participation in the Public Employees' Retirement System and accrual of time for the purposes of leave and retirement.

(b) Continues, while the employee is on leave, to be covered by the collective bargaining agreement of the school district only with respect to any matter relating to his or her status or employment with the district.

➥ The time during which such an employee is on a leave of absence and employed in a charter school does not count toward the acquisition of permanent status with the school district.

~~[6.]~~ ***9.*** Upon the return of a teacher to employment in the school district, the teacher is entitled to the same level of retirement, salary and any other benefits to which the teacher would otherwise be entitled if the teacher had not taken a leave of absence to teach in a charter school.

~~[7.]~~ ***10.*** An employee of a charter school who is not on a leave of absence from a school district is eligible for all benefits for which the employee would be eligible for employment in a public school, including, without limitation, participation in the Public Employees' Retirement System.

~~[8.]~~ ***11.*** For all employees of a charter school:

(a) The compensation that a teacher or other school employee would have received if he or she were employed by the school district must be used to determine the appropriate levels of contribution required of the employee and employer for purposes of the Public Employees' Retirement System.

(b) The compensation that is paid to a teacher or other school employee that exceeds the compensation that the employee would have received if he or she were employed by the school district must not be included for the purposes of calculating future retirement benefits of the employee.

~~[9.]~~ ***12.*** If the board of trustees of a school district in which a charter school is located manages a plan of group insurance for its employees, the

governing body of the charter school may negotiate with the board of trustees to participate in the same plan of group insurance that the board of trustees offers to its employees. If the employees of the charter school participate in the plan of group insurance managed by the board of trustees, the governing body of the charter school shall:

(a) Ensure that the premiums for that insurance are paid to the board of trustees; and

(b) Provide, upon the request of the board of trustees, all information that is necessary for the board of trustees to provide the group insurance to the employees of the charter school.

Sec. 10. NRS 392.700 is hereby amended to read as follows:

392.700 1. If the parent of a child who is subject to compulsory attendance wishes to homeschool the child, the parent must file with the superintendent of schools of the school district in which the child resides a written notice of intent to homeschool the child. The Department shall develop a standard form for the notice of intent to homeschool. The form must not require any information or assurances that are not otherwise required by this section or other specific statute. The board of trustees of each school district shall, in a timely manner, make only the form developed by the Department available to parents who wish to homeschool their child.

2. The notice of intent to homeschool must be filed before beginning to homeschool the child or:

(a) Not later than 10 days after the child has been formally withdrawn from enrollment in public school; or

(b) Not later than 30 days after establishing residency in this State.

3. The purpose of the notice of intent to homeschool is to inform the school district in which the child resides that the child is exempt from the requirement of compulsory attendance.

4. If the name or address of the parent or child as indicated on a notice of intent to homeschool changes, the parent must, not later than 30 days after the change, file a new notice of intent to homeschool with the superintendent of schools of the school district in which the child resides.

5. A notice of intent to homeschool must include only the following:

(a) The full name, age and gender of the child;

(b) The name and address of each parent filing the notice of intent to homeschool;

(c) A statement signed and dated by each such parent declaring that the parent has control or charge of the child and the legal right to direct the education of the child, and assumes full responsibility for the education of the child while the child is being homeschooled;

(d) An educational plan for the child that is prepared pursuant to subsection 12;

(e) If applicable, the name of the public school in this State which the child most recently attended; and

(f) An optional statement that the parent may sign which provides:

I expressly prohibit the release of any information contained in this document, including, without limitation, directory information as defined in 20 U.S.C. § 1232g(a)(5)(A), without my prior written consent.

6. Each superintendent of schools of a school district shall accept notice of intent to homeschool that is filed with the superintendent pursuant to this section and meets the requirements of subsection 5, and shall not require or request any additional information or assurances from the parent who filed the notice.

7. The school district shall provide to a parent who files a notice a written acknowledgment which clearly indicates that the parent has provided notification required by law and that the child is being homeschooled. The written acknowledgment shall be deemed proof of compliance with Nevada's compulsory school attendance law. The school district shall retain a copy of the written acknowledgment for not less than 15 years. The written acknowledgment may be retained in electronic format.

8. The superintendent of schools of a school district shall process a written request for a copy of the records of the school district, or any information contained therein, relating to a child who is being or has been homeschooled not later than 5 days after receiving the request. The superintendent of schools may only release such records or information:

(a) To a person or entity specified by the parent of the child, or by the child if the child is at least 18 years of age, upon suitable proof of identity of the parent or child; or

(b) If required by specific statute.

9. If a child who is or was homeschooled seeks admittance or entrance to any school in this State, the school may use only commonly used practices in determining the academic ability, placement or eligibility of the child. ***If the child enrolls in a charter school, the charter school shall, to the extent practicable, notify the board of trustees of the school district in which the child resides of the child's enrollment in the charter school. Regardless of whether the charter school provides such notification to the board of trustees, the charter school may count the child who is enrolled for the purposes of the calculation of basic support pursuant to NRS 387.1233.*** A homeschooled child seeking admittance to public high school must comply with NRS 392.033.

10. A school or organization shall not discriminate in any manner against a child who is or was homeschooled.

11. Each school district shall allow homeschooled children to participate in the high school proficiency examination administered pursuant to NRS 389.015 and all college entrance examinations offered in this State, including, without limitation, the ~~[Scholastic Aptitude Test,]~~ ***SAT,*** the ~~[American College Test,]~~ ***ACT,*** the Preliminary ~~[Scholastic Aptitude Test]~~ ***SAT*** and the National Merit Scholarship Qualifying Test. Each school district shall ensure that the homeschooled children who reside in the school district have adequate notice of the availability of information concerning such

examinations on the Internet website of the school district maintained pursuant to NRS 389.004.

12. The parent of a child who is being homeschooled shall prepare an educational plan of instruction for the child in the subject areas of English, including reading, composition and writing, mathematics, science and social studies, including history, geography, economics and government, as appropriate for the age and level of skill of the child as determined by the parent. The educational plan must be included in the notice of intent to homeschool filed pursuant to this section. If the educational plan contains the requirements of this section, the educational plan must not be used in any manner as a basis for denial of a notice of intent to homeschool that is otherwise complete. The parent must be prepared to present the educational plan of instruction and proof of the identity of the child to a court of law if required by the court. This subsection does not require a parent to ensure that each subject area is taught each year that the child is homeschooled.

13. No regulation or policy of the State Board, any school district or any other governmental entity may infringe upon the right of a parent to educate his or her child based on religious preference unless it is:

(a) Essential to further a compelling governmental interest; and

(b) The least restrictive means of furthering that compelling governmental interest.

14. As used in this section, "parent" means the parent, custodial parent, legal guardian or other person in this State who has control or charge of a child and the legal right to direct the education of the child.

Sec. 11. NRS 386.507 is hereby repealed.

Sec. 12. The Legislative Counsel shall, in preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name is changed or whose duties are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

Sec. 13. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTION

386.507 Subcommittee on Charter Schools: Appointment of members; terms. The Subcommittee on Charter Schools of the State Board is hereby created. The President of the State Board shall appoint three members of the State Board to serve on the Subcommittee. Except as otherwise provided in this section, the members of the Subcommittee serve terms of 2 years. If a member is not reelected to the State Board during his or her service on the Subcommittee, the term of the member on the Subcommittee expires when his or her membership on the State Board expires. Members of the Subcommittee may be reappointed.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Assembly Bill No. 432.

Bill read third time.

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

Amendment No. 788.

AN ACT relating to energy auditors; establishing the qualifications for an energy auditor; providing for the licensure of energy auditors by the Real Estate Division of the Department of Business and Industry; establishing the requirements with which an energy auditor must comply when conducting an energy audit; repealing provisions that require the Nevada Energy Commissioner to establish a program for evaluating the energy consumption of residential property in this State; **making an appropriation;** providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Nevada Energy Commissioner to establish a program for evaluating energy consumption in residential property in this State and requires a seller to provide a copy of this evaluation to a purchaser of his or her property. (NRS 113.115, 701.250) This bill repeals those provisions. Instead, **section 5** of this bill provides for the licensure of energy auditors by the Real Estate Division of the Department of Business and Industry and establishes the training and qualifications an energy auditor must have to be licensed to conduct energy audits in this State. **Section 6** of this bill establishes the requirements for conducting an energy audit, limited energy audit or energy assessment, including, without limitation, the elements of the home which must be evaluated, the software and tools the energy auditor must use and the report the energy auditor must provide to the homeowner and the United States Department of Energy.

Sections 7-28 of this bill are technical amendments required to carry out the administration of the licensure of the energy auditors, including making the provision of energy audits without a license a misdemeanor. In addition, **section 28** makes it a category E felony to attempt to obtain a license as an energy auditor through intentional misrepresentation, deceit or fraud. **Section 30.5 of this bill makes an appropriation to the Real Estate Division for personnel and other costs associated with licensing energy auditors.**

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

Section 1. Chapter 645D of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *"Energy audit" means a consultation to improve the energy efficiency of a home conducted pursuant to section 6 of this act.*

Sec. 3. *"Energy auditor" means a person who is licensed pursuant to this chapter, or regulated by the Public Utilities Commission of Nevada, to conduct energy audits of homes.*

Sec. 4. *"License" means a license issued to an energy auditor pursuant to this chapter.*

Sec. 5. *1. The Administrator shall issue a license to any person who:*

(a) Is of good moral character, honesty and integrity;

(b) Holds a certification or accreditation from an organization approved by the Administrator;

(c) Has successfully completed not less than 40 hours of training and practice in the following areas:

(1) Building science and working with a home as a system, including, without limitation, training in making recommendations based on the proper loading order of improvements;

(2) The transfer of heat;

(3) Testing building performance;

(4) Air distribution and leakage;

(5) The calculation of gross and net areas;

(6) Energy terms and definitions;

(7) Concerns relating to combustion appliances;

(8) Envelope leakage, thermal bypass and thermal bridging;

(9) The presence or absence of insulation and, when observable, the quality of its installation;

(10) The recommended levels of insulation for different climate zones;

(11) Determinations of the efficiency of heating, ventilating and air-conditioning equipment from model numbers and default tables;

(12) The strengths and weaknesses, drivers and sensitivities of major types of heating, ventilating and air-conditioning systems;

(13) Estimations of the efficiency of household appliances based on their model numbers or age;

(14) Energy, power, heat-conductivity or resistance and temperature units and key conversion factors;

(15) Measuring building dimensions;

(16) Identification and documentation of inspected features of the home during an energy audit;

(17) Basics of specifications;

(18) Determination of the efficiency of windows and doors;

(19) Determination of the orientation of buildings and the characteristics of the shading around them;

(20) Defining the thermal boundary and making appropriate recommendations for changing it; and

(21) The basic concepts of measure interaction, expected life and bundling for optimal performance when the home is considered as a system and taking into consideration the need for savings;

(d) Has submitted proof that the person or his or her employer holds a policy of insurance that complies with the requirements of subsection 1 of NRS 645D.190; and

(e) Has submitted all information required to complete an application for a license.

2. The Administrator may deny an application for a license to any person who:

(a) Has been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

(b) Makes a false statement of a material fact on the application;

(c) Has had a license suspended or revoked pursuant to this chapter within the 10 years immediately preceding the date of application;

(d) Does not possess the training or certification required pursuant to subsection 1; or

(e) Has not submitted proof that the person or his or her employer holds a policy of insurance that complies with the requirements of subsection 1 of NRS 645D.190.

Sec. 6. *1. Except as otherwise provided in subsection 5, when conducting an energy audit, an energy auditor shall evaluate the entire home and must include, without limitation, in his or her evaluation:*

(a) A visual inspection, diagnostic overview and health and safety test of the energy features of the entire home;

(b) Documentation of the general condition of the home, including, without limitation:

(1) Envelope features and ages;

(2) Types, characteristics and ages of equipment;

(3) Characteristics of appliances and lighting; and

(4) Any anticipated remediation issues, including, without limitation, moisture or combustion appliance problems;

(c) An assessment of the performance and efficiency of the building airflow and indoor air quality and ventilation, including, without limitation:

(1) Any visible sources of indoor air pollution;

(2) The flow rate of exhaust fans and whether the clothes dryer vent is properly vented; and

(3) An evaluation of the connection of any attached garage to the home for possible air leaks;

(d) An assessment of the control of moisture in the home, including, without limitation:

(1) A visual identification of any moisture present from roof leaks, wall penetrations or door or window openings; and

(2) An identification of any potential areas where mold may grow;

(e) An estimation of U-factors and solar heat gain coefficients of the windows and doors;

(f) An evaluation of the efficiency of the heating and cooling of the home, including, without limitation, the performance and efficiency of any:

(1) Furnace;

(2) Air-conditioning system;

(3) Heat pump;

(4) Air duct system;

(5) Thermal insulation;

(6) Boiler;

(7) System for providing steam heat;

(8) Hot water heater; or

(9) Heating, ventilating and air-conditioning system;

(g) An analysis of the base load energy use and advice to clients on reduction strategies, including, without limitation, an examination of:

(1) The utility use and the billing history for the immediately preceding 12 months;

(2) The efficiency of major appliances;

(3) Lighting efficiency and alternatives; or

(4) The energy used by any pool or spa; and

(h) Testing of combustion appliances in accordance with the standards issued by the American National Standards Institute or the American Society for Testing and Materials.

2. After conducting an energy audit, an energy auditor shall prepare and provide to the homeowner and the United States Department of Energy a report based upon the energy audit that includes, without limitation:

(a) Any energy programs, incentives, regulations, energy costs or fuel types which apply to the homeowner;

(b) A specific recommendation that any combustion appliance which is post-retrofit be tested;

(c) A prioritization of health and safety hazards in the home and recommendations for improvements according to their urgency and importance, in relation to any energy efficiency measures which have been installed;

(d) Suggestions for home repairs and renovations based on a loading order that will maximize cost effectiveness and feasibility using computer software approved by the United States Department of Energy;

(e) In addition to the provisions of paragraph (c), an identification of existing hazards and potential hazards which may develop, together with specific preventative measures; and

(f) Measures to save energy and changes in the behavior of the homeowner to increase energy efficiency, including the use of consumer electronics.

3. An energy auditor shall not base an energy audit upon a single product line, the services of a contractor or his or her own convenience.

4. An energy auditor shall use survey and labeling software programs or rating tools for performing an energy audit which have been approved by the United States Department of Energy.

5. In lieu of an energy audit, an energy auditor may perform a limited energy audit or energy assessment of a home. If an energy auditor performs a limited energy audit or energy assessment, the energy auditor must comply with the requirements of subsections 2, 3 and 4. As used in this subsection:

(a) "Energy assessment" means an evaluation of one or more of the appliances or systems listed in paragraph (f) of subsection 1.

(b) "Limited energy audit" means an evaluation of a home which includes less than the entire home, but includes the provision of at least one of the services specified in paragraphs (a) to (e), inclusive, (g) or (h) of subsection 1.

Sec. 7. NRS 645D.010 is hereby amended to read as follows:

645D.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645D.020 to 645D.080, inclusive, ***and sections 2, 3 and 4 of this act,*** have the meanings ascribed to them in those sections.

Sec. 8. NRS 645D.100 is hereby amended to read as follows:

645D.100 The provisions of this chapter do not apply to:

1. A federal or state employee, or an employee of a local government, who prepares or communicates an inspection report ***or energy audit*** as part of his or her official duties, unless a certificate ***or license*** is required as a condition of his or her employment.

2. A person appointed to evaluate real estate pursuant to chapter 152 of NRS or NRS 269.125, except as required by the appointing judge.

3. A board of appraisers acting pursuant to NRS 269.135.

4. A person licensed, certified or registered pursuant to chapter 645, 645C or 684A of NRS while performing an act within the scope of his or her license, certification or registration. For the purposes of this subsection, a person licensed, certified or registered pursuant to chapter 645C of NRS shall be deemed to be acting within the scope of his or her license, certification or registration while performing an appraisal prescribed by federal law that requires a statement of visual condition and while preparing or communicating a report of such an appraisal.

5. A person who makes an evaluation of an improvement as an incidental part of his or her employment for which special compensation is not provided, if that evaluation is only provided to his or her employer for internal use within the place of employment.

6. A person who provides an estimate of cost, repair or replacement of any improvements upon real estate.

7. Any person who reviews plans, performs inspections, prepares inspection reports or examines any component of a structure or construction pursuant to NRS 278.570 or 278.575.

8. An independent registered architect or a licensed professional engineer while performing an inspection pursuant to NRS 116.4106.

Sec. 9. NRS 645D.110 is hereby amended to read as follows:

645D.110 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 shall not:

(a) Be employed by or have an interest in any business that prepares inspection reports ~~[,]~~ or ***energy audits;***

(b) Act as an inspector or as an agent for an inspector ~~[.]~~ ***; or***

(c) Act as an energy auditor or as an agent for an energy auditor.

Sec. 10. NRS 645D.120 is hereby amended to read as follows:

645D.120 The Division shall adopt:

1. Regulations prescribing the education and experience required to obtain a certificate.

2. Regulations prescribing a standard of practice and code of ethics for certified inspectors. Such regulations must establish a degree of care that must be exercised by a reasonably prudent certified inspector.

3. ***Regulations prescribing the education and experience required to obtain a license.***

4. Such other regulations as are necessary for the administration of this chapter.

Sec. 11. NRS 645D.130 is hereby amended to read as follows:

645D.130 1. The Division shall maintain a record of:

(a) Persons from whom it receives applications for a certificate ~~[,]~~ ***or license;***

(b) Investigations conducted by it that result in the initiation of formal disciplinary proceedings;

(c) Formal disciplinary proceedings; and

(d) Rulings or decisions upon complaints filed with it.

2. Except as otherwise provided in this section and NRS 645D.135, 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. The Division shall keep confidential, except as otherwise provided in NRS 239.0115 or unless otherwise ordered by a court, the criminal and financial records of an inspector ***, energy auditor*** or of an applicant for a certificate ~~[.]~~ ***or license.***

Sec. 12. NRS 645D.135 is hereby amended to read as follows:

645D.135 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Division, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential 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 agency, that is investigating a person who holds a certificate ***or license*** 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. 13. NRS 645D.160 is hereby amended to read as follows:

645D.160 1. Any person who, in this state, engages in the business of, acts in the capacity of, or advertises or assumes to act as an inspector without first obtaining a certificate pursuant to this chapter is guilty of a misdemeanor.

2. ***Any person who, in this state, engages in the business of, acts in the capacity of, or advertises or assumes to act as an energy auditor without first obtaining a license pursuant to this chapter is guilty of a misdemeanor.***

3. The Division may file a complaint in any court of competent jurisdiction for a violation of this section and assist in presenting the law or facts at any hearing upon the complaint.

~~[3.]~~ ***4.*** At the request of the Administrator, the Attorney General shall prosecute such a violation. Unless the violation is prosecuted by the Attorney General, the district attorney shall prosecute a violation that occurs in the county of the district attorney.

Sec. 14. NRS 645D.170 is hereby amended to read as follows:

645D.170 An application for a certificate ***or license*** must be in writing upon a form prepared and furnished by the Division. The application must include the following information:

1. The name, age and address of the applicant.

2. The place or places, including the street number, city and county, at which the applicant intends to maintain an office to conduct business as an inspector ~~[.]~~ ***or energy auditor.***

3. The business, occupation or other employment of the applicant during the 5 years immediately preceding the date of the application, and the location thereof.

4. The applicant's education and experience to qualify for a certificate ~~[.]~~ ***or license.***

5. Whether the applicant has ever been convicted of, is under indictment for, or has entered a plea of guilty, guilty but mentally ill or nolo contendere to:

(a) A felony and, if so, the nature of the felony.

(b) Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

6. If the applicant is a member of a partnership or association or is an officer of a corporation, the name and address of the principal office of the partnership, association or corporation.

7. Any other information relating to the qualifications or background of the applicant that the Division requires.

8. All other information required to complete the application.

Sec. 15. NRS 645D.180 is hereby amended to read as follows:

645D.180 1. Each application for a certificate ***or license*** must be accompanied by the fee for the certificate ***or license*** and the fee to pay the costs of an investigation of the applicant's background.

2. Each applicant must, as part of the application and at his or her own expense:

(a) Arrange to have a complete set of fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Division; and

(b) Submit to the Division:

(1) 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

(2) Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints 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.

3. The Division may:

(a) Require more than one complete set of fingerprints;

(b) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) 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

(c) Request from each such agency any information regarding the applicant's background that the Division deems necessary.

Sec. 16. NRS 645D.190 is hereby amended to read as follows:

645D.190 1. The Administrator shall require each applicant for an original certificate ***or license*** and each applicant for renewal of a certificate ***or license*** to submit proof that the applicant or his or her employer holds a policy of insurance covering:

(a) Liability for errors or omissions in an amount of not less than $100,000; and

(b) General liability in an amount of not less than $100,000.

2. Each certified inspector ***, energy auditor*** or his or her employer shall maintain a policy of insurance that complies with the requirements of subsection 1.

Sec. 17. NRS 645D.195 is hereby amended to read as follows:

645D.195 1. In addition to any other requirements set forth in this chapter:

(a) A person who applies for the issuance of a certificate ***or license*** shall include the social security number of the applicant in the application submitted to the Administrator.

(b) A person who applies for the issuance or renewal of a certificate ***or license*** shall submit to the Administrator 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 Administrator 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 ~~[,]~~ ***or license;*** or

(b) A separate form prescribed by the Administrator.

3. A certificate ***or license*** may not be issued or renewed by the Administrator 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 Administrator 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. 18. NRS 645D.210 is hereby amended to read as follows:

645D.210 1. If an application for a certificate ***or license*** is denied:

(a) The Division shall notify the applicant within 15 days after its decision; and

(b) The applicant may not reapply until he or she petitions the Division for leave to file another application. The Division may grant or deny that leave in its sole discretion.

2. If the applicant, within 30 days after receipt of the notice denying the application, files a written request containing allegations that, if true, qualify the applicant for a certificate ~~[,]~~ ***or license,*** the Administrator shall set the matter for a hearing before a hearing officer of the Division to be conducted within 60 days after receipt of the applicant's request. The decision of the hearing officer is a final decision for the purposes of judicial review.

Sec. 19. NRS 645D.220 is hereby amended to read as follows:

645D.220 The Division, upon the discovery of an error in the issuance of a certificate ***or license*** that is related to the qualifications or fitness of the holder thereof, may invalidate the certificate ***or license*** upon written notice to the holder. The holder shall surrender the certificate ***or license*** to the Division within 20 days after the notice is sent by the Division. A person whose certificate ***or license*** is invalidated pursuant to this section, and who has surrendered his or her certificate ~~[,]~~ ***or license,*** may request a hearing on the matter in the same manner as for the denial of an application pursuant to NRS 645D.210.

Sec. 20. NRS 645D.230 is hereby amended to read as follows:

645D.230 1. The Division shall issue a certificate ***or license*** to each eligible person in the form and size prescribed by the Division. A certificate ***or license*** must:

(a) Indicate the name and address of the inspector ***or energy auditor*** and the location of each place where he or she transacts business as an inspector ~~[,]~~ ***or energy auditor;*** and

(b) Contain any additional matter prescribed by the Division.

2. A certificate ~~*[or license]*~~ is valid for 2 years after the first day of the first calendar month immediately following the date it is issued.

3. ***A license is valid for 1 year after the first day of the first calendar month immediately following the date it is issued.***

4. If an inspector ***or energy auditor*** fails to apply for the renewal of his or her certificate ***or license*** and pay the fee for renewal before the certificate ***or license*** expires, and applies for renewal:

(a) Not later than 1 year after the date of expiration, he or she must pay a fee equal to 150 percent of the amount otherwise required for renewal.

(b) Later than 1 year after the date of expiration, he or she must apply in the same manner as for an original certificate ~~[.]~~ ***or license.***

~~[4.]~~ ***5.*** The Division may:

(a) Create and maintain a secure website on the Internet through which each certificate ***or license*** issued pursuant to the provisions of this chapter may be renewed; and

(b) For each certificate ***or license*** renewed through the use of a website created and maintained pursuant to paragraph (a), charge a fee in addition to any other fee provided for pursuant to this chapter which must not exceed the actual cost to the Division for providing that service.

Sec. 21. NRS 645D.235 is hereby amended to read as follows:

645D.235 1. A certified inspector ***or energy auditor*** 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. A certified inspector ***or energy auditor*** 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 ***or license*** issued pursuant to this chapter.

Sec. 22. NRS 645D.240 is hereby amended to read as follows:

645D.240 1. The following fees must be charged and collected by the Division:

For each application for a certificate ***or license*****……** $100
For the issuance or renewal of a **certificate *or license*……** 250
~~*[For the issuance or renewal of a license……500]*~~
For each penalty for a late renewal of a certificate ***or license*****……**125
For each change of name, address or association…… 20
For each duplicate certificate ***or license*** where the original is lost ordestroyed and an affidavit is made thereof……20
For each reinstatement to active status of an inactive certificate ***or license.*** 20
For each annual approval of a course of instruction offered in preparation for an original certificate ***or license*****……**100
For each original accreditation of a course of continuing education……...100
For each renewal of accreditation of a course of continuing education…….50

2. The Division shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of:

(a) Any examination for a certificate ~~[,]~~ ***or license,*** including any costs which are necessary for the administration of such an examination.

(b) Any investigation of a person's background.

Sec. 23. NRS 645D.690 is hereby amended to read as follows:

645D.690 The expiration or revocation of a certificate ***or license*** by operation of law or by order or decision of a hearing officer or court of competent jurisdiction, or the voluntary surrender of a certificate ***or license*** by a certified inspector ***or energy auditor*** does not:

1. Prohibit the Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the certified inspector ***or energy auditor*** 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 certified inspector ~~[.]~~ ***or energy auditor.***

Sec. 24. NRS 645D.700 is hereby amended to read as follows:

645D.700 1. Grounds for disciplinary action against a certified inspector ***or energy auditor*** are:

(a) Unprofessional conduct;

(b) Professional incompetence; and

(c) A criminal conviction for a felony or any offense involving moral turpitude.

2. If grounds for disciplinary action against a certified inspector ***or energy auditor*** exist, the Division may, after providing the inspector ***or energy auditor*** with notice and an opportunity for a hearing, do one or more of the following:

(a) Revoke or suspend the certificate ~~[.]~~ ***or license.***

(b) Place conditions upon the certificate ***or license*** or upon the reissuance of a certificate ***or license*** revoked pursuant to this section.

(c) Deny the renewal of the certificate ~~[.]~~ ***or license.***

(d) Impose a fine of not more than $1,000 for each violation.

3. If a certificate ***or license*** is revoked by the Division, another certificate ***or license*** must not be issued to the same inspector ***or energy auditor*** for at least 1 year after the date of the revocation, or at any time thereafter except in the sole discretion of the Administrator, and then only if the inspector ***or energy auditor*** satisfies the requirements for an original certificate ~~[.]~~ ***or license.***

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

Sec. 25. NRS 645D.703 is hereby amended to read as follows:

645D.703 In addition to any other remedy or penalty, the Administrator may:

1. Refuse to issue a certificate ***or license*** to a person who has failed to pay money which the person owes to the Division.

2. Refuse to renew, or suspend or revoke, the certificate ***or license*** of a person who has failed to pay money which the person owes to the Division.

Sec. 26. NRS 645D.705 is hereby amended to read as follows:

645D.705 1. If the Administrator 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 certified inspector ~~[,]~~ ***or energy auditor,*** the Administrator shall deem the certificate ***or license*** issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Administrator receives a letter issued to the certified inspector ***or energy auditor*** by the district attorney or other public agency pursuant to NRS 425.550 stating that the certified inspector ***or energy auditor*** has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Administrator shall reinstate a certificate ***or license*** that has been suspended by a district court pursuant to NRS 425.540 if the Administrator receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate ***or license*** was suspended stating that the person whose certificate ***or license*** was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 27. NRS 645D.730 is hereby amended to read as follows:

645D.730 1. In addition to any other remedy or penalty, the Administrator may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a certificate ***or license*** or any type of authorization is required pursuant to this chapter, or any regulation adopted pursuant thereto, if the person does not hold the required certificate ***or license*** or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Administrator imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or $5,000, whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Administrator 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 Administrator deems to be relevant.

4. Before the Administrator may impose the administrative fine, the Administrator 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 Administrator 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 purview 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. 28. NRS 645D.900 is hereby amended to read as follows:

645D.900 1. A person who obtains or attempts to obtain a certificate ***or license*** by means of intentional misrepresentation, deceit or fraud is guilty of a category E felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court may impose a fine of not more than $10,000.

2. A person who:

(a) Holds himself or herself out as a certified inspector ~~[.]~~ ***or energy auditor;***

(b) Uses in connection with his or her name the words "licensed," "registered," "certified" or any other title, word, letter or other designation

intended to imply or designate that he or she is a certified inspector ~~[.]~~ ***or energy auditor;*** or

(c) Describes or refers to any inspection report ***or energy audit*** prepared by him or her as "certified" or "licensed" in this state, without first obtaining a certificate ***or license*** as provided in this chapter,

➥ is guilty of a gross misdemeanor.

Sec. 29. (Deleted by amendment.)

Sec. 30. NRS 113.115 and 701.250 are hereby repealed.

Sec. 30.5. **1. There is hereby appropriated from the State General Fund to the Real Estate Division of the Department of Business and Industry for personnel and other related costs for the licensure of energy auditors pursuant to the provisions of this act:**

For the Fiscal Year 2011-2012	**$46,780**
For the Fiscal Year 2012-2013	**$58,214**

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the Real Estate Division of the Department of Business and Industry or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 21, 2012, and September 20, 2013, respectively, by either the Division or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 21, 2012, and September 20, 2013, respectively.

Sec. 31. Any regulations adopted by the Nevada Energy Commissioner pursuant to NRS 701.250 are void. The Legislative Counsel shall remove those regulations from the Nevada Administrative Code as soon as practicable after the effective date of this section.

Sec. 32. The Real Estate Division of the Department of Business and Industry and the Director of the Office of Energy shall, on or before July 1, 2011, adopt any regulations which are required by or necessary to carry out the provisions of this act.

Sec. 33. 1. This section and sections 30 ~~[, 31 and]~~ **to** 32 **, inclusive,** of this act become effective upon passage and approval.

2. Sections 1 to 29, inclusive, of this act become effective on July 1, 2011.

3. Section 17 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

4. Section 26 of this act expires by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

TEXT OF REPEALED SECTIONS

113.115 Seller to provide evaluation of energy consumption of property; limitations.

1. Except as otherwise provided in subsection 3, the seller shall have the energy consumption of the residential property evaluated pursuant to the program established in NRS 701.250.

2. Except as otherwise provided in subsection 4, before closing a transaction for the conveyance of residential property, the seller shall serve the purchaser with the completed evaluation required pursuant to subsection 1, if any, on a form to be provided by the Nevada Energy Commissioner, as prescribed in regulations adopted pursuant to NRS 701.250.

3. 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) 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.

(d) If the seller and purchaser agree to waive the requirements of subsection 1.

4. If an evaluation of a residential property was completed not more than 5 years before the seller and purchaser entered into the agreement to purchase the residential property, the seller may serve the purchaser with that evaluation.

701.250 Program to evaluate energy consumption of residential property.

1. The Commissioner shall adopt regulations establishing a program for evaluating the energy consumption of residential property in this State.

2. The regulations must include, without limitation:

(a) Standards for evaluating the energy consumption of residential property; and

(b) Provisions prescribing a form to be used pursuant to NRS 113.115, including, without limitation, provisions that require a portion of the form to provide information on programs created pursuant to NRS 702.275 and other programs of improving energy conservation and energy efficiency in residential property.

3. As used in this section:

(a) "Dwelling unit" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one person who maintains a household or by two or more persons who maintain a common household.

(b) "Residential property" means any land in this State to which is affixed not less than one or more than four dwelling units.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Assembly Bill No. 525.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 525:

YEAS—40.

NAYS—Ellison, Hansen—2.

Assembly Bill No. 525 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 36.

Bill read third time.

The following amendment was proposed by Assemblyman Atkinson:

Amendment No. 823.

SUMMARY—Revises provisions governing ~~[the State Board of Podiatry.]~~ **health care providers.** (BDR 54-502)

AN ACT relating to ~~[podiatry;]~~ **health care providers;** requiring each person licensed by the State Board of Podiatry to maintain a permanent mailing address with the Board; requiring each licensee to provide the Board with written notification of any change in his or her permanent address; requiring the Board to impose a fine if a licensee fails to notify the Board of a change in his or her permanent address; requiring a licensee who closes his or her office in this State to notify the Board of the location and custodian of the medical records of the patients of the licensee for a certain period; codifying in statutory form the requirement in administrative regulation that an applicant for a license issued by the Board submit to a criminal background check; **revising provisions governing the qualifications for obtaining a license to practice dental hygiene;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Board of Podiatry to license and regulate the conduct of podiatrists and podiatry hygienists. (NRS 635.050-635.180) **Section 2** of this bill requires a licensee to maintain a permanent mailing address with the Board and notify the Board in writing of any change in the licensee's permanent address. **Section 2** also requires the Board to impose a fine against any licensee who fails to notify the Board of a change in his or her permanent address. Additionally, **section 2** requires a licensee who changes the location of his or her office to notify the Board of the new location and requires a licensee who closes his or her office to notify the Board of the closure within 14 days after closing the office. **Section 2** further requires a licensee who closes his or her office to keep the Board apprised of the location and custodian of the medical records of the licensee's patients for a minimum of 5 years.

Existing regulation requires each applicant for licensure by the Board to submit to the Board a complete set of fingerprints and written permission authorizing the Board to submit the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. (NAC 635.023) **Section 3** of this bill codifies in statute this existing requirement in regulation.

Section 4 of this bill provides that a licensee is subject to disciplinary action if he or she fails to notify the Board in writing of a change in permanent mailing address in the manner required by **section 2** of this bill.

Section 4.5 of this bill revises provisions governing the qualifications for obtaining a license to practice dental hygiene by providing that an applicant may satisfy the clinical examination requirement for licensure if he or she presents evidence to the Board of Dental Examiners of Nevada that the applicant has, within the 5 years immediately preceding the date of the application, passed a clinical examination approved by the Board and the American Board of Dental Examiners.

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

Section 1. Chapter 635 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. Each licensee shall:***

(a) Maintain a permanent mailing address with the Board; and

(b) If the licensee changes his or her permanent mailing address, notify the Board in writing of the new permanent mailing address within 30 days after the change of address.

2. If a licensee fails to provide the written notice required by paragraph (b) of subsection 1, the Board shall, in addition to any disciplinary action taken or fine imposed pursuant to NRS 635.130, impose upon the licensee a fine not to exceed $250.

3. A licensee who changes the location of his or her office in this State shall notify the Board in writing of the change in location before practicing at the new location.

4. A licensee who closes his or her office in this State shall:

(a) Notify the Board in writing of the closure within 14 days after closing the office; and

(b) For a period of 5 years thereafter, unless a longer period of retention is provided by federal law, keep the Board apprised in writing of the location and custodian of the medical records of the patients of the licensee.

Sec. 3. ***Each applicant for a license, including, without limitation, a limited or provisional license, must submit to the Board:***

1. A complete set of fingerprints; and

2. Written permission authorizing the Board to forward the fingerprints submitted pursuant to subsection 1 to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

Sec. 4. NRS 635.130 is hereby amended to read as follows:

635.130 1. The Board, after notice and a hearing as required by law, and upon any cause enumerated in subsection 2, may take one or more of the following disciplinary actions:

(a) Deny an application for a license or refuse to renew a license.

(b) Suspend or revoke a license.

(c) Place a licensee on probation.

(d) Impose a fine not to exceed $5,000.

2. The Board may take disciplinary action against a licensee for any of the following causes:

(a) The making of a false statement in any affidavit required of the applicant for application, examination or licensure pursuant to the provisions of this chapter.

(b) Lending the use of the holder's name to an unlicensed person.

(c) If the holder is a podiatric physician, permitting an unlicensed person in his or her employ to practice as a podiatry hygienist.

(d) Habitual indulgence in the use of alcohol or any controlled substance which impairs the intellect and judgment to such an extent as in the opinion of the Board incapacitates the holder in the performance of his or her professional duties.

(e) Conviction of a crime involving moral turpitude.

(f) Conviction of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

(g) Conduct which in the opinion of the Board disqualifies the licensee to practice with safety to the public.

(h) The commission of fraud by or on behalf of the licensee regarding his or her license or practice.

(i) Gross incompetency.

(j) Affliction of the licensee with any mental or physical disorder which seriously impairs his or her competence as a podiatric physician or podiatry hygienist.

(k) False representation by or on behalf of the licensee regarding his or her practice.

(l) Unethical or unprofessional conduct.

(m) ***Failure to comply with the requirements of subsection 1 of section 2 of this act.***

(n) Willful or repeated violations of this chapter or regulations adopted by the Board.

~~[(n)]~~ ***(o)*** Willful violation of the regulations adopted by the State Board of Pharmacy.

~~[(o)]~~ ***(p)*** Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(1) The license of the facility is suspended or revoked; or

(2) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➥ This paragraph applies to an owner or other principal responsible for the operation of the facility.

Sec. 4.5. **Section 1.5 of Assembly Bill No. 55 of this session is hereby amended to read as follows:**

Sec. 1.5. NRS 631.300 is hereby amended to read as follows:

631.300 1. Any person desiring to obtain a license to practice dental hygiene, after having complied with the regulations of the Board to determine eligibility:

(a) Except as otherwise provided in NRS 622.090, must pass a written examination given by the Board upon such subjects as the Board deems necessary for the practice of dental hygiene or must present a certificate granted by the Joint Commission on National Dental Examinations which contains a notation that the applicant has passed the National Board Dental Hygiene Examination with a score of at least 75; and

(b) Except as otherwise provided in this chapter, must:

(1) Successfully pass a clinical examination approved by the Board and the American Board of Dental Examiners ~~[.]~~ ***or present evidence to the Board that the applicant has passed such a clinical examination within the 5 years immediately preceding the date of the application;***

(2) Successfully complete a clinical examination in dental hygiene given by the Board which examines the applicant's practical knowledge of dental hygiene and which includes, but is not limited to, demonstrations in the removal of deposits from, and the polishing of, the exposed surface of the teeth; or

(3) Present to the Board a certificate granted by the Western Regional Examining Board which contains a notation that the applicant has passed, within the 5 years immediately preceding the date of the application, a

clinical examination administered by the Western Regional Examining Board.

2. The clinical examination given by the Board must include components that are:

(a) Written or oral, or a combination of both; and

(b) Practical, as in the opinion of the Board is necessary to test the qualifications of the applicant.

3. The Board shall examine each applicant in writing on the contents and interpretation of this chapter and the regulations of the Board.

4. All persons who have satisfied the requirements for licensure as a dental hygienist must be registered as licensed dental hygienists on the board register, as provided in this chapter, and are entitled to receive a certificate of registration, signed by all members of the Board.

Sec. 5. This act becomes effective upon passage and approval.

Assemblyman Atkinson moved the adoption of the amendment.

Remarks by Assemblyman Atkinson.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 59.

Bill read third time.

Remarks by Assemblymen Sherwood, Conklin, and Bobzien.

Roll call on Senate Bill No. 59:

YEAS—39.

NAYS—Hansen, Kite, Sherwood—3.

Senate Bill No. 59 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 101.

Bill read third time.

Remarks by Assemblyman Frierson.

Roll call on Senate Bill No. 101:

YEAS—32.

NAYS—Ellison, Goedhart, Goicoechea, Hammond, Hardy, Kirner, Livermore, McArthur, Sherwood, Woodbury—10.

Senate Bill No. 101 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 125.

Bill read third time.

Roll call on Senate Bill No. 125:

YEAS—42.

NAYS—None.

Senate Bill No. 125 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 136.

Bill read third time.

Roll call on Senate Bill No. 136:

YEAS—42.

NAYS—None.

Senate Bill No. 136 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 143.

Bill read third time.

Roll call on Senate Bill No. 143:

YEAS—41.

NAYS—Carlton.

Senate Bill No. 143 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 150.

Bill read third time.

Roll call on Senate Bill No. 150:

YEAS—42.

NAYS—None.

Senate Bill No. 150 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 215.

Bill read third time.

Roll call on Senate Bill No. 215:

YEAS—42.

NAYS—None.

Senate Bill No. 215 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 233.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Senate Bill No. 233:

YEAS—42.

NAYS—None.

Senate Bill No. 233 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 257.
Bill read third time.
Remarks by Assemblymen Horne, Neal and Oceguera.
Roll call on Senate Bill No. 257:
YEAS—40.
NAYS—Aizley, Neal—2.
Senate Bill No. 257 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 361.
Bill read third time.
Roll call on Senate Bill No. 361:
YEAS—42.
NAYS—None.
Senate Bill No. 361 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 402.
Bill read third time.
Roll call on Senate Bill No. 402:
YEAS—42.
NAYS—None.
Senate Bill No. 402 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 403.
Bill read third time.
Roll call on Senate Bill No. 403:
YEAS—41.
NAYS—McArthur.
Senate Bill No. 403 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bill No. 238 be taken from the Chief Clerk's desk and placed on the General File in numerical order.
Motion carried.

Assemblywoman Kirkpatrick moved that Senate Bill No. 329 be taken from its position on the General File and placed at the top of the General File.
Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 329.
Bill read third time.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 826.

AN ACT relating to pharmacy; authorizing certain education and training to be provided to practitioners concerning the management by a patient of medications of the patient; requiring practitioners to post a sign informing patients of the right to have the symptom or purpose for which a drug is prescribed be included on the label of the container of the drug; **revising provisions relating to prescriptions for controlled substances included in schedule II;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes, but does not require, a practitioner to ask a patient if the patient wishes to have included on the label of a prescription the symptom or purpose for which the drug is dispensed and, if the patient so requests, requires the practitioner to include such information on the written prescription. (NRS 639.2352) **Section 2** of this bill requires practitioners to post signs in English and Spanish informing patients of the right to have certain information included on the label attached to the container of the drug. **Sections 1.3 and 1.7** of this bill require the Board of Medical Examiners and the State Board of Osteopathic Medicine to encourage physicians to obtain continuing education concerning methods of educating patients about how to effectively manage medications. **Section 6.5** of this bill authorizes the State Board of Pharmacy or the Investigation Division of the Department of Public Safety, in cooperation with the Health Division of the Department of Health and Human Services, to carry out education and training regarding the rights of patients to have the symptom or purpose of a medication printed on the label attached to the container for that medication.

Section 6.3 of this bill authorizes the issuance of an electronic prescription for a controlled substance included in schedule II if such an electronic prescription is issued in compliance with any regulations adopted by the Board concerning electronic prescriptions.

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

Section 1. (Deleted by amendment.)

Sec. 1.3. NRS 630.253 is hereby amended to read as follows:

630.253 1. The Board shall, as a prerequisite for the:

(a) Renewal of a license as a physician assistant; or

(b) Biennial registration of the holder of a license to practice medicine,

➥ require each holder to comply with the requirements for continuing education adopted by the Board.

2. These requirements:

(a) May provide for the completion of one or more courses of instruction relating to risk management in the performance of medical services.

(b) Must provide for the completion of a course of instruction, within 2 years after initial licensure, relating to the medical consequences of an act of

terrorism that involves the use of a weapon of mass destruction. The course must provide at least 4 hours of instruction that includes instruction in the following subjects:

(1) An overview of acts of terrorism and weapons of mass destruction;

(2) Personal protective equipment required for acts of terrorism;

(3) Common symptoms and methods of treatment associated with exposure to, or injuries caused by, chemical, biological, radioactive and nuclear agents;

(4) Syndromic surveillance and reporting procedures for acts of terrorism that involve biological agents; and

(5) An overview of the information available on, and the use of, the Health Alert Network.

➥ The Board may thereafter determine whether to include in a program of continuing education additional courses of instruction relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction.

3. The Board shall encourage each holder of a license who treats or cares for persons who are more than 60 years of age to receive, as a portion of their continuing education, education in geriatrics and gerontology, including such topics as:

(a) The skills and knowledge that the licensee needs to address aging issues;

(b) Approaches to providing health care to older persons, including both didactic and clinical approaches;

(c) The biological, behavioral, social and emotional aspects of the aging process; and

(d) The importance of maintenance of function and independence for older persons.

4. ***The Board shall encourage each holder of a license to practice medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.***

5. As used in this section:

(a) "Act of terrorism" has the meaning ascribed to it in NRS 202.4415.

(b) "Biological agent" has the meaning ascribed to it in NRS 202.442.

(c) "Chemical agent" has the meaning ascribed to it in NRS 202.4425.

(d) "Radioactive agent" has the meaning ascribed to it in NRS 202.4437.

(e) "Weapon of mass destruction" has the meaning ascribed to it in NRS 202.4445.

Sec. 1.7. NRS 633.471 is hereby amended to read as follows:

633.471 1. Except as otherwise provided in subsection ~~[4]~~ ***5*** and NRS 633.491, every holder of a license to practice osteopathic medicine issued

under this chapter, except a temporary or a special license, may renew the license on or before January 1 of each calendar year after its issuance by:

(a) Applying for renewal on forms provided by the Board;

(b) Paying the annual license renewal fee specified in this chapter;

(c) Submitting a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against the holder during the previous year;

(d) Submitting an affidavit to the Board that in the year preceding the application for renewal the holder has attended courses or programs of continuing education approved by the Board totaling a number of hours established by the Board which must not be less than 35 hours nor more than that set in the requirements for continuing medical education of the American Osteopathic Association; and

(e) Submitting all information required to complete the renewal.

2. The Secretary of the Board shall notify each licensee of the practice of osteopathic medicine of the requirements for renewal not less than 30 days before the date of renewal.

3. The Board shall request submission of verified evidence of completion of the required number of hours of continuing medical education annually from no fewer than one-third of the applicants for renewal of a license to practice osteopathic medicine. Upon a request from the Board, an applicant for renewal of a license to practice osteopathic medicine shall submit verified evidence satisfactory to the Board that in the year preceding the application for renewal the applicant attended courses or programs of continuing medical education approved by the Board totaling the number of hours established by the Board.

4. ***The Board shall encourage each holder of a license to practice osteopathic medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.***

5. Members of the Armed Forces of the United States and the United States Public Health Service are exempt from payment of the annual license renewal fee during their active duty status.

Sec. 2. NRS 639.2352 is hereby amended to read as follows:

639.2352 ***1.*** Before issuing a prescription, a practitioner may ask the patient whether he or she wishes to have included on the label ~~[of the prescription]~~ ***attached to the container of the drug*** the symptom or purpose for which the drug is prescribed. If the patient requests that the information be included on the label, the practitioner shall include on the prescription the symptom or purpose for which the drug is prescribed.

2. Each practitioner shall post in a conspicuous location in each room used for the examination of a patient a sign which is not less than 8.5

inches wide and not less than 11 inches high and which contains, in at least 12-point boldface type, the following:

NOTICE TO PATIENTS

You have the right to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of your prescribed drug.

You have the right to ask the person writing your prescription to instruct the pharmacy to print this information on the label attached to the container of your prescribed drug.

Having the purpose or symptom printed on the label attached to the container of your drug may help you to properly use and track your prescribed drugs.

AVISO A LOS PACIENTES

Tiene derecho de que se imprima cierta información en la etiqueta de sus medicamentos. Específicamente, usted puede elegir que la etiqueta incluya los síntomas o el propósito para que el medicamento se prescribe.

Tiene derecho de pedirle a la person que prescriba su medicamento que dirija a la farmacia que imprima la información en la etiqueta.

Si se imprimen los síntomas o el propósito en la etiqueta de sus medicamentos, le puede ayudar a mantenerlos y usarlos apropriadamente.

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 6.3. **NRS 453.256 is hereby amended to read as follows:**

453.256 1. Except as otherwise provided in subsection 2, a substance included in schedule II must not be dispensed without the written prescription of a practitioner.

2. A controlled substance included in schedule II may be dispensed without the written prescription of a practitioner only:

(a) In an emergency, as defined by regulation of the Board, upon oral prescription of a practitioner, reduced to writing promptly and in any case within 72 hours, signed by the practitioner and filed by the pharmacy.

(b) ***Pursuant to an electronic prescription of a practitioner which complies with any regulations adopted by the Board concerning the use of electronic prescriptions.***

(c) Upon the use of a facsimile machine to transmit the prescription for a substance included in schedule II by a practitioner or a practitioner's agent to a pharmacy for:

(1) Direct administration to a patient by parenteral solution; or

(2) A resident of a facility for intermediate care or a facility for skilled nursing which is licensed as such by the Health Division of the Department.

➥ A prescription transmitted by a facsimile machine pursuant to this paragraph must be printed on paper which is capable of being retained for at least 2 years. For the purposes of this section, ~~[such a]~~ ***an electronic*** prescription ***or a prescription transmitted by facsimile machine*** constitutes a written prescription. The pharmacy shall keep prescriptions in conformity with the requirements of NRS 453.246. A prescription for a substance included in schedule II must not be refilled.

3. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a substance included in schedule III or IV which is a dangerous drug as determined under NRS 454.201, must not be dispensed without a written or oral prescription of a practitioner. The prescription must not be filled or refilled more than 6 months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

4. A substance included in schedule V may be distributed or dispensed only for a medical purpose, including medical treatment or authorized research.

5. A practitioner may dispense or deliver a controlled substance to or for a person or animal only for medical treatment or authorized research in the ordinary course of his or her profession.

6. No civil or criminal liability or administrative sanction may be imposed on a pharmacist for action taken in good faith in reliance on a reasonable belief that an order purporting to be a prescription was issued by a practitioner in the usual course of professional treatment or in authorized research.

7. An individual practitioner may not dispense a substance included in schedule II, III or IV for the practitioner's own personal use except in a medical emergency.

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

9. As used in this section:

(a) "Facsimile machine" means a device which sends or receives a reproduction or facsimile of a document or photograph which is transmitted electronically or telephonically by telecommunications lines.

(b) "Medical treatment" includes dispensing or administering a narcotic drug for pain, whether or not intractable.

(c) "Parenteral solution" has the meaning ascribed to it in NRS 639.0105.

Sec. 6.5. NRS 453.155 is hereby amended to read as follows:

453.155 1. The Board or Division, in cooperation with the Health Division of the Department, may carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs the Board or Division may:

(a) Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;

(b) Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

(c) Consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(d) Evaluate procedures, projects, techniques and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;

(e) Disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to alleviate them; ~~[and]~~

(f) Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances ~~[.]~~ ***; and***

(g) Carry out education and training for physicians, pharmacists and patients regarding the ability of the patient to request to have the symptom or purpose for which a controlled substance is prescribed included on the label attached to the container of the controlled substance.

2. The Board shall encourage research on misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of the provisions of NRS 453.011 to 453.552, inclusive, it may:

(a) Establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse;

(b) Make studies and undertake programs of research to:

(1) Develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of such sections;

(2) Determine patterns of misuse and abuse of controlled substances and the social effects thereof; and

(3) Improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled substances; and

(c) Enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations or special projects which bear directly on misuse and abuse of controlled substances.

3. The Board may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subject of the research. A person who obtains this authorization is not compelled in any civil, criminal, administrative, legislative or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

4. The Board may authorize the possession and distribution of controlled substances by persons engaged in research. A person who obtains this authorization is exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization. The Board shall promptly notify the Division of any such authorization.

Sec. 7. (Deleted by amendment.)

Assemblywoman Kirkpatrick moved the adoption of the amendment.
Remarks by Assemblywoman Kirkpatrick.
Amendment adopted.
Bill ordered reprinted, reengrossed, and to third reading.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 2:47 p.m.

ASSEMBLY IN SESSION

At 2:48 p.m.
Madam Speaker pro Tempore presiding.
Quorum present.

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker pro Tempore appointed Assemblymen Oceguera, Horne, and Goicoechea as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 282.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 17.
The following Senate amendment was read:
Amendment No. 592.
SUMMARY—Revises ~~[the applicability of the Nevada Administrative Procedure Act to]~~ **provisions concerning the judicial review of decisions of** the Public Utilities Commission of Nevada. (BDR 18-455)
AN ACT relating to administrative procedure; exempting the judicial review of decisions of the Public Utilities Commission of Nevada from the requirements of the Nevada Administrative Procedure Act; **revising provisions governing the procedure for the judicial review of decisions of the Commission;** and providing other matters properly relating thereto.
Legislative Counsel's Digest:
Existing law provides that the provisions of chapter 703 of NRS that relate to the judicial review of decisions of the Public Utilities Commission of Nevada prevail over the general provisions of the Nevada Administrative Procedure Act, which is contained in chapter 233B of NRS. (NRS 233B.039) ~~[This]~~ **Section 1 of this** bill removes that existing provision and instead provides that the provisions of the Nevada Administrative Procedure Act do not apply to the judicial review of decisions of the Commission.
Existing law also sets forth provisions relating to the procedure for the judicial review of decisions of the Commission. (NRS 703.373) Section 1.7 of this bill revises various provisions relating to that procedure and: (1) requires a party seeking judicial review to exhaust all administrative

remedies before the party is entitled to seek judicial review of a final decision of the Commission; (2) specifies certain periods in which certain documents must be filed with the court and served upon the parties involved in the judicial review; and (3) provides that a final decision of the Commission is deemed reasonable and lawful until reversed or set aside in whole or in part by the court.

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

Section 1. NRS 233B.039 is hereby amended to read as follows:

233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:

(a) The Governor.

(b) Except as otherwise provided in NRS 209.221, the Department of Corrections.

(c) The Nevada System of Higher Education.

(d) The Office of the Military.

(e) The State Gaming Control Board.

(f) Except as otherwise provided in NRS 368A.140, the Nevada Gaming Commission.

(g) The Division of Welfare and Supportive Services of the Department of Health and Human Services.

(h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services.

(i) The State Board of Examiners acting pursuant to chapter 217 of NRS.

(j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.

(k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.

(l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.

(m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 590.830.

2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;

(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;

(c) ~~[Chapter 703 of NRS for the judicial review of decisions of the Public Utilities Commission of Nevada;~~

~~(d)]~~ Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and

~~[(e)]~~ ***(d)*** NRS 90.800 for the use of summary orders in contested cases,

➥ prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;

(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184; ~~[or]~~

(c) A regulation adopted by the State Board of Education pursuant to NRS 392.644 or 394.1694 ~~[.]~~ ***; or***

(d) The judicial review of decisions of the Public Utilities Commission of Nevada.

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

Sec. 1.3. **NRS 703.330 is hereby amended to read as follows:**

703.330 1. A complete record must be kept of all hearings before the Commission. All testimony at such hearings must be taken down by the stenographer appointed by the Commission or, under the direction of any competent person appointed by the Commission, must be reported by sound recording equipment in the manner authorized for reporting testimony in district courts. The testimony reported by a stenographer must be transcribed, and the transcript filed with the record in the matter. The Commission may by regulation provide for the transcription or safekeeping of sound recordings. The costs of recording and transcribing testimony at any hearing, except those hearings ordered pursuant to NRS 703.310, must be paid by the applicant. If a complaint is made pursuant to NRS 703.310 by a customer or by a political subdivision of the State or municipal organization, the complainant is not liable for any costs. Otherwise, if there are several applicants or parties to any hearing, the Commission may apportion the costs among them in its discretion.

2. ~~[If a petition is served upon the Commission as provided in NRS 703.373 for the bringing of an action against the Commission, before the action is reached for trial, the Commission shall file a certified copy of all proceedings and testimony taken with the clerk of the court in which the action is pending.~~

~~3.]~~ A copy of the proceedings and testimony must be furnished to any party, on payment of a reasonable amount to be fixed by the Commission, and the amount must be the same for all parties.

~~[4.]~~ ***3.*** The provisions of this section do not prohibit the Commission from:

(a) Restricting access to the records and transcripts of a hearing pursuant to paragraph (a) of subsection 3 of NRS 703.196.

(b) Protecting the confidentiality of information pursuant to NRS 704B.310, 704B.320 or 704B.325.

Sec. 1.7. **NRS 703.373 is hereby amended to read as follows:**

703.373 1. Any party of record to a proceeding before the Commission is entitled to judicial review of the final decision ~~[,]~~ ***upon the exhaustion of all administrative remedies by the party of record seeking judicial review.***

2. Proceedings for review may be instituted by filing a petition ***for judicial review*** in the District Court in and for Carson City, in and for the county in which the party ***of record seeking judicial review*** resides, or in and for the county where the act on which the proceeding is based occurred.

3. A petition ***for judicial review*** must be filed within ~~[90]~~ ***30*** days after ~~[the service of the]~~ final ~~[decision of]~~ ***action by*** the Commission ***on reconsideration*** or ~~[, if a]~~ rehearing ~~[is held,]~~ ***, or if the Commission takes no action on reconsideration or rehearing,*** within 30 days after the ~~[decision thereon.]~~ ***date on which reconsideration or rehearing is deemed denied.*** Copies of the petition ***for judicial review*** must be served upon the Commission and all other parties of record.

~~[3.]~~ ***4. The Commission shall participate in the judicial review. Any party of record desiring to participate in the judicial review must file a statement of intent to participate in the petition for judicial review and serve the statement upon the Commission and every party within 15 days after service of the petition for judicial review.***

5. Within 30 days after the service of the petition for judicial review or such time as is allowed by the court, the Commission shall transmit to the reviewing court a certified copy of the entire record of the proceeding under review, including a transcript of the evidence resulting in the final decision of the Commission. The record may be shortened by stipulation of the parties to the proceedings.

6. A petitioner who is seeking judicial review must serve and file a memorandum of points and authorities within 30 days after the Commission gives written notice to the parties that the record of the proceeding under review has been filed with the court.

7. The Commission and ***any*** other ~~[defendants]~~ ***respondents*** shall ***serve and*** file ~~[their answers to the petition]~~ ***a reply memorandum of points and authorities*** within 30 days after ~~[the]~~ service ~~[thereof,]~~ ***of the memorandum of points and authorities,*** whereupon the action is at issue and ~~[they]~~ ***the parties*** must be ready for a hearing upon 20 days' notice***.*** ~~[to either party.~~

~~4. The]~~

8. Judicial review ***of a final decision of the Commission*** must be ~~[conducted]~~ ***:***

(a) Conducted by the court without a jury ***;*** and ~~[be confined]~~

(b) Confined to the record.

➥ In cases ~~[of]~~ ***concerning*** alleged irregularities in procedure before the Commission ***[,] that are*** not shown in the record, ~~[proof thereon may be taken in]~~ the court ***[***~~. The court, upon request, shall hear oral argument and receive written briefs.~~

~~5.]~~ ***may receive evidence concerning the irregularities.***

9. The final decision of the Commission shall be deemed reasonable and lawful until reversed or set aside in whole or in part by the court. The burden of proof is on the petitioner to show that the final decision is invalid pursuant to subsection 11.

10. All actions brought under this section have precedence over any civil action of a different nature pending in the court.

~~[6.]~~ ***11.*** The court shall not substitute its judgment for that of the Commission as to the weight of the evidence on questions of fact. The court may affirm the decision of the Commission or set it aside in whole or in part if substantial rights of the ~~[appellant]~~ ***petitioner*** have been prejudiced because the ~~[administrative findings, inferences, conclusions or decisions are:]~~ ***final decision of the Commission is:***

(a) In violation of constitutional or statutory provisions;

(b) In excess of the statutory authority of the Commission;

(c) Made upon unlawful procedure;

(d) Affected by other error of law;

(e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or

(f) Arbitrary or capricious or characterized by abuse of discretion.

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

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 17.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 122.

The following Senate amendment was read:

Amendment No. 707.

SUMMARY—~~[Authorizes]~~ **Revises provisions concerning** the imposition of certain reasonable restrictions or requirements relating to systems for obtaining wind ~~[and solar]~~ energy. (BDR 22-592)

AN ACT relating to energy; ~~[authorizing]~~ **revising provisions concerning** the imposition of certain reasonable restrictions or requirements relating to systems for obtaining wind ~~[and solar]~~ energy; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the governing body of a city or county: (1) may enact zoning regulations and restrictions to promote the health, safety, morals or general welfare of the community; (2) is prohibited from adopting an ordinance or taking any other action which unreasonably prohibits or restricts an owner of real property from using a system for obtaining ~~[solar or]~~ wind energy on his or her property; **and** (3) may impose a reasonable restriction on the use of a system for obtaining wind energy which is related to the height, noise or safety of the system**.** ~~[; and (4) is required to authorize the use of a system which uses solar or wind energy to reduce energy costs for a structure if the system and structure comply with all applicable building codes and zoning ordinances.]~~ (NRS 278.020, 278.02077**)** ~~[, 278.0208, 278. 580) The governing body of a city or county unreasonably prohibits or restricts the use of a system for obtaining solar or wind energy if the governing body imposes restrictions that significantly decrease the efficiency or performance of the solar or wind energy system unless the restriction provides for the use of a comparable alternative system. (NRS 278.02077, 278.0208) Section 1 of this]~~ **This** bill provides that, in addition to reasonable restrictions relating to height, noise or safety, reasonable restrictions on the use of a system for obtaining wind energy may include restrictions relating to setback, location and finish. ~~[Section 2 of this bill authorizes a governing body to require that a special use permit or conditional permit be obtained for a system for obtaining solar energy proposed to be installed or constructed within the boundaries of an incorporated city or town on nonresidential property that is adjacent to residential property.]~~ **This bill also deletes provisions which provide that the governing body of a city or county unreasonably prohibits or restricts the use of a system for obtaining wind energy if the governing body imposes restrictions that significantly decrease the efficiency or performance of the wind energy system unless the restriction provides for the use of a comparable alternative system.**

WHEREAS, Nevada has significant amounts of ~~[solar and]~~ wind resources available for use in the production of clean, renewable sources of energy; and

WHEREAS, It has been a stated goal of the Nevada Legislature to encourage the availability of these ~~[solar and]~~ wind resources for use by the residents of this State; and

WHEREAS, Local governments have traditionally been authorized to enact zoning and land use regulations and restrictions to promote the health, safety, morals and general welfare of their communities; and

WHEREAS, It is the intent of the Nevada Legislature to encourage local governments to balance the use of clean, renewable sources of energy with the promotion of the health, safety, morals and general welfare of their communities; now, therefore

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

Section 1. NRS 278.02077 is hereby amended to read as follows:

278.02077 1. Except as otherwise provided in subsection 2:

(a) A governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts the owner of real property from using a system for obtaining wind energy on his or her property.

(b) Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer or sale of, or any other interest in, real property and which prohibits or unreasonably restricts the owner of the property from using a system for obtaining wind energy on his or her property is void and unenforceable.

2. The provisions of subsection 1 do not prohibit a reasonable restriction or requirement:

(a) Imposed pursuant to a determination by the Federal Aviation Administration that the installation of the system for obtaining wind energy would create a hazard to air navigation; or

(b) Relating to the ***finish,*** height, ***location,*** noise **,** ~~**[**or**]**~~ safety ***or setback*** of a system for obtaining wind energy.

~~**[**3. For the purposes of this section, "unreasonably restricts the owner of the property from using a system for obtaining wind energy" includes the placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.**]~~

Sec. 2. ~~**[**NRS 278.0208 is hereby amended to read as follows:~~

~~278.0208 1.~~ ~~***Except as otherwise provided in subsection 2:***~~

~~***(a)*** A governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts or has the effect of prohibiting or unreasonably restricting the owner of real property from using a system for obtaining solar energy on his or her property.~~

~~**[**2.**]** ***(b)*** Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer or sale of, or any other interest in, real property and which prohibits or unreasonably restricts or has the effect of prohibiting or unreasonably restricting the owner of the property from using a system for obtaining solar energy on his or her property is void and unenforceable.~~

~~*2. A governing body may require that a special use permit or conditional permit be obtained in the manner provided in NRS 278.315 for the construction or installation of a system for obtaining solar energy within the boundaries of an incorporated city or town on nonresidential property that is adjacent to residential property. As used in this subsection, "nonresidential property" means all real property other than residential property and includes, without limitation, real property owned by a governmental entity.*~~

~~3. For the purposes of this section, the following shall be deemed to be unreasonable restrictions:~~

~~(a) The placing of a restriction or requirement on the use of a system for obtaining solar energy which decreases the efficiency or performance of the system by more than 10 percent of the amount that was originally specified for the system, as determined by the Director of the Office of Energy, and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.~~

~~(b) The prohibition of a system for obtaining solar energy that uses components painted with black solar glazing.~~~~]~~ **(Deleted by amendment.)**

Sec. 3. This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 122.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 501.

The following Senate amendment was read:

Amendment No. 692.

SUMMARY—Provides for ~~[~~a study of issues regarding~~]~~ **an audit of the fiscal costs of** the death penalty. (BDR S-1103)

AN ACT relating to the death penalty; providing for ~~[~~a study of issues regarding~~]~~ **an audit of the fiscal costs of** the death penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires the ~~[~~Audit Division of the Legislative Counsel Bureau~~]~~ **Legislative Commission to direct the Legislative Auditor** to conduct ~~[~~a staff study on~~]~~ **an audit of** the fiscal costs of the death penalty in Nevada. The ~~[~~study~~]~~ **audit** must include, without limitation, an examination and analysis of the costs of prosecuting and adjudicating capital cases compared to noncapital cases. The Legislative Auditor is required to ~~[~~submit~~]~~ **present** a **final** written report of ~~[~~findings to the Director of the Legislative Counsel Bureau~~]~~ **the audit to the Audit Subcommittee of the Legislative Commission** on or before January 31, 2013.

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

Section 1. (Deleted by amendment.)

Sec. 2. 1. The Legislative Commission shall direct the ~~[Audit Division of the]~~ Legislative ~~[Counsel Bureau]~~ **Auditor** to conduct ~~[a staff study]~~ **an audit** of the fiscal costs associated with the death penalty in this State.

2. The ~~[study]~~ **audit** conducted pursuant to this section must include an examination and analysis concerning the costs of prosecuting and adjudicating capital murder cases as compared to noncapital murder cases, including, without limitation, the costs relating to the death penalty borne by the State of Nevada and by the local governments in this State at each stage of the proceedings in capital murder cases, including pretrial costs, trial costs, appellate and postconviction costs and costs of incarceration such as:

(a) The costs of legal counsel involved in the prosecution and defense of a capital murder case for all pretrial, trial and postconviction proceedings; and

(b) Additional procedural costs involved in capital murder cases as compared to noncapital murder cases, including, without limitation, costs relating to:

(1) Processing of bonds, including investigative costs of prosecutors, police and other staff;

(2) Investigation of a case before a person is charged with a crime, including costs for investigation by the prosecution and the defense;

(3) Pretrial motions;

(4) Extradition;

(5) Psychiatric and medical evaluations;

(6) Expert witnesses;

(7) Juries;

(8) Sentencing proceedings;

(9) Appellate and postconviction proceedings, including motions, writs of certiorari and state and federal petitions for postconviction relief;

(10) Requests for clemency;

(11) Incarceration of persons awaiting trial in capital murder cases and persons sentenced to death; and

(12) Execution of a sentence of death, including costs of facilities and staff.

3. **The audit must be conducted in the manner set forth in NRS 218G.010 to 218G.450, inclusive, and for purposes of the audit the provisions of those sections are applicable to a local government in the same manner as to an agency of the State.**

4. On or before January 31, 2013, the Legislative Auditor shall ~~[submit]~~ **present** a **final** written report of ~~[any findings to the Director of the Legislative Counsel Bureau for transmittal to the 77th Session of the Nevada Legislature.]~~ **the audit to the Audit Subcommittee of the Legislative Commission created by NRS 218E.240.**

Sec. 3. This act becomes effective upon passage and approval.

Assemblyman Segerblom moved that the Assembly concur in the Senate amendment to Assembly Bill No. 501.

Remarks by Assemblyman Segerblom.

Motion carried by a constitutional majority.

Bill ordered enrolled.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 2:56 p.m.

ASSEMBLY IN SESSION

At 6:14 p.m.

Mr. Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Government Affairs, to which was referred Senate Bill No. 92, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which were referred Senate Bills Nos. 151, 251, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which was referred Senate Bill No. 400, 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 Judiciary, to which was referred Senate Bill No. 222, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which were referred Senate Bills Nos. 57, 307, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which was referred Senate Bill No. 204, 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*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bills Nos. 57, 92, 151, 204, 222, 251, 307, and 400, just reported out of committee, be placed on the Second Reading File.

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Judiciary, to which was referred Senate Bill No. 254, 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*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bill No. 254, just reported out of committee, be placed on the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 57.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 735.

SUMMARY— ~~[~~Expands the circumstances pursuant to which a court is authorized to issue~~]~~ **Establishes procedures for the Children's Advocate or his or her designee to obtain** certain warrants. (BDR ~~[11-289)]~~ **38-289)**

AN ACT relating to children; ~~[~~expanding the circumstances pursuant to which a court is authorized to issue~~]~~ **establishing procedures for the Children's Advocate or his or her designee to obtain, under certain circumstances,** a warrant to take physical custody of a **missing** child ~~[.]~~ **who was allegedly abducted;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law as set forth in the Uniform Child Custody Jurisdiction and Enforcement Act (chapter 125A of NRS) authorizes a court in a proceeding to enforce a child custody determination to issue a warrant to take physical custody of a child in an emergency situation if the court finds that the child is immediately likely to suffer serious physical harm or to be removed from this State. Before issuing the warrant, the court is required to hold a hearing at which the party alleging the need for the warrant is present but not the party who has physical custody of the child. (NRS 125A.525) The Uniform Child Custody Jurisdiction and Enforcement Act also authorizes a court in this State, to enforce a child custody determination issued by a court in another state, to issue an order to take physical custody of a child in a nonemergency situation after holding a hearing at which both parties, the petitioner and the respondent, are given an opportunity to be heard. (NRS 125A.495)

Existing law as set forth in the Uniform Child Abduction Prevention Act (chapter 125D of NRS) authorizes a court, pursuant to a petition filed either before or after a child custody determination has been made, to issue a warrant to take physical custody of a child in an emergency situation if the court finds that there is a credible risk that the child is imminently likely to be wrongfully removed. The court may issue the warrant without providing

prior notice and an opportunity to be heard to the party who has physical custody of the child. (NRS 125D.200)

~~[Existing law also authorizes the court in divorce or other dissolution of marriage proceedings to enter an order allowing a party, under certain circumstances and with the assistance of a law enforcement agency, to obtain physical custody of a child from the party having physical custody of the child if the court finds that it would be in the best interest of the child to do so. (NRS 125.470) Section 1 of this bill deletes this provision regarding divorce and other dissolution of marriage proceedings, and section 2 of this bill sets forth a new procedure.~~

~~Section 2 expands the circumstances in which a court is authorized to issue a warrant to take physical custody of a child. Specifically, section 2 authorizes a court, upon a petition submitted during a proceeding to establish custody of a child or to enforce or modify a child custody determination, to issue a warrant to take physical custody of the child where there is probable cause to believe that the child has been abducted. If the court determines that the child has been abducted and that an emergency situation exists, including, without limitation, a situation in which the child is in imminent danger of being removed from this State or in imminent danger of serious physical harm, the court is authorized to issue a warrant. Before issuing the warrant in an emergency situation, the court must hold a hearing at which the party alleging the need for the warrant is present but not the party alleged to have committed the act of abduction. If the court determines that the situation is not an emergency situation, before issuing the warrant, the court must hold a hearing at which both parties, the party alleging the need for the warrant and the party alleged to have committed the act of abduction, are given an opportunity to be heard.]~~

Finally, existing law establishes the Office of Advocate for Missing or Exploited Children within the Office of the Attorney General and requires the Children's Advocate to carry out various duties relating to missing or exploited children in this State. (NRS 432.157) Section 2 of this bill authorizes the Children's Advocate or his or her designee, under certain circumstances, to apply to a court for a warrant to take physical custody of a missing child where there is probable cause to believe that the child has been abducted. Further, section 2 establishes the procedures for issuing such a warrant. Section 2 also defines the term "abduction" to include kidnapping, aiding and abetting kidnapping and the willful detaining, concealing or removing of a child from a person having lawful custody or a right of visitation of the child by a person who has a limited right of custody to the child by operation of law or pursuant to a court order, judgment or decree or who has no right of custody to the child.

~~[Section 2 differs from the similar provisions of the Uniform Child Custody Jurisdiction and Enforcement Act and the Uniform Child Abduction Prevention Act in various ways, including, without limitation, with regard to the types of cases to which it applies. For example, section 2 applies to: (1) a~~

~~broader category of emergency situations; (2) emergency situations which occur before a child custody determination has been made and in which the child is in imminent danger of serious physical harm; (3) nonemergency situations for child custody determinations that are issued by courts in this State; and (4) children who are willfully detained or concealed from persons having lawful custody or a right of visitation of the child, in addition to children who are removed from such persons.]~~

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

Section 1. ~~[NRS 125.470 is hereby amended to read as follows:~~

~~125.470 1. If, during any proceeding brought under this chapter, either before or after the entry of a final order concerning the custody of a minor child, it appears to the court that any minor child of either party has been, or is likely to be, taken or removed out of this State or concealed within this State, the court shall forthwith order such child to be produced before it and make such disposition of the child's custody as appears most advantageous to and in the best interest of the child and most likely to secure to him or her the benefit of the final order or the modification or termination of the final order to be made in his or her behalf.~~

~~2. [If, during any proceeding brought under this chapter, either before or after the entry of a final order concerning the custody of a minor child, the court finds that it would be in the best interest of the minor child, the court may enter an order providing that a party may, with the assistance of the appropriate law enforcement agency, obtain physical custody of the child from the party having physical custody of the child. The order must provide that if the party obtains physical custody of the child, the child must be produced before the court as soon as practicable to allow the court to make such disposition of the child's custody as appears most advantageous to and in the best interest of the child and most likely to secure to him or her the benefit of the final order or the modification or termination of the final order to be made in his or her behalf.~~

~~3. If the court enters an order pursuant to subsection 2 providing that a party may obtain physical custody of a child, the court shall order that party to give the party having physical custody of the child notice at least 24 hours before the time at which he or she intends to obtain physical custody of the child, unless the court deems that requiring the notice would likely defeat the purpose of the order.~~

~~4.] All orders for a party to appear with a child issued pursuant to this section may be enforced by issuing a warrant of arrest against that party to secure his or her appearance with the child.~~

~~[5.] 3. A proceeding under this section must be given priority on the court calendar.]~~ **(Deleted by amendment.)**

Sec. 2. Chapter ~~[125C]~~ **432** of NRS is hereby amended by adding thereto a new section to read as follows:

~~[1. If, during any proceeding to establish custody of a child or enforce or modify a child custody determination, brought pursuant to this chapter or chapter 125 or 125A of NRS, it appears to the court upon a petition submitted by an aggrieved party or any other person having knowledge of the relevant facts]~~

1. The Children's Advocate or his or her designee may apply to the court for a warrant to take physical custody of a missing child if, during an investigation of the missing child, it appears that there is probable cause to believe that : ~~[an]~~

(a) An act of abduction has been committed against the child ; and ~~[that the]~~

(b) The act of abduction was not committed ~~[without just cause, the court may issue a warrant to take physical custody of the child. A copy of a petition submitted pursuant to this subsection must be served upon the Children's Advocate appointed pursuant to NRS 432.157 before any hearing is held by the court pursuant to this section.]~~ to protect:

(1) The child from continued abuse or neglect or from a bona fide and imminent threat of abuse or neglect; or

(2) The person who allegedly abducted the child from continued domestic violence or a bona fide and imminent threat of domestic violence.

2. In filing the application for a warrant, the Children's Advocate and his or her designee acts on behalf of the court and not on behalf of any party.

3. The ~~[petition]~~ application must include, without limitation:

(a) ~~[An affidavit or other sworn declaration, signed by the petitioner under penalty of perjury, attesting to the truth and accuracy of the petition;~~

~~(b) A copy of the most recent child custody determination, if any, of the child;~~

~~(c)~~ The name of the person ~~[or persons]~~ having legal custody of the child;

(b) The name of the person alleged to have committed the act of abduction of the child;

(c) The name of the person alleged to have possession of the child, if different from the person described in paragraph (b);

(d) A statement of the facts and circumstances pertaining to the abduction of the child;

(e) A statement indicating whether, to the knowledge of the applicant after reasonable investigation under the circumstances, the child, the person having legal custody of the child, the person alleged to have committed the act of abduction or ~~[the petitioner]~~ the person alleged to have possession of the child has been:

(1) The subject of an investigation of alleged abuse or neglect of a child or domestic violence;

(2) A party to a proceeding concerning the alleged abuse or neglect of a child, an act of abduction of a child or domestic violence; or

(3) A party against whom an order for protection against domestic violence was issued; ~~[and]~~

(f) A statement indicating ~~[whether any other]~~ which court , if any, has exercised jurisdiction over the custody or welfare of the child ~~[.]~~ ;

(g) A copy of the most recent child custody determination, if any, concerning the child, or if there is no such determination, a statement as to the legal basis for the custody of the child; and

(h) A declaration made under oath and penalty of perjury that every factual representation made in the application is true and correct to the best of the knowledge of the applicant.

~~[3.]~~ 4. The court may, in its discretion, supplement the allegations made in the ~~[petition]~~ application with the sworn testimony of the ~~[petitioner]~~ applicant at a hearing before the court. Any such testimony must be recorded and preserved in the records of the court.

~~[4.]~~ 5. If an application is filed pursuant to this section:

(a) The Children's Advocate or his or her designee may not be assessed a filing fee for the application; and

(b) Any proceedings regarding the application must be expedited by the court.

6. If the court determines that no exigent circumstances exist in relation to the issuance of the warrant, the court:

(a) Shall hold a hearing before it issues the warrant;

(b) Shall provide, or ensure that the Children's Advocate or his or her designee provides, notice of the hearing to the custodial parent, the person alleged to have committed the act of abduction and, if different, the person alleged to have possession of the child;

(c) If the person alleged to have committed the act of abduction or, if different, the person alleged to have possession of the child is present at the hearing or otherwise appears at the hearing, may:

(1) Order such person to return the child in accordance with the determination of the court regarding the placement of the child; and

(2) Issue the warrant in accordance with subsection 9; and

(d) If the person alleged to have committed the act of abduction and, if different, the person alleged to have possession of the child received notice but are not present at the hearing, do not otherwise appear at the hearing and do not submit statements to the court, may issue the warrant in accordance with subsection 9.

7. If the court determines that exigent circumstances exist in relation to the issuance of the warrant, including, without limitation, that the child is in imminent danger of being removed from this State or in imminent danger of serious physical harm, the court may issue the warrant ~~[described in subsection 6]~~ after an ex parte hearing. If the court issues the warrant after an ex parte hearing : ~~[, the court:]~~

(a) ~~[Shall]~~ The court shall afford the ~~[party]~~ custodial parent, the person alleged to have committed the act of abduction and, if different, the

person alleged to have possession of the child an opportunity to be heard at the earliest possible time after the warrant is executed, but not later than ~~[the next judicial day]~~ 48 hours after the warrant is executed unless a hearing ~~[on that date]~~ within that period is impossible. If a hearing ~~[on the next judicial day]~~ within that period is impossible, the court shall hold the hearing on the first judicial day possible.

(b) ~~[Shall provide, or cause the petitioner to provide,]~~ The Children's Advocate or his or her designee shall provide notice of the hearing to be held pursuant to paragraph (a) to the custodial parent, the ~~[party]~~ person alleged to have committed the act of abduction and ~~[all other interested parties.]~~ , if different, the person alleged to have possession of the child.

~~[5. If the court determines that no exigent circumstances exist in relation to the issuance of the warrant, the court:~~

~~(a) Shall hold a hearing before it issues the warrant described in subsection 6;~~

~~(b) Shall provide, or cause the petitioner to provide, notice of the hearing to all interested parties;~~

~~(c) If the party alleged to have committed the act of abduction is present at the hearing, may order the party to return the child in accordance with the placement of the child pursuant to subsection 7 and may issue the warrant described in subsection 6; and~~

~~(d) If the party alleged to have committed the act of abduction received notice but is not present at the hearing, may issue the warrant described in subsection 6.~~

~~6.]~~ 8. The custodial parent of the child, the person alleged to have committed the act of abduction and, if different, the person alleged to have possession of the child may:

(a) Appear at a hearing held pursuant to subsection 6 or 7 in person, by telephone or by video; and

(b) Submit written statements to the court electronically or by other means.

9. If, after a hearing held pursuant to subsection 6 or 7, as applicable, the court:

(a) Determines that there is probable cause to believe that an act of abduction has been committed against the child and that the act of abduction was not committed for the protection of the child or the person who allegedly abducted the child as described in subsection 1, the court may issue a warrant to take physical custody of the child; or

(b) Finds by a preponderance of the evidence that the act of abduction of the child was committed for the protection of the child or the person who allegedly abducted the child as described in subsection 1, the court shall:

(1) Assume temporary emergency jurisdiction of the matter and shall enter a temporary emergency order for the custody of the child which is in the best interest of the child and which is sufficient to protect the safety and welfare of all interested persons; and

(2) Provide in the order a period of time which the court considers adequate and within which the person seeking the emergency order may obtain an initial or modified child custody determination regarding the child from a court that has jurisdiction to enter such an order.

10. A warrant issued by the court pursuant to this section:

(a) Must set forth findings of fact that establish probable cause for believing that an act of abduction occurred and that the act of abduction was ~~[without just cause;]~~ not committed for the protection of the child or the person who allegedly abducted the child as described in subsection 1;

(b) Must direct law enforcement officers to take physical custody of the child and deliver the child in accordance with the determination of the court regarding the placement of the child ; ~~[pursuant to subsection 7;]~~

(c) Must specify the property that may be searched and the child ~~[that]~~ who may be seized pursuant to the warrant;

(d) ~~[May]~~ Must authorize law enforcement officers to enter private property as described in paragraph (c) to take physical custody of the child; ~~[and]~~

(e) Must order that the child be returned to his or her legal custodian unless such placement is not in the best interest of the child; and

(f) Is enforceable throughout this State.

~~[7. Based on the statements in the petition and the testimony provided at any hearing held by the court, the court shall provide for the placement of the child pending final relief.~~

~~8.]~~ 11. As soon as reasonably practicable but not later than 24 hours after ~~[executing]~~ a law enforcement officer executes a warrant issued pursuant to this section, the ~~[law enforcement officer who or the law enforcement agency which executed the warrant]~~ Children's Advocate or his or her designee shall inform the court of the execution of the warrant.

~~[~~ ~~9. After the hearing required by subsection 4 or 5 to afford all interested parties an opportunity to be heard, the court shall enter an order for temporary or permanent custody of the child.~~

~~10. If the court finds, after a hearing, that a petitioner sought a warrant pursuant to this section for the purpose of harassment or in bad faith, the court may:~~

~~(a) Award the other party reasonable attorney's fees, costs and expenses; and~~

~~(b) Impose a civil penalty of not more than $1,000 on the petitioner.~~

~~11. The remedies available pursuant to this section are in addition to the remedies available pursuant to any other applicable provision of law, including, without limitation, NRS 125.470.]~~

12. As used in this section:

(a) "Abduction" means the commission of an act described in NRS 200.310 to 200.340, inclusive, or 200.359.

(b) "Abuse or neglect of a child" has the meaning ascribed to it in NRS 432B.020.

(c) "Child custody determination" means a judgment, decree or other order of a court providing for the legal custody, physical custody or visitation with respect to a child. The term includes a permanent, temporary, initial and modification order.

(d) "Court" means a court of this state authorized to establish, enforce or modify a child custody determination.

(e) "Domestic violence" means the commission of any act described in NRS 33.018.

Sec. 2.5. **NRS 432.150 is hereby amended to read as follows:**

432.150 As used in NRS 432.150 to 432.220, inclusive, ***and section 2 of this act,*** unless the context otherwise requires:

1. "Clearinghouse" means the program established by the Attorney General pursuant to NRS 432.170.

2. "Director" means the Director of the Clearinghouse.

3. "Exploited child" means a person under the age of 18 years who has been:

(a) Used in the production of pornography in violation of the provisions of NRS 200.710;

(b) Subjected to sexual exploitation as defined in NRS 432B.110; or

(c) Employed or exhibited in any injurious, immoral or dangerous business or occupation in violation of the provisions of NRS 609.210.

4. "Missing child" means a person under the age of 18 years who has run away or is otherwise missing from the lawful care, custody and control of a parent or guardian.

Sec. 3. (Deleted by amendment.)

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

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 92.

Bill read second time.

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

Amendment No. 593.

SUMMARY— ~~[Authorizes redevelopment agencies to expend money to improve schools.]~~ **Makes various changes relating to development.** (BDR 22-579)

AN ACT relating to ~~[community redevelopment;]~~ **development; revising provisions relating to the preservation of historic neighborhoods in certain regional plans;** authorizing redevelopment agencies to expend money, subject to certain limitations, to improve ~~[schools]~~ **educational facilities** located within certain cities or counties; requiring redevelopment agencies to file reports with their respective governing bodies and the Director of the Legislative Counsel Bureau; **requiring certain**

redevelopment agencies to set aside certain revenue from property taxes for an additional purpose; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill removes the specific requirement of addressing the preservation of historic neighborhoods in the regional plan of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County).

Section 2 of this bill requires a redevelopment agency to submit, upon adoption of a redevelopment plan for a redevelopment area, an initial report containing certain specified information regarding each redevelopment area to the legislative body of the community and to the Nevada Legislature. Each agency is also required to submit an annual report containing information for the redevelopment area for the previous fiscal year, including with respect to areas in existence on July 1, 2011. Section 7 of this bill provides for the submission of an initial report for each redevelopment area for which a redevelopment plan has been adopted before July 1, 2011.

Existing law authorizes the legislative body of a community, having recognized the need for a redevelopment agency to function in the community, to establish a redevelopment revolving fund. (NRS 279.386, 279.392, 279.396, 279.410, 279.620) Existing law also specifies the manner in which, and the permissible purposes for which, money may be expended from the redevelopment revolving fund. (NRS 279.628) ~~[This]~~ **Section 5 of this** bill expands the permissible purposes for which money may be expended from a redevelopment revolving fund to include use by a redevelopment agency for the improvement, with certain limitations, of ~~[schools]~~ **educational facilities** in a city or county with a redevelopment area within its boundaries.

Section 6 of this bill requires the redevelopment agency of a city whose population is 300,000 or more (currently the City of Las Vegas) that receives certain revenue from taxes to set aside a portion of those revenues received on or after October 1, 2011, to be used to increase, improve and preserve, in addition to the number of dwelling units in the community for low-income households, the number of educational facilities within the redevelopment area.

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

Section 1. **NRS 278.0274 is hereby amended to read as follows:**

278.0274 The comprehensive regional plan must include goals, policies, maps and other documents relating to:

1. Population, including a projection of population growth in the region and the resources that will be necessary to support that population.

2. Conservation, including policies relating to the use and protection of air, land, water and other natural resources, ambient air quality, natural recharge areas, floodplains and wetlands, and a map showing the areas that are best suited for development based on those policies.

3. The limitation of the premature expansion of development into undeveloped areas, preservation of neighborhoods [~~, including, without limitation, historic neighborhoods,~~] and revitalization of urban areas, including, without limitation, policies that relate to the interspersion of new housing and businesses in established neighborhoods and set forth principles by which growth will be directed to older urban areas.

4. Land use and transportation, including the classification of future land uses by density or intensity of development based upon the projected necessity and availability of public facilities, including, without limitation, schools, and services and natural resources, and the compatibility of development in one area with that of other areas in the region. This portion of the plan must:

(a) Address, if applicable:

(1) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(2) The coordination and compatibility of land uses with each military installation in the region, taking into account the location, purpose and stated mission of the military installation;

(b) Allow for a variety of uses;

(c) Describe the transportation facilities that will be necessary to satisfy the requirements created by those future uses; and

(d) Be based upon the policies and map relating to conservation that are developed pursuant to subsection 2, surveys, studies and data relating to the area, the amount of land required to accommodate planned growth, the population of the area projected pursuant to subsection 1, and the characteristics of undeveloped land in the area.

5. Public facilities and services, including provisions relating to sanitary sewer facilities, solid waste, flood control, potable water and groundwater aquifer recharge which are correlated with principles and guidelines for future land uses, and which specify ways to satisfy the requirements created by those future uses. This portion of the plan must:

(a) Describe the problems and needs of the area relating to public facilities and services and the general facilities that will be required for their solution and satisfaction;

(b) Identify the providers of public services within the region and the area within which each must serve, including service territories set by the Public Utilities Commission of Nevada for public utilities;

(c) Establish the time within which those public facilities and services necessary to support the development relating to land use and transportation must be made available to satisfy the requirements created by that development; and

(d) Contain a summary prepared by the regional planning commission regarding the plans for capital improvements that:

(1) Are required to be prepared by each local government in the region pursuant to NRS 278.0226; and

(2) May be prepared by the water planning commission of the county, the regional transportation commission and the county school district.

6. Annexation, including the identification of spheres of influence for each unit of local government, improvement district or other service district and specifying standards and policies for changing the boundaries of a sphere of influence and procedures for the review of development within each sphere of influence. As used in this subsection, "sphere of influence" means an area into which a political subdivision may expand in the foreseeable future.

7. Intergovernmental coordination, including the establishment of guidelines for determining whether local master plans and facilities plans conform with the comprehensive regional plan.

8. Any utility project required to be reported pursuant to NRS 278.145.

~~[Section 1.]~~ ***Sec. 2.*** Chapter 279 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to the report required pursuant to the provisions of subsection 2, ~~*[and subject to the provisions of subsection 3,]*~~ ***for each redevelopment area for which a redevelopment plan is adopted pursuant to the provisions of NRS 279.586 on or after*** ~~*[the effective date of this act,]*~~ ***July 1, 2011, the agency shall, on or before the January 1 next after the adoption of the plan,*** ~~*[the agency shall]*~~ ***submit to the Director of the Legislative Counsel Bureau, for transmittal to the Legislature, and to the legislative body a report on a form prescribed by the Committee on Local Government Finance that includes, without limitation, the following information for the redevelopment area:***

(a) A legal description of the boundaries of the redevelopment area;

(b) The date on which the redevelopment plan for the redevelopment area was adopted;

(c) The scheduled termination date of the redevelopment plan;

(d) The total sum of the assessed value of the taxable property in the redevelopment area for:

(1) The fiscal year immediately preceding the adoption of the redevelopment plan; and

(2) The fiscal year during which the redevelopment plan was adopted, if such fiscal year ends before the reporting deadline;

(e) The combined overlapping tax rate of the redevelopment area;

(f) The property tax rate of the redevelopment area;

(g) The property tax revenue expected to be received from any tax increment area, as defined in NRS 278C.130, within the redevelopment area during the first fiscal year that the agency will receive an allocation pursuant to the provisions of NRS 279.676;

(h) Copies of any memoranda of understanding into which the agency enters during the fiscal year in which the redevelopment plan was adopted; and

(i) The amortization schedule for any debt incurred for the redevelopment area and the reasons for incurring the debt.

2. On or before January 1 of each year, for each redevelopment area for which a redevelopment plan has been adopted pursuant to the provisions of NRS 279.586, the agency shall submit to the Director of the Legislative Counsel Bureau, for transmittal to the Legislature, and to the legislative body a report on a form prescribed by the Committee on Local Government Finance that includes, without limitation, the following information for the redevelopment area for the previous fiscal year:

(a) The property tax revenue received from any tax increment area, as defined in NRS 278C.130, within the redevelopment area;

(b) The combined overlapping tax rate of the redevelopment area;

(c) The property tax rate of the redevelopment area;

(d) The total sum of the assessed value of the taxable property in the redevelopment area;

(e) If the amount reported pursuant to the provisions of paragraph (d) is less than the total sum of the assessed value of the taxable property in the redevelopment area for any other previous fiscal year, an explanation of the reason for the difference;

(f) Copies of any memoranda of understanding into which the agency enters;

(g) The amortization schedule for any debt incurred for the redevelopment area and the reasons for incurring the debt; and

(h) Any change to the boundary of the redevelopment area and an explanation of the reason for the change.

3. Any report for a redevelopment area submitted pursuant to the provisions of subsection 1 must be submitted with the report for the redevelopment area submitted pursuant to the provisions of subsection 2.

~~[Sec. 2.]~~ ***Sec. 3.*** NRS 279.382 is hereby amended to read as follows:

279.382 The provisions contained in NRS 279.382 to 279.685, inclusive, ***and section ~~[1]~~ 2 of this act*** may be cited as the Community Redevelopment Law.

~~[Sec. 3.]~~ ***Sec. 4.*** NRS 279.384 is hereby amended to read as follows:

279.384 As used in NRS 279.382 to 279.685, inclusive, ***and section ~~[1]~~ 2 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 279.386 to 279.414, inclusive, have the meanings ascribed to them in those sections.

~~[Sec. 4.]~~ ***Sec. 5.*** NRS 279.628 is hereby amended to read as follows:

279.628 1. By resolution of the legislative body adopted by a majority vote any money in the redevelopment revolving fund may be expended from time to time for:

(a) The acquisition of real property in any redevelopment area.

(b) The clearance, aiding in relocation of occupants of the site and preparation of any redevelopment area for redevelopment.

2. By resolution of the legislative body adopted by a two-thirds vote, any money in the redevelopment revolving fund may be paid to the agency, upon such terms and conditions as the legislative body may prescribe for any of the following purposes:

(a) Deposit in a trust fund to be expended for the acquisition of real property in any redevelopment area.

(b) The clearance of any redevelopment area for redevelopment.

(c) Any expenses necessary or incidental to the carrying out of a redevelopment plan which has been adopted by the legislative body.

(d) ~~*[Subject to the provisions of subsection 3, to be used by the agency for]*~~ ***For the provision of grants to pay the costs related to the improvement of*** ~~*[schools]*~~ ***educational facilities in the community*** ~~*[.*~~

~~*3. Money paid to the agency pursuant to paragraph (d) of subsection 2 may only be in the form of grants and may not be used]*~~ ***, except for the cost of any regular expenses of*** ~~*[a school.]*~~ ***such an educational facility.***

Sec. 6. **NRS 279.685 is hereby amended to read as follows:**

279.685 1. Except as otherwise provided in this section, an agency of a city whose population is 300,000 or more that receives revenue from taxes pursuant to paragraph (b) of subsection 1 of NRS 279.676 shall set aside not less than ~~[15]~~ ***:***

(a) Fifteen percent of that revenue received on or before October 1, 1999, and 18 percent of that revenue received after October 1, 1999, ***but before October 1, 2011,*** to increase, improve and preserve the number of dwelling units in the community for low-income households ~~[.]~~ ***; and***

(b) Eighteen percent of that revenue received on or after October 1, 2011, to increase, improve and preserve the number of:

(1) Dwelling units in the community for low-income households; and

(2) Educational facilities within the redevelopment area.

2. The obligation of an agency to set aside not less than 15 percent of the revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, "existing obligations" means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before July 1, 1993, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency after July 1, 1993, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

3. The obligation of an agency to set aside an additional 3 percent of the revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, "existing obligations"

means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before October 1, 1999, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency after October 1, 1999, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

4. ~~[The]~~ ***From the revenue set aside by an agency pursuant to paragraph (b) of subsection 1, not more than 50 percent of that amount may be used to:***

(a) Increase, improve and preserve the number of dwelling units in the community for low-income households; or

(b) Increase, improve and preserve the number of educational facilities within the redevelopment area,

➥ unless the agency establishes that such an amount is insufficient to pay the cost of a project identified in the redevelopment plan for the redevelopment area.

5. Except as otherwise provided in paragraph (b) of subsection 1 and subsection 4, the agency may expend or otherwise commit money for the purposes of subsection 1 outside the boundaries of the redevelopment area.

~~[Sec. 5.]~~ ***Sec. 7.*** 1. On or before January 1, 2012, for each redevelopment area for which a redevelopment plan has been adopted pursuant to the provisions of NRS 279.586 ~~[,]~~ **before July 1, 2011,** the agency shall submit to the Director of the Legislative Counsel Bureau, for transmittal to the Legislature and to the legislative body a report on a form prescribed by the Committee on Local Government Finance that includes, without limitation, the following information for the redevelopment area:

(a) A legal description of the boundaries of the redevelopment area;

(b) The date on which the redevelopment plan for the redevelopment area was adopted;

(c) The scheduled termination date of the redevelopment plan;

(d) The total sum of the assessed value of the taxable property in the redevelopment area for:

(1) The fiscal year immediately preceding the adoption of the redevelopment plan;

(2) The fiscal year during which the redevelopment plan was adopted;

(3) The combined overlapping tax rate of the redevelopment area;

(4) The property tax rate of the redevelopment area;

(5) The property tax revenue received from any tax increment area, as defined in NRS 278C.130, within the redevelopment area for the fiscal year ending June 30, 2011;

(6) Copies of any memoranda of understanding into which the agency enters during the fiscal year ending June 30, 2011; and

(7) The amortization schedule for any debt incurred for the redevelopment area and the reasons for incurring the debt.

2. As used in this section:

(a) "Agency" has the meaning ascribed to it in NRS 279.386.

(b) "Legislative body" has the meaning ascribed to it in NRS 279.396.

(c) "Redevelopment area" has the meaning ascribed to it in NRS 279.410.

~~[Sec. 6.]~~ ***Sec. 8.*** This act becomes effective ~~[upon passage and approval.]~~ **on July 1, 2011.**

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Senate Bill No. 151.

Bill read second time.

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

Amendment No. 648.

AN ACT relating to transportation; requiring certain governmental entities in certain counties to develop a plan for a regional rapid transit system; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires the regional transportation commission in any county whose population is 700,000 or more (currently Clark County) to establish a regional rapid transit authority. The authority is required to analyze various considerations concerning the development of a regional rapid transit system, to develop a plan for such a system and to report to the appropriate committees of the Legislature the progress made on such analyses and plan development.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. Chapter 277A of NRS is hereby amended by adding thereto a new section to read as follows:

1. In a county whose population is 700,000 or more, the commission shall establish a regional rapid transit authority. The membership of the regional rapid transit authority must consist of:

(a) The general manager of the commission, who shall act as chair of the authority;

(b) One member appointed by the board of county commissioners;

(c) Three members, one from each of the three largest cities within the county, who are appointed by the respective governing bodies of each city;

(d) One member selected by the association of gaming establishments whose membership collectively paid the most gaming license fees to the State pursuant to NRS 463.370 in the county in the preceding year;

(e) One member who is selected by the economic development authority in the county;

(f) One member selected by the Department of Transportation; and

(g) One member who has expertise in urban planning and design or architecture selected by the Nevada Arts Council.

2. The regional rapid transit authority shall develop a plan for the establishment of a regional rapid transit system:

(a) In cooperation with economic development, engineering, planning , [and] tourism and utility interests in the county; and

(b) With the goal of quantifying the implications of introducing an exclusive rapid transit system in identified corridors in the county.

3. In carrying out its duties pursuant to subsection 2, the regional rapid transit authority shall:

(a) Hold public meetings to, without limitation:

(1) Evaluate the need for and desirability of a regional rapid transit system;

(2) Assess corridor and route feasibility and desirability; and

(3) Review existing mass transit options to determine how to incorporate such options into a regional rapid transit system;

(b) Undertake an analysis of various considerations involved with introducing and implementing a regional rapid transit system in the county, including, without limitation:

(1) An assessment of the available rapid transit technologies, including, without limitation, technologies that use solar power or other renewable energy sources to minimize or eliminate the use of carbon-based fuels;

(2) An assessment of the opportunities, costs and constraints of corridor options, including, without limitation:

(I) An examination and evaluation of existing rail corridors and transit routes for inclusion in the regional rapid transit system;

(II) An evaluation of potential sites for stations and facilities for the regional rapid transit system; and

(III) Identification of locations in the county that would benefit most from proximity to a regional rapid transit system, including, without limitation, airports and existing or proposed special event venues such as stadiums and racetracks;

(3) Estimates as to capital and operating costs;

(4) An assessment of potential ridership and passenger demand;

(5) An assessment of the environmental impact;

(6) A potential project schedule; and

(7) An assessment of financing options and funding sources, including, without limitation:

(I) Processes for securing federal funding; and

(II) The potential for voter approval for bonds to support any portion of the regional rapid transit system.

4. On or before February 1 of each year, the regional rapid transit authority shall submit a written report to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committee or committees of the Legislature. The report must set forth, without limitation:

(a) The activities and meetings of the authority;

(b) Any findings made by the authority regarding the analysis required by subsection 3; and

(c) The plan or current draft of the plan developed by the authority pursuant to subsection 2.

Sec. 5. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 6. 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. 204.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 744.

AN ACT relating to common-interest communities; enacting certain amendments to the Uniform Common-Interest Ownership Act; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law relating to common-interest communities is based on the Uniform Common-Interest Ownership Act (UCIOA), which was proposed by the Uniform Law Commission (ULC). (Chapter 116 of NRS) This bill enacts certain amendments to the UCIOA which have been proposed by the ULC.

Sections 2, 40 and 41 of this bill prescribe the manner in which an association must provide notice of meetings of units' owners and of the executive board and any other notice required to be given by an association other than notices relating to the foreclosure of a lien on a unit held by the association.

Section 4 of this bill authorizes the executive board or any other ~~[interested]~~ person **with an interest in the common-interest community** to commence an action in the district court for the termination of a common-interest community if: (1) substantially all the units in the common-interest community have been destroyed or are uninhabitable; and (2) the available methods for giving notice of a meeting of units' owners to consider termination are not likely to result in receipt of the notice.

Sections 5 and 6 of this bill reorganize and reenact certain provisions of existing law relating to the indemnification of members of executive boards and the provision of equal space to opposing views in official publications under certain circumstances. Additionally, **section 6** enacts provisions

providing for equal time for candidates and representatives of ballot questions on a closed-circuit television station maintained by an association.

Under existing law, the definitions applicable to laws relating to common-interest communities apply to the declarations and bylaws of associations. (NRS 116.003) **Section 7** of this bill ~~[provides]~~ **clarifies** that those definitions ~~[no longer]~~ apply to those declarations and bylaws.

Sections 8-16 of this bill change certain definitions set forth in existing law to conform to the language of the UCIOA.

Existing law provides that other principles of law, including, without limitation, the law of corporations and the law of unincorporated associations, supplement the existing law relating to common-interest communities. (NRS 116.1108) **Section 18** of this bill provides that the laws governing other forms of organization supplement the existing law relating to common-interest communities.

Sections 20-22 of this bill adopt the language of certain amendments to the UCIOA relating to the applicability of existing law governing common-interest communities. **Section 21 also requires certain associations containing not more than 12 units to provide each unit with a copy of any changes made to the governing documents within 30 days after such changes are made.**

Sections 24-31 of this bill adopt the language of certain amendments to the UCIOA relating to the creation, alteration and termination of common-interest communities. **Section 29** grants units' owners the right to use the common elements for the purposes for which they were intended rather than granting an easement to use the common elements for all purposes. **Section 30** amends provisions relating to requirements for amending the declaration of a common-interest community and to the enforcement of certain amendments. **Section 31** amends the requirements for the termination of a common-interest community.

Sections 32-51 of this bill enact certain amendments to the UCIOA which relate to the governance of common-interest communities. **Section 32** requires ~~[the]~~ **an** association **larger than 12 units** to have an executive board and allows ~~[the]~~ **an** association to be organized as any form of organization authorized by the law of this State. **Section 33** allows the executive board not to take enforcement action if it determines that: (1) the law does not support such action; (2) the violation is not so material as to be objectionable to a reasonable person or to justify expending the association's resources; or (3) it is not in the best interest of the association to pursue an enforcement action. **Section 34** provides that officers of the association and members of the executive board are subject to the conflict of interest rules which govern officers and directors of nonprofit corporations organized under the law of this State. **Section 34.5 provides that if an association seeks to impose and enforce a construction penalty, the association must provide notice of the maximum allowable penalty and schedule in the public offering statement or resale package.** **Section 36** authorizes a declarant to end the

period of declarant's control by giving notice to units' owners and recording an instrument stating that the declarant surrenders all rights to control activities of the association. **Section 37** amends provisions relating to the removal of members of the executive board. **Section 38** amends provisions relating to the termination of certain contracts entered into before the election of an executive board by units' owners. **Section 40** provides that the portion of a meeting of the units' owners devoted to comments by units' owners is limited to comments by units' owners regarding any matter affecting the common-interest community or the association. **Section 42** amends requirements for determining whether a quorum is present at a meeting of the executive board to provide that a majority of the votes on the executive board must be present at the time a vote is taken rather than at the beginning of the meeting. **Section 43** authorizes units' owners to vote by absentee ballot at a meeting of the units' owners. **Section 44** provides that a unit's owner is not liable, by reason of being a unit's owner, for injuries or damage arising out of the condition or use of the common elements. **Sections 45 and 59.5** of this bill require an association to obtain crime insurance and remove the requirement that a community manager post a bond. **Section 45** also requires the association to maintain property, liability and crime insurance subject to reasonable deductibles. **Section 48** amends provisions relating to common expenses caused by a unit's owner, a tenant or an invitee of a unit's owner or tenant. **Section 49** ~~[amends provisions relating to liens for certain charges imposed by an association and]~~ authorizes a court to appoint a receiver when an association brings an action to foreclose a lien or collect assessments. **Sections 51 and 60** amend provisions relating to the books and records of an association and the inspection of such books and records by units' owners.

Sections 52-58 of this bill enact certain amendments to the UCIOA which relate to the disclosures provided to purchasers of real estate located in a common-interest community and the warranties applicable to real estate located in a common-interest community. **Section 52** exempts the disposition of a unit restricted to nonresidential purposes from the requirement to provide a public offering statement or certificate of resale. **Section 53** amends the information required to be included in the public offering statement provided to an initial purchaser of a unit.

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. ***1. Except as otherwise provided in subsection 3, an association shall deliver any notice required to be given by the association under this chapter to any mailing or electronic mail address a unit's owner designates. Except as otherwise provided in subsection 3, if a unit's owner has not designated a mailing or electronic mail address to which a notice must be delivered, the association may deliver notices by:***

(a) Hand delivery to each unit's owner;

(b) Hand delivery, United States mail, postage paid, or commercially reasonable delivery service to the mailing address of each unit;

(c) Electronic means, if the unit's owner has given the association an electronic mail address; or

(d) Any other method reasonably calculated to provide notice to the unit's owner.

2. The ineffectiveness of a good faith effort to deliver notice by an authorized means does not invalidate action taken at or without a meeting.

3. The provisions of this section do not apply:

(a) To a notice required to be given pursuant to NRS 116.3116 to 116.31168, inclusive; or

(b) If any other provision of this chapter specifies the manner in which a notice must be given by an association.

Sec. 3. *This chapter modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq., but does not modify, limit or supersede Section 101(c) of that Act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 U.S.C. § 7003(b).*

Sec. 4. *If substantially all the units in a common-interest community have been destroyed or are uninhabitable and the available methods for giving notice under NRS 116.3108 of a meeting of units' owners to consider termination under NRS 116.2118 will not likely result in receipt of the notice, the executive board or any other ~~[interested]~~ person holding an interest in the common-interest community may commence an action in the district court of the county in which the common-interest community is located seeking to terminate the common-interest community. During the pendency of the action, the court may issue whatever orders it considers appropriate, including, without limitation, an order for the appointment of a receiver. After a hearing, the court may terminate the common-interest community or reduce its size and may issue any other order the court considers to be in the best interest of the units' owners and persons holding an interest in the common-interest community.*

Sec. 5. *If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his or her role as a member of the board, the association shall indemnify the member for his or her losses or claims, and undertake all costs of defense, unless it is proven that the member acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted.*

Sec. 6. *1. If an official publication contains any mention of a candidate or ballot question, the official publication must, upon request and under the same terms and conditions, provide equal space to all*

candidates or to a representative of an organization which supports the passage or defeat of the ballot question.

2. If an official publication contains the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and under the same terms and conditions, provide equal space to opposing views and opinions of a unit's owner of the common-interest community.

3. If an association has a closed-circuit television station and that station interviews, or provides time to, a candidate or a representative of an organization which supports the passage or defeat of a ballot question, the closed-circuit television station must, under the same terms and conditions, allow equal time for all candidates or a representative of an opposing view to the ballot question.

4. The association and its officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to subsection 1, 2 or 3.

5. As used in this section:

(a) "Issue of official interest" means:

(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, elections; and

(2) The enactment or adoption of rules or regulations that will affect the common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or

(3) An official bulletin board that is available to each unit's owner.

Sec. 7. NRS 116.003 is hereby amended to read as follows:

116.003 As used in this chapter ~~[,]~~ and in the declaration and bylaws of an association, ~~[unless the context otherwise requires,]~~ the words and terms defined in NRS 116.005 to 116.095, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 116.007 is hereby amended to read as follows:

116.007 ~~[1.]~~ "Affiliate of a declarant" means any person who controls, is controlled by or is under common control with a declarant.

~~[2.]~~ ***For purposes of this section:***

1. A person ~~["controls"]~~ ***controls*** a declarant if the person:

(a) Is a general partner, officer, director or employer of the declarant;

(b) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the declarant;

(c) Controls in any manner the election of a majority of the directors of the declarant; or

(d) Has contributed more than 20 percent of the capital of the declarant.

~~[3.]~~ ***2.*** A person ~~["is]~~ ***is*** controlled ~~[by"]~~ ***by*** a declarant if the declarant:

(a) Is a general partner, officer, director or employer of the person;

(b) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the person;

(c) Controls in any manner the election of a majority of the directors of the person; or

(d) Has contributed more than 20 percent of the capital of the person.

~~[4.]~~ ***3.*** Control does not exist if the powers described in this section are held solely as security for an obligation and are not exercised.

Sec. 9. NRS 116.009 is hereby amended to read as follows:

116.009 "Allocated interests" means the following interests allocated to each unit:

1. In a condominium, the undivided interest in the common elements, the liability for common expenses, and votes in the association;

2. In a cooperative, the liability for common expenses **,** ~~[and]~~ the ownership ***interest*** and votes in the association; and

3. In a planned community, the liability for common expenses and votes in the association.

Sec. 10. NRS 116.017 is hereby amended to read as follows:

116.017 "Common elements" means:

1. In ~~[a]~~ ***the case of:***

(a) A condominium or cooperative, all portions of the common-interest community other than the units, including easements in favor of units or the common elements over other units **.** ~~[; and~~

~~2. In a]~~

(b) A planned community, any real estate within ~~[the]~~ ***a*** planned community ***which is*** owned or leased by the association, other than a unit.

2. In all common-interest communities, any other interests in real estate for the benefit of units' owners which are subject to the declaration.

Sec. 11. NRS 116.035 is hereby amended to read as follows:

116.035 "Declarant" means any person or group of persons acting in concert who:

1. As part of a common promotional plan, offers to dispose of ~~[his or her or its]~~ ***the*** interest ***of the person or group of persons*** in a unit not previously disposed of; or

2. Reserves or succeeds to any special declarant's right.

Sec. 12. NRS 116.045 is hereby amended to read as follows:

116.045 "Executive board" means the body, regardless of name, designated in the declaration ***or bylaws*** to act on behalf of the association.

Sec. 13. NRS 116.079 is hereby amended to read as follows:

116.079 "Purchaser" means a person, other than a declarant or a dealer, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than ~~[~~a~~]~~ ***:***

1. ***A*** leasehold interest, including options to renew, of less than 20 years ~~[~~, or as~~]~~ ***; or***

2. ***As*** security for an obligation.

Sec. 14. NRS 116.081 is hereby amended to read as follows:

116.081 "Real estate" means any leasehold or other estate or interest in, over or under land, including structures, fixtures and other improvements and interests that by custom, usage or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. ~~[~~"Real estate"~~]~~ ***The term*** includes parcels with or without upper or lower boundaries and spaces that may be filled with air or water.

Sec. 15. NRS 116.089 is hereby amended to read as follows:

116.089 "Special declarant's rights" means rights reserved for the benefit of a declarant to:

1. Complete improvements indicated on plats or in the declaration ~~[~~(NRS 116.2109)~~]~~ or, in a cooperative, to complete improvements described in the public offering statement pursuant to ***paragraph (b) of*** subsection ~~[~~2~~]~~ ***1*** of NRS 116.4103;

2. Exercise any developmental right ***;*** ~~[~~(NRS 116.211);~~]~~

3. Maintain sales offices, management offices, signs advertising the common-interest community and models ***;*** ~~[~~(NRS 116.2115);~~]~~

4. Use easements through the common elements for the purpose of making improvements within the common-interest community or within real estate which may be added to the common-interest community ***;*** ~~[~~(NRS 116.2116);~~]~~

5. Make the common-interest community subject to a master association ***;*** ~~[~~(NRS 116.212);~~]~~

6. Merge or consolidate a common-interest community with another common-interest community of the same form of ownership ***;*** ~~[~~(NRS 116.2121);~~]~~ or

7. Appoint or remove any officer of the association or any master association or any member of an executive board during any period of declarant's control ***.*** ~~[~~(NRS 116.31032).~~]~~

Sec. 16. NRS 116.095 is hereby amended to read as follows:

116.095 "Unit's owner" means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold common-interest community whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the common-interest community, but does not include a person having an interest in a unit solely as security for an obligation. In a condominium or planned community, the declarant is the owner of any unit created by the declaration until that unit is conveyed to another person. In a cooperative, the declarant is treated as the owner of any

unit to which allocated interests have been allocated ~~[(NRS 116.2107)]~~ until that unit has been conveyed to another person.

Sec. 17. NRS 116.1104 is hereby amended to read as follows:

116.1104 Except as expressly provided in this chapter, its provisions may not be varied by agreement, and rights conferred by it may not be waived. ~~[A]~~ ***Except as otherwise provided in paragraph (b) of subsection 2 of NRS 116.12075, a*** declarant may not act under a power of attorney, or use any other device, to evade the limitations or prohibitions of this chapter or the declaration.

Sec. 18. NRS 116.1108 is hereby amended to read as follows:

116.1108 The principles of law and equity, including the law of corporations ~~[,]~~ ***and any other form of organization authorized by law of this State,*** the law of unincorporated associations, the law of real property, and the law relative to capacity to contract, principal and agent, eminent domain, estoppel, fraud, misrepresentation, duress, coercion, mistake, receivership, substantial performance, or other validating or invalidating cause supplement the provisions of this chapter, except to the extent inconsistent with this chapter.

Sec. 19. NRS 116.1114 is hereby amended to read as follows:

116.1114 ~~[1.]~~ The remedies provided by this chapter must be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed. Consequential, special or punitive damages may not be awarded except as specifically provided in this chapter or by other rule of law.

~~[2. Any right or obligation declared by this chapter is enforceable by judicial proceeding.]~~

Sec. 20. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155, except that if the limited-purpose association is created for a rural agricultural residential common-interest community, the limited-purpose association is not required to pay the fee unless the association intends to use the services of the Ombudsman;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038;

(II) NRS 116.31083 and 116.31152, unless the limited-purpose association is created for a rural agricultural residential common-interest community;

(III) NRS 116.31073, if the limited-purpose association is created for maintaining the landscape of the common elements of the common-interest community; and

(IV) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter or a part of this chapter does apply to that planned community pursuant to NRS 116.12075. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but ~~[~~the provisions of~~]~~ NRS 116.4102 ~~[~~to 116.4108,~~]~~ ***and 116.4103, and, to the extent applicable, NRS 116.41035 to 116.4107,*** inclusive, apply to ~~[~~all contracts~~]~~ ***a contract*** for the disposition ~~[~~thereof~~]~~ ***of a unit in that common-interest community*** signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992;

(d) Except as otherwise provided in subsection 8 of NRS 116.31105, prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government, except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives;

(e) Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan; or

(f) Prohibit a master association which governs a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted and which is exempt from the provisions of this chapter pursuant to paragraph (b) of subsection 2 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 21. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in ~~[subsection 2,]~~ ***subsections 2 and 3,*** if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. ***The provisions of NRS 116.12065 and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that the definitions are necessary to construe any of those provisions, apply to a residential planned community containing more than 6 units.***

3. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, ***and sections 5 and 6 of this act*** and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than ~~[six]~~ ***6*** units.

Sec. 22. NRS 116.1206 is hereby amended to read as follows:

116.1206 1. Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter:

(a) Shall be deemed to conform with those provisions by operation of law, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.

(b) Is superseded by the provisions of this chapter, regardless of whether the provision contained in the declaration, bylaw or other governing document became effective before the enactment of the provision of this chapter that is being violated.

2. In the case of amendments to the declaration, bylaws or plats of any common-interest community created before January 1, 1992:

(a) If the result accomplished by the amendment was permitted by law before January 1, 1992, the amendment may be made either in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and

(b) If the result accomplished by the amendment is permitted by this chapter, and was not permitted by law before January 1, 1992, the amendment may be made under this chapter.

3. An amendment to the declaration, bylaws or plats authorized by this section to be made under this chapter must be adopted in conformity with the applicable provisions of chapter 117 or 278A of NRS and ***, except as otherwise provided in subsection 8 of NRS 116.2117,*** with the procedures and requirements specified by those instruments. If an amendment grants to ~~[any]~~ ***a*** person ~~[any rights, powers or privileges]~~ ***a right, power or privilege*** permitted by this chapter, ~~[all]~~ ***any*** correlative ~~[obligations, liabilities and restrictions]~~ ***obligation, liability or restriction*** in this chapter also ~~[apply to that]~~ ***applies to the*** person.

Sec. 23. NRS 116.12075 is hereby amended to read as follows:

116.12075 1. The provisions of this chapter do not apply to a nonresidential condominium except to the extent that the declaration for the nonresidential condominium provides that:

(a) This entire chapter applies to the condominium;

(b) Only the provisions of NRS 116.001 to 116.2122, inclusive, and 116.3116 to 116.31168, inclusive, apply to the condominium; or

(c) Only the provisions of NRS 116.3116 to 116.31168, inclusive, apply to the condominium.

2. If this entire chapter applies to a nonresidential condominium, the declaration may also require, subject to NRS 116.1112, that:

(a) Notwithstanding NRS 116.3105, any management, maintenance operations or employment contract, lease of recreational or parking areas or facilities and any other contract or lease between the association and a declarant or an affiliate of a declarant continues in force after the declarant turns over control of the association; and

(b) Notwithstanding NRS 116.1104 and subsection ~~[2]~~ ***3*** of NRS 116.311, purchasers of units must execute proxies, powers of attorney or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.

Sec. 24. NRS 116.2103 is hereby amended to read as follows:

116.2103 1. The inclusion in a governing document of an association of a provision that violates any provision of this chapter does not render any other provisions of the governing document invalid or otherwise unenforceable if the other provisions can be given effect in accordance with their original intent and the provisions of this chapter.

2. The rule against perpetuities and NRS 111.103 to 111.1039, inclusive, do not apply to defeat any provision of the declaration, bylaws, rules or regulations adopted pursuant to NRS 116.3102.

3. ~~[In the event of]~~ ***If*** a conflict ***exists*** between ~~[the provisions of]~~ the declaration and the bylaws, the declaration prevails except to the extent the declaration is inconsistent with this chapter.

4. Title to a unit and common elements is not rendered unmarketable or otherwise affected by reason of an insubstantial failure of the declaration to comply with this chapter. Whether a substantial failure impairs marketability is not affected by this chapter.

Sec. 25. NRS 116.2105 is hereby amended to read as follows:

116.2105 1. The declaration must contain:

(a) The names of the common-interest community and the association and a statement that the common-interest community is either a condominium, cooperative or planned community;

(b) The name of every county in which any part of the common-interest community is situated;

(c) A ***legally*** sufficient description of the real estate included in the common-interest community;

(d) A statement of the maximum number of units that the declarant reserves the right to create;

(e) In a condominium or planned community, a description of the boundaries of each unit created by the declaration, including the unit's identifying number or, in a cooperative, a description, which may be by plats, of each unit created by the declaration, including the unit's identifying number, its size or number of rooms, and its location within a building if it is within a building containing more than one unit;

(f) A description of any limited common elements, other than those specified in subsections 2 and 4 of NRS 116.2102, as provided in paragraph (g) of subsection 2 of NRS 116.2109 and, in a planned community, any real estate that is or must become common elements;

(g) A description of any real estate, except real estate subject to developmental rights, that may be allocated subsequently as limited common elements, other than limited common elements specified in subsections 2 and 4 of NRS 116.2102, together with a statement that they may be so allocated;

(h) A description of any developmental rights and other special declarant's rights reserved by the declarant, together with a legally sufficient description of the real estate to which each of those rights applies, and a time ***limit*** within which each of those rights must be exercised;

(i) If any developmental right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with:

(1) Either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each developmental right or a statement that no assurances are made in those regards; and

(2) A statement whether, if any developmental right is exercised in any portion of the real estate subject to that developmental right, that developmental right must be exercised in all or in any other portion of the remainder of that real estate;

(j) Any other conditions or limitations under which the rights described in paragraph (h) may be exercised or will lapse;

(k) An allocation to each unit of the allocated interests in the manner described in NRS 116.2107;

(l) Any restrictions:

(1) On use, occupancy and alienation of the units; and

(2) On the amount for which a unit may be sold or on the amount that may be received by a unit's owner on sale, condemnation or casualty to the unit or to the common-interest community, or on termination of the common-interest community;

(m) The file number and book or other information ~~[to show where]~~ ***for recorded*** easements and licenses ~~[are recorded]~~ appurtenant to or included in the common-interest community or to which any portion of the common-interest community is or may become subject by virtue of a reservation in the declaration; and

(n) All matters required by NRS 116.2106 to 116.2109, inclusive, 116.2115, 116.2116 and 116.31032.

2. The declaration may contain any other matters the declarant considers appropriate.

Sec. 26. NRS 116.2106 is hereby amended to read as follows:

116.2106 1. Any lease the expiration or termination of which may terminate the common-interest community or reduce its size must be recorded. Every lessor of those leases in a condominium or planned community shall sign the declaration. The declaration must state:

(a) The recording data ~~[where]~~ ***for*** the lease ~~[is]~~ ***or a statement of where the*** recorded ~~[;]~~ ***lease may be inspected;***

(b) The date on which the lease is scheduled to expire;

(c) A legally sufficient description of the real estate subject to the lease;

(d) Any right of the units' owners to redeem the reversion and the manner whereby those rights may be exercised, or a statement that they do not have those rights;

(e) Any right of the units' owners to remove any improvements within a reasonable time after the expiration or termination of the lease, or a statement that they do not have those rights; and

(f) Any rights of the units' owners to renew the lease and the conditions of any renewal, or a statement that they do not have those rights.

2. After the declaration for a leasehold condominium or leasehold planned community is recorded, neither the lessor nor the lessor's successor in interest may terminate the leasehold interest of a unit's owner who makes timely payment of his or her share of the rent and otherwise complies with all covenants which, if violated, would entitle the lessor to terminate the lease. The leasehold interest of a unit's owner in a condominium or planned community is not affected by failure of any other person to pay rent or fulfill any other covenant.

3. Acquisition of the leasehold interest of any unit's owner by the owner of the reversion or remainder does not merge the leasehold and freehold interests unless the leasehold interests of all units' owners subject to that reversion or remainder are acquired.

4. If the expiration or termination of a lease decreases the number of units in a common-interest community, the allocated interests must be reallocated in accordance with subsection 1 of NRS 116.1107 as if those units had been taken by eminent domain. Reallocations must be confirmed by an amendment to the declaration prepared, executed and recorded by the association.

Sec. 27. NRS 116.2107 is hereby amended to read as follows:

116.2107 1. The declaration must allocate to each unit:

(a) In a condominium, a fraction or percentage of undivided interests in the common elements and in the common expenses of the association **,** **[**~~(NRS 116.3115)~~**]** and a portion of the votes in the association;

(b) In a cooperative, a proportionate ownership in the association, a fraction or percentage of the common expenses of the association **[**~~(NRS 116.3115)~~**]** and a portion of the votes in the association; and

(c) In a planned community, a fraction or percentage of the common expenses of the association **[**~~(NRS 116.3115)~~**]** and a portion of the votes in the association.

2. The declaration must state the formulas used to establish allocations of interests. Those allocations may not discriminate in favor of units owned by the declarant or an affiliate of the declarant.

3. If units may be added to or withdrawn from the common-interest community, the declaration must state the formulas to be used to reallocate the allocated interests among all units included in the common-interest community after the addition or withdrawal.

4. The declaration may provide:

(a) That different allocations of votes are made to the units on particular matters specified in the declaration;

(b) For cumulative voting only for the purpose of electing members of the executive board; and

(c) For class voting on specified issues affecting the class if necessary to protect valid interests of the class.

➥ Except as otherwise provided in NRS 116.31032, a declarant may not utilize cumulative or class voting for the purpose of evading any limitation imposed on declarants by this chapter nor may units constitute a class because they are owned by a declarant.

5. Except for minor variations because of rounding, the sum of the liabilities for common expenses and, in a condominium, the sum of the undivided interests in the common elements allocated at any time to all the units must each equal one if stated as a fraction or 100 percent if stated as a percentage. In the event of discrepancy between an allocated interest and the result derived from application of the pertinent formula, the allocated interest prevails.

6. In a condominium, the common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated is void.

7. In a cooperative, any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an ownership interest in the association made without the possessory interest in the unit to which that interest is related is void.

Sec. 28. NRS 116.2113 is hereby amended to read as follows:

116.2113 1. If the declaration expressly so permits, a unit may be subdivided into two or more units. Subject to ~~[the provisions of]~~ the declaration and ~~[other provisions of]~~ law ~~[,]~~ ***other than this chapter,*** upon application of the unit's owner to subdivide a unit, the association shall prepare, execute and record an amendment to the declaration, including **,** in a condominium or planned community **,** the plats, subdividing that unit.

2. The amendment to the declaration must be executed by the owner of the unit to be subdivided, assign an identifying number to each unit created, and reallocate the allocated interests formerly allocated to the subdivided unit to the new units in any reasonable manner prescribed by the owner of the subdivided unit ~~[.]~~ ***or on any other basis the declaration requires.***

Sec. 29. NRS 116.2116 is hereby amended to read as follows:

116.2116 1. Subject to ~~[the provisions of]~~ the declaration, a declarant has an easement through the common elements as may be reasonably necessary to discharge the declarant's obligations or exercise special declarant's rights, whether arising under this chapter or reserved in the declaration.

2. ~~[In a planned community, subject to the provisions of]~~ ***Subject to*** paragraph (f) of subsection 1 of NRS 116.3102 and NRS 116.3112, the units' owners have an easement ~~[:~~

~~(a) In]~~ ***in*** the common elements for purposes of access to their units ***.*** ~~[;~~ ~~and~~

~~(b) To]~~

3. Subject to the declaration and any rules adopted by the association, the units' owners have a right to use the common elements ***that are not limited common elements*** and all real estate that must become common elements ~~[(paragraph (f) of subsection 1 of NRS 116.2105) for all other]~~ ***for the*** purposes ~~[.]~~ ***for which they were intended.***

~~[3.]~~ ***4.*** Unless the terms of an easement in favor of an association prohibit a residential use of a servient estate, if the owner of the servient estate has obtained all necessary approvals required by law or any covenant, condition or restriction on the property, the owner may use such property in any manner authorized by law without obtaining any additional approval from the association. Nothing in this subsection authorizes an owner of a servient estate to impede the lawful and contractual use of the easement.

~~[4.]~~ ***5.*** The provisions of subsection ~~[3]~~ ***4*** do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

Sec. 30. NRS 116.2117 is hereby amended to read as follows:

116.2117 1. Except as otherwise provided in NRS 116.21175, and except in cases of amendments that may be executed by a declarant under subsection 5 of NRS 116.2109 or NRS 116.211, or by the association under NRS 116.1107, 116.2106, subsection 3 of NRS 116.2108, subsection 1 of NRS 116.2112 or NRS 116.2113, or by certain units' owners under subsection 2 of NRS 116.2108, subsection 1 of NRS 116.2112, subsection 2 of NRS 116.2113 or subsection 2 of NRS 116.2118, and except as otherwise limited by ~~[subsection]~~ ***subsections*** 4, ***7 and 8,*** the declaration, including any plats, may be amended only by vote or agreement of units' owners of units to which at least a majority of the votes in the association are allocated, ~~[or any larger majority]~~ ***unless*** the declaration specifies ~~[. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.]~~ ***a different percentage for all amendments or for specified subjects of amendment. If the declaration requires the approval of another person as a condition of its effectiveness, the amendment is not valid without that approval.***

2. No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than 1 year after the amendment is recorded.

3. Every amendment to the declaration must be recorded in every county in which any portion of the common-interest community is located and is effective only upon recordation. An amendment, except an amendment pursuant to NRS 116.2112, must be indexed in the grantee's index in the name of the common-interest community and the association and in the grantor's index in the name of the parties executing the amendment.

4. Except to the extent expressly permitted or required by other provisions of this chapter, no amendment may change the boundaries of any unit ~~[or]~~ ***, change*** the allocated interests of a unit ***or change the uses to which any unit is restricted,*** in the absence of unanimous consent of ~~[the]~~ ***only those*** units' owners ***whose units are*** affected and the consent of a majority of the owners of the remaining units.

5. Amendments to the declaration required by this chapter to be recorded by the association must be prepared, executed, recorded and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

6. An amendment to the declaration which prohibits or materially restricts the permitted uses of ~~*for behavior in]*~~ ***a unit or the number or other qualifications of persons who may occupy units may not be enforced against a unit's owner who was the owner of the unit on the date of the recordation of the amendment as long as the unit's owner remains the owner of that unit.***

7. A provision in the declaration creating special declarant's rights that have not expired may not be amended without the consent of the declarant.

8. If any provision of this chapter or of the declaration requires the consent of a holder of a security interest in a unit, or an insurer or guarantor of such interest, as a condition to the effectiveness of an amendment to the declaration, that consent is deemed granted if:

(a) The holder, insurer or guarantor has not requested, in writing, notice of any proposed amendment; or

(b) Notice of any proposed amendment is required or has been requested and a written refusal to consent is not received by the association within 60 days after the association delivers notice of the proposed amendment to the holder, insurer or guarantor, by certified mail, return receipt requested, to the address for notice provided by the holder, insurer or guarantor in a prior written request for notice.

Sec. 31. NRS 116.2118 is hereby amended to read as follows:

116.2118 1. Except in the case of a taking of all the units by eminent domain ***,*** ~~[(NRS 116.1107) or]~~ in the case of foreclosure against an entire cooperative of a security interest that has priority over the declaration, ***or in the circumstances described in section 4 of this act,*** a common-interest community may be terminated only by agreement of units' owners to whom

at least 80 percent of the votes in the association are allocated, or any larger percentage the declaration specifies ~~[.]~~ ***, and with any other approvals required by the declaration.*** The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses.

2. An agreement to terminate must be evidenced by the execution of an agreement to terminate, or ratifications thereof, in the same manner as a deed, by the requisite number of units' owners. The agreement must specify a date after which the agreement will be void unless it is recorded before that date. An agreement to terminate and all ratifications thereof must be recorded in every county in which a portion of the common-interest community is situated and is effective only upon recordation.

3. In the case of a condominium or planned community containing only units having horizontal boundaries described in the declaration, an agreement to terminate may provide that all of the common elements and units of the common-interest community must be sold following termination. If, pursuant to the agreement, any real estate in the common-interest community is to be sold following termination, the agreement must set forth the minimum terms of the sale.

4. In the case of a condominium or planned community containing any units not having horizontal boundaries described in the declaration, an agreement to terminate may provide for sale of the common elements, but it may not require that the units be sold following termination, unless the declaration as originally recorded provided otherwise or all the units' owners consent to the sale.

5. The association, on behalf of the units' owners, may contract for the sale of real estate in a common-interest community, but the contract is not binding on the units' owners until approved pursuant to subsections 1 and 2. If any real estate is to be sold following termination, title to that real estate, upon termination, vests in the association as trustee for the holders of all interests in the units. Thereafter, the association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the association continues in existence with all powers it had before termination. Proceeds of the sale must be distributed to units' owners and lienholders as their interests may appear, in accordance with NRS 116.21183 and 116.21185. Unless otherwise specified in the agreement to terminate, as long as the association holds title to the real estate, each unit's owner and his or her successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit. During the period of that occupancy, each unit's owner and his or her successors in interest remain liable for all assessments and other obligations imposed on units' owners by this chapter or the declaration.

6. In a condominium or planned community, if the real estate constituting the common-interest community is not to be sold following termination, title to the common elements and, in a common-interest

community containing only units having horizontal boundaries described in the declaration, title to all the real estate in the common-interest community, vests in the units' owners upon termination as tenants in common in proportion to their respective interests as provided in NRS 116.21185, and liens on the units shift accordingly. While the tenancy in common exists, each unit's owner and his or her successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit.

7. Following termination of the common-interest community, the proceeds of ~~[any]~~ ***a*** sale of real estate, together with the assets of the association, are held by the association as trustee for units' owners and holders of liens on the units as their interests may appear.

Sec. 32. NRS 116.3101 is hereby amended to read as follows:

116.3101 1. A unit-owners' association must be organized no later than the date the first unit in the common-interest community is conveyed.

2. The membership of the association at all times consists exclusively of all units' owners or, following termination of the common-interest community, of all owners of former units entitled to distributions of proceeds under NRS 116.2118, 116.21183 and 116.21185, or their heirs, successors or assigns.

3. ~~*[The]*~~ ***Except for a residential planned community containing not more than 12 units, the association must have an executive board.***

4. The association must:

(a) Be organized as a profit or nonprofit corporation, association, limited-liability company, trust ***,*** ~~[or]~~ partnership ~~[,]~~ ***or any other form of organization authorized by the law of this State;***

(b) Include in its articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization, or any amendment thereof, that the purpose of the corporation, association, limited-liability company, trust or partnership is to operate as an association pursuant to this chapter;

(c) Contain in its name the words "common-interest community," "community association," "master association," "homeowners' association" or "unit-owners' association"; and

(d) Comply with the applicable provisions of chapters 78, 81, 82, 86, 87, 87A, 88 and 88A of NRS when filing with the Secretary of State its articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization, or any amendment thereof.

Sec. 33. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in this ~~[section,]~~ ***chapter,*** and subject to the provisions of the declaration, the association ***:*** ~~[may do any or all of the following:]~~

(a) ~~[Adopt]~~ ***Shall adopt*** and ***, except as otherwise provided in the bylaws, may*** amend bylaws ~~[,]~~ ***and may adopt and amend*** rules and regulations.

(b) ~~[Adopt]~~ ***Shall adopt*** and ***may*** amend budgets ~~[for revenues, expenditures and reserves and]~~ ***in accordance with the requirements set forth in NRS 116.31151, may*** collect assessments for common expenses from the units' owners ~~[.]~~ ***and may invest funds of the association in accordance with the requirements set forth in NRS 116.311395.***

(c) ~~[Hire]~~ ***May hire*** and discharge managing agents and other employees, agents and independent contractors.

(d) ~~[Institute,]~~ ***May institute,*** defend or intervene in litigation ***or in arbitration, mediation*** or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) ~~[Make]~~ ***May make*** contracts and incur liabilities. Any contract between the association and a private entity for the furnishing of goods or services must not include a provision granting the private entity the right of first refusal with respect to extension or renewal of the contract.

(f) ~~[Regulate]~~ ***May regulate*** the use, maintenance, repair, replacement and modification of common elements.

(g) ~~[Cause]~~ ***May cause*** additional improvements to be made as a part of the common elements.

(h) ~~[Acquire,]~~ ***May acquire,*** hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) ~~[Grant]~~ ***May grant*** easements, leases, licenses and concessions through or over the common elements.

(j) ~~[Impose]~~ ***May impose*** and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners, including, without limitation, any services provided pursuant to NRS 116.310312.

(k) ~~[Impose]~~ ***May impose*** charges for late payment of assessments pursuant to NRS 116.3115.

(l) ~~[Impose]~~ ***May impose*** construction penalties when authorized pursuant to NRS 116.310305.

(m) ~~[Impose]~~ ***May impose*** reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) ~~[Impose]~~ ***May impose*** reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of

unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) ~~[Provide]~~ ***May provide*** for the indemnification of its officers and executive board and maintain ~~[directors' and officers']~~ ***directors and officers*** liability insurance.

(p) ~~[Assign]~~ ***May assign*** its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) ~~[Exercise]~~ ***May exercise*** any other powers conferred by the declaration or bylaws.

(r) ~~[Exercise]~~ ***May exercise*** all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) ~~[Direct]~~ ***May direct*** the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) ~~[Exercise]~~ ***May exercise*** any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not ~~[impose limitations on]~~ ***limit*** the power of the association to deal with the declarant ~~[which are]~~ ***if the limit is*** more restrictive than the ~~[limitations]~~ ***limit*** imposed on the power of the association to deal with other persons.

3. ***The executive board may determine whether to take enforcement action by exercising the association's power to impose sanctions or commence an action for a violation of the declaration, bylaws or rules, including whether to compromise any claim for unpaid assessments or other claim made by or against it. The executive board does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented:***

(a) The association's legal position does not justify taking any or further enforcement action;

(b) The covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with current law;

(c) Although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the association's resources; or

(d) It is not in the association's best interests to pursue an enforcement action.

4. The executive board's decision under subsection 3 not to pursue enforcement under one set of circumstances does not prevent the executive board from taking enforcement action under another set of circumstances, but the executive board may not be arbitrary or capricious in taking enforcement action.

5. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. For the purposes of this subsection, "assessment" does not include any charge for any utility services, including, without limitation, telecommunications, broadband communications, cable television, electricity, natural gas, sewer services, garbage collection, water or for any other service which is delivered to and used or consumed directly by the property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 34. NRS 116.3103 is hereby amended to read as follows:

116.3103 1. Except as otherwise provided in the declaration, the bylaws, this section or other provisions of this chapter, the executive board ~~[may act in all instances]~~ ***acts*** on behalf of the association. In the performance of their duties, the officers and members of the executive board are fiduciaries and shall act on an informed basis, in good faith and in the honest belief that their actions are in the best interest of the association. ~~[The]~~ ***Officers and*** members of the executive board ~~[are]~~ ***:***

(a) Are required to exercise the ordinary and reasonable care of ***officers and*** directors of a ***nonprofit*** corporation, subject to the business-judgment rule ~~[.]~~ ***; and***

(b) Are subject to conflict of interest rules governing the officers and directors of a nonprofit corporation organized under the law of this State.

2. The executive board may not act ~~[on behalf of the association]~~ to ~~[amend]~~ ***:***

(a) Amend the declaration ***.*** ~~[.]~~ ~~[to terminate]~~ ~~*[except as otherwise provided in NRS 116.2117.]*~~

(b) Terminate the common-interest community ***.*** ~~[, or to elect]~~

(c) Elect members of the executive board ~~[or determine their]~~ ***, but unless the governing documents provide that a vacancy on the executive board must be filled by a vote of the membership of the association, the executive board may fill vacancies in its membership for the unexpired portion of any term or until the next regularly scheduled election of executive board members, whichever is earlier. Any executive board member elected to a***

previously vacant position which was temporarily filled by board appointment may only be elected to fulfill the remainder of the unexpired portion of the term.

(d) Determine the qualifications, powers ***,*** ~~[and]~~ duties or terms of office ~~[,~~ ~~but the executive board may fill vacancies in its membership for the unexpired portion of any term unless the governing documents provide that a vacancy on the executive board must be filled by a vote of the membership of the association.]~~ ***of members of the executive board.***

3. The executive board shall adopt budgets as provided in NRS 116.31151.

Sec. 34.5. **NRS 116.310305 is hereby amended to read as follows:**

116.310305 1. A unit's owner shall adhere to a schedule required by the association for:

(a) The completion of the design of a unit or the design of an improvement to a unit;

(b) The commencement of the construction of a unit or the construction of an improvement to a unit;

(c) The completion of the construction of a unit or the construction of an improvement to the unit; or

(d) The issuance of a permit which is necessary for the occupancy of a unit or for the use of an improvement to a unit.

2. The association may impose and enforce a construction penalty against a unit's owner who fails to adhere to a schedule as required pursuant to subsection 1 if:

(a) The ~~[maximum amount of the]~~ ***right to assess and collect a*** construction penalty ~~[and the schedule are]~~ ***is*** set forth in:

(1) The declaration;

(2) Another document related to the common-interest community that is recorded before the date on which the unit's owner acquired title to the unit; or

(3) A contract between the unit's owner and the association; ~~[and]~~

(b) ***The association has included notice of the maximum amount of the construction penalty and schedule as part of any public offering statement or resale package required by this chapter; and***

(c) The unit's owner receives notice of the alleged violation which informs the unit's owner that he or she has a right to a hearing on the alleged violation.

3. For the purposes of this chapter, a construction penalty is not a fine.

Sec. 35. NRS 116.31031 is hereby amended to read as follows:

116.31031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or an invitee of a unit's owner or a tenant violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:

(a) Prohibit, for a reasonable time, the unit's owner or the tenant or the invitee of the unit's owner or the tenant from:

(1) Voting on matters related to the common-interest community.

(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner or the tenant or the invitee of the unit's owner or the tenant from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

(b) Impose a fine against the unit's owner or the tenant or the invitee of the unit's owner or the tenant for each violation, except that:

(1) A fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305; and

(2) A fine may not be imposed against a unit's owner or a tenant or invitee of a unit's owner or a tenant for a violation of the governing documents which involves a vehicle and which is committed by a person who is delivering goods to, or performing services for, the unit's owner or tenant or invitee of the unit's owner or the tenant.

➥ If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed $100 for each violation or a total amount of $1,000, whichever is less. The limitations on the amount of the fine do not apply to any charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.

2. The executive board may not impose a fine pursuant to subsection 1 against a unit's owner for a violation of any provision of the governing documents of an association committed by an invitee of the unit's owner or the tenant unless the unit's owner:

(a) Participated in or authorized the violation;

(b) Had prior notice of the violation; or

(c) Had an opportunity to stop the violation and failed to do so.

3. ***If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.***

4. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the violation, the unit's owner and, if different, the person against whom the fine will be imposed had been

provided with written notice of the applicable provisions of the governing documents that form the basis of the violation; and

(b) Within a reasonable time after the discovery of the violation, the unit's owner and, if different, the person against whom the fine will be imposed has been provided with:

(1) Written notice specifying the details of the violation, the amount of the fine, and the date, time and location for a hearing on the violation; and

(2) A reasonable opportunity to contest the violation at the hearing.

➥ For the purposes of this subsection, a unit's owner shall not be deemed to have received written notice unless written notice is mailed to the address of the unit and, if different, to a mailing address specified by the unit's owner.

~~[4.]~~ ***5.*** The executive board must schedule the date, time and location for the hearing on the violation so that the unit's owner and, if different, the person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

~~[5.]~~ ***6.*** The executive board must hold a hearing before it may impose the fine, unless the fine is paid before the hearing or unless the unit's owner and, if different, the person against whom the fine will be imposed:

(a) Executes a written waiver of the right to the hearing; or

(b) Fails to appear at the hearing after being provided with proper notice of the hearing.

~~[6.]~~ ***7.*** If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.

~~[7.]~~ ***8.*** If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.

~~[8.]~~ ***9.*** A member of the executive board shall not participate in any hearing or cast any vote relating to a fine imposed pursuant to subsection 1 if the member has not paid all assessments which are due to the association by the member. If a member of the executive board:

(a) Participates in a hearing in violation of this subsection, any action taken at the hearing is void.

(b) Casts a vote in violation of this subsection, the vote is void.

~~[9.]~~ ***10.*** The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

~~[10.]~~ ***11.*** Any past due fine must not bear interest, but may include any costs incurred by the association during a civil action to enforce the payment of the past due fine.

~~[11.]~~ ***12.*** If requested by a person upon whom a fine was imposed, not later than 60 days after receiving any payment of a fine, an association shall provide to the person upon whom the fine was imposed a statement of the remaining balance owed.

Sec. 36. NRS 116.31032 is hereby amended to read as follows:

116.31032 1. Except as otherwise provided in this section, the declaration may provide for a period of declarant's control of the association, during which a declarant, or persons designated by a declarant, may appoint and remove the officers of the association and members of the executive board. ***A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period and, in that event, the declarant may require, for the duration of the period of declarant's control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.*** Regardless of the period provided in the declaration, a period of declarant's control terminates no later than ~~[:]~~ ***the earliest of:***

(a) Sixty days after conveyance of 75 percent of the units that may be created to units' owners other than a declarant or, if the association exercises powers over a common-interest community pursuant to this chapter and a time-share plan pursuant to chapter 119A of NRS, 120 days after conveyance of 80 percent of the units that may be created to units' owners other than a declarant;

(b) Five years after all declarants have ceased to offer units for sale in the ordinary course of business; ~~[or]~~

(c) Five years after any right to add new units was last exercised ~~[,~~ ~~whichever occurs earlier.]~~ ***; or***

(d) The day the declarant, after giving notice to units' owners, records an instrument voluntarily surrendering all rights to control activities of the association.

2. ~~[A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period, but in that event the declarant may require, for the duration of the period of declarant's control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.~~

~~3.]~~ Not later than 60 days after conveyance of 25 percent of the units that may be created to units' owners other than a declarant, at least one member and not less than 25 percent of the members of the executive board must be elected by units' owners other than the declarant. Not later than 60 days after conveyance of 50 percent of the units that may be created to units' owners other than a declarant, not less than ~~[33 1/3 percent]~~ ***one-third*** of the

members of the executive board must be elected by units' owners other than the declarant.

Sec. 37. NRS 116.31036 is hereby amended to read as follows:

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section ~~[~~:

~~(a) The~~~~]~~ ***, the*** number of votes cast ***in favor of removal*** constitutes ~~[at]~~ ***:***

(a) At least 35 percent of the total number of voting members of the association; and

(b) At least a majority of all votes cast in that removal election ***.*** ~~[are cast in favor of removal.]~~

2. ***A removal election may be called by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. To call a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this subsection and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If a removal election is called pursuant to this subsection and:***

(a) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to this section:

(1) The secret written ballots for the removal election must be sent in the manner required by this section not less than 15 days or more than 60 days after the date on which the petition is received; and

(2) The executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots and not later than 90 days after the date on which the petition was received.

(b) The voting rights of the owners of time shares will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 90 days after the date on which the petition is received.

➥ The association shall not adopt any rule or regulation which prevents or unreasonably interferes with the collection of the required percentage of signatures for a petition pursuant to this subsection.

3. Except as otherwise provided in NRS 116.31105, the removal of any member of the executive board must be conducted by secret written ballot in the following manner:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest

community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

~~[3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his or her role as a member of the board, the association shall indemnify the member for his or her losses or claims, and undertake all costs of defense, unless it is proven that the member acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against:~~

~~(a) The association;~~

~~(b) The members of the executive board for acts or omissions that occur in their official capacity as members of the executive board; or~~

~~(c) The officers of the association for acts or omissions that occur in their capacity as officers of the association.~~

~~4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.]~~

Sec. 38. NRS 116.3105 is hereby amended to read as follows:

116.3105 ~~[If entered into before]~~

1. Within 2 years after the executive board elected by the units' owners pursuant to NRS 116.31034 takes office, ~~[any]~~ ***the association may terminate without penalty, upon not less than 90 days' notice to the other party, any of the following if it was entered into before that executive board was elected:***

(a) Any management ~~[contract,]~~ ***, maintenance, operations or*** employment contract, or lease of recreational or parking areas or facilities ~~[, any]~~ ***; or***

(b) Any other contract or lease between the association and a declarant or an affiliate of a declarant ***.*** ~~[or any contract or lease that is not in good faith or~~

~~was unconscionable to the units' owners at the time entered into under the circumstances then prevailing may be terminated~~]

2. The association may terminate without penalty ***,*** [~~by the association~~] at any time after the executive board elected by the units' owners ***pursuant to NRS 116.31034*** takes office upon not less than 90 days' notice to the other party [~~.~~] ***, any contract or lease that is not in good faith or was unconscionable to the units' owners at the time entered into.***

3. This section does not apply to [~~any~~] ***:***

(a) Any lease the termination of which would terminate the common-interest community or reduce its size, unless the real estate subject to that lease was included in the common-interest community for the purpose of avoiding the right of the association to terminate a lease under this section [~~, or to a~~] ***; or***

(b) A proprietary lease.

Sec. 39. NRS 116.3106 is hereby amended to read as follows:

116.3106 1. The bylaws of the association must ***:*** [~~provide:~~]

(a) [~~The~~] ***Provide the*** number of members of the executive board and the titles of the officers of the association;

(b) [~~For~~] ***Provide for*** election by the executive board of a president, treasurer, secretary and any other officers of the association the bylaws specify;

(c) [~~The~~] ***Specify the*** qualifications, powers and duties, terms of office and manner of electing and removing officers of the association and members of the executive board and filling vacancies;

(d) [~~Which~~] ***Specify the*** powers [~~, if any, that~~] the executive board or the officers of the association may delegate to other persons or to a community manager;

(e) [~~Which of its~~] ***Specify the*** officers ***who*** may prepare, execute, certify and record amendments to the declaration on behalf of the association;

(f) [~~Procedural~~] ***Provide procedural*** rules for conducting meetings of the association;

(g) [~~A~~] ***Specify a*** method for [~~amending~~] ***the units' owners to amend*** the bylaws; [~~and~~]

(h) [~~Procedural~~] ***Provide procedural*** rules for conducting elections [~~.~~] ***;***

(i) Contain any provision necessary to satisfy requirements in this chapter or the declaration concerning meetings, voting, quorums and other activities of the association; and

(j) Provide for any matter required by law of this State other than this chapter to appear in the bylaws of organizations of the same type as the association.

2. Except as otherwise provided in ***this chapter or*** the declaration, the bylaws may provide for any other ***necessary or appropriate*** matters [~~the association deems necessary and appropriate.~~] ***, including, without limitation, matters that could be adopted as rules.***

3. The bylaws must be written in plain English.

Sec. 40. NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners must be held at least once each year ~~[.]~~ ***at a time and place stated in or fixed in accordance with the bylaws.*** If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.

2. ~~[Special meetings]~~ ***An association shall hold a special meeting*** of the units' owners ~~[may be called by the]~~ ***to address any matter affecting the common-interest community or the association if its*** president, ~~[by]~~ a majority of the executive board or ~~[by]~~ units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of ~~[voting members of]~~ ***votes in*** the association ~~[. The same number of units' owners may also call a removal election pursuant to NRS 116.31036.]~~ ***request that the secretary call such a meeting.*** To call a special meeting ***,*** ~~[or a removal election,]~~ the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this subsection and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. ~~[If the petition calls for a removal election and:~~

~~(a) The voting rights of the owners of time shares will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or~~

~~(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.~~

~~→]~~ The association shall not adopt any rule or regulation which prevents or unreasonably interferes with the collection of the required percentage of signatures for a petition pursuant to this subsection.

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be ~~[hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing~~

~~address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner.~~] ***given to the units' owners in the manner set forth in section 2 of this act.*** The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners ***regarding any matter affecting the common-interest community or the association*** and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

5. ~~[If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.~~

~~6.~~] The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. Except as otherwise provided in this subsection, a copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is

unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

~~[7.]~~ ***6.*** Except as otherwise provided in subsection ~~[8.]~~ ***7,*** the minutes of each meeting of the units' owners must include:

(a) The date, time and place of the meeting;

(b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner at the meeting if the unit's owner requests that the minutes reflect his or her remarks or, if the unit's owner has prepared written remarks, a copy of his or her prepared remarks if the unit's owner submits a copy for inclusion.

~~[8.]~~ ***7.*** The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

~~[9.]~~ ***8.*** The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

~~[10.]~~ ***9.*** A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his or her intent to record the meeting to the other units' owners who are in attendance at the meeting.

~~[11.]~~ ***10.*** The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

~~[12.]~~ ***11.*** As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.

Sec. 41. NRS 116.31083 is hereby amended to read as follows:

116.31083 1. A meeting of the executive board must be held at least once every quarter, and not less than once every 100 days and must be held at a time other than during standard business hours at least twice annually.

2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

(a) ~~[Sent prepaid by United States mail to the mailing address of each unit within the common interest community or to any other mailing address designated in writing by the unit's owner;~~

~~(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or~~

~~(c)]~~ ***Given to the units' owners in the manner set forth in section 2 of this act; or***

(b) Published in a newsletter or other similar publication that is circulated to each unit's owner.

3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.

4. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the audio recording, the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. A period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for both the beginning and the end of each meeting. During the period devoted to comments by the units' owners and discussion of those comments at the beginning of each meeting, comments by the units' owners and discussion of those comments must be limited to items listed on the agenda. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

6. At least once every quarter, and not less than once every 100 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

(a) A current year-to-date financial statement of the association;

(b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;

(c) A current reconciliation of the operating account of the association;

(d) A current reconciliation of the reserve account of the association;

(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and

(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

7. The secretary or other officer specified in the bylaws shall cause each meeting of the executive board to be audio recorded and the minutes to be recorded or otherwise taken at each meeting of the executive board, but if the executive board is meeting in executive session, the meeting must not be audio recorded. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the audio recording of the meeting, the minutes of the meeting and a summary of the minutes of the meeting to be made available to the units' owners. Except as otherwise provided in this subsection, a copy of the audio recording, the minutes or a summary of the minutes must be provided to any unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

8. Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:

(a) The date, time and place of the meeting;

(b) Those members of the executive board who were present and those members who were absent at the meeting;

(c) The substance of all matters proposed, discussed or decided at the meeting;

(d) A record of each member's vote on any matter decided by vote at the meeting; and

(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if the unit's owner requests that the minutes reflect his or her remarks or, if the unit's owner has prepared written remarks, a copy of his or her prepared remarks if the unit's owner submits a copy for inclusion.

9. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

10. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

11. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his or her intent to record the meeting to the

members of the executive board and the other units' owners who are in attendance at the meeting.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 2 or 5.

Sec. 42. NRS 116.3109 is hereby amended to read as follows:

116.3109 1. Except as otherwise provided in this section and NRS 116.31034, and except when the governing documents provide otherwise, a quorum is present throughout any meeting of the ~~[association if the number of members of]~~ ***units' owners if persons entitled to cast 20 percent of the votes in*** the association ~~[who are]~~ ***:***

(a) Are present in person ~~[or]~~ ***;***

(b) Are present by proxy ~~[at the beginning of the meeting equals or exceeds 20 percent of the total number of voting members of the association.]~~ ***;***

(c) Have cast absentee ballots in accordance with paragraph (d) of subsection 2 of NRS 116.311; or

(d) Are present by any combination of paragraphs (a), (b) and (c).

2. If the governing documents of an association contain a quorum requirement for a meeting of the association that is greater than the 20 percent required by subsection 1 and, after proper notice has been given for a meeting, the members of the association who are present in person or by proxy at the meeting are unable to hold the meeting because a quorum is not present at the beginning of the meeting, the members who are present in person at the meeting may adjourn the meeting to a time that is not less than 48 hours or more than 30 days from the date of the meeting. At the subsequent meeting:

(a) A quorum shall be deemed to be present if the number of members of the association who are present in person or by proxy at the beginning of the subsequent meeting equals or exceeds 20 percent of the total number of voting members of the association; and

(b) If such a quorum is deemed to be present but the actual number of members who are present in person or by proxy at the beginning of the subsequent meeting is less than the number of members who are required for a quorum under the governing documents, the members who are present in person or by proxy at the subsequent meeting may take action only on those matters that were included as items on the agenda of the original meeting.

➥ The provisions of this subsection do not change the actual number of votes that are required under the governing documents for taking action on any particular matter.

3. Unless the governing documents specify a larger ~~[percentage,]~~ ***number,*** a quorum ***of the executive board*** is ~~[deemed]~~ present ~~[throughout any]~~ ***for purposes of determining the validity of any action taken at a*** meeting of the executive board ***only*** if ~~[persons]~~ ***individuals*** entitled to cast ~~[50 percent]~~ ***a majority*** of the votes on that board are present at the ~~[beginning of the meeting.]~~ ***time a vote regarding that action is taken. If a quorum is present when a vote is taken, the affirmative vote of a majority of the members present is the act of the executive board unless a greater vote is required by the declaration or bylaws.***

4. Meetings of the association must be conducted in accordance with the most recent edition of Robert's Rules of Order Newly Revised, unless the bylaws or a resolution of the executive board adopted before the meeting provide otherwise.

Sec. 43. NRS 116.311 is hereby amended to read as follows:

116.311 1. ***Unless prohibited or limited by the declaration or bylaws and except as otherwise provided in this section, units' owners may vote at a meeting in person, by absentee ballot pursuant to paragraph (d) of subsection 2, by a proxy pursuant to subsections 3 to 8, inclusive, or, when a vote is conducted without a meeting, by electronic or paper ballot pursuant to subsection 9.***

2. At a meeting of units' owners, the following requirements apply:

(a) Units' owners who are present in person may vote by voice vote, show of hands, standing or any other method for determining the votes of units' owners, as designated by the person presiding at the meeting.

(b) If only one of several owners of a unit is present ***,*** ~~[at a meeting of the association,]~~ that owner is entitled to cast all the votes allocated to that unit. If more than one of the owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the owners cast the votes allocated to ~~[that]~~ ***the*** unit without protest ***being*** made promptly to the person presiding over the meeting by any of the other owners of the unit.

~~[2.]~~ ***(c) Unless a greater number or fraction of the votes in the association is required by this chapter or the declaration, a majority of the votes cast determines the outcome of any action of the association.***

(d) Subject to subsection 1, a unit's owner may vote by absentee ballot without being present at the meeting. The association promptly shall deliver an absentee ballot to an owner who requests it if the request is made at least 3 days before the scheduled meeting. Votes cast by absentee ballot must be included in the tally of a vote taken at that meeting.

(e) When a unit's owner votes by absentee ballot, the association must be able to verify that the ballot is cast by the unit's owner having the right to do so.

3. Except as otherwise provided in this section, votes allocated to a unit may be cast pursuant to a proxy executed by a unit's owner. A unit's owner may give a proxy only to a member of his or her immediate family, a tenant of the unit's owner who resides in the common-interest community, another unit's owner who resides in the common-interest community, or a delegate or representative when authorized pursuant to NRS 116.31105. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through an executed proxy. A unit's owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the association.

~~[3.]~~ ***4.*** Before a vote may be cast pursuant to a proxy:

(a) The proxy must be dated.

(b) The proxy must not purport to be revocable without notice.

(c) The proxy must designate the meeting for which it is executed ~~[.]~~ ***, and such a designation includes any recessed session of that meeting.***

(d) The proxy must designate each specific item on the agenda of the meeting for which the unit's owner has executed the proxy, except that the unit's owner may execute the proxy without designating any specific items on the agenda of the meeting if the proxy is to be used solely for determining whether a quorum is present for the meeting. If the proxy designates one or more specific items on the agenda of the meeting for which the unit's owner has executed the proxy, the proxy must indicate, for each specific item designated in the proxy, whether the holder of the proxy must cast a vote in the affirmative or the negative on behalf of the unit's owner. If the proxy does not indicate whether the holder of the proxy must cast a vote in the affirmative or the negative for a particular item on the agenda of the meeting, the proxy must be treated, with regard to that particular item, as if the unit's owner were present but not voting on that particular item.

(e) The holder of the proxy must disclose at the beginning of the meeting for which the proxy is executed ***and any recessed session of that meeting*** the number of proxies pursuant to which the holder will be casting votes.

~~[4.]~~ ***5.*** A proxy terminates immediately after the conclusion of the meeting ***, and any recessed sessions of the meeting,*** for which it is executed.

~~[5.]~~ ***6.*** Except as otherwise provided in this subsection, a vote may not be cast pursuant to a proxy for the election or removal of a member of the executive board of an association. A vote may be cast pursuant to a proxy for the election or removal of a member of the executive board of a master association which governs a time-share plan created pursuant to chapter 119A of NRS if the proxy is exercised through a delegate or representative authorized pursuant to NRS 116.31105.

~~[6.]~~ ***7.*** The holder of a proxy may not cast a vote on behalf of the unit's owner who executed the proxy in a manner that is contrary to the proxy.

~~[7.]~~ ***8.*** A proxy is void if the proxy or the holder of the proxy violates any provision of subsections ~~[1]~~ ***3*** to ~~[6,]~~ ***7,*** inclusive.

~~[8.]~~ ***9. Unless prohibited or limited by the declaration or bylaws, an association may conduct a vote without a meeting. Except as otherwise provided in NRS 116.31034 and 116.31036, if an association conducts a vote without a meeting, the following requirements apply:***

(a) The association shall notify the units' owners that the vote will be taken by ballot.

(b) The association shall deliver a paper or electronic ballot to every unit's owner entitled to vote on the matter.

(c) The ballot must set forth each proposed action and provide an opportunity to vote for or against the action.

(d) When the association delivers the ballots, it shall also:

(1) Indicate the number of responses needed to meet the quorum requirements;

(2) State the percentage of votes necessary to approve each matter other than election of directors;

(3) Specify the time and date by which a ballot must be delivered to the association to be counted, which time and date may not be fewer than 3 days after the date the association delivers the ballot; and

(4) Describe the time, date and manner by which units' owners wishing to deliver information to all units' owners regarding the subject of the vote may do so.

(e) Except as otherwise provided in the declaration or bylaws, a ballot is not revoked after delivery to the association by death or disability of or attempted revocation by the person who cast that vote.

(f) Approval by ballot pursuant to this subsection is valid only if the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action.

10. If the declaration requires that votes on specified matters affecting the common-interest community must be cast by the lessees of leased units rather than the units' owners who have leased the units:

(a) ~~[The provisions of subsections 1 to 7, inclusive, apply]~~ ***This section applies*** to the lessees as if they were the units' owners;

(b) The units' owners who have leased their units to the lessees may not cast votes on those specified matters;

(c) The lessees are entitled to notice of meetings, access to records and other rights respecting those matters as if they were the units' owners; and

(d) The units' owners must be given notice, in the manner provided in NRS 116.3108, of all meetings at which the lessees are entitled to vote.

~~[9.]~~ ***11.*** If any votes are allocated to a unit that is owned by the association, those votes may not be cast, by proxy or otherwise, for any purpose.

Sec. 44. NRS 116.3111 is hereby amended to read as follows:

116.3111 ***1. A unit's owner is not liable, solely by reason of being a unit's owner, for an injury or damage arising out of the condition or use of the common elements.*** Neither the association nor any unit's owner except the declarant is liable for that declarant's torts in connection with any part of the common-interest community which that declarant has the responsibility to maintain. ~~[Otherwise, an]~~

2. An action alleging a wrong done by the association ~~[must be brought]~~ ***, including, without limitation, an action arising out of the condition or use of the common elements, may be maintained only*** against the association and not against any unit's owner. If the wrong occurred during any period of declarant's control and the association gives the declarant reasonable notice of and an opportunity to defend against the action, the declarant who then controlled the association is liable to the association or to any unit's owner for all tort losses not covered by insurance suffered by the association or that unit's owner, and all costs that the association would not have incurred but for a breach of contract or other wrongful act or omission. Whenever the declarant is liable to the association under this section, the declarant is also liable for all expenses of litigation, including reasonable attorney's fees, incurred by the association. ~~[Any]~~

3. Except as otherwise provided in subsection 4 of NRS 116.4116 with respect to warranty claims, any statute of limitation affecting the association's right of action ***against a declarant*** under this section is tolled until the period of declarant's control terminates. A unit's owner is not precluded from maintaining an action contemplated by this section because he or she is a unit's owner or a member or officer of the association. ***Liens resulting from judgments against the association are governed by NRS 116.3117.***

Sec. 45. NRS 116.3113 is hereby amended to read as follows:

116.3113 1. Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available ~~[, both of the following:]~~ ***and subject to reasonable deductibles:***

(a) Property insurance on the common elements and, in a planned community, also on property that must become common elements, insuring against ~~[all]~~ risks of direct physical loss commonly insured against ~~[or, in the case of a converted building, against fire and extended coverage perils. The total amount of]~~ ***, which*** insurance ***,*** after application of any deductibles ***,*** must be not less than 80 percent of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies ***;*** ~~[.]~~

(b) ~~[Liability]~~ ***Commercial general liability*** insurance, including insurance for medical payments, in an amount determined by the executive board but not less than any amount specified in the declaration, covering all

occurrences commonly insured against for ~~[death,]~~ bodily injury ~~[.]~~ and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements and, in cooperatives, also of all units ~~[.]~~ ***; and***

(c) Crime insurance which includes coverage for dishonest acts by members of the executive board and the officers, employees, agents, directors and volunteers of the association and which extends coverage to any business entity that acts as the community manager of the association and the employees of that entity. Such insurance may not contain a conviction requirement, and the minimum amount of the policy must be not less than an amount equal to 3 months of aggregate assessments on all units plus reserve funds ~~*[.]*~~ ***or $5,000,000, whichever is less.***

2. In the case of a building ~~[that is part of a cooperative or]~~ that contains units ~~[having]~~ ***divided by*** horizontal boundaries described in the declaration, ***or vertical boundaries that comprise common walls between units,*** the insurance maintained under paragraph (a) of subsection 1, to the extent reasonably available, must include the units, but need not include improvements and betterments installed by units' owners.

3. If the insurance described in subsections 1 and 2 is not reasonably available, the association promptly shall cause notice of that fact to be ~~[hand-delivered or sent prepaid by United States mail]~~ ***given*** to all units' owners. The declaration may require the association to carry any other insurance, and the association ~~[in any event]~~ may carry any other insurance it considers appropriate to protect the association or the units' owners.

4. An insurance policy issued to the association does not prevent a unit's owner from obtaining insurance for the unit's owner's own benefit.

Sec. 46. NRS 116.31133 is hereby amended to read as follows:

116.31133 1. Insurance policies carried pursuant to NRS 116.3113 must provide ~~[to the extent reasonably available]~~ that:

(a) Each unit's owner is an insured person under the policy with respect to liability arising out of the unit's owner's interest in the common elements or membership in the association;

(b) The insurer waives its right to subrogation under the policy against any unit's owner or member of his or her household;

(c) No act or omission by any unit's owner, unless acting within the scope of his or her authority on behalf of the association, ~~[will void]~~ ***voids*** the policy or ~~[be]~~ ***is*** a condition to recovery under the policy; and

(d) If, at the time of a loss under the policy, there is other insurance in the name of a unit's owner covering the same risk covered by the policy, the association's policy provides primary insurance.

2. Any loss covered by the property policy under subsections 1 and 2 of NRS 116.3113 must be adjusted with the association, but the proceeds for that loss are payable to any ***insurance*** trustee designated for that purpose, or otherwise to the association, and not to any holder of a security interest. The ***insurance*** trustee or the association shall hold any ***insurance*** proceeds in

trust for the association, units' owners and lienholders as their interests may appear. Subject to ~~[the provisions of]~~ NRS 116.31135, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the association, units' owners, and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the common-interest community is terminated.

3. An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, upon written request, to any unit's owner or holder of a security interest. The insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the association ***, each unit's owner*** and ~~[to any person]~~ ***each holder of a security interest*** to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

Sec. 47. NRS 116.31135 is hereby amended to read as follows:

116.31135 1. Any portion of the common-interest community for which insurance is required under NRS 116.3113 which is damaged or destroyed must be repaired or replaced promptly by the association unless:

(a) The common-interest community is terminated, in which case NRS 116.2118, 116.21183 and 116.21185 apply;

(b) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or

(c) Eighty percent of the units' owners, including every owner of a unit or assigned limited common element that will not be rebuilt, vote not to rebuild.

~~[~~***2.*** The cost of repair or replacement in excess of insurance proceeds ***, deductibles*** and reserves is a common expense.

~~[~~2.~~]~~ If the entire common-interest community is not repaired or replaced ~~[~~, the~~]~~ ***:***

(a) The insurance proceeds attributable to the damaged common elements ~~[,]~~ must be used to restore the damaged area to a condition compatible with the remainder of the common-interest community ***;*** ~~[,]~~ and ~~[except]~~

(b) Except to the extent that other persons will be distributees ~~[~~(subparagraph 2 of paragraph (l) of subsection 1 of NRS 116.2105):

~~(a)~~~~]~~ ***:***

(1) The ***insurance*** proceeds attributable to units and limited common elements that are not rebuilt must be distributed to the owners of those units and the owners of the units to which those limited common elements were allocated, or to lienholders, as their interests may appear; and

~~[~~(b)~~]~~ ***(2)*** The remainder of the proceeds must be distributed to all the units' owners or lienholders, as their interests may appear, as follows:

~~[~~(1)~~]~~ ***(I)*** In a condominium, in proportion to the interests of all the units in the common elements; and

~~[~~(2)~~]~~ ***(II)*** In a cooperative or planned community, in proportion to the liabilities of all the units for common expenses.

3. If the units' owners vote not to rebuild any unit, that unit's allocated interests are automatically reallocated upon the vote as if the unit had been condemned under subsection 1 of NRS 116.1107, and the association promptly shall prepare, execute and record an amendment to the declaration reflecting the reallocations.

Sec. 48. NRS 116.3115 is hereby amended to read as follows:

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive ~~[.]~~ ***, or as otherwise provided in this chapter:***

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore are necessary. Notwithstanding any provision of the governing documents to the contrary, to establish adequate reserves pursuant to this paragraph, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common-interest community. Any such assessments imposed by the executive board must be based on the study of the reserves of the association conducted pursuant to NRS 116.31152.

3. Any assessment for common expenses or installment thereof that is 60 days or more past due bears interest at a rate equal to the prime rate at the

largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date the assessment becomes past due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the balance is satisfied.

4. Except as otherwise provided in the governing documents:

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense ~~[or portion thereof]~~ benefiting fewer than all of the units ~~[must]~~ ***or their owners may*** be assessed exclusively against the units ***or units' owners*** benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If ***damage to a unit or other part of the common-interest community, or if*** any ***other*** common expense is caused by the ***willful*** misconduct ***or gross negligence*** of any unit's owner, ***tenant or invitee of a unit's owner or tenant,*** the association may assess that expense exclusively against his or her unit ~~[.]~~ ***, even if the association maintains insurance with respect to that damage or common expense, unless the damage or other common expense is caused by a vehicle and is committed by a person who is delivering goods to, or performing services for, the unit's owner, tenant or invitee of the unit's owner or tenant.***

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

Sec. 49. NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a ~~*[statutory]*~~ lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against ~~*[attributable to]*~~ that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, ~~*[reasonable attorney's fees and costs,]*~~ any penalties, ~~*[other]*~~ fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to

(n), inclusive, of subsection 1 of NRS 116.3102 ~~[, and any other sums due to the association under the declaration, this chapter, or as a result of an administrative, arbitration, mediation or judicial decision]~~ are enforceable ~~[in the same manner]~~ as ~~[unpaid]~~ assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A ~~[Except as otherwise provided in subsection 3, a]~~ first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

➥ The

~~[~~ ~~3. A]~~ lien ~~[under this section]~~ is also prior to all security interests described in paragraph (b) ~~[of subsection 2]~~ to the extent of any charges incurred by the association on a unit pursuant to NRS 116.310312 and to the extent of the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 9 months immediately preceding institution of an action to enforce the lien, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien. If federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior to all security interests described in paragraph (b) ~~[of subsection 2]~~ must be determined in accordance with those federal regulations, except that notwithstanding the provisions of the federal regulations, the period of priority for the lien must not be less than the 6 months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

3. ~~[4.]~~ Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

4. ~~[5.]~~ Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

5. ~~[6.]~~ A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

6. ~~[7.]~~ This section does not prohibit actions ~~[against units' owners]~~ to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

7. ~~[8.]~~ A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

8. ~~[9.]~~ The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

9. ~~[10.]~~ In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

~~[11.]~~ ***10. In an action by an association to collect assessments or to foreclose a lien created under this section, the court may appoint a receiver to collect all rents or other income from the unit alleged to be due and owing to a unit's owner before commencement or during pendency of the action. The receivership is governed by chapter 32 of NRS. The court may order the receiver to pay any sums held by the receiver to the association during pendency of the action to the extent of the association's common expense assessments based on a periodic budget adopted by the association pursuant to NRS 116.3115.***

Sec. 50. NRS 116.3117 is hereby amended to read as follows:

116.3117 1. In a condominium or planned community:

(a) Except as otherwise provided in paragraph (b), a judgment for money against the association, if a copy of the docket or an abstract or copy of the judgment is recorded, is not a lien on the common elements, but is a lien in favor of the judgment lienholder against all of ***the other real property of the association and all of*** the units in the common-interest community at the time the judgment was entered. No other property of a unit's owner is subject to the claims of creditors of the association.

(b) If the association has granted a security interest in the common elements to a creditor of the association pursuant to NRS 116.3112, the holder of that security interest shall exercise its right against the common elements before its judgment lien on any unit may be enforced.

(c) Whether perfected before or after the creation of the common-interest community, if a lien, other than a deed of trust or mortgage, including a judgment lien or lien attributable to work performed or materials supplied before creation of the common-interest community, becomes effective against two or more units, the owner of an affected unit may pay to the lienholder the amount of the lien attributable to his or her unit, and the lienholder, upon receipt of payment, promptly shall deliver a release of the lien covering that unit. The amount of the payment must be proportionate to the ratio which that owner's liability for common expenses bears to the liabilities for common expenses of all owners whose units are subject to the lien. After payment, the association may not assess or have a lien against that owner's unit for any portion of the common expenses incurred in connection with that lien.

(d) A judgment against the association must be indexed in the name of the common-interest community and the association and, when so indexed, is notice of the lien against the units.

2. In a cooperative:

(a) If the association receives notice of an impending foreclosure on all or any portion of the association's real estate, the association shall promptly transmit a copy of that notice to each owner of a unit located within the real estate to be foreclosed. Failure of the association to transmit the notice does not affect the validity of the foreclosure.

(b) Whether ~~[or not]~~ an owner's unit is subject to the claims of the association's creditors, no other property of an owner is subject to those claims.

Sec. 51. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in ~~[this]~~ subsection ~~*[3,]*~~ ***4,*** the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community and during the regular working hours of the association, including, without limitation ~~[, all]~~ ***:***

(a) The financial statement of the association;

(b) The budgets of the association required to be prepared pursuant to NRS 116.31151;

(c) The study of the reserves of the association required to be conducted pursuant to NRS 116.31152; and

(d) All contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party.

2. The executive board shall provide a copy of any of the records described in paragraphs (a), (b) and (c) of subsection 1 to a unit's owner or the Ombudsman within ~~*[14]*~~ ***21 days after receiving a written request therefor.*** ~~*[The]*~~ ***Such records must be provided in electronic format at no charge to the unit's owner or, if the association is unable to provide the records in electronic format, the executive board may charge a fee to cover the actual costs of preparing a copy, but the fee may not exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.***

3. If the executive board fails to provide a copy of any of the records pursuant to subsection 2 within 21 days, the executive board must pay a penalty of $25 for each day the executive board fails to provide the records.

4. The provisions of ~~[this]~~ subsection ***1*** do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, including, without limitation, any architectural plan or specification submitted by a unit's owner to the association during an approval process required by the governing documents, except for those records described in subsection ~~[2.]~~ ~~*[4.]*~~ ***5.*** and

(c) Any document, including, without limitation, minutes of an executive board meeting, a reserve study and a budget, if the document:

(1) Is in the process of being developed for final consideration by the executive board; and

(2) Has not been placed on an agenda for final approval by the executive board.

~~[2.]~~ ~~*[4.]*~~ ***5.*** The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

~~[3.]~~ ~~*[5.]*~~ ***6.*** If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If the Ombudsman is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

~~[4.]~~ ~~*[6.]*~~ ***7.*** The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

~~[5.]~~ ~~*[7.]*~~ ***8.*** The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of ~~[this section.~~

~~6. If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request and without charge, provide equal space to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.~~

~~7. If an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal space to opposing views and opinions of a unit's owner, tenant or resident of the common interest community.~~

~~8. The association and its officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to subsection 6 or 7.~~

~~9. As used in this section:~~

~~(a) "Issue of official interest" includes, without limitation:~~

~~(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, the election of members of the executive board; and~~

~~(2) The enactment or adoption of rules or regulations that will affect a common interest community.~~

~~(b) "Official publication" means:~~

~~(1) An official website;~~

~~(2) An official newsletter or other similar publication that is circulated to each unit's owner; or~~

~~(3) An official bulletin board that is available to each unit's owner,~~

~~➥ which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a~~

~~community manager or an officer, employee or agent of an association.]~~ ***subsection 1.***

Sec. 52. NRS 116.4101 is hereby amended to read as follows:

116.4101 1. NRS 116.4101 to 116.412, inclusive, apply to all units subject to this chapter, except as otherwise provided in ~~[this section]~~ ***subsection 2*** or as modified or waived by agreement of purchasers of units in a common-interest community in which all units are restricted to nonresidential use.

2. Neither a public offering statement nor a certificate of resale need be prepared or delivered in the case of a:

(a) Gratuitous disposition of a unit;

(b) Disposition pursuant to court order;

(c) Disposition by a government or governmental agency;

(d) Disposition by foreclosure or deed in lieu of foreclosure;

(e) Disposition to a dealer;

(f) Disposition that may be cancelled at any time and for any reason by the purchaser without penalty; ~~[or]~~

(g) Disposition of a unit in a planned community which contains no more than 12 units if:

(1) The declarant reasonably believes in good faith that the maximum assessment stated in the declaration will be sufficient to pay the expenses of the planned community; and

(2) The declaration cannot be amended to increase the assessment during the period of the declarant's control without the consent of all units' owners ~~[.~~

~~3. Except as otherwise provided in subsection 2, the provisions of NRS 116.4101 to 116.412, inclusive, do not apply to a planned community described in NRS 116.1203.]~~ ***; or***

(h) Disposition of a unit restricted to nonresidential purposes.

Sec. 53. NRS 116.4103 is hereby amended to read as follows:

116.4103 1. Except as otherwise provided in NRS 116.41035, a public offering statement must set forth or fully and accurately disclose each of the following:

(a) The name and principal address of the declarant and of the common-interest community, and a statement that the common-interest community is ~~[either]~~ a condominium, cooperative or planned community.

(b) A general description of the common-interest community, including to the extent possible, the types, number and declarant's schedule of commencement and completion of construction of buildings, and amenities that the declarant anticipates including in the common-interest community.

(c) The estimated number of units in the common-interest community.

(d) Copies of the declaration, bylaws, and any rules or regulations of the association, but a plat is not required.

(e) ~~[A current year to date financial statement, including the most recent audited or reviewed financial statement, and the projected budget for the~~

~~association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association. The budget must include, without limitation:~~

~~(1) A statement of the amount included in the budget as reserves for repairs, replacement and restoration pursuant to NRS 116.3115; and~~

~~(2) The projected monthly assessment for common expenses for each type of unit, including the amount established as reserves pursuant to NRS 116.3115.~~**]** ***The financial information required by subsection 2.***

(f) A description of any services or subsidies being provided by the declarant or an affiliate of the declarant, not reflected in the budget **[**~~.~~**]** ***that the declarant provides, or expenses which the declarant pays and which the declarant expects may become at any subsequent time a common expense of the association and the projected common expense assessment attributable to each of those services or expenses for the association and for each type of unit.***

(g) Any initial or special fee due from the purchaser ***or seller*** at closing, ***including, without limitation, any transfer fees, whether payable to the association, the community manager of the association or any third party,*** together with a description of the purpose and method of calculating the fee.

(h) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages.

(i) A statement that unless the purchaser or his or her agent has personally inspected the unit, the purchaser may cancel, by written notice, his or her contract for purchase until midnight of the fifth calendar day following the date of execution of the contract, and the contract must contain a provision to that effect.

(j) A statement of any unsatisfied **[**~~judgments~~**]** ***judgment*** or pending **[**~~suits~~**]** ***action*** against the association, and the status of any pending **[**~~suits~~**]** ***action*** material to the common-interest community of which a declarant has actual knowledge.

(k) Any current or expected fees or charges to be paid by units' owners for the use of the common elements and other facilities related to the common-interest community.

(l) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

(m) ***Any restraints on alienation of any portion of the common-interest community and any restrictions:***

(1) On the leasing or renting of units; and

(2) On the amount for which a unit may be sold or on the amount that may be received by a unit's owner on the sale or condemnation of or

casualty loss to the unit or to the common-interest community, or on termination of the common-interest community.

(n) A description of any arrangement described in NRS 116.1209 binding the association.

(o) The information statement set forth in NRS 116.41095.

2. ***The public offering statement must contain any current balance sheet and a projected budget for the association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association, a statement of who prepared the budget and a statement of the budget's assumptions concerning occupancy and inflation factors. The budget must include:***

(a) A statement of the amount included in the budget as a reserve for repairs, replacement and restoration pursuant to NRS 116.3115;

(b) A statement of any other reserves;

(c) The projected common expense assessment by category of expenditures for the association; and

(d) The projected monthly common expense assessment for each type of unit, including the amount established as reserves pursuant to NRS 116.3115.

3. A declarant is not required to revise a public offering statement more than once each calendar quarter, if the following warning is given prominence in the statement: "THIS PUBLIC OFFERING STATEMENT IS CURRENT AS OF (insert a specified date). RECENT DEVELOPMENTS REGARDING (here refer to particular provisions of NRS 116.4103 and 116.4105) MAY NOT BE REFLECTED IN THIS STATEMENT."

Sec. 54. NRS 116.41035 is hereby amended to read as follows:

116.41035 If a common-interest community composed of not more than 12 units is not subject to any developmental rights and no power is reserved to a declarant to make the common-interest community part of a larger common-interest community, group of common-interest communities or other real estate, a public offering statement may ~~[but need not]~~ include the information otherwise required by paragraphs (h) and (k) of subsection 1 of NRS 116.4103.

Sec. 55. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his or her authorized agent shall, at the expense of the unit's owner, furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152;

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge;

(e) A statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit; and

(f) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, the purchaser must hand deliver the notice of cancellation to the unit's owner or his or her authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his or her authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his or her authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his or her authorized agent, the association shall furnish all of the following to the unit's owner or his or her authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b), (d) **,** ~~[and]~~ (e) ***and (f)*** of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his or her authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his or her authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The ***other documents furnished pursuant to subsection 3 must be provided in electronic format at no charge to the unit's owner or, if the association is unable to provide such documents in electronic format, the*** association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page ~~[.]~~ ***for the first 10 pages, and 10 cents per page thereafter,*** to cover the cost of copying **.** ~~[the other documents furnished pursuant to subsection 3.]~~

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the ~~[seller]~~ ***purchaser*** is not liable for the delinquent assessment.

6. Upon the request of a unit's owner or his or her authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his or her authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

Sec. 56. **(Deleted by amendment.)**

Sec. 57. NRS 116.4114 is hereby amended to read as follows:

116.4114 1. A declarant and any dealer warrant that a unit will be in at least as good condition at the earlier of the time of the conveyance or delivery of possession as it was at the time of contracting, reasonable wear and tear excepted.

2. A declarant and any dealer impliedly warrant that a unit and the common elements in the common-interest community are suitable for the ordinary uses of real estate of its type and that any improvements made or

contracted for by ~~[him or her,]~~ ***a declarant or dealer,*** or made by any person before the creation of the common-interest community, will be:

(a) Free from defective materials; and

(b) Constructed in accordance with applicable law, according to sound standards of engineering and construction, and in a workmanlike manner.

3. ~~[In addition, a]~~ ***A*** declarant and any dealer warrant to a purchaser of a unit that may be used for residential use that an existing use, continuation of which is contemplated by the parties, does not violate applicable law at the earlier of the time of conveyance or delivery of possession.

4. Warranties imposed by this section may be excluded or modified as specified in NRS 116.4115.

5. For purposes of this section, improvements made or contracted for by an affiliate of a declarant are made or contracted for by the declarant.

6. Any conveyance of a unit transfers to the purchaser all of the declarant's implied warranties of quality.

Sec. 58. NRS 116.4116 is hereby amended to read as follows:

116.4116 1. ~~[A]~~ ***Unless a period of limitation is tolled under NRS 116.3111 or affected by subsection 4, a*** judicial proceeding for breach of any obligation arising under NRS 116.4113 or 116.4114 must be commenced within 6 years after the cause of action accrues, but the parties may agree to reduce the period of limitation to not less than 2 years. With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by a separate instrument executed by the purchaser.

2. Subject to subsection 3, a cause of action for breach of warranty of quality, regardless of the purchaser's lack of knowledge of the breach, accrues:

(a) As to a unit, at the time the purchaser to whom the warranty is first made enters into possession if a possessory interest was conveyed or at the time of acceptance of the instrument of conveyance if a nonpossessory interest was conveyed; and

(b) As to each common element, at the time the common element is completed or, if later, as to:

(1) A common element that may be added to the common-interest community or portion thereof, at the time the first unit therein is conveyed to a bona fide purchaser; or

(2) A common element within any other portion of the common-interest community, at the time the first unit is conveyed to a purchaser in good faith.

3. If a warranty of quality explicitly extends to future performance or duration of any improvement or component of the common-interest community, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

4. During the period of declarant control, the association may authorize an independent committee of the executive board to evaluate and

enforce any warranty claims involving the common elements, and to ~~[compromise]~~ address those claims. Only members of the executive board elected by units' owners other than the declarant and other persons appointed by those independent members may serve on the committee, and the committee's decision must be free of any control by the declarant or any member of the executive board or officer appointed by the declarant. All costs reasonably incurred by the committee, including attorney's fees, are common expenses, and must be added to the budget annually adopted by the association in accordance with the requirements of NRS 116.31151. If the committee is so created, the period of limitation for a warranty claim considered by the committee begins to run from the date of the first meeting of the committee.

Sec. 59. NRS 116.4117 is hereby amended to read as follows:

116.4117 1. Subject to the requirements set forth in subsection 2, if a declarant, community manager or any other person subject to this chapter fails to comply with any of its provisions or any provision of the declaration or bylaws, any person or class of persons suffering actual damages from the failure to comply may bring a civil action for damages or other appropriate relief.

2. Subject to the requirements set forth in NRS 38.310 and except as otherwise provided in NRS 116.3111, a civil action for damages or other appropriate relief for a failure or refusal to comply with any provision of this chapter or the governing documents of an association may be brought:

(a) By the association against:

(1) A declarant;

(2) A community manager; or

(3) A unit's owner.

(b) By a unit's owner against:

(1) The association;

(2) A declarant; or

(3) Another unit's owner of the association.

(c) By a class of units' owners constituting at least 10 percent of the total number of voting members of the association against a community manager.

3. ***Members of the executive board are not personally liable to the victims of crimes occurring on the property.***

4. Except as otherwise provided in ~~[NRS 116.31036,]~~ ***subsection 5,*** punitive damages may be awarded for a willful and material failure to comply with any provision of this chapter if the failure is established by clear and convincing evidence.

~~[4.]~~ ***5. Punitive damages may not be awarded against:***

(a) The association;

(b) The members of the executive board for acts or omissions that occur in their official capacity as members of the executive board; or

(c) The officers of the association for acts or omissions that occur in their capacity as officers of the association.

6. The court may award reasonable attorney's fees to the prevailing party.

~~[5.]~~ ***7.*** The civil remedy provided by this section is in addition to, and not exclusive of, any other available remedy or penalty.

8. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.

Sec. 59.5. NRS 116A.410 is hereby amended to read as follows:

116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate. The regulations must include, without limitation, provisions that:

(1) Provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Holds a professional designation in the field of management of a common-interest community from a nationally recognized organization;

(II) Provides evidence that the person has been engaged in the management of a common-interest community for at least 5 years; and

(III) Has not been the subject of any disciplinary action in another state in connection with the management of a common-interest community.

(2) Except as otherwise provided in subparagraph (3), provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Receives an offer of employment as a community manager from an association or its agent; and

(II) Has management experience determined to be sufficient by the executive board of the association or its agent making the offer in sub-subparagraph (I). The executive board or its agent must have sole discretion to make the determination required in this sub-subparagraph.

(3) Require a temporary certificate described in subparagraph (2) to expire before the end of the 1-year period if the certificate holder ceases to be employed by the association, or its agent, which offered the person employment as described in subparagraph (2).

(4) Require a person who is issued a temporary certificate as described in subparagraph (1) or (2) to successfully complete not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act within the 1-year period.

(5) Provide for the issuance of a certificate at the conclusion of the 1-year period if the person:

(I) Has successfully completed not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act; and

(II) Has not been the subject of any disciplinary action pursuant to this chapter or chapter 116 of NRS or any regulations adopted pursuant thereto.

(6) Provide that a temporary certificate described in subparagraph (1) or (2) and a certificate described in subparagraph (5):

(I) Must authorize the person who is issued a temporary certificate described in subparagraph (1) or (2) or certificate described in subparagraph (5) to act in all respects as a community manager and exercise all powers available to any other community manager without regard to experience; and

(II) Must not be treated as a limited, restricted or provisional form of a certificate.

(b) ~~[Must require an applicant or the employer of the applicant to post a bond in a form and in an amount established by regulation. The Commission shall, by regulation, adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control. In adopting the regulations establishing the form and sliding scale for the amount of a bond required to be posted pursuant to this paragraph, the Commission shall consider the availability and cost of such bonds.~~

~~(c)]~~ May require applicants to pass an examination in order to obtain a certificate other than a temporary certificate described in paragraph (a). If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

~~[(d)]~~ ***(c)*** Must establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new certificate without undergoing any period of supervision under another community manager, regardless of the length of time that has passed since the person last acted as a community manager.

~~[(e)]~~ ***(d)*** May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

~~[(f)]~~ ***(e)*** Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.

~~[(g)]~~ ***(f)*** Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.

3. As used in this section, "management experience" means experience in a position in business or government, including, without limitation, in the military:

(a) In which the person holding the position was required, as part of holding the position, to engage in one or more management activities, including, without limitation, supervision of personnel, development of budgets or financial plans, protection of assets, logistics, management of human resources, development or training of personnel, public relations, or protection or maintenance of facilities; and

(b) Without regard to whether the person holding the position has any experience managing or otherwise working for an association.

Sec. 60. NRS 116.31177 is hereby repealed.

Sec. 61. This act becomes effective on January 1, 2012.

TEXT OF REPEALED SECTION

116.31177 Maintenance and availability of certain financial records of association; provision of copies to units' owners and Ombudsman.

1. The executive board of an association shall maintain and make available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties:

(a) The financial statement of the association;

(b) The budgets of the association required to be prepared pursuant to NRS 116.31151; and

(c) The study of the reserves of the association required to be conducted pursuant to NRS 116.31152.

2. The executive board shall provide a copy of any of the records required to be maintained pursuant to subsection 1 to a unit's owner or the Ombudsman within 14 days after receiving a written request therefor. The executive board may charge a fee to cover the actual costs of preparing a copy, but not to exceed 25 cents per page.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 222.

Bill read second time and ordered to third reading.

Senate Bill No. 251.

Bill read second time.

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

Amendment No. 805.

JOINT SPONSORS: ASSEMBLYMEN SMITH, BROOKS AND HANSEN

SUMMARY—Creates the ~~[~~Nevada~~]~~ Sunset **Subcommittee of the Legislative** Commission to evaluate certain governmental programs and services. (BDR 18-745)

AN ACT relating to ~~[~~commissions;~~]~~ **governmental administration; prohibiting the appointment of a person to a board, commission or similar body if the person is serving on another board, commission or similar body;** creating the ~~[~~Nevada~~]~~ Sunset **Subcommittee of the Legislative** Commission; providing for its membership; requiring the ~~[~~Commission~~]~~ **Sunset Subcommittee** to ~~[~~evaluate the necessity and efficacy

~~of all governmental programs and services provided~~] **review certain boards and commissions** in this State **[~~,~~] to determine the need for the termination, consolidation, modification or continuation of those boards and commissions;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 3 of this bill creates the Nevada Sunset Commission and sets forth the details regarding the members of the Commission, who are appointed by seven different appointing authorities. Section 5 of this bill sets forth the duties of the Commission which include, without limitation, reviewing and evaluating all governmental programs and services in this State for necessity and efficacy and for duplication by other programs and services offered by the Federal Government, this State or local governments in this State. Section 4 of this bill requires the Commission to meet at least bimonthly and to annually report its findings and recommendations to the Governor and the Legislature. Section 6 of this bill authorizes the Commission, with limited exception, to apply for and receive gifts, grants, contributions or other money to carry out its duties.]~~

Existing law sets forth various requirements for serving on boards, commissions and similar bodies, including residency requirements, the procedure for filling vacancies and the qualifications and length of terms for members. (NRS 232A.020) Section 1 of this bill prohibits the Governor from appointing a person to a board, commission or similar body if the person is a member of another board, commission or similar body.

Existing law establishes the Legislative Commission and provides for its powers and duties, which consist of, in part, investigating and inquiring into subjects upon which the Legislature may act by the enactment or amendment of statutes, governmental problems, important issues of public policy or questions of statewide interest. (NRS 218E.150, 218E.175) Existing law also provides for certain standing subcommittees of the Legislative Commission to carry out ongoing duties, such as the Audit Subcommittee and the Budget Subcommittee. (NRS 218E.240, 218E.255) Finally, existing law requires the Legislative Commission to conduct reviews of existing agencies to determine whether each agency should be terminated, consolidated with another agency or continued. (NRS 232B.010-232B.100)

Section 8 of this bill creates the Sunset Subcommittee of the Legislative Commission and sets forth its membership. Section 9 of this bill specifies the Sunset Subcommittee's primary duties, which are: (1) to conduct reviews of all boards and commissions in this State which are not provided for in the Nevada Constitution or established by an executive order of the Governor and determine whether each board or commission should be terminated, modified, consolidated with another agency or continued; (2) to make recommendations for improving the boards or commissions which are to be modified, consolidated or

continued; and (3) to determine whether any tax exemptions, abatements or money set aside for a board or commission should be terminated, modified or continued. Section 9 also requires the Sunset Subcommittee to assess each board or commission reviewed for the cost of conducting the review.

Section 10 of this bill requires each board and commission to submit certain information about itself and how it operates to the Sunset Subcommittee and authorizes the Sunset Subcommittee to direct the Legislative Counsel Bureau to assist the Sunset Subcommittee in investigating, reviewing and analyzing the information submitted. Section 11 of this bill requires the Sunset Subcommittee to hold public hearings to receive commentary on whether a board or commission should be terminated, modified, consolidated or continued. Section 12 of this bill requires the Sunset Subcommittee to make recommendations for direct legislative action to carry out its recommendations regarding the termination, modification, consolidation or continuation of a board or commission.

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

Section 1. **NRS 232A.020 is hereby amended to read as follows:**

232A.020 1. Except as otherwise provided in this section, a person appointed to a new term or to fill a vacancy on a board, commission or similar body by the Governor must have, in accordance with the provisions of NRS 281.050, actually, as opposed to constructively, resided, for the 6 months immediately preceding the date of the appointment:

(a) In this State; and

(b) If current residency in a particular county, district, ward, subdistrict or any other unit is prescribed by the provisions of law that govern the position, also in that county, district, ward, subdistrict or other unit.

2. After the Governor's initial appointments of members to boards, commissions or similar bodies, all such members shall hold office for terms of 3 years or until their successors have been appointed and have qualified.

3. A vacancy on a board, commission or similar body occurs when a member dies, resigns, becomes ineligible to hold office or is absent from the State for a period of 6 consecutive months.

4. Any vacancy must be filled by the Governor for the remainder of the unexpired term.

5. A member appointed to a board, commission or similar body as a representative of the general public must be a person who:

(a) Has an interest in and a knowledge of the subject matter which is regulated by the board, commission or similar body; and

(b) Does not have a pecuniary interest in any matter which is within the jurisdiction of the board, commission or similar body.

6. ***The Governor shall not appoint a person to a board, commission or similar body if the person is a member of any other board, commission or similar body.***

7. The provisions of subsection 1 do not apply if:

(a) A requirement of law concerning another characteristic or status that a member must possess, including, without limitation, membership in another organization, would make it impossible to fulfill the provisions of subsection 1; or

(b) The membership of the particular board, commission or similar body includes residents of another state and the provisions of subsection 1 would conflict with a requirement that applies to all members of that body.

~~[Section 1.]~~ *Sec. 1.5.* ~~[Title 18]~~ **Chapter 232B** of NRS is hereby amended by adding thereto ~~[a new chapter to consist of]~~ the provisions set forth as sections ~~[2 to 6,]~~ **8 to 12,** inclusive, of this act.

Sec. 2. **(Deleted by amendment.)**

Sec. 3. **(Deleted by amendment.)**

Sec. 4. **(Deleted by amendment.)**

Sec. 5. **(Deleted by amendment.)**

Sec. 6. **(Deleted by amendment.)**

Sec. 7. **(Deleted by amendment.)**

Sec. 8. ***1. The Sunset Subcommittee of the Legislative Commission, consisting of nine members, is hereby created. The membership of the Sunset Subcommittee consists of:***

(a) Three members of the Legislature appointed by the Majority Leader of the Senate, at least one of whom must be a member of the minority political party;

(b) Three members of the Legislature appointed by the Speaker of the Assembly, at least one of whom must be a member of the minority political party; and

(c) Three members of the general public appointed by the Chair of the Legislative Commission from among the names of nominees submitted by the Governor pursuant to subsection 2.

2. The Governor shall, at least 30 days before the beginning of the term of any member appointed pursuant to paragraph (c) of subsection 1, or within 30 days after such a position on the Sunset Subcommittee becomes vacant, submit to the Legislative Commission the names of at least three persons qualified for membership on the Sunset Subcommittee. The Chair of the Legislative Commission shall appoint a new member or fill the vacancy from the list, or request a new list. The Chair of the Legislative Commission may appoint any qualified person who is a resident of this State to a position described in paragraph (c) of subsection 1.

3. Each member of the Sunset Subcommittee serves at the pleasure of the appointing authority.

4. The members of the Sunset Subcommittee shall elect a Chair from one House of the Legislature and a Vice Chair from the other House. Each

Chair and Vice Chair holds office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the office of Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

5. The membership of any member of the Sunset Subcommittee who is a Legislator and who is not a candidate for reelection or who is defeated for reelection terminates on the day next after the general election.

6. A vacancy on the Sunset Subcommittee must be filled in the same manner as the original appointment.

7. The Sunset Subcommittee shall meet at the times and places specified by a call of the Chair. Five members of the Sunset Subcommittee constitute a quorum, and a quorum may exercise any power or authority conferred on the Sunset Subcommittee.

8. For each day or portion of a day during which a member of the Sunset Subcommittee who is a Legislator attends a meeting of the Sunset Subcommittee or is otherwise engaged in the business of the Sunset Subcommittee, except during a regular or special session of the Legislature, the Legislator is entitled to receive the:

(a) Compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session;

(b) Per diem allowance provided for state officers generally; and

(c) Travel expenses provided pursuant to NRS 218A.655.

➥ The compensation, per diem allowances and travel expenses of the members of the Sunset Subcommittee who are Legislators must be paid from the Legislative Fund.

9. While engaged in the business of the Sunset Subcommittee, the members of the Subcommittee who are not Legislators are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 9. ***1. The Sunset Subcommittee of the Legislative Commission shall conduct a review of each board and commission in this State which is not provided for in the Nevada Constitution or established by an executive order of the Governor to determine whether the board or commission should be terminated, modified, consolidated with another board or commission or continued. Such a review must include, without limitation:***

(a) An evaluation of the major policies and programs of the board or commission, including, without limitation, an examination of other programs or services offered in this State to determine if any other provided programs or services duplicate those offered by the board or commission;

(b) Any recommendations for improvements in the policies and programs offered by the board or commission; and

(c) A determination of whether any statutory tax exemptions, abatements or money set aside to be provided to the board or commission should be terminated, modified or continued.

2. The Sunset Subcommittee shall review:

(a) Not less than 20 boards and commissions specified in subsection 1 each year; and

(b) Each of those boards and commissions not less than once every 10 years.

3. For each review of a board or commission that the Sunset Subcommittee conducts, the Sunset Subcommittee shall submit a written assessment to the board or commission setting forth the costs of the review. In determining the amount of an assessment pursuant to this subsection, the Sunset Subcommittee shall consider, based upon the information provided by the board or commission pursuant to section 10 of this act, whether any additional analysis or evaluation is required to review the board or commission because of the specialized nature of the board or commission. As soon as practicable after a board or commission receives a written assessment pursuant to this subsection, the board or commission shall pay the amount set forth in the written assessment to the Sunset Subcommittee.

4. Any action taken by the Sunset Subcommittee concerning a board or commission pursuant to sections 8 to 12, inclusive, of this act is in addition or supplemental to any action taken by the Legislative Commission pursuant to NRS 232B.010 to 232B.100, inclusive.

Sec. 10. ***1. Each board and commission subject to review by the Sunset Subcommittee of the Legislative Commission shall submit information to the Sunset Subcommittee on a form prescribed by the Sunset Subcommittee. The information must include, without limitation:***

(a) The name of the board or commission;

(b) The name of each member of the board or commission;

(c) The address of the Internet website established and maintained by the board or commission, if any;

(d) The name and contact information of the executive director of the board or commission, if any;

(e) A list of the members of the staff of the board or commission;

(f) The authority by which the board or commission was created;

(g) The governing structure of the board or commission, including, without limitation, information concerning the method, terms, qualifications and conditions of appointment and removal of the members of the board or commission;

(h) The duties of the board or commission;

(i) The operating budget of the board or commission;

(j) A statement setting forth the income and expenses of the board or commission for at least 3 years immediately preceding the date on which the board or commission submits the form required by this subsection, including the balances of any fund or account maintained by or on behalf of the board or commission;

(k) The most recent audit conducted of the board or commission, if any;

(l) The dates of the immediately preceding six meetings held by the board or commission;

(m) A statement of the objectives and programs of the board or commission;

(n) A conclusion concerning the effectiveness of the objectives and programs of the board or commission;

(o) Any recommendations for statutory changes which are necessary for the board or commission to carry out its objectives and programs; and

(p) Such other information as the Sunset Subcommittee may require.

2. The Sunset Subcommittee may direct the Legislative Counsel Bureau to assist in its research, investigations, review and analysis of the information submitted by each board and commission pursuant to subsection 1.

Sec. 11. ***1. The Sunset Subcommittee of the Legislative Commission shall conduct public hearings for the purpose of obtaining comments on, and may require the Legislative Counsel Bureau to submit reports on, the need for the termination, modification, consolidation or continued operation of a board or commission.***

2. The Sunset Subcommittee shall consider any report submitted to it by the Legislative Counsel Bureau.

3. A board or commission has the burden of proving that there is a public need for its continued existence.

Sec. 12. ***1. If the Sunset Subcommittee of the Legislative Commission determines to recommend the termination of a board or commission, its recommendation must include suggestions for appropriate direct legislative action, if any, which is made necessary or desirable by the termination of the board or commission.***

2. If the Sunset Subcommittee determines to recommend the consolidation, modification or continuation of a board or commission, its recommendation must include suggestions for appropriate direct legislative action, if any, which would make the operation of the board or commission or its successor more efficient or effective.

3. On or before June 30, 2012, the Sunset Subcommittee shall make all its initial recommendations pursuant to this section, if any. The Sunset Subcommittee shall make all subsequent recommendations pursuant to this section, if any, on or before June 30 of each even-numbered year occurring thereafter.

Sec. 13. **NRS 232B.010 is hereby amended to read as follows:**

232B.010 As used in ~~[this chapter,]~~ ***NRS 232B.010 to 232B.100, inclusive,*** unless the context otherwise requires, "agency" means any public agency which the Legislature has designated to be the subject of a review by the Legislative Commission.

Sec. 14. **NRS 232B.080 is hereby amended to read as follows:**

232B.080 1. The Legislative Commission shall conduct public hearings for the purpose of obtaining comments on, and may require the Legislative

Counsel Bureau to submit reports on, the need for the continued operation of an agency, and its efficiency and effectiveness.

2. At any hearing held ~~[under this chapter,]~~ ***pursuant to NRS 232B.010 to 232B.100, inclusive,*** information may be presented by:

(a) Members of the general public;

(b) Any person who is regulated by the agency; and

(c) Representatives of the agency.

3. The Legislative Commission shall consider any report submitted to it by the Legislative Counsel Bureau.

4. An agency has the burden of proving that there is a public need for its continued existence or regulatory function.

Sec. 15. **1. On or before August 1, 2011, the Governor shall submit to the Legislative Commission the names of at least three nominees who are qualified for membership on the Sunset Subcommittee of the Legislative Commission pursuant to subsection 2 of section 8 of this act.**

2. On or before September 1, 2011:

(a) The Majority Leader of the Senate shall appoint three members of the Sunset Subcommittee pursuant to paragraph (a) of subsection 1 of section 8 of this act.

(b) The Speaker of the Assembly shall appoint three members of the Sunset Subcommittee pursuant to paragraph (b) of subsection 1 of section 8 of this act.

(c) The Chair of the Legislative Commission shall appoint three members of the general public from among the names of the nominees submitted by the Governor pursuant to subsection 1.

Sec. 15.5. **1. If on the effective date of this act any person is currently serving as a member of more than one board, commission or similar body pursuant to an appointment by the Governor, the person shall, on or before December 31, 2011, resign from all but one such board, commission or similar body.**

2. A vacancy created by such a resignation must be filled in the manner prescribed by the relevant statute or by NRS 232A.020, if no relevant statute applies, to fill a vacancy on the board, commission or similar body.

~~[Sec. 8.]~~ *Sec. 16.* **1.** This **section and section 15.5 of this act become effective upon passage and approval.**

2. Sections 1, 1.5 and 8 to 15, inclusive, of this act ~~[becomes]~~ **become** effective on July 1, 2011.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 254.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 742.

AN ACT relating to common-interest communities; revising procedures for alternative dispute resolution of certain claims relating to common-interest communities; revising provisions governing the review of certain books, papers and records of an association; revising provisions governing the confidentiality of certain documents and information obtained by the Real Estate Division of the Department of Business and Industry; revising the penalties for filing frivolous, false or fraudulent claims; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1, 2 and 6-21 of this bill revise the procedures for: (1) the alternative dispute resolution of civil actions which relate to any governing documents or covenants, conditions or restrictions applicable to residential property; and (2) administrative proceedings which relate to a violation of existing law governing common-interest communities and condominium hotels. **Sections 10 and 18** require a person to include in a written claim filed with the Real Estate Division of the Department of Business and Industry all claims which: (1) allege a violation of the governing documents or covenants, conditions or restrictions; and (2) allege a violation of existing law governing common-interest communities and condominium hotels. Under **sections 1 and 15**, the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels must refer all claims to a mediator, and the Commission for Common-Interest Communities and Condominium Hotels shall adopt regulations establishing the maximum amount **, not to exceed $500,** of the fees and costs of the mediation and governing the manner in which such fees and costs are paid. If the mediation does not result in a settlement of the claim, **sections 1 and 15** require the mediator to refer the claim: (1) to arbitration if the claim relates to the governing documents or covenants, conditions or restrictions applicable to the property; and (2) to the Division if the claim relates to a violation of a provision of existing law governing common-interest communities. If the claim is referred to an arbitrator, the arbitration is conducted in accordance with: (1) the rules of the American Arbitration Association or other comparable rules for speedy arbitration approved by the Division or the Commission; and (2) existing law governing the arbitration of such claims. If the claim is referred to the Division, **section 11** requires the Division to determine whether good cause exists to proceed with a hearing on the alleged violation and, if good cause exists, to refer the claim to the Ombudsman or file a complaint with the Commission. If the claim is referred to the Ombudsman, the parties do not resolve the alleged violation with the assistance of the Ombudsman and the Division, after investigation, makes certain findings, the Administrator of the Division must file a formal complaint with the Commission.

Sections 5, 10 and 18 of this bill revise the penalties which may be imposed against a person who files with the Division a frivolous, false or

fraudulent claim **or response** and provide for penalties against a person who files a claim with the Division for the purpose of delay or harassment.

Existing law authorizes an association of a common-interest community to foreclose a lien by sale of a unit and prescribes the procedures for such a foreclosure. (NRS 116.31162-116.31168) Section 3.5 of this bill revises provisions governing foreclosures by prohibiting an association from foreclosing a lien by sale during the pendency of any mediation or arbitration if the issue in dispute is the basis for the foreclosure.

Section 4 of this bill provides that, unless and until a complaint is filed by the Real Estate Administrator, the executive board is not required to make available certain confidential documents and information relating to certain claims filed with the Division.

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Not later than 5 business days after receipt of a written response filed with the Division pursuant to subsection 5 of NRS 116.760, the Division shall provide:

(a) To the claimant, a copy of the response.

(b) To the parties, the list of mediators maintained by the Division pursuant to NRS 38.340.

2. The parties may select a mediator from the list of mediators provided pursuant to subsection 1. If the parties fail to agree upon a mediator, the Ombudsman shall appoint a mediator from the list of mediators maintained by the Division [.] within 5 business days. Any mediator selected by the parties or appointed by the Ombudsman must be available within the geographic area [.] , unless such a requirement is determined by the parties or the Ombudsman to be unreasonable. Upon appointing a mediator, the Ombudsman shall provide the name of the mediator to the parties.

3. Not later than 5 business days after his or her selection or appointment pursuant to subsection 2, the mediator shall provide to the parties an informational statement relating to a mediation conducted pursuant to this section. The written informational statement:

(a) Must be in a form approved by the Commission;

(b) Must be written in plain English;

(c) Must explain the procedures and applicable law relating to a mediation conducted pursuant to this section, including, without limitation, the confidentiality of the mediation, the nature of the mediation process, the enforceability of a settlement obtained through mediation and the procedures for resolution of the claim if the parties fail to reach a settlement through mediation; and

(d) Must be accompanied by a separate form acknowledging that the party has received and read the informational statement and agrees to comply with the provisions of law governing the confidentiality of the mediation, which must be returned to the mediator by the party not later than 10 days after receipt of the informational statement.

4. Unless otherwise provided by an agreement of the parties, a mediation conducted pursuant to this section must be completed within 60 days after the selection or appointment of the mediator.

5. Upon the conclusion of the settlement discussions, any agreement obtained through mediation conducted pursuant to this section must be reduced to writing by the mediator and signed by the parties. The mediator shall provide a copy of the written agreement signed by the parties to each party and to the Division. Any written agreement received by the Division pursuant to this subsection is confidential. The agreement may be enforced as any other written agreement. Except as otherwise provided in this section and subject to any regulations adopted by the Commission, the parties are responsible for the payment of all fees and costs of mediation in the manner provided by the mediator. The Commission shall adopt regulations governing the maximum amount , not to exceed $500 per mediation, that may be charged for fees and costs of mediation and the manner in which such fees and costs of mediation are paid.

6. The Division may provide for the payment of the fees of a mediator selected or appointed pursuant to this section from the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630, to the extent that:

(a) The Commission approves the payment; and

(b) There is money available in the Account for this purpose.

7. If either party fails to participate in the mediation or if, within 60 days after the selection or appointment of the mediator or any longer period agreed to by the parties, the parties are unable with the assistance of the mediator to resolve any of the disputes included in the written claim, the mediator shall, not later than 5 business days after the conclusion of the mediation:

(a) Certify to the Ombudsman that the mediation was unsuccessful; and

(b) Recommend that the claim be referred:

(1) To arbitration pursuant to NRS 38.330, if the claim relates to any governing documents or covenants, conditions or restrictions applicable to the real estate which is the subject of the claim; or

(2) To the Division for proceedings pursuant to this section and NRS 116.745 to 116.795, inclusive, if the claim relates to an alleged violation of a provision of this chapter or any regulation adopted pursuant thereto.

➥ The mediator may not provide any other information relating to the mediation to the Division, and the Division, the Commission and a hearing panel may not request from the mediator any other information relating to the mediation.

8. If any party fails to participate in the mediation in good faith, the party is liable for all fees and costs associated with the mediation.

9. No admission, representation or statement made during a mediation conducted pursuant to this section, not otherwise discoverable or obtainable, is admissible as evidence or subject to discovery in a civil action or administrative proceeding.

~~*[9.]*~~ ***10. As used in this section, "geographic area" has the meaning ascribed to it in NRS 38.330.***

Sec. 2. NRS 116.085 is hereby amended to read as follows:

116.085 "Respondent" means a person against whom:

1. ~~[An affidavit]~~ ***A claim*** has been filed pursuant to NRS ***38.320 or*** 116.760.

2. A complaint has been filed pursuant to NRS 116.765.

Sec. 3. (Deleted by amendment.)

Sec. 3.5. **NRS 116.31162 is hereby amended to read as follows:**

116.31162 1. Except as otherwise provided in subsection 4, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the association may foreclose its lien by sale after all of the following occur:

(a) The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) Not less than 30 days after mailing the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the name and address of the person authorized by the association to enforce the lien by sale.

(3) Contain, in 14-point bold type, the following warning:

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days begins on the first day following:

(a) The date on which the notice of default is recorded; or

(b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit,

➥ whichever date occurs later.

4. The association may not foreclose a lien by sale ~~[based]~~ **:**

(a) Based on a fine or penalty for a violation of the governing documents of the association unless:

~~[(a)]~~ ***(1)*** The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or

~~[(b)]~~ ***(2)*** The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.

(b) During the pendency of any mediation or arbitration conducted pursuant to NRS 38.300 to 38.360, inclusive, and section 15 of this act and 116.745 to 116.795, inclusive, and section 1 of this act, if the issue in dispute is the basis for instituting the foreclosure.

Sec. 4. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community and during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, including, without limitation, any architectural plan or specification submitted by a unit's owner to the association during an approval process required by the governing documents, except for those records described in subsection 2; ~~[and]~~

(c) Any document, including, without limitation, minutes of an executive board meeting, a reserve study and a budget, if the document:

(1) Is in the process of being developed for final consideration by the executive board; and

(2) Has not been placed on an agenda for final approval by the executive board ~~[.]~~ ***; and***

(d) Except as otherwise provided by law, any document or information which is:

(1) Submitted to the Division in response to a claim filed with the Division pursuant to NRS 38.320 or 116.760;

(2) Received from the Division as a result of the filing of a claim pursuant to NRS 38.320 or 116.760 or an investigation of that claim; or

(3) Otherwise required to be kept confidential by the Division pursuant to subsection 1 of NRS 116.757,

➥ unless and until the Administrator files a formal complaint with the Commission.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If the Ombudsman is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

6. If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request and without charge, provide equal space to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.

7. If an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal space to opposing views and opinions of a unit's owner, tenant or resident of the common-interest community.

8. The association and its officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to subsection 6 or 7.

9. As used in this section:

(a) "Issue of official interest" includes, without limitation:

(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, the election of members of the executive board; and

(2) The enactment or adoption of rules or regulations that will affect a common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or

(3) An official bulletin board that is available to each unit's owner,

➥ which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.

Sec. 5. NRS 116.675 is hereby amended to read as follows:

116.675 1. The Commission may appoint one or more hearing panels. Each hearing panel must consist of one or more independent hearing officers. An independent hearing officer may be, without limitation, a member of the Commission or an employee of the Commission.

2. The Commission may by regulation delegate to one or more hearing panels the power of the Commission to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter.

3. While acting under the authority of the Commission, a hearing panel and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the Commission and its members.

4. A final order of a hearing panel:

(a) May be appealed to the Commission if, not later than 20 days after the date that the final order is issued by the hearing panel, any party aggrieved by the final order files a written notice of appeal with the Commission.

(b) Must be reviewed and approved by the Commission if, not later than 40 days after the date that the final order is issued by the hearing panel, the Division, upon the direction of the Chair of the Commission, provides written notice to all parties of the intention of the Commission to review the final order.

5. If the Commission finds that an appeal from a final order of a hearing panel is filed in bad faith or without reasonable cause for the purpose of delay or harassment, the Commission may impose any of the sanctions set forth in subsection ~~[8]~~ 9 of NRS 116.760 against the person who filed the appeal.

Sec. 6. NRS 116.745 is hereby amended to read as follows:

116.745 As used in NRS 116.745 to 116.795, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, "violation" means a violation of any provision of this chapter, any regulation adopted pursuant thereto or any order of the Commission or a hearing panel.

Sec. 7. NRS 116.750 is hereby amended to read as follows:

116.750 1. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, ***and section 1 of this act,*** the Division and the Ombudsman have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take appropriate action against any person who commits a violation, including, without limitation:

(a) Any association and any officer, employee or agent of an association.

(b) Any member of an executive board.

(c) Any community manager who holds a certificate and any other community manager.

(d) Any person who is registered as a reserve study specialist, or who conducts a study of reserves, pursuant to chapter 116A of NRS.

(e) Any declarant or affiliate of a declarant.

(f) Any unit's owner.

(g) Any tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto.

2. The jurisdiction set forth in subsection 1 applies to any officer, employee or agent of an association or any member of an executive board who commits a violation and who:

(a) Currently holds his or her office, employment, agency or position or who held the office, employment, agency or position at the commencement of proceedings against him or her.

(b) Resigns his or her office, employment, agency or position:

(1) After the commencement of proceedings against him or her; or

(2) Within 1 year after the violation is discovered or reasonably should have been discovered.

Sec. 8. NRS 116.755 is hereby amended to read as follows:

116.755 1. The rights, remedies and penalties provided by NRS 116.745 to 116.795, inclusive, ***and section 1 of this act*** are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity.

2. If the Commission, a hearing panel or another agency or officer elects to take a particular action or pursue a particular remedy or penalty authorized by NRS 116.745 to 116.795, inclusive, ***and section 1 of this act*** or another specific statute, that election is not exclusive and does not preclude the Commission, the hearing panel or another agency or officer from taking any other actions or pursuing any other remedies or penalties authorized by NRS 116.745 to 116.795, inclusive, ***and section 1 of this act*** or another specific statute.

3. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, ***and section 1 of this act,*** the Commission or a hearing panel shall not intervene in any internal activities of an association except to the extent necessary to prevent or remedy a violation.

Sec. 9. NRS 116.757 is hereby amended to read as follows:

116.757 1. Except as otherwise provided in this section and NRS 239.0115, a ~~[written affidavit]~~ ***claim and a response*** filed with the Division pursuant to NRS ***38.320 or*** 116.760, all documents and other information filed with the ~~[written affidavit]~~ ***claim or response*** and all documents and other information compiled as a result of an investigation conducted to determine whether to file a formal complaint with the Commission are confidential. ~~[The]~~ ***Except as otherwise provided in this section, the*** Division shall not disclose any information that is confidential pursuant to this subsection, in whole or in part, to any person, including, without limitation, a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed pursuant to subsection ~~[2]~~ ***3*** and the disclosure is required pursuant to subsection ~~[2.]~~ ***3.***

2. ***The Division may disclose a claim and response filed with the Division pursuant to NRS 38.320 or 116.760 and any documents or other information filed with the claim or response to:***

(a) The parties to the claim, as required by NRS 38.320 or 116.760 or section 1 or 15 of this act;

(b) The mediator selected or appointed pursuant to section 1 or 15 of this act; and

(c) An arbitrator selected or appointed pursuant to NRS 38.330.

3. A formal complaint filed by the Administrator with the Commission and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline or take other administrative action pursuant to NRS 116.745 to 116.795, inclusive, ***and section 1 of this act*** are public records.

Sec. 10. NRS 116.760 is hereby amended to read as follows:

116.760 1. Except as otherwise provided in this section, a person who is aggrieved by an alleged violation may, not later than 1 year after the person discovers or reasonably should have discovered the alleged violation, file with the Division a written ~~[affidavit that sets forth the facts constituting the alleged violation. The affidavit may allege any actual damages suffered by the aggrieved person as a result of the alleged violation.]~~ ***claim pursuant to this section.*** ~~*[A claim may not be filed pursuant to this section if:*~~

~~*(a) The claimant previously filed a claim with the Division; and*~~

~~*(b) At the time the claimant filed the previous claim, the claimant was aware or reasonably should have been aware of the facts and circumstances underlying the current claim.]*~~

2. An aggrieved person may not file ~~[such an affidavit]~~ ***a claim pursuant to this section*** unless ***all administrative procedures specified in the governing documents have been exhausted and*** the aggrieved person has provided the respondent by certified mail, return receipt requested, with written notice of the alleged violation set forth in the ~~[affidavit.]~~ ***claim.*** The notice must:

(a) Be mailed to the respondent's last known address.

(b) Specify, in reasonable detail, the alleged violation, any actual damages suffered by the aggrieved person as a result of the alleged violation, and any corrective action proposed by the aggrieved person.

3. A ~~[written affidavit]~~ ***claim*** filed with the Division pursuant to this section ***or NRS 38.320*** must be ~~[:~~

~~(a) On]~~ ***on*** a form ~~[prescribed]~~ ***approved*** by the ~~[Division.~~

~~(b) Be accompanied by evidence that:~~

~~(1)]~~ ***Commission and must include:***

(a) The complete names, addresses and telephone numbers of all parties to the claim.

(b) A statement of whether all administrative procedures specified in the governing documents have been exhausted.

(c) A specific statement of the nature of the claim, including, without limitation, a description, in reasonable detail, of:

(1) The alleged violation of the provisions of this chapter or any regulation adopted pursuant thereto or an alleged violation of the governing documents;

(2) Any alleged damages suffered by the aggrieved person as a result of the actions underlying the claim; and

(3) Any corrective action proposed by the claimant.

(d) A statement that:

(1) The claimant has given the respondent written notice of the claim;

(2) The respondent has been given a reasonable opportunity after receiving the written notice to correct the alleged violation ~~[;]~~ ***of the provisions of this chapter or any regulation adopted pursuant thereto or an alleged violation of the governing documents;*** and

~~[(2)]~~ ***(3)*** Reasonable efforts to resolve the alleged violation have failed.

(e) All claims of which the claimant is aware or reasonably should be aware, including, without limitation, any claims that relate to a violation of the governing documents applicable to the real estate which is the subject of the claim.

(f) Such other information as the Division may require by regulation.

4. ~~[The]~~ ***Upon the filing of a claim that satisfies the requirements of this section, the Division shall serve a copy of the claim on the respondent by certified mail, return receipt requested, to his or her last known address.***

5. Upon being served pursuant to subsection 4, the person upon whom a copy of the claim was served shall, not later than 30 days after the date of service, file a written response with the Division. The response must:

(a) Contain an admission or a denial of the allegations contained in the claim and any defenses upon which the respondent will rely; and

(b) Be delivered personally to the Division or mailed to the Division by certified mail, return receipt requested.

6. Except for good cause shown, if a person fails to file a written response pursuant to subsection 5, the claim may be deemed substantiated upon the filing of an affidavit with the Division.

7. The Division may consolidate multiple claims involving the same parties for the purposes of a mediation conducted pursuant to section 1 of this act.

~~*[7.]*~~ ***8. By filing a claim or response with the Division pursuant to this section, a person is certifying that to the best of the person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances:***

(a) The claim or response is not being filed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of proceedings before the Division or the Commission; and

(b) The allegations and other factual contentions in the claim or response have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

~~*[8.]*~~ ***9. If a person files a claim or response pursuant to this section or NRS 38.320 which the person knows is false or fraudulent or if a person files such a claim or response in bad faith or without reasonable cause for the purpose of harassment, the*** Commission or a hearing panel may ~~[impose]~~ ***:***

(a) Impose an administrative fine of not more than $1,000 against ~~[any]~~ ***the*** person who ~~[knowingly files a false or fraudulent affidavit with the Division.]~~ ***filed the claim ~~[;]~~ or response;***

(b) Issue an order directing the person who filed the claim or response to pay the costs incurred by the Division as a result of that filing, including, without limitation, the costs incurred by the Division in investigating the allegations in the claim ~~[;]~~ or response; or

(c) Take any combination of the actions set forth in paragraphs (a) ~~[or]~~ and (b).

~~*[9. If a person files a frivolous claim with the Division pursuant to this section or NRS 38.320, the Commission may issue an order directing the person who filed the frivolous claim to pay the costs incurred by the Division as a result of that filing, including, without limitation, the costs incurred by the Division in investigating the allegations in the claim.]*~~

Sec. 11. NRS 116.765 is hereby amended to read as follows:

116.765 1. Upon ~~[receipt of an affidavit that complies with the provisions of NRS 116.760,]~~ ***referral of a claim to the Division pursuant to subsection 7 of section 1 of this act or subsection 7 of section 15 of this act,*** the Division shall ~~[refer]~~ ***determine whether good cause exists to proceed with a hearing on the alleged violation. If, after investigating the alleged violation, the Division determines that the allegations in the claim are not frivolous, false or fraudulent and that good cause exists to proceed with a hearing on the alleged violation, the Administrator shall:***

(a) File a formal complaint with the Commission, with the Division as complainant, and schedule a hearing on the complaint before the Commission or a hearing panel; or

(b) Refer the ~~[affidavit]~~ ***claim*** to the Ombudsman.

2. ~~[The]~~ ***If the Administrator refers a claim to the Ombudsman pursuant to subsection 1, the*** Ombudsman shall give such guidance to the parties as the Ombudsman deems necessary to assist the parties to resolve the alleged violation. ~~[~~

~~3.]~~ If the parties are unable to resolve the alleged violation with the assistance of the Ombudsman, the Ombudsman shall provide to the Division a report concerning the alleged violation and ***, except as otherwise provided in subsection 4,*** any information collected by the Ombudsman during his or her efforts to assist the parties to resolve the alleged violation.

~~[4.]~~ ***3.*** Upon receipt of the report from the Ombudsman ~~[,]~~ ***pursuant to subsection 2,*** the Division shall conduct an investigation to determine whether good cause exists to proceed with a hearing on the alleged violation. ~~[~~

~~5.]~~ If, after investigating the alleged violation, the Division determines that the allegations in the ~~[affidavit]~~ ***claim*** are not frivolous, false or fraudulent and that good cause exists to proceed with a hearing on the alleged violation, the Administrator shall file a formal complaint with the

Commission ***, with the Division as complainant,*** and schedule a hearing on the complaint before the Commission or a hearing panel.

4. No admission, representation or statement made in the course of the Ombudsman's efforts to assist the parties to resolve the alleged violation, not otherwise discoverable or obtainable, is admissible as evidence or subject to discovery in a civil action or administrative proceeding.

Sec. 12. NRS 116.770 is hereby amended to read as follows:

116.770 1. Except as otherwise provided in subsection 2, if the Administrator files a formal complaint with the Commission, the Commission or a hearing panel shall hold a hearing on the complaint not later than 90 days after the date that the complaint is filed.

2. The Commission or the hearing panel may continue the hearing upon its own motion or upon the written request of a party to the complaint, for good cause shown, including, without limitation, the existence of proceedings for mediation or arbitration or a civil action involving the facts that constitute the basis of the complaint.

3. The Division shall give the respondent ***and, if the Division is not a party to the hearing, the claimant*** written notice of the date, time and place of the hearing ~~[on the complaint]~~ at least 30 days before the date of the hearing. The notice must be:

(a) Delivered personally to the ***claimant and*** respondent or mailed to the ***claimant and*** respondent by certified mail, return receipt requested, to ~~[his or her]~~ ***their*** last known ~~[address.]~~ ***addresses.***

(b) Accompanied by:

(1) A copy of the complaint; and

(2) Copies of all communications, reports, affidavits and depositions in the possession of the Division that are relevant to the complaint.

4. At any hearing ~~[on the complaint,]~~ ***held pursuant to this section,*** the Division may not present evidence that was obtained after the notice was given to the respondent pursuant to this section, unless the Division proves to the satisfaction of the Commission or the hearing panel that:

(a) The evidence was not available, after diligent investigation by the Division, before such notice was given to the respondent; and

(b) The evidence was given or communicated to the respondent immediately after it was obtained by the Division.

5. ~~[The]~~ ***If the Administrator files a formal complaint, the*** respondent must file an answer not later than 30 days after the date that notice of the complaint is delivered or mailed by the Division. The answer must:

(a) Contain an admission or a denial of the allegations contained in the complaint and any defenses upon which the respondent will rely; and

(b) Be delivered personally to the Division or mailed to the Division by certified mail, return receipt requested.

6. If the ***Administrator files a formal complaint and the*** respondent does not file an answer within the time required by subsection 5, the Division may, after giving the respondent written notice of the default, request the

Commission or the hearing panel to enter a finding of default against the respondent. The notice of the default must be delivered personally to the respondent or mailed to the respondent by certified mail, return receipt requested, to his or her last known address.

Sec. 13. NRS 116.775 is hereby amended to read as follows:

116.775 ~~[Any]~~ ***If the Administrator files a formal complaint with the Commission, any*** party to the complaint may be represented by an attorney at any hearing on the complaint.

Sec. 14. NRS 116.780 is hereby amended to read as follows:

116.780 1. After conducting its hearings on ~~[the]~~ ***a*** complaint ~~[,]~~ ***filed by the Administrator or a claim referred by the Administrator,*** the Commission or the hearing panel shall render a final decision on the merits of the complaint ***or claim*** not later than 20 days after the date of the final hearing.

2. The Commission or the hearing panel shall notify all parties to the complaint ***or claim*** of its decision in writing by certified mail, return receipt requested, not later than 60 days after the date of the final hearing. The written decision must include findings of fact and conclusions of law.

Sec. 15. Chapter 38 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Not later than 5 business days after receipt of a written response filed with the Division pursuant to subsection 6 of NRS 38.320, the Division shall provide:

(a) To the claimant, a copy of the response.

(b) To the parties, the list of mediators maintained by the Division pursuant to NRS 38.340.

2. The parties may select a mediator from the list of mediators provided pursuant to subsection 1. If the parties fail to agree upon a mediator, the Ombudsman shall appoint a mediator from the list of mediators maintained by the Division ~~[.]~~ ***within 5 business days. Any mediator selected by the parties or appointed by the Ombudsman must be available within the geographic area*** ~~[.]~~ ***, unless such a requirement is determined by the parties or the Ombudsman to be unreasonable. Upon appointing a mediator, the Ombudsman shall provide the name of the mediator to the parties.***

3. Not later than 5 business days after his or her selection or appointment pursuant to subsection 2, the mediator shall provide to the parties an informational statement relating to a mediation conducted pursuant to this section. The informational statement:

(a) Must be in a form approved by the Commission;

(b) Must be written in plain English;

(c) Must explain the procedures and applicable law relating to a mediation conducted pursuant to this section, including, without limitation, the confidentiality of the mediation, the nature of the mediation process, the enforceability of a settlement obtained through mediation and the

procedures for resolution of the claim if the parties fail to reach a settlement through mediation; and

(d) Must be accompanied by a separate form acknowledging that the party has received and read the informational statement and agrees to comply with the provisions of law governing the confidentiality of the mediation, which must be returned to the mediator by the party not later than 10 days after receipt of the informational statement.

4. Unless otherwise provided by an agreement of the parties, a mediation conducted pursuant to this section must be completed within 60 days after the selection or appointment of the mediator.

5. Upon the conclusion of the settlement discussions, any agreement obtained through mediation conducted pursuant to this section must be reduced to writing by the mediator and signed by the parties. The mediator shall provide a copy of the written agreement signed by the parties to each party and the Division. Any written agreement received by the Division pursuant to this subsection is confidential. The agreement may be enforced as any other written agreement. Except as otherwise provided in this section and subject to any regulations adopted by the Commission, the parties are responsible for the payment of all fees and costs of mediation in the manner provided by the mediator. The Commission shall adopt regulations governing the maximum amount , not to exceed $500 per mediation, that may be charged for fees and costs of mediation and the manner in which such fees and costs of mediation are paid.

6. The Division may provide for the payment of the fees for a mediator selected or appointed pursuant to this section from the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630, to the extent that:

(a) The Commission approves the payment; and

(b) There is money available in the Account for this purpose.

7. If either party fails to participate in the mediation or if, within 60 days after the selection or appointment of the mediator or any longer period agreed to by the parties, the parties are unable with the assistance of the mediator to resolve any of the disputes included in the claim, the mediator shall, not later than 5 business days after the conclusion of the mediation:

(a) Certify to the Ombudsman that the mediation was unsuccessful; and

(b) Recommend that the claim be referred:

(1) To arbitration pursuant to NRS 38.330, if the claim relates to any governing documents or covenants, conditions or restrictions applicable to the real estate which is the subject of the claim; or

(2) To the Division for proceedings pursuant to NRS 116.745 to 116.795, inclusive, and section 1 of this act, if the claim relates to an alleged violation of a provision of chapter 116 of NRS or any regulation adopted pursuant thereto.

➥ ***The mediator may not provide any other information relating to the mediation to the Division, and the Division, the Commission and a hearing panel may not request from the mediator any other information relating to the mediation.***

8. If either party fails to participate in the mediation in good faith, the party is liable for all fees and costs associated with the mediation.

9. No admission, representation or statement made during a mediation conducted pursuant to this section, not otherwise discoverable or obtainable, is admissible as evidence or subject to discovery in a civil action or administrative proceeding.

~~*[9.]*~~ ***10. As used in this section, "geographic area" has the meaning ascribed to in NRS 38.330.***

Sec. 16. NRS 38.300 is hereby amended to read as follows:

38.300 As used in NRS 38.300 to 38.360, inclusive, ***and section 15 of this act,*** unless the context otherwise requires:

1. ~~[~~"Assessments" means:

~~(a) Any charge which an association may impose against an owner of residential property pursuant to a declaration of covenants, conditions and restrictions, including any late charges, interest and costs of collecting the charges; and~~

~~(b) Any penalties, fines, fees and other charges which may be imposed by an association pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 or subsections 10, 11 and 12 of NRS 116B.420.~~

~~2.]~~ "Association" has the meaning ascribed to it in NRS 116.011 or 116B.030.

~~[~~3.~~]~~ ***2. "Charges" means:***

(a) Any charge which an association may impose against an owner of residential property pursuant to the governing documents of an association or a declaration of covenants, conditions and restrictions, including, without limitation, any assessments, penalties and fines and any late charges, interest and costs of collecting the charges; and

(b) Any penalties, fines, fees and other charges which may be imposed by an association pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102, subsection 4 of NRS 116.310312 or subsections 10, 11 and 12 of NRS 116B.420.

3. "Civil action" includes an action for money damages or equitable relief. The term does not include an action in equity ***solely*** for ***the purpose of seeking or obtaining interim or provisional relief of any kind, including, without limitation,*** injunctive relief ~~[in which]~~ ***, where*** there is an immediate threat of irreparable harm, or an action relating to the ***ownership of*** title to residential property. ***As used in this subsection, "irreparable harm" means harm or an injury for which the remedy of damages or monetary compensation is inadequate and does not exist solely because a claim involves real estate.***

4. "***Commission" means the Commission for Common-Interest Communities and Condominium Hotels created by NRS 116.600.***

5. "Division" means the Real Estate Division of the Department of Business and Industry.

~~[~~5.~~]~~ ***6. "Governing documents" has the meaning ascribed to it in NRS 116.049 or 116B.110.***

7. "Residential property" includes, but is not limited to, real estate within a ~~[~~planned community~~]~~ ***common-interest community*** subject to the provisions of chapter 116 of NRS or real estate within a condominium hotel subject to the provisions of chapter 116B of NRS. The term does not include commercial property if no portion thereof contains property which is used for residential purposes.

Sec. 17. NRS 38.310 is hereby amended to read as follows:

38.310 1. No civil action based upon a claim relating to:

(a) The interpretation, application ***,*** ~~[~~or~~]~~ enforcement ***or violation*** of any ***governing documents or*** covenants, conditions or restrictions applicable to residential property ~~[~~or any bylaws, rules or regulations adopted by an association;~~]~~ or

(b) The procedures used for increasing, decreasing or imposing ~~[~~additional assessments~~]~~ ***charges*** upon residential property,

➥ may be commenced in any court in this State unless the action has been submitted to mediation or arbitration pursuant to the provisions of NRS 38.300 to 38.360, inclusive, and ~~[~~, if the civil action concerns real estate within a planned community subject to the provisions of chapter 116 of NRS or real estate within a condominium hotel subject to the provisions of chapter 116B of NRS, all administrative procedures specified in any covenants, conditions or restrictions applicable to the property or in any bylaws, rules and regulations of an association have been exhausted.~~]~~ ***section 15 of this act.***

2. A court shall dismiss any civil action which is commenced in violation of the provisions of subsection 1.

Sec. 18. NRS 38.320 is hereby amended to read as follows:

38.320 1. Any civil action described in NRS 38.310 must be submitted for mediation or arbitration by filing a written claim with the Division ~~[~~. The claim~~]~~ ***pursuant to this section.*** ~~*[A claim may not be filed pursuant to this section if:*~~

~~*(a) The claimant previously filed a claim with the Division; and*~~

~~*(b) At the time the claimant filed the previous claim, the claimant was aware or reasonably should have been aware of the facts and circumstances underlying the current claim.]*~~

2. A claim may not be filed with the Division pursuant to this section unless:

(a) The claimant has provided the respondent by certified mail, return receipt requested, at his or her last known address, with written notice of the claim which specifies, in reasonable detail:

(1) The nature of the claim;

(2) Any actual damages suffered by the claimant as a result of the actions underlying the claim; and

(3) Any corrective action proposed by the claimant; and

(b) If the claim concerns real estate within a common-interest community subject to the provisions of chapter 116 of NRS or real estate within a condominium hotel subject to the provisions of chapter 116B of NRS, all administrative procedures specified in the governing documents applicable to the property or in any bylaws, rules and regulations of the association have been exhausted.

3. A claim filed with the Division pursuant to subsection 1 must be on a form approved by the Commission and must include:

(a) The complete names, addresses and telephone numbers of all parties to the claim **.** ~~[,]~~

(b) ***If the claim concerns real estate within a common-interest community subject to the provisions of chapter 116 of NRS, a statement of whether all administrative procedures specified in the governing documents have been exhausted.***

(c) A specific statement of the nature of the claim ~~[,~~

~~(c) A statement of whether the person wishes to have the claim submitted to a mediator or to an arbitrator and, if the person wishes to have the claim submitted to an arbitrator, whether the person agrees to binding arbitration; and~~

~~(d)]~~ ***, including, without limitation, a description, in reasonable detail, of:***

(1) Any alleged violation of the governing documents or conditions, covenants or restrictions applicable to the real estate that is the subject of the claim;

(2) Any alleged damages suffered by the claimant as a result of the actions underlying the claim; and

(3) Any corrective action proposed by the claimant.

(d) A statement that:

(1) The respondent has been given written notice of the claim;

(2) The respondent has been given a reasonable opportunity after receiving the written notice to correct or remedy the claim; and

(3) Reasonable efforts to resolve the claim have failed.

(e) All claims of which the claimant is aware or reasonably should be aware, including, without limitation, any claims which relate to a violation of a provision of chapter 116 of NRS, any regulation adopted pursuant thereto or an order of the Commission or a hearing panel issued pursuant thereto.

(f) Such other information as the Division may require ~~[.~~

~~2.]~~ ***by regulation.***

4. The ~~[written]~~ claim must be accompanied by a reasonable fee as determined by the Division.

~~[~~3.~~]~~ ***5.*** Upon the filing of ~~[~~the written~~]~~ ***a*** claim ~~[~~,~~]~~ ***that satisfies the requirements of this section,*** the claimant shall serve a copy of the claim ~~[~~in the manner prescribed in Rule 4 of the Nevada Rules of Civil Procedure for the service of a summons and complaint.~~]~~ ***on the respondent by certified mail, return receipt requested, to his or her last known address.*** The claim so served must be accompanied by a statement ~~[~~explaining~~]~~ ***prepared by the Division which explains*** the procedures for mediation and arbitration set forth in NRS 38.300 to 38.360, inclusive ~~[~~.~~]~~

~~4.]~~ ***, and section 15 of this act.***

6. Upon being served pursuant to subsection ~~[~~3,~~]~~ ***5,*** the person upon whom a copy of the ~~[~~written~~]~~ claim was served shall, within 30 days after the date of service, file a written ~~[~~answer~~]~~ ***response*** with the Division. The ~~[~~answer~~]~~ ***response*** must ~~[~~be~~]~~ ***:***

(a) Contain an admission or a denial of the allegations contained in the claim and any defenses upon which the respondent will rely;

(b) Be delivered personally to the Division or mailed to the Division by certified mail, return receipt requested; and

(c) Be accompanied by a reasonable fee as determined by the Division.

7. Except for good cause shown, if a person fails to file a written response pursuant to subsection 6, the claim may be deemed substantiated upon the filing of an affidavit with the Division.

8. The Division may consolidate multiple claims involving the same parties for the purposes of a mediation conducted pursuant to section 15 of this act.

~~*[8.]*~~ ***9. By filing a claim or response with the Division pursuant to this section, a person is certifying that to the best of the person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances:***

(a) The claim or response is not being filed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of proceedings before the Division or the Commission; and

(b) The allegations and other factual contentions in the claim or response have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

~~*[9.]*~~ ***10. If a person files a claim or response pursuant to this section which the person knows is false or fraudulent or if a person files such a claim or response in bad faith or without reasonable cause for the purpose of harassment, or if the claim or response is frivolous, the Commission or a hearing panel may impose the penalties set forth in subsection*** ~~*[8 or]*~~ ***9 of NRS 116.760 .*** ~~*[, whichever is applicable.]*~~

Sec. 19. NRS 38.330 is hereby amended to read as follows:

38.330 1. If ~~[~~all parties named in a written claim filed pursuant to NRS 38.320 agree to have the claim submitted for mediation, the parties shall reduce the agreement to writing and shall select a mediator from the list of

~~mediators maintained by the Division pursuant to NRS 38.340. Any mediator selected must be available within the geographic area. If the parties fail to agree upon a mediator, the Division shall appoint a mediator from the list of mediators maintained by the Division. Any mediator appointed must be available within the geographic area. Unless otherwise provided by an agreement of the parties, mediation must be completed within 60 days after the parties agree to mediation. Any agreement obtained through mediation conducted pursuant to this section must, within 20 days after the conclusion of mediation, be reduced to writing by the mediator and a copy thereof provided to each party. The agreement may be enforced as any other written agreement. Except as otherwise provided in this section, the parties are responsible for all costs of mediation conducted pursuant to this section.~~

~~2. If all the parties named in the claim do not agree to mediation, the parties shall select an arbitrator from~~**]** ***, pursuant to subsection 7 of section 1 of this act or subsection 7 of section 15 of this act, a mediator recommends that a claim be referred to arbitration, the Division shall, not later than 10 days after receipt of the referral, provide to the parties*** the list of arbitrators maintained by the Division pursuant to NRS 38.340. **[**~~Any arbitrator selected must be available within the geographic area.~~**]** ***The parties may select an arbitrator from that list.*** If the parties fail to agree upon an arbitrator, the Division shall appoint an arbitrator from the list maintained by the Division. Any arbitrator ***selected by the parties or*** appointed ***by the Division*** must be available within the geographic area. Upon appointing an arbitrator, the Division shall provide the name of the arbitrator to each party.

2. An arbitrator ***selected or appointed pursuant to subsection 1*** shall, not later than 5 days after the arbitrator's selection or appointment ***,*** **[**~~pursuant to this subsection,~~**]** provide to the parties an informational statement relating to the arbitration of a claim pursuant to this section. The **[**~~written~~**]** informational statement:

(a) ***Must be in a form approved by the Commission;***

(b) Must be written in plain English;

[~~(b)~~**]** ***(c)*** Must explain the procedures and applicable law relating to the arbitration of a claim conducted pursuant to this section, including, without limitation, the procedures, timelines and applicable law relating to confirmation of an award pursuant to NRS 38.239, vacation of an award pursuant to NRS 38.241, judgment on an award pursuant to NRS 38.243, and any applicable statute or court rule governing the award of attorney's fees or costs to any party; and

[~~(c)~~**]** ***(d)*** Must be accompanied by a separate form acknowledging that the party has received and read the informational statement, which must be returned to the arbitrator by the party not later than 10 days after receipt of the informational statement.

3. ***Arbitration conducted pursuant to this section must be nonbinding arbitration, unless all the parties agree in writing to binding arbitration.***

4. The Division may provide for the payment of the fees for ~~[a mediator or]~~ an arbitrator selected or appointed pursuant to this section from the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630, to the extent that:

(a) The Commission ~~[for Common-Interest Communities and Condominium Hotels]~~ approves the payment; and

(b) There is money available in the account for this purpose.

~~[4.]~~ ***5. The Division may adopt regulations governing:***

(a) The maximum amount that may be charged for arbitration;

(b) The procedures for conducting arbitration; and

(c) Reasonable limitations on excessive arbitration related activities, including, without limitation, site visits, charges for travel time, pre-arbitration costs and charges for excessive or unnecessary correspondence.

6. The fees for an arbitrator selected or appointed pursuant to this section must not exceed $1,000, unless a greater fee is authorized for good cause shown. Except as otherwise provided in subsection 4, each party to the arbitration must pay an equal percentage of the fees for the arbitration.

7. Unless all the parties to the arbitration otherwise agree in writing, the arbitration of a claim pursuant to this section must be conducted in accordance with:

(a) The rules of the American Arbitration Association or its successor organization concerning the manner in which to provide speedy arbitration; or

(b) Other comparable rules for speedy arbitration approved by the Commission or the Division.

~~*[6.]*~~ ***8.*** Except as otherwise provided in this section and except where inconsistent with the provisions of NRS 38.300 to 38.360, inclusive, ***and section 15 of this act,*** the arbitration of a claim pursuant to this section must be conducted in accordance with the provisions of NRS 38.231, 38.232, 38.233, 38.236 to 38.239, inclusive, 38.242 and 38.243. At any time during the arbitration of a claim relating to the interpretation, application ***,*** ~~[or]~~ enforcement ***or violation*** of any ***governing documents or*** covenants, conditions or restrictions applicable to residential property ***,*** ~~[or any bylaws, rules or regulations adopted by an association,]~~ the arbitrator may issue an order prohibiting the action upon which the claim is based. An award must be made within 30 days after the conclusion of arbitration, unless a shorter period is agreed upon by the parties to the arbitration.

~~[5.]~~ ***9. The arbitrator shall provide a copy of a final arbitration award to the Division.***

~~*[7.]*~~ ***10. Except as otherwise provided in subsection 4 and subject to subsection 6 and any regulations adopted by the Commission, the parties to an arbitration conducted pursuant to this section are responsible for the payment of all fees and costs of arbitration in the manner provided by the arbitrator.***

~~*[8.]*~~ ***11.*** If ~~[all the parties have agreed to]~~ ***an arbitration conducted pursuant to this section is*** nonbinding arbitration, any party to the nonbinding arbitration may, within 30 days after a decision and award have been served upon the parties, commence a civil action in the proper court concerning the claim which was submitted for arbitration. Any complaint filed in such an action must contain a sworn statement indicating that the issues addressed in the complaint have been arbitrated pursuant to the provisions of NRS 38.300 to 38.360, inclusive ~~[.]~~ ***, and section 15 of this act.*** If such an action is not commenced within that period, any party to the arbitration may, within 1 year after the service of the award, apply to the proper court for a confirmation of the award pursuant to NRS 38.239.

~~[6.]~~ ~~*[9.]*~~ ***12.*** If all the parties agree in writing to ~~[binding]~~ arbitration, the arbitration must be conducted in accordance with the provisions of this chapter. An award procured pursuant to such binding arbitration may be vacated and a rehearing granted upon application of a party pursuant to the provisions of NRS 38.241.

~~[7.]~~ ~~*[10.]*~~ ***13.*** If, after the conclusion of binding arbitration, a party:

(a) Applies to have an award vacated and a rehearing granted pursuant to NRS 38.241; or

(b) Commences a civil action based upon any claim which was the subject of arbitration,

➥ the party shall, if the party fails to obtain a more favorable award or judgment than that which was obtained in the initial ~~[binding]~~ arbitration, pay all costs and reasonable attorney's fees incurred by the opposing party after the application for a rehearing was made or after the complaint in the civil action was filed.

~~[8. Upon request by a party, the Division shall provide a statement to the party indicating the amount of the fees for a mediator or an arbitrator selected or appointed pursuant to this section.~~

~~9.]~~ ~~*[11.]*~~ ***14.*** As used in this section, "geographic area" means an area within 150 miles from any residential property or association which is the subject of a written claim submitted pursuant to NRS 38.320.

Sec. 20. NRS 38.340 is hereby amended to read as follows:

38.340 ***1.*** For the purposes of NRS 38.300 to 38.360, inclusive, ***and section 15 of this act and 116.745 to 116.795, inclusive, and section 1 of this act,*** the Division shall establish and maintain:

~~[1.]~~ ***(a)*** A list of mediators and arbitrators who are available for mediation and arbitration of claims. The list must include mediators and arbitrators who, as determined by the Division, have received training and experience in mediation or arbitration and in the resolution of disputes concerning associations, including, without limitation, the interpretation, application and enforcement of ***governing documents,*** covenants, conditions and restrictions pertaining to residential property and the articles of incorporation, bylaws, rules and regulations of an association. In establishing and maintaining the list, the Division may use lists of qualified persons maintained by any

organization which provides mediation or arbitration services. Before including a mediator or arbitrator on a list established and maintained pursuant to this ~~[section,]~~ ***subsection,*** the Division may require the mediator or arbitrator to present proof satisfactory to the Division that the mediator or arbitrator has received the training and experience required for mediators or arbitrators pursuant to this ~~[section.~~

~~2.]~~ ***subsection.***

(b) A document which contains a written explanation of the procedures for mediating and arbitrating claims pursuant to NRS 38.300 to 38.360, inclusive ~~[.]~~ ***, and section 15 of this act and 116.745 to 116.795, inclusive, and section 1 of this act.***

(c) A record of each final arbitration award of an arbitration conducted pursuant to NRS 38.330 which is indexed by topic and made available to the public through any means deemed appropriate by the Division.

2. Upon the request of a party to a mediation or arbitration conducted pursuant to NRS 38.300 to 38.360, inclusive, and section 15 of this act and 116.745 to 116.795, inclusive, and section 1 of this act, the Division shall provide a statement to the party indicating the amount of the fees for a mediator selected or appointed pursuant to section 1 or 15 of this act or an arbitrator selected or appointed pursuant to NRS 38.330.

Sec. 21. NRS 38.350 is hereby amended to read as follows:

38.350 Any statute of limitations applicable to a claim described in ***subsection 1 of*** NRS 38.310 is tolled from the time the claim is submitted for mediation or arbitration pursuant to NRS 38.320 ***, 38.330 or 116.760, as applicable,*** until the conclusion of mediation or arbitration of the claim and the period for vacating the award has expired.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 307.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 741.

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

Legislative Counsel's Digest:

Under existing law, the trustee under a deed of trust concerning owner-occupied housing has the power to sell the property to which the deed of trust applies, subject to certain restrictions. (NRS 107.080, 107.085, 107.086) ~~[Existing law prohibits the exercise of the trustee's power of sale concerning owner-occupied property unless the trustee records in the office of the county recorder a certificate issued by the entity designated as the Mediation~~

~~Administrator for the foreclosure mediation program which indicates that foreclosure mediation is not required or has been completed. (NRS 107.086)~~

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

~~Existing law provides that if certain provisions of existing law governing the exercise of the trustee's power of sale are not followed, a court of competent jurisdiction may void the sale. (NRS 107.080) Section 1.3 of this bill authorizes a court of competent jurisdiction to void a sale made pursuant to the exercise of the trustee's power of sale if the beneficiary of the deed of trust does not comply with the provisions of this bill.~~**]** **One such restriction: (1) requires the trustee under the deed of trust to include a form to request mediation with the notice of default and election to sell which is mailed to the grantor of the deed of trust or the person who holds title of record; and (2) authorizes the grantor of the deed of trust or the person who holds the title of record to request mediation under rules adopted by the Supreme Court. (NRS 107.086) Section 1.7 of this bill requires the notice of default and election to sell that is mailed to the grantor or the person who holds the title of record to include a notice provided by the**

entity designated to administer the Foreclosure Mediation Program which states that the grantor or the person who holds the title of record has a right to seek foreclosure mediation in the Foreclosure Mediation Program.

Under existing law, another restriction on the exercise of the trustee's power of sale prohibits the trustee from exercising the power of sale unless, not later than 60 days before the date of the sale, the trustee causes a notice to be served on the grantor or the person who holds the title of record which contains the telephone numbers of certain agencies which may provide assistance to the grantor or the person who holds the title of record. (NRS 107.085) Section 1.5 of this bill amends this notice to include: (1) a statement that the person receiving the notice may have a right to participate in the State of Nevada Foreclosure Mediation Program if the time to request mediation has not expired; (2) the telephone number of the State of Nevada Foreclosure Mediation Program; and (3) the telephone number of the Division of Mortgage Lending of the Department of Business and Industry.

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

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

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

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

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

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

(2) Instructions for completing the loss mitigation application;

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

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

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

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

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

~~*4. If the grantor or the person who holds the title of record returns the loss mitigation application to the beneficiary of the deed of trust within 30 days after receipt of the application, the beneficiary shall forward the loss mitigation application to the person responsible for conducting loss mitigation analysis on behalf of the beneficiary. Upon receipt of a loss mitigation application pursuant to this subsection, the person responsible for conducting loss mitigation analysis shall perform and complete a loss mitigation analysis. If the grantor or the person who holds the title of record has returned the loss mitigation application to the beneficiary within the time specified in this subsection and has elected to enter into mediation pursuant to NRS 107.086, the loss mitigation analysis must be completed before the mediation is conducted.*~~

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

~~*(a) Execute a final loss mitigation affidavit; and*~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~*(d) "Owner-occupied housing" has the meaning ascribed to it in NRS 107.086.]*~~ **(Deleted by amendment.)**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(b) A fee of $50 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The Account must be administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.~~

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

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

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

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

~~(b) Does not include any time share or other property regulated under chapter 119A of NRS.]~~ **(Deleted by amendment.)**

Sec. 1.5. **NRS 107.085 is hereby amended to read as follows:**

107.085 1. With regard to a transfer in trust of an estate in real property to secure the performance of an obligation or the payment of a debt, the

provisions of this section apply to the exercise of a power of sale pursuant to NRS 107.080 only if:

(a) The trust agreement becomes effective on or after October 1, 2003, and, on the date the trust agreement is made, the trust agreement is subject to the provisions of § 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602 ~~[(aa),]~~ ***(bb),*** and the regulations adopted by the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32; or

(b) The trust agreement concerns owner-occupied housing as defined in NRS 107.086.

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

(a) In the manner required by subsection 3, not later than 60 days before the date of the sale, the trustee causes to be served upon the grantor or the person who holds the title of record a notice in the form described in subsection 3; and

(b) If an action is filed in a court of competent jurisdiction claiming an unfair lending practice in connection with the trust agreement, the date of the sale is not less than 30 days after the date the most recent such action is filed.

3. The notice described in subsection 2 must be:

(a) Served upon the grantor or the person who holds the title of record:

(1) Except as otherwise provided in subparagraph (2), by personal service or, if personal service cannot be timely effected, in such other manner as a court determines is reasonably calculated to afford notice to the grantor or the person who holds the title of record; or

(2) If the trust agreement concerns owner-occupied housing as defined in NRS 107.086:

(I) By personal service;

(II) If the grantor or the person who holds the title of record is absent from his or her place of residence or from his or her usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the grantor or the person who holds the title of record at his or her place of residence or place of business; or

(III) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the trust property, delivering a copy to a person there residing if the person can be found and mailing a copy to the grantor or the person who holds the title of record at the place where the trust property is situated; and

(b) In substantially the following form, with the applicable telephone numbers and mailing addresses provided on the notice and, except as otherwise provided in subsection 4, a copy of the promissory note attached to the notice:

NOTICE

YOU ARE IN DANGER OF LOSING YOUR HOME!

YOU MAY HAVE A RIGHT TO PARTICIPATE IN THE STATE OF NEVADA FORECLOSURE MEDIATION PROGRAM IF THE TIME TO REQUEST MEDIATION HAS NOT EXPIRED!

Your home loan is being foreclosed. In not less than 60 days your home ~~[will]~~ ***may*** be sold and you ~~[will]~~ ***may*** be forced to move. For help, call:

State of Nevada Foreclosure Mediation Program _____
Consumer Credit Counseling _____
The Attorney General _____
The Division of Mortgage Lending _____
The Division of Financial Institutions _____
Legal Services _____
Your Lender _____
Nevada Fair Housing Center _____

4. The trustee shall cause all social security numbers to be redacted from the copy of the promissory note before it is attached to the notice pursuant to paragraph (b) of subsection 3.

5. This section does not prohibit a judicial foreclosure.

6. As used in this section, "unfair lending practice" means an unfair lending practice described in NRS 598D.010 to 598D.150, inclusive.

Sec. 1.7. NRS 107.086 is hereby amended to read as follows:

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

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

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

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

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

(3) ***A notice provided by the Mediation Administrator indicating that the grantor or the person who holds the title of record has the right to seek mediation pursuant to this section; and***

(4) A form upon which the grantor or the person who holds the title of record may indicate an election to enter into mediation or to waive mediation ***pursuant to this section*** and one envelope addressed to the trustee and one envelope addressed to the Mediation Administrator, which the grantor or the

person who holds the title of record may use to comply with the provisions of subsection 3;

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

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

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

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

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

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

~~*the person who holds the title of record has returned to the beneficiary a loss mitigation application pursuant to section 1 of this act, a copy of the loss mitigation application, a final loss mitigation affidavit and the information obtained in connection with the loss mitigation analysis.]*~~ If the beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority.

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

6. If the grantor or the person who holds the title of record elected to enter into mediation and fails to attend the mediation, the Mediation Administrator shall provide to the trustee a certificate which states that no mediation is required in the matter.

7. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the Mediation Administrator a recommendation that the matter be terminated. The Mediation Administrator shall provide to the trustee a certificate which provides that the mediation required by this section has been completed in the matter.

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

(a) Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the district court of the county in which the property is situated or any other judicial entity.

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

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

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

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

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

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

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

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

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

12. As used in this section:

(a) ~~*[“Final loss mitigation affidavit” has the meaning ascribed to it in section 1 of this act.*~~

~~*(b)]*~~ **“**Mediation Administrator” means the entity so designated pursuant to subsection 8.

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

(c) ~~*[(d)]*~~ **“**Owner-occupied housing” means housing that is occupied by an owner as the owner’s primary residence. The term does not include any time share or other property regulated under chapter 119A of NRS.

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

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

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 400.

Bill read second time.

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

Amendment No. 615.

AN ACT relating to records; establishing a process by which a state agency may obtain certain county records at no charge for the purpose of economic development and population estimate research; prohibiting certain

uses of confidential information contained in such county records; providing civil and criminal penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill establishes a process by which a state agency engaged in activities related to economic development and population research may obtain at no charge **information on each parcel in a county, known as** the **parcel dataset, and the** digital parcel base **map** of a county **.** ~~[and electronic county assessor files.]~~ **Section 1** of this bill requires a county assessor to provide each year to the ~~[demographer]~~ **State Demographer** employed by the Department of Taxation, at no charge, the fiscal year-end ~~[datasets]~~ **parcel dataset** of the county **.** ~~[electronic assessor files.]~~ **Section 5** of this bill requires a county which maintains or possesses a digital parcel base **map** of the county to provide the fiscal year-end digital parcel base **map** to the ~~[demographer]~~ **State Demographer** each year at no charge. Under **sections 1 and 5 ,** ~~[of this bill,]~~ the ~~[demographer]~~ **State Demographer** may not require a county to provide ~~[electronic assessor files]~~ **a parcel dataset** or a digital parcel base **map** in any particular **digital or electronic** format or to use any specific software to provide such information. Not more than once each year, the ~~[demographer]~~ **State Demographer** must provide the **parcel dataset and** digital parcel base ~~[and the electronic assessor files]~~ **map** at no charge to a state agency engaged in economic development and population research that submits a written request for the information. The state agency receiving the **parcel dataset or** digital parcel base ~~[and the electronic assessor files]~~ **map** must provide a summary of the research produced from the information to the county providing the information and the Commission on Economic Development at no charge. Under **sections 1 and 5**, a state agency receiving ~~[electronic assessor files]~~ **a parcel dataset** or a digital parcel base **map** for a county must keep such information confidential and must not knowingly redistribute the information to any other person or governmental agency.

Under existing law, the personal information of certain persons which is contained in the records of a county assessor is deemed confidential, except that a county assessor is authorized to release this confidential information for certain limited purposes. (NRS 250.100-250.230) Existing law provides criminal and civil penalties for improper acts related to obtaining or disclosing these confidential records. (NRS 250.210-250.230) **Section 1** of this bill makes these civil and criminal penalties applicable to an employee or agent of a state agency obtaining confidential information **in parcel datasets** from the ~~[demographer.]~~ **State Demographer.**

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

Section 1. Chapter 250 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other provision of law, not later than September 1 of each year, a county assessor shall provide to the State Demographer at no charge the [fiscal year-end datasets] parcel dataset of the county [electronic] assessor [files.] as of June 30 of that year. The State Demographer may not require a county assessor to provide information pursuant to this subsection in a particular digital or electronic format or to use any specific software to provide the information. The State Demographer shall keep confidential the information provided to him or her pursuant to this subsection, except that the State Demographer shall provide such information at no charge to a state agency which satisfies the requirements of this section.

2. A state agency engaged in activities related to economic development or population estimate research may request the [electronic] parcel datasets [of the electronic assessor files] provided to the State Demographer pursuant to subsection 1 by submitting a written request to the State Demographer. The written request must include, without limitation:

(a) The name and address of the state agency;

(b) A statement of the purpose for which the state agency is seeking the [electronic assessor files;] parcel datasets; and

(c) A summary of the research or statistical reports which will be produced from the [electronic assessor files.] parcel datasets.

3. Except as otherwise provided in subsection 4, if the State Demographer finds that a written request complies with subsection 2, the State Demographer shall provide to the state agency at no charge the [electronic assessor files] parcel datasets provided to the State Demographer pursuant to subsection 1.

4. The State Demographer may refuse a request submitted by a state agency pursuant to subsection 2 if the State Demographer has provided the requested information to the state agency during the calendar year in which the request is made.

5. A state agency receiving [electronic assessor files] parcel datasets pursuant to this section shall provide to the county that provided the [files] parcel datasets and the Commission on Economic Development, at no charge, a summary of the research produced from that information.

6. The State Demographer or any employee or other agent of a state agency receiving [electronic assessor files] parcel datasets pursuant to this section shall not knowingly:

(a) Publish or otherwise disclose any information made confidential pursuant to NRS 250.100 to 250.230, inclusive; or

(b) Use any information made confidential pursuant to NRS 250.100 to 250.230, inclusive, to contact any person.

7. A person who violates subsection 6 is guilty of a misdemeanor and, in addition, the court may order a person who violates subsection 6 to pay a civil penalty in an amount not to exceed $2,500 for each act.

8. A state agency receiving ~~[electronic assessor files]~~ a parcel dataset pursuant to this section shall keep the ~~[electronic assessor files]~~ parcel dataset confidential, and , except as otherwise provided in subsection 5, the State Demographer, or any employee or other agent of a state agency receiving ~~[electronic assessor files]~~ a parcel dataset pursuant to this section, shall not provide the ~~[electronic assessor files]~~ parcel dataset to any person or governmental agency.

9. As used in this section:

(a) "Parcel dataset" means data or files maintained in digital or electronic format by a county assessor in the course of his or her duties that contain information on each parcel in the county, including, without limitation, information concerning ownership, parcel number, address, land designations and zoning, improvements and, if applicable, the date and price of sale.

(b) "State agency" means:

(1) The State of Nevada, or any agency, instrumentality or corporation thereof; and

(2) Faculty ~~[belonging to]~~ of the Nevada System of Higher Education or any branch or facility thereof.

~~[(b)]~~ (c) "State Demographer" means the demographer employed pursuant to NRS 360.283.

Sec. 2. NRS 250.150 is hereby amended to read as follows:

250.150 If a person listed in NRS 250.140 requests confidentiality, the confidential information of that person may only be disclosed as provided in NRS 239.0115, 250.160 or 250.180 ~~[.]~~ ***or section 1 of this act.***

Sec. 3. NRS 250.160 is hereby amended to read as follows:

250.160 1. A county assessor may provide confidential information for use:

(a) By any governmental entity, including, without limitation, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, without limitation, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders or pursuant to an order of a federal or state court.

(c) By a private investigator, private patrol officer or security consultant who is licensed pursuant to chapter 648 of NRS, for any use authorized pursuant to this section.

(d) In connection with an investigation conducted pursuant to NRS 253.0415 or 253.220.

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

(f) In the bulk distribution of surveys, marketing material or solicitations, if the assessor has adopted policies and procedures to ensure that the information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations.

(g) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station.

(h) In accordance with section 1 of this act.

2. Except for a reporter or editorial employee described in paragraph (g) of subsection 1, a person who obtains information pursuant to this section and sells or discloses that information shall keep and maintain for at least 5 years a record of:

(a) Each person to whom the information is sold or disclosed; and

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

Sec. 4. NRS 250.210 is hereby amended to read as follows:

250.210 1. A person shall not:

(a) Make a false representation to obtain any information pursuant to NRS 250.100 to 250.180, inclusive; or

(b) Knowingly obtain or disclose information pursuant to NRS 250.100 to 250.180, inclusive ~~[.]~~ ***, or section 1 of this act.***

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

Sec. 5. Chapter 237 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other provision of law, not later than September 1 of each year, each county which possesses or maintains a digital parcel base map for the county shall provide the ~~[fiscal year end]~~ digital parcel base map for the county , as of June 30 of that year, to the State Demographer at no charge. The State Demographer may not require a county to provide a digital parcel base map in a particular electronic format or to use any specific software to provide the digital parcel base ~~[.]~~ map. The State Demographer shall keep confidential the information provided to him or her pursuant to this subsection, except that the State Demographer shall provide such information at no charge to a state agency which satisfies the requirements of this section.

2. A state agency engaged in activities related to economic development or population estimate research may request the digital parcel ~~[bases]~~ base maps for each county that possesses or maintains a digital parcel base map by submitting a written request to the State Demographer. The written request must include, without limitation:

(a) The name and address of the state agency;

(b) A statement of the purpose for which the state agency is seeking the digital parcel ~~[bases;]~~ base maps; and

(c) A summary of the research or statistical reports which will be produced from the digital parcel ~~[bases.]~~ base maps.

3. Except as otherwise provided in subsection 4, if the State Demographer finds that a written request complies with subsection 2, the State Demographer shall provide to the state agency at no charge the digital parcel ~~[bases]~~ base maps provided to the State Demographer pursuant to subsection 1.

4. The State Demographer may refuse a request submitted by a state agency pursuant to subsection 2 if the State Demographer has provided the requested information to the state agency during the calendar year in which the request is made.

5. A state agency receiving a digital parcel ~~[bases]~~ base map pursuant to this section shall provide to the county that provided the digital parcel ~~[bases]~~ base map and the Commission on Economic Development, at no charge, a summary of the research produced from that information.

6. A state agency receiving a digital parcel base map pursuant to this section shall keep the digital parcel base map confidential, and , except as otherwise provided in subsection 5, the State Demographer, or any employee or other agent of a state agency receiving a digital parcel base map for a county pursuant to this section, shall not provide the digital parcel base map to any person or governmental agency.

7. As used in this section:

(a) "Digital parcel base map" means a map in an electronic format that contains the boundaries of the parcels in the county.

(b) "State agency" means:

(1) The State of Nevada, or any agency, instrumentality or corporation thereof; and

(2) Faculty ~~[belonging to]~~ of the Nevada System of Higher Education or any branch or facility thereof.

~~[(b)]~~ (c) "State Demographer" means the demographer employed pursuant to NRS 360.283.

Sec. 6. This act becomes effective on July 1, 2011.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bills Nos. 99, 142, 200, 223, 309, and 436 be taken from their position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Atkinson moved that Senate Bill No. 140 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblywoman Smith moved that Assembly Bill No. 300 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblywoman Smith moved that Assembly Amendment No. 783 to Assembly Bill No. 300 be withdrawn.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 300.

Bill read third time.

Remarks by Assemblyman Frierson.

Roll call on Assembly Bill No. 300:

YEAS—26.

NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—16.

Assembly Bill No. 300 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 140.

Bill read third time.

The following amendment was proposed by Assemblyman Atkinson:

Amendment No. 809.

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 ~~[.]~~ **; or (4) the person is an employee or contractor of a public utility and is responding to an emergency dispatch.** 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.

(f) An employee or contractor of a public utility who uses a handheld wireless communications device:

(1) That has been provided by the public utility; and

(2) While responding to a dispatch by the public utility to respond to an emergency, including, without limitation, a response to a power outage or an interruption in utility service.

3. The provisions of this section do not prohibit the use of a 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]*~~ ***:***

(a) "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)]~~ (1) The person using the device has a license to operate the device, if required; and

~~[(b)]~~ (2) 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.

(b) "Public utility" means a supplier of electricity or natural gas or a provider of telecommunications service for public use who is subject to regulation by the Public Utilities Commission of Nevada.

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. ~~[An]~~ ***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 ~~[a]~~ ***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.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 99.
Bill read third time.
Roll call on Senate Bill No. 99:
YEAS—37.
NAYS—Goedhart, Hammond, Hansen, Livermore, McArthur—5.
Senate Bill No. 99 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 142.
Bill read third time.
Roll call on Senate Bill No. 142:
YEAS—42.
NAYS—None.
Senate Bill No. 142 having received a constitutional majority, Mr. Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 200.
Bill read third time.
Roll call on Senate Bill No. 200:
YEAS—42.
NAYS—None.
Senate Bill No. 200 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 223.
Bill read third time.
Roll call on Senate Bill No. 223:
YEAS—34.
NAYS—Ellison, Goicoechea, Grady, Hammond, Hansen, Hardy, Kirner, McArthur—8.
Senate Bill No. 223 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 309.
Bill read third time.
Roll call on Senate Bill No. 309:
YEAS—42.
NAYS—None.
Senate Bill No. 309 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 436.
Bill read third time.

Roll call on Senate Bill No. 436:
YEAS—42.
NAYS—None.
Senate Bill No. 436 having received a constitutional majority, Mr. Speaker declared it passed.
Bill ordered transmitted to the Senate.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 6:38 p.m.

ASSEMBLY IN SESSION

At 6:40 p.m.
Mr. Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bills Nos. 18, 19, 30, 40, 94, 133, 149, 159, 186, 191, 194, 267, 282, 293, 294, 315, 348, 365, 376, and 405 be taken from the General File and placed on the General File for the next legislative day.
Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Hickey, the privilege of the floor of the Assembly Chamber for this day was extended to Nancy S. Sorensen.

Assemblyman Conklin moved that the Assembly adjourn until Monday, May 30, 2011, at 10 a.m.
Motion carried.

Assembly adjourned at 6:41 p.m.

Approved: JOHN OCEGUERA
Speaker of the Assembly

Attest: SUSAN FURLONG
Chief Clerk of the Assembly