

THE ONE HUNDRED AND TWELFTH DAY

CARSON CITY (Sunday), May 29, 2011

Senate called to order at 2:40 p.m.

President Pro Tempore Schneider presiding.

Roll called.

All present.

Prayer by Senator Mo Denis.

Heavenly Father, this day we are grateful for the opportunity to give service and for the opportunity we have to remember Thee on this day.

We are thankful for our health and our strength. We are thankful for our families that support us and put up with the things we do and the service we give while we are gone and not there with them. We thank Thee for this day that can reflect upon the things that we have done and be able to do them better. We thank Thee for the service of all those throughout the State, be it State workers, be it teachers and all those who help to make our State a good place to be.

We ask Thee to help us to remember as we go through the deliberative process and that we will work together to come to a conclusion to address the situation we have in this State with the economy, the budget and the laws we are proposing and that we are debating. We ask Thy spirit to help us and to guide us that we might do what is best for the people of Nevada. We will be safe and protected as we serve and do what must be done.

Bless us to continue to have our health and our strength and that we will be able to have joy and happiness as we serve and do the work that needs to be done. We say these things in the name of Jesus Christ,

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 257, 471, 549, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN J. LEE, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 258, 379, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

VALERIE WIENER, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which were referred Assembly Bills Nos. 80, 433, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID R. PARKS, *Chair*

Mr. President:

Your Committee on Transportation, to which was referred Assembly Joint Resolution No. 6, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

SHIRLEY A. BREEDEN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 28, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 88, 102, 112, 132, 213, 411, 417, 430, 445.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 74, 245, 402, 404.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 77, Amendment No. 646; Senate Bill No. 205, Amendment No. 653; Senate Bill No. 236, Amendment No. 628; Senate Bill No. 259, Amendment No. 654; Senate Bill No. 292, Amendment No. 655; Senate Bill No. 299, Amendment No. 682; Senate Bill No. 414, Amendment No. 716, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 687 to Assembly Bill No. 132; Senate Amendment No. 664 to Assembly Bill No. 160; Senate Amendments Nos. 763, 623 to Assembly Bill No. 456.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 618 to Assembly Bill No. 20.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 193, Assembly Amendment No. 568, and requests a conference, and appointed Assemblymen Carlton, Atkinson and Grady as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 264, Assembly Amendment No. 636, and requests a conference, and appointed Assemblymen Pierce, Hammond and Benitez-Thompson as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Frierson, Benitez-Thompson and Hammond as a Conference Committee concerning Assembly Bill No. 362.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

Mr. President Pro Tempore announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 2:47 p.m.

SENATE IN SESSION

At 5:23 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bill No. 291 be taken from the Secretary's desk and placed on the General File.

Motion carried.

Senator Wiener moved that Senate Bill No. 207 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Kihuen moved that Assembly Bill No. 202 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senator Parks moved that all necessary rules be suspended, and that Assembly Bill No. 80 just reported out of committee be placed on second reading for this legislative day.

Motion carried.

Senator Lee moved that all necessary rules be suspended, and that Assembly Bill No. 257 just reported out of committee be placed on second reading for this legislative day.

Motion carried.

Senator Wiener moved that all necessary rules be suspended, and that Assembly Bill No. 258 just reported out of committee be placed on second reading for this legislative day.

Motion carried.

Senator Wiener moved that all necessary rules be suspended, and that Assembly Bill No. 379 just reported out of committee be placed on second reading for this legislative day.

Motion carried.

Senator Parks moved that all necessary rules be suspended, and that Assembly Bill No. 433 just reported out of committee be placed on second reading for this legislative day.

Motion carried.

Senator Lee moved that all necessary rules be suspended, and that Assembly Bill No. 471 just reported out of committee be placed on second reading for this legislative day.

Motion carried.

Senator Lee moved that all necessary rules be suspended, and that Assembly Bill No. 549 just reported out of committee be placed on second reading for this legislative day.

Motion carried.

Senator Breeden moved that all necessary rules be suspended, and that Assembly Joint Resolution No. 6 just reported out of committee be placed on second reading for this legislative day.

Motion carried.

Senator Horsford moved that the action whereby Assembly Bill No. 78 was lost be rescinded and placed on the last agenda for this legislative day.

Motion carried on a division of the house.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 5:32 p.m.

SENATE IN SESSION

At 5:40 p.m.

President Krolicki presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 74.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 245.

Senator Wiener moved that the bill be referred to the Committee on Revenue

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Halseth moved that Assembly Bill No. 379 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 402.

Senator Wiener moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Assembly Bill No. 404.

Senator Wiener moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 437.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 797.

"SUMMARY—Revises provisions governing assistance to parents and relatives caring for certain persons with mental retardation and related conditions. (BDR 39-1215)"

"AN ACT relating to public assistance; revising provisions governing assistance provided to parents and relatives caring for certain persons with mental retardation or related conditions or children with certain developmental delays; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides assistance to parents and relatives caring for certain persons with mental retardation or related conditions or, if the person being cared for is under 6 years of age, similar developmental delays if certain other criteria relating to income and the quality of care are met. (NRS 435.365) This bill provides that such assistance is available only to the extent that money is available for that purpose and ~~authorizes~~ **requires** the Division of Mental Health and Developmental Services of the Department of Health and Human Services to establish a waiting list for eligible applicants who are not provided assistance because of a shortage of money.

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

Section 1. NRS 435.365 is hereby amended to read as follows:

435.365 1. ~~Whenever~~ ***To the extent that money is available for that purpose, whenever*** a person with mental retardation or a related condition is cared for by a parent or other relative with whom the person lives, that parent or relative is eligible to receive assistance on a monthly basis from the Division for each such person who lives and is cared for in the home if the Division finds that:

(a) The person with mental retardation or a related condition has been diagnosed as having profound or severe mental retardation or, if he or she is under 6 years of age, has developmental delays that require support that is equivalent to the support required by a person with profound or severe mental retardation or a related condition;

(b) The person with mental retardation or a related condition is receiving adequate care; and

(c) The person with mental retardation or a related condition and the parent or other relative with whom the person lives is not reasonably able to pay for his or her care and support.

↪ The amount of the assistance must be established by legislative appropriation for each fiscal year.

2. The Division shall adopt regulations:

(a) Which establish a procedure of application for assistance;

(b) For determining the eligibility of an applicant pursuant to subsection 1; and

(c) For determining the amount of assistance to be provided to an eligible applicant.

3. ~~The Division may~~ ***shall establish a waiting list for applicants who are eligible for assistance but who are denied assistance because the legislative appropriation is insufficient to provide assistance for all eligible applicants.***

4. The decision of the Division regarding eligibility for assistance or the amount of assistance to be provided is a final administrative decision.

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

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

The amendment requires the Division to perform these functions rather than authorizes.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 2.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 776.

"SUMMARY—Revises provisions relating to emissions testing for certain vehicles. (BDR 43-134)"

"AN ACT relating to motor vehicles; providing an exemption from emissions inspection for certain motor vehicles; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the issuance of special license plates for certain older motor vehicles in categories including antique vehicles, street rods, classic rods and classic vehicles. (NRS 482.381, 482.3812, 482.3814, 482.3816) Existing law also requires the State Environmental Commission to establish criteria that allow motor vehicles with such license plates to qualify for an exemption from standards for the control of emissions from motor vehicles, and to provide by regulation that an evaluation required of such motor vehicles to qualify for the exemption may be conducted at stations authorized to perform inspections of motor vehicles and devices for compliance with emissions standards. (NRS 445B.760)

Section 5 of this bill provides for the exemption of those older motor vehicles that have been issued the special license plates from standards for the control of emissions without the performance of any such evaluation if the owner of the motor vehicle certifies that the motor vehicle has not been driven more than 5,000 miles the previous year. **Sections ~~1-4~~ 1.7-4** of this bill require that the owner of such a motor vehicle which qualifies for the exemption pay a fee to the Department of Motor Vehicles, to be accounted for in the Pollution Control Account, in an amount equal to the cost for a certificate of compliance with emissions standards ~~1-1~~ **(currently \$6, but subject to statutory change).**

Section 1 of this bill provides that if an authorized inspection station or authorized station tests the emissions from a motor vehicle and the motor vehicle fails the emissions test, the Department of Motor Vehicles

is prohibited, for a period of 90 days after the motor vehicle fails the emissions test, from issuing for the motor vehicle an "Old Timer," "Street Rod," "Classic Rod" or "Classic Vehicle" special license plate. The effect of section 1 is to discourage persons from attempting to obtain such a special license plate for the express purpose of circumventing the laws of this State pertaining to emissions from motor vehicles. Section 1 applies only within the geographic areas of this State in which motor vehicles are subject to emissions testing.

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

Section 1. Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If, with respect to a motor vehicle that is required to comply with the provisions of NRS 445B.700 to 445B.815, inclusive, and the regulations adopted pursuant thereto, an authorized inspection station or authorized station tests the emissions from the motor vehicle and the motor vehicle fails the emissions test, the Department shall not issue a special license plate for that vehicle pursuant to NRS 482.381, 482.3812, 482.3814 or 482.3816 for a period of 90 days after the motor vehicle fails the emissions test.

2. As used in this section:

(a) "Authorized inspection station" has the meaning ascribed to it in NRS 445B.710.

(b) "Authorized station" has the meaning ascribed to it in NRS 445B.720.

(c) "Fails the emissions test" means that a motor vehicle does not comply with the applicable provisions of NRS 445B.700 to 445B.815, inclusive, and the regulations adopted pursuant thereto.

~~Section 1.~~ Sec. 1.7. NRS 482.381 is hereby amended to read as follows:

482.381 1. ~~The~~ Except as otherwise provided in section 1 of this act, ~~the~~ Department may issue special license plates and registration certificates to residents of Nevada for any motor vehicle which is a model manufactured more than 40 years before the date of application for registration pursuant to this section.

2. License plates issued pursuant to this section must bear the inscription "Old Timer," and the plates must be numbered consecutively.

3. The Nevada Old Timer Club members shall bear the cost of the dies for carrying out the provisions of this section.

4. The Department shall charge and collect the following fees for the issuance of these license plates, which fees are in addition to all other license fees and applicable taxes:

- (a) For the first issuance\$35
- (b) For a renewal sticker10

5. *In addition to the fees required pursuant to subsection 4, the Department shall charge and collect a fee ~~for~~ ~~of \$6~~ for the first issuance of the license plates for those motor vehicles exempted pursuant to NRS 445B.760 from the provisions of NRS 445B.770 to 445B.815, inclusive. The amount of the fee must be equal to the amount of the fee for a form certifying emission control compliance set forth in paragraph (c) of subsection 1 of NRS 445B.830.*

6. *Fees paid to the Department pursuant to subsection 5 must be accounted for in the Pollution Control Account created by NRS 445B.830.*

Sec. 2. NRS 482.3812 is hereby amended to read as follows:

482.3812 1. ~~The~~ Except as otherwise provided in section 1 of this act, the Department may issue special license plates and registration certificates to residents of Nevada for any passenger car or light commercial vehicle:

- (a) Having a manufacturer's rated carrying capacity of 1 ton or less; and
- (b) Manufactured not later than 1948.

2. License plates issued pursuant to this section must be inscribed with the words "STREET ROD" and three or four consecutive numbers.

3. If during a registration year, the holder of special plates issued pursuant to this section disposes of the vehicle to which the plates are affixed, the holder shall retain the plates and:

(a) Affix them to another vehicle which meets the requirements of this section and report the change to the Department in accordance with the procedure set forth for other transfers; or

(b) Within 30 days after removing the plates from the vehicle, return them to the Department.

4. The fee for the special license plates is \$35, in addition to all other applicable registration and license fees and governmental services taxes. The fee for an annual renewal sticker is \$10.

5. *In addition to the fees required pursuant to subsection 4, the Department shall charge and collect a fee ~~for~~ ~~of \$6~~ for the first issuance of the special license plates for those motor vehicles exempted pursuant to NRS 445B.760 from the provisions of NRS 445B.770 to 445B.815, inclusive. The amount of the fee must be equal to the amount of the fee for a form certifying emission control compliance set forth in paragraph (c) of subsection 1 of NRS 445B.830.*

6. *Fees paid to the Department pursuant to subsection 5 must be accounted for in the Pollution Control Account created by NRS 445B.830.*

Sec. 3. NRS 482.3814 is hereby amended to read as follows:

482.3814 1. ~~The~~ Except as otherwise provided in section 1 of this act, the Department may issue special license plates and registration certificates to residents of Nevada for any passenger car or light commercial vehicle:

- (a) Having a manufacturer's rated carrying capacity of 1 ton or less; and

(b) Manufactured not earlier than 1949, but at least 20 years before the application is submitted to the Department.

2. License plates issued pursuant to this section must be inscribed with the words "CLASSIC ROD" and three or four consecutive numbers.

3. If during a registration year, the holder of special plates issued pursuant to this section disposes of the vehicle to which the plates are affixed, the holder shall retain the plates and:

(a) Affix them to another vehicle which meets the requirements of this section and report the change to the Department in accordance with the procedure set forth for other transfers; or

(b) Within 30 days after removing the plates from the vehicle, return them to the Department.

4. The fee for the special license plates is \$35, in addition to all other applicable registration and license fees and government services taxes. The fee for an annual renewal sticker is \$10.

5. In addition to the fees required pursuant to subsection 4, the Department shall charge and collect a fee ~~for~~ ~~of \$61~~ for the first issuance of the special license plates for those motor vehicles exempted pursuant to NRS 445B.760 from the provisions of NRS 445B.770 to 445B.815, inclusive. The amount of the fee must be equal to the amount of the fee for a form certifying emission control compliance set forth in paragraph (c) of subsection 1 of NRS 445B.830.

6. Fees paid to the Department pursuant to subsection 5 must be accounted for in the Pollution Control Account created by NRS 445B.830.

Sec. 4. NRS 482.3816 is hereby amended to read as follows:

482.3816 1. ~~The~~ **Except as otherwise provided in section 1 of this act, the** Department may issue special license plates and registration certificates to residents of Nevada for any passenger car or light commercial vehicle:

(a) Having a manufacturer's rated carrying capacity of 1 ton or less;

(b) Manufactured at least 25 years before the application is submitted to the Department; and

(c) Containing only the original parts which were used to manufacture the vehicle or replacement parts that duplicate those original parts.

2. License plates issued pursuant to this section must be inscribed with the words "CLASSIC VEHICLE" and three or four consecutive numbers.

3. If during a registration year, the holder of special plates issued pursuant to this section disposes of the vehicle to which the plates are affixed, the holder shall retain the plates and:

(a) Affix them to another vehicle which meets the requirements of this section and report the change to the Department in accordance with the procedure set forth for other transfers; or

(b) Within 30 days after removing the plates from the vehicle, return them to the Department.

4. The fee for the special license plates is \$35, in addition to all other applicable registration and license fees and governmental services taxes. The fee for an annual renewal sticker is \$10.

5. *In addition to the fees required pursuant to subsection 4, the Department shall charge and collect a fee ~~for \$61~~ for the first issuance of the special license plates for those motor vehicles exempted pursuant to NRS 445B.760 from the provisions of NRS 445B.770 to 445B.815, inclusive. The amount of the fee must be equal to the amount of the fee for a form certifying emission control compliance set forth in paragraph (c) of subsection 1 of NRS 445B.830.*

6. *Fees paid to the Department pursuant to subsection 5 must be accounted for in the Pollution Control Account created by NRS 445B.830.*

Sec. 5. NRS 445B.760 is hereby amended to read as follows:

445B.760 1. The Commission may by regulation prescribe standards for exhaust emissions, fuel evaporative emissions and visible emissions of smoke from mobile internal combustion engines on the ground or in the air, including, but not limited to, aircraft, motor vehicles, snowmobiles and railroad locomotives. The regulations must ~~+~~

~~—(a) Provide~~ *provide* for the exemption from such standards of ~~restored vehicles~~ *a vehicle* for which special license plates have been issued pursuant to NRS 482.381, 482.3812, 482.3814 or 482.3816 ~~+~~

~~—(b) Establish criteria for the condition and functioning of a restored vehicle to qualify for the exemption, and provide that the evaluation of the condition and functioning of such a vehicle may be conducted at an authorized inspection station or authorized station as defined in NRS 445B.710 and 445B.720, respectively.~~

~~—(c) Define "restored vehicle" for the purposes of the regulations.~~ *if the owner of such a vehicle certifies to the Department of Motor Vehicles, on a form provided by the Department of Motor Vehicles, that the vehicle was not driven more than 5,000 miles during the immediately preceding year.*

2. Except as otherwise provided in subsection 3, standards for exhaust emissions which apply to a:

(a) Reconstructed vehicle, as defined in NRS 482.100; and

(b) Trimobile, as defined in NRS 482.129,

↪ must be based on standards which were in effect in the year in which the engine of the vehicle was built.

3. A trimobile that meets the definition of a motorcycle in 40 C.F.R. § 86.402-78 or 86.402-98, as applicable, is not subject to emissions standards under this chapter.

4. Any such standards which pertain to motor vehicles must be approved by the Department of Motor Vehicles before they are adopted by the Commission.

Sec. 6. ~~[This act becomes effective on July 1, 2011.] (Deleted by amendment.)~~

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

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

Amendment No. 776 to Assembly Bill No. 2 makes the following changes. The amendment provides that if a motor vehicle fails an emissions test, the Department of Motor Vehicles is prohibited from issuing the motor vehicle an "Old Timer," "Street Rod," "Classic Rod," or "Classic Vehicle" license plate. The effect is to discourage persons from attempting to obtain a special license plate in order to circumvent emissions testing. This section applies only to the geographic areas in this State in which motor vehicles are subject to emissions testing, currently Clark and Washoe Counties only. The amendment adds Assemblyman Kirner as a primary sponsor and it changes the effective date from July 1, 2011 to October 1, 2011.

Amendment adopted.

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

Assembly Bill No. 53.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 673.

"SUMMARY—Revises provisions governing informational signage and other programs to provide information concerning commercial attractions and services along highways. (BDR 35-482)"

"AN ACT relating to transportation; requiring the Director of the Department of Transportation to charge fees based upon market value for authorizing the placement of trademarks or symbols identifying individual enterprises on certain signs and for providing information regarding attractions and services along highways of the State; authorizing the Director to recommend to the Board of Directors of the Department programs for providing information to the traveling public to be funded from money received from fees charged on those signs; exempting certain signs located in a redevelopment area from certain restrictions on the proximity of advertising to certain highways in this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Director of the Department of Transportation to adopt regulations to fix reasonable fees to recover the actual cost of administering a program for erecting certain signs on highways. Existing law provides that in certain larger counties, the Department is required to establish the fees based upon the market value as determined by the Department. **Section 3** of this bill instead requires the Department to fix the fees in all counties based upon market value as determined by the Department. Existing law provides that the fees collected by the Department are to be credited to the Account for Systems of Providing Information to the Traveling Public in the State Highway Fund. **Section 1** of this bill authorizes the Director to recommend to the Board of Directors of the Department

programs to provide information to the traveling public to be paid from money available for that purpose from the Account.

Existing law provides that outdoor advertising shall not be maintained within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate or primary highway systems of this State. Exemptions are provided for: (1) certain directional, warning, landmark, informational and other official signs; (2) signs which advertise the sale or lease of the property on which they are located or advertise for a business or activities conducted on the property on which they are located; (3) signs in zoned commercial or industrial areas; and (4) certain directional information signs in hardship areas which have been approved by the Secretary of Transportation pursuant to certain federal regulations. (NRS 410.320) Sections 10 and 13 of this bill provide an exemption from the 660-foot restriction for certain signs located in a redevelopment area.

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

Section 1. Chapter 408 of NRS is hereby amended by adding thereto a new section to read as follows:

The Director may recommend to the Board, for its approval, programs to provide information to the traveling public to be paid from such money as is available for this purpose pursuant to NRS 408.567.

Sec. 2. NRS 408.551 is hereby amended to read as follows:

408.551 As used in NRS 408.551 to 408.567, inclusive, *and section 1 of this act*, "center" means a facility to provide information to members of the traveling public, concerning accommodations, food, fuel and recreation, through an attendant or some means of communication.

Sec. 3. NRS 408.557 is hereby amended to read as follows:

408.557 1. The Director shall adopt regulations:

(a) Governing the size, shape, lighting and other characteristics of a sign to be erected at ~~such~~ a location ~~to~~ **designated pursuant to NRS 408.553;**

(b) Authorizing the use of trademarks and symbols identifying an individual enterprise on a sign erected at the location;

(c) Fixing the qualifications of a person or governmental agency to operate a center and of an enterprise to be identified on a directional or informational sign;

(d) ~~Fixing reasonable fees to recover the actual administrative cost incurred by the Department for:~~

~~—(1) Authorizing the use of trademarks and symbols identifying an individual enterprise on a directional or informational sign; and~~

~~—(2) Providing information concerning commercial attractions and services.~~

~~—(e) Fixing reasonable fees, based upon the market value as determined by the Department, for:~~

(1) Authorizing the use of trademarks and symbols identifying an individual enterprise on a directional or informational sign ~~in an urban area of a county whose population is 100,000 or more;~~; and

(2) Providing information ~~in an urban area of a county whose population is 100,000 or more;~~ concerning commercial attractions and services; and

~~[(4)]~~ (e) Otherwise necessary to carry out the provisions of NRS 408.551 to 408.567, inclusive ~~[(4)]~~, **and section 1 of this act.**

2. The regulations adopted by the Director pursuant to subsection 1 must be consistent with the provisions of 23 U.S.C. § 131.

Sec. 4. NRS 408.559 is hereby amended to read as follows:

408.559 The Department shall develop a plan, in cooperation with the Commission on Tourism, to carry out the provisions of NRS 408.551 to 408.567, inclusive ~~[(4)]~~, **and section 1 of this act.** The plan must take into consideration such factors as:

1. Economic development in this state.
2. Availability of money for the purposes of NRS 408.551 to 408.567, inclusive ~~[(4)]~~, **and section 1 of this act.**
3. Population in a particular area.
4. Proposed highway construction.
5. Need for information.

↪ The Department and the Commission shall review the plan at least once each year and revise it until the provisions of NRS 408.551 to 408.567, inclusive, **and section 1 of this act** have been uniformly put into effect throughout the State.

Sec. 5. NRS 408.567 is hereby amended to read as follows:

408.567 1. Money received by the Department from:

(a) Fees for:

(1) Authorizing the use of trademarks and symbols identifying an individual enterprise on a directional or informational sign; and

(2) Providing information concerning commercial attractions and services;

(b) Participants in a telephone system established to reserve accommodations for travelers; and

(c) Appropriations made by the Legislature for the purposes of NRS 408.551 to 408.567, inclusive, **and section 1 of this act,**

↪ must be deposited with the State Treasurer for credit to the Account for Systems of Providing Information to the Traveling Public in the State Highway Fund, which is hereby created.

2. Money in the Account must only be used to carry out the provisions of NRS 408.551 to 408.567, inclusive ~~[(4)]~~, **and section 1 of this act.**

Sec. 6. Chapter 410 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 to 10, inclusive, of this act.

Sec. 7. "Agency" has the meaning ascribed to it in NRS 279.386.

Sec. 8. "Redevelopment area" has the meaning ascribed to it in NRS 279.410.

Sec. 9. "Redevelopment project" has the meaning ascribed to it in NRS 279.412.

Sec. 10. 1. An application for a permit for a sign, display or device to be erected or maintained in a redevelopment area pursuant to subsection 7 of NRS 410.320 must be submitted to the Department, on a form provided by the Department, by the agency undertaking the redevelopment project. The application must include, without limitation:

(a) Certification by the agency that the sign, display or device meets the requirements of subsection 4 of NRS 410.320; and

(b) A finding by the agency that the sign, display or device will not result in a concentration of outdoor advertising that would have a negative impact on the safety or aesthetic quality of the redevelopment area.

2. The Department shall issue a permit upon receipt of an application that meets the requirements of subsection 1 unless the Department determines that the sign, display or device does not conform to the national standards adopted by the Secretary of Transportation pursuant to 23 U.S.C. § 131.

3. A permit issued pursuant to this section is valid for 10 years or until the completion of the redevelopment project, whichever occurs earlier. The Department may, for good cause shown by the agency that obtained the permit, allow for an extension of a permit beyond a 10-year period, provided that the redevelopment project has not been completed.

4. Upon expiration of a permit, the Department shall personally serve or send by registered or certified mail notice to the landowner and the owner of the sign, display or device that the sign, display or device must be removed within 30 days thereafter, unless the sign, display or device is otherwise exempt pursuant to subsections 1 to 6, inclusive, of NRS 410.320.

5. If a person fails to remove a sign, display or device pursuant to subsection 4, the Department may:

(a) Impose an administrative fine of \$10,000 plus \$100 per day for each day after the receipt of notice that the sign, display or device has not been removed;

(b) Impose an additional civil penalty equal to any gross revenue earned by the person from the sign, display or device during the period that:

(1) Begins on the date of receipt of the notice to remove the sign, display or device; and

(2) Ends on the date on which the sign, display or device is removed; and

(c) Charge the person any costs incurred by the Department in removing the sign, display or device.

Sec. 11. NRS 410.220 is hereby amended to read as follows:

410.220 1. The Legislature hereby finds and declares that:

(a) The erection and maintenance of outdoor advertising signs, displays and devices, in areas adjacent to the rights-of-way of the interstate highway system and the primary highway system within this state, is a legitimate commercial use of private property adjacent to roads and highways and that regulation and control or removal of such outdoor advertising is necessary to the system of state highways declared essential by NRS 408.100.

(b) The erection and maintenance of such advertising in such locations must be regulated:

(1) To prevent unreasonable distraction of operators of motor vehicles, confusion with regard to traffic lights, signs or signals and other interference with the effectiveness of traffic regulations;

(2) To promote the safety, convenience and enjoyment of travel on the state highways in this state;

(3) To attract tourists and promote the prosperity, economic well-being and general welfare of the State;

(4) For the protection of the public investment in the state highways; and

(5) To preserve and enhance the natural scenic beauty and aesthetic features of the highways and adjacent areas.

(c) All outdoor advertising which does not conform to the requirements of NRS 410.220 to 410.410, inclusive, and sections 7 to 10, inclusive, of this act is contrary to the public safety, health and general welfare of the people of this state.

(d) The removal of signs adjacent to the rights-of-way of the interstate or primary highway system within this state which provide directional information about goods and services in the interest of the traveling public and which:

(1) Were erected in conformance with the laws of the State of Nevada and subsequently became nonconforming under the requirements of 23 U.S.C. § 131; and

(2) Were in existence on May 6, 1976,
 ➔ could create substantial economic hardships in defined hardship areas within the State of Nevada.

2. It is the intent of the Legislature in NRS 410.220 to 410.410, inclusive, and sections 7 to 10, inclusive, of this act to provide a statutory basis for regulation of outdoor advertising consistent with the public policy declared by the Congress of the United States in areas adjacent to the interstate and primary highway systems.

Sec. 12. NRS 410.230 is hereby amended to read as follows:

410.230 As used in NRS 410.220 to 410.410, inclusive, and sections 7 to 10, inclusive, of this act, the words and terms defined in NRS 410.250 to 410.310, inclusive, and sections 7, 8 and 9 of this act have the meanings ascribed to them in those sections, unless a different meaning clearly appears in the context.

Sec. 13. NRS 410.320 is hereby amended to read as follows:

410.320 Outdoor advertising shall not be erected or maintained within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate or primary highway systems in this state, and, outside urban areas outdoor advertising shall not be erected or maintained beyond 660 feet from the nearest edge of the right-of-way of the interstate and primary highway systems which is visible and placed with the purpose of having its message read from the main-traveled way of the interstate and primary highway systems in this state, except the following:

1. Directional, warning, landmark, informational and other official signs and notices, including but not limited to signs and notices pertaining to natural wonders, scenic and historic attractions. Only signs which are required or authorized by law or by federal, state or county authority, and which conform to national standards promulgated by the Secretary of Transportation pursuant to 23 U.S.C. § 131, are permitted.

2. Signs, displays and devices which advertise the sale or lease of the property upon which they are located.

3. Signs, displays and devices which advertise the activities conducted or services rendered or the goods produced or sold upon the property upon which the advertising sign, display or device is erected.

4. Signs, displays and devices located in zoned commercial or industrial areas, when located within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate and primary highway systems within this state.

5. Signs, displays and devices located in an unzoned commercial or industrial area as defined in NRS 410.300, when located within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate and primary highway systems within this state.

6. Nonconforming signs in defined hardship areas which provide directional information about goods and services in the interest of the traveling public and are approved by the Secretary of Transportation pursuant to 23 U.S.C. § 131(o).

7. Signs, displays and devices which:

(a) Are located within a redevelopment area;

(b) Advertise businesses or activities within the redevelopment area as part of the redevelopment project; and

(c) Have been:

(1) Approved by the agency undertaking the redevelopment project; and

(2) Issued a permit by the Department pursuant to an application submitted pursuant to section 10 of this act by the agency undertaking the redevelopment project.

Sec. 14. NRS 410.340 is hereby amended to read as follows:

410.340 1. Any outdoor advertising sign, display or device located within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate or primary highway systems in this state,

and, in the case of any outdoor advertising sign, display or device located beyond 660 feet from the nearest edge of the right-of-way for interstate and primary highway systems, which is located outside of urban areas and placed with the purpose of having its message read from the main-traveled way of the interstate and primary highway systems, which was lawfully in existence and maintained on October 22, 1965, and which is not within one of the exceptions set forth in NRS 410.320, shall be removed no later than July 1, 1973, or 3 years from the date funds are available for such removal, except as provided in subsection 3.

2. ~~Any~~ **Except as otherwise provided in section 10 of this act, any** other outdoor advertising sign, display or device located within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of any highway of the interstate or primary system, and, in the case of any outdoor advertising sign, display or device located beyond 660 feet from the nearest edge of the right-of-way for interstate and primary highway systems, which is located outside of urban areas and placed with the purpose of having its message read from the main-traveled way of the interstate and primary highway systems, and which is not within one of the exceptions set forth in NRS 410.320, shall be removed not later than the end of the fifth year after it becomes nonconforming.

3. Any outdoor advertising sign, display or device located within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate or primary highway system, and, in the case of any outdoor advertising sign, display or device located beyond 660 feet from the nearest edge of the right-of-way for interstate and primary highway systems, which is located outside of urban areas and placed with the purpose of having its message read from the main-traveled way of the interstate and primary highway systems, and which is lawfully maintained on or after February 20, 1972, but which subsequently becomes nonconforming with the provisions of NRS 410.220 to 410.410, inclusive, by reason of amendment of such provisions or change in regulations or agreements prescribed or entered into as authorized by NRS 410.220 to 410.410, inclusive, may be maintained until the end of the fifth year after it becomes nonconforming.

4. No compensation shall be paid upon removal of any outdoor advertising sign, display or device erected after February 20, 1972, which as a result thereof become nonconforming. However, such outdoor advertising sign, display or device shall be removed only when all other outdoor advertising signs, displays or devices existing on February 20, 1972, have been removed.

Sec. 15. NRS 410.360 is hereby amended to read as follows:

410.360 1. Any outdoor advertising sign, display or device erected after February 20, 1972, which violates the provisions of NRS 410.220 to 410.410, inclusive, is hereby declared to be a public nuisance and the Director shall remove any such sign, display or device which is not removed

before the expiration of 30 days after notice of the violation and demand for removal have been served personally or by registered or certified mail upon the landowner and the owner of the sign or their agents. Removal by the Department of the sign, display or device on the failure of the owners to comply with the notice and demand gives the Department a right of action to recover the expense of the removal, cost and expenses of suit.

2. ~~Any~~ **Except as otherwise provided in section 10 of this act, any** person who erects or causes to be erected an outdoor advertising sign, display or device which violates the provisions of NRS 410.220 to 410.410, inclusive, shall pay to the Department:

- (a) For the first violation, a fine of \$50;
- (b) For the second violation, a fine of \$250;
- (c) For the third or subsequent violation, a fine of \$500 per violation; and
- (d) The reasonable costs of collection.

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

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

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

Amendment No. 673 to Assembly Bill No. 53 allows certain buildings in a redevelopment area to be exempt from restrictions on the placement of advertising adjacent to a public highway. An application for a permit to erect a sign, display, or device in a redevelopment area adjacent to a public highway must be approved by the Department of Transportation and meet certain requirements.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 80.

Bill read second time.

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

Amendment No. 686.

"SUMMARY—Makes various changes relating to the Public Employees' Benefits Program. (BDR 23-496)"

"AN ACT relating to the Public Employees' Benefits Program; making various changes relating to the Program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Board of the Public Employees' Benefits Program is required to submit various reports concerning the administration and operation of the Program. (NRS 287.043, 287.04366) **Sections 3, 8 and 14** of this bill make the Executive Officer of the Program, rather than the Board, responsible for submitting such reports.

Under existing law, if a retired public officer or employee of the State or a local governmental agency, or the surviving spouse of such a retired officer or employee, who was formerly covered by health insurance provided under

the Program, or under a plan offered by the local governmental employer, reinstates such insurance, the reinstated insurance excludes coverage for certain preexisting conditions during the first 12 months after such reinstatement. (NRS 287.0205, 287.0475) **Sections 4.5 and 12** of this bill eliminate the exclusion for certain preexisting conditions as called for in the Patient Protection and Affordable Care Act. (Pub. L. No. 111-148, 124 Stat. 119) **Section 12** also prohibits a public officer or employee who retired from a local governmental agency, or his or her surviving spouse or domestic partner, from reinstating health insurance under the Program if the Board has adopted regulations that exclude such persons from participation in the Program because they are eligible for health coverage from a health and welfare plan or trust that arose out of certain collective bargaining agreements or under certain federal laws.

Under existing law, a state agency is required to pay to the Program a certain amount to pay a portion of the cost of coverage under the Program for each state officer or employee of that state agency who participates in the Program. State officers and employees are required to pay the remaining portion of the costs of their coverage as well as the full amount of covering their dependents under the Program. The Board is authorized to allocate the money paid by the state agency between the costs of coverage for such officers and employees and for their dependents. (NRS 287.044) **Section 9** of this bill clarifies the manner in which the Board may perform the allocation.

Existing law provides for the payment of a subsidy to cover a portion of the costs of coverage under the Program for certain retired state officers and employees. (NRS 287.046) **Section 10** of this bill clarifies that employees who are initially hired by the State on or after January 1, 2010, are not entitled to the subsidy for coverage under the Program if they retire with less than 15 years of service, which must include state service and may include local governmental service, with the exception of disabled retirees, or if they fail to maintain continuous coverage under the Program during retirement. **Section 6** of this bill clarifies the application of this provision to persons who retire from employment with local governmental agencies.

Existing law provides that if a state officer or employee or a dependent of a state officer or employee incurs medical costs that are payable under the Program, but for which a third person has the legal liability to pay, the Board is subrogated to the rights of the officer, employee or dependent and may commence, join or intervene in any legal action against the third person to enforce that legal liability. (NRS 287.0465) **Section 11** of this bill extends this provision to apply to any person who participates in the Program, including retired, as well as active, officers and employees of the State and their dependents and to active and retired officers and employees of local governments and their dependents who are covered under the Program.

Existing law provides that the surviving spouse and any surviving child of a police officer or firefighter who was killed in the line of duty are eligible to obtain or continue coverage under the Program or a benefits plan established

by his or her local governmental employer under certain circumstances. The public employer of the police officer or firefighter, or the State of Nevada in the case of a volunteer firefighter, is required to pay the entire cost of the coverage for the surviving spouse for life and the entire cost of the coverage for any surviving child at least until the child reaches 18 years of age and until the child reaches 23 years of age so long as the child is a full-time student. (NRS 287.021, 287.0477) **Sections 5 and 13** of this bill provide that neither the public employer nor the State is required to pay the cost of the coverage for the surviving domestic partner of such a police officer or firefighter. **Sections 5 and 13 also codify that the duration of the coverage for the surviving children of police officers and firefighters killed in the line of duty is the same as the duration of coverage for children otherwise in the public employer's health care plan.**

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

Section 1. Chapter 287 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. "Domestic partner" has the meaning ascribed to it NRS 122A.030.

Sec. 3. 1. The Executive Officer shall ~~not~~ submit a report regarding the administration and operation of the Program to the Board ~~of the Public Employees' Benefits Program,~~ and the Director of the Department of Administration, and to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committees of the Legislature or, if the Legislature is not in regular session, to the Legislative Commission and the Interim Retirement and Benefits Committee of the Legislature created by NRS 218E.420. The report must include, without limitation:

(a) An audited financial statement of the Program Fund for the immediately preceding fiscal year. The statement must be prepared by an independent certified public accountant.

(b) An audited financial statement of the Retirees' Fund for the immediately preceding fiscal year. The statement must be prepared by an independent certified public accountant.

(c) A report of the utilization of the Program by participants during the immediately preceding plan year, segregated by benefit, administrative cost, active employees and retirees, including, without limitation, an assessment of the actuarial accuracy of reserves.

(d) Material provided generally to participants or prospective participants in connection with enrollment in the Program for the current plan year, including, without limitation:

(1) Information regarding rates and the costs for participation in the Program paid by participants on a monthly basis; and

(2) A summary of the changes in the plan design for the current plan year from the plan design for the immediately preceding plan year.

2. *The Executive Officer shall submit a biennial report to the Board ~~of the Public Employees' Benefits Program,~~ and the Director of the Department of Administration, and to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committee or committees of the Legislature. The report must include, without limitation:*

(a) *An independent biennial certified actuarial valuation and report of the State's health and welfare benefits for current and future state retirees, which are provided for the purpose of developing the annual required contribution pursuant to the statements issued by the Governmental Accounting Standards Board.*

(b) *A biennial review of the Program to determine whether the Program complies with federal and state laws relating to taxes and employee benefits. The review must be conducted by an attorney who specializes in employee benefits.*

Sec. 4. NRS 287.0205 is hereby amended to read as follows:

287.0205 1. A public officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada who has retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, or is enrolled in a retirement program provided pursuant to NRS 286.802, or the surviving spouse of such a retired public officer or employee who is deceased, may, in any even-numbered year, reinstate any insurance, except life insurance, that, at the time of reinstatement, is provided by the last public employer of the retired public officer or employee to the active officers and employees and their dependents of that public employer:

(a) Pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; or

(b) Under the Public Employees' Benefits Program, if the last public employer of the retired officer or employee participates in the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

2. Reinstatement pursuant to paragraph (a) of subsection 1 must be requested by:

(a) Giving written notice of the intent of the public officer or employee or surviving spouse to reinstate the insurance to the last public employer of the public officer or employee not later than January 31 of an even-numbered year;

(b) Accepting the public employer's current program or plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in ~~subparagraph (2) of~~ paragraph (b) of subsection 4 of NRS 287.023, paying any portion of the premiums or contributions of the public employer's program or plan of insurance, in the manner set forth in NRS 1A.470 or 286.615, which is due from the date of reinstatement and not paid by the public employer.

↪ The last public employer shall give the insurer notice of the reinstatement not later than March 31 of the year in which the public officer or employee or surviving spouse gives notice of the intent to reinstate the insurance.

3. Reinstatement pursuant to paragraph (b) of subsection 1 must be requested pursuant to NRS 287.0475.

4. ~~Reinstatement~~ ***If a plan is considered grandfathered under the Patient Protection and Affordable Care Act, Public Law 111-148, reinstatement*** of insurance pursuant to subsection 1 ~~excludes~~ ***may exclude*** claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.

5. The last public employer of a retired officer or employee who reinstates insurance, except life insurance, which was provided to the retired officer or employee and the retired officer's or employee's dependents at the time of retirement pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 shall, for the purpose of establishing actuarial data to determine rates and coverage for such persons, commingle the claims experience of such persons with the claims experience of active and retired officers and employees and their dependents who participate in that group insurance, plan of benefits or medical and hospital service.

Sec. 4.5. NRS 287.0205 is hereby amended to read as follows:

287.0205 1. A public officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada who has retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, or is enrolled in a retirement program provided pursuant to NRS 286.802, or the surviving spouse of such a retired public officer or employee who is deceased, may, in any even-numbered year, reinstate any insurance, except life insurance, that, at the time of reinstatement, is provided by the last public employer of the retired public officer or employee to the active officers and employees and their dependents of that public employer:

(a) Pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; or

(b) Under the Public Employees' Benefits Program, if the last public employer of the retired officer or employee participates in the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

2. Reinstatement pursuant to paragraph (a) of subsection 1 must be requested by:

(a) Giving written notice of the intent of the public officer or employee or surviving spouse to reinstate the insurance to the last public employer of the public officer or employee not later than January 31 of an even-numbered year;

(b) Accepting the public employer's current program or plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in paragraph (b) of subsection 4 of NRS 287.023, paying any portion of the premiums or contributions of the public employer's program or plan of insurance, in the manner set forth in NRS 1A.470 or 286.615, which is due from the date of reinstatement and not paid by the public employer.

➔ The last public employer shall give the insurer notice of the reinstatement not later than March 31 of the year in which the public officer or employee or surviving spouse gives notice of the intent to reinstate the insurance.

3. Reinstatement pursuant to paragraph (b) of subsection 1 must be requested pursuant to NRS 287.0475.

4. ~~If a plan is considered grandfathered under the Patient Protection and Affordable Care Act, Public Law 111-148, reinstatement of insurance pursuant to subsection 1 may exclude claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.~~

~~5.1~~ The last public employer of a retired officer or employee who reinstates insurance, except life insurance, which was provided to the retired officer or employee and the retired officer's or employee's dependents at the time of retirement pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 shall, for the purpose of establishing actuarial data to determine rates and coverage for such persons, commingle the claims experience of such persons with the claims experience of active and retired officers and employees and their dependents who participate in that group insurance, plan of benefits or medical and hospital service.

Sec. 5. NRS 287.021 is hereby amended to read as follows:

287.021 1. Except as otherwise provided in subsection 3, the surviving spouse, ***surviving domestic partner*** and any surviving child of a police officer or firefighter who was:

(a) Employed by a local governmental agency that had established group insurance, a plan of benefits or medical and hospital service pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; and

(b) Killed in the line of duty,

➔ may elect to accept or continue coverage under that group insurance, plan or medical and hospital service if the police officer or firefighter was a participant or would have been eligible to participate in the group insurance, plan or medical and hospital service on the date of the death of the police officer or firefighter. If the surviving spouse, ***surviving domestic partner*** or child elects to accept coverage under the group insurance, plan or medical and hospital service in which the police officer or firefighter would have been eligible to participate or to discontinue coverage under the group

insurance, plan or medical and hospital service in which the police officer or firefighter was a participant, the spouse, **domestic partner**, child or legal guardian of the child must notify in writing the local governmental agency that employed the police officer or firefighter within 60 days after the date of death of the police officer or firefighter.

2. ~~The~~ **Except as otherwise provided in this section and NRS 287.023,** the local governmental agency that employed the police officer or firefighter shall pay the entire cost of the premiums or contributions for the group insurance, plan of benefits or medical and hospital service for the surviving spouse or child who meets the requirements set forth in subsection 1.

3. A surviving spouse **or surviving domestic partner** is eligible to receive coverage pursuant to this section for the duration of the life of the surviving spouse ~~or~~ **or surviving domestic partner**. A surviving child is eligible to receive coverage pursuant to this section until the child reaches ~~the~~

~~(a) The age of 18; or~~

~~(b) The age of 23 years, if the child is enrolled as a full time student in an accredited university, college or trade school; or~~
~~if, unless the plan is grandfathered pursuant to the provisions of the Patient Protection and Affordable Care Act, Public Law 111-148, the age at which the child would not otherwise be eligible to receive coverage under the group insurance, plan of benefits or medical and hospital service.~~

4. ~~A local governmental agency is not required to pay the entire cost of the premiums or contributions for~~ **health care benefits pursuant to subsection 2 for a surviving domestic partner who meets the requirements set forth in subsection 1.**

5. As used in this section "police officer" has the meaning ascribed to it in NRS 617.135.

Sec. 6. NRS 287.023 is hereby amended to read as follows:

287.023 1. Whenever an officer or employee of the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada retires under the conditions set forth in NRS 1A.350 or 1A.480, or 286.510 or 286.620 and, during the period in which the person served as an officer or employee, was eligible to be covered or had dependents who were eligible to be covered by any group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 or under the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025, the officer or employee has the option upon retirement to cancel or continue any such coverage to the extent that such coverage is not provided to the officer or employee or a dependent by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq.

2. A retired person who continues coverage under the Public Employees' Benefits Program shall assume the portion of the premium or contribution costs for the coverage which the governing body or the State does not pay on

behalf of retired officers or employees. A dependent of such a retired person has the option, which may be exercised to the same extent and in the same manner as the retired person, to cancel or continue coverage in effect on the date the retired person dies. The dependent is not required to continue to receive retirement payments from the Public Employees' Retirement System to continue coverage.

3. Notice of the selection of the option must be given in writing to the last public employer of the officer or employee within 60 days after the date of retirement or death, as the case may be. If no notice is given by that date, the retired officer or employee and any dependents shall be deemed to have selected the option to cancel the coverage for the group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 or coverage under the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

4. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State:

(a) May pay the cost, or any part of the cost, of coverage established pursuant to NRS 287.010, 287.015 or 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 for persons who continue that coverage pursuant to subsection 1, but it must not pay a greater portion than it does for its current officers and employees.

(b) Shall pay the same portion of the cost of coverage under the Public Employees' Benefits Program for *retired* persons who ~~to~~:

~~— (1) Were initially hired before January 1, 2010, and who retire and~~ are covered under the Program ~~{pursuant to subsection 1 or who subsequently reinstate coverage under the Program pursuant to NRS 287.0205; or~~

~~— (2) Are initially hired on or after January 1, 2010, and who retire with:~~

~~— (I) At least 15 years of service credit, which must include local governmental service and may include state service, and who have participated in the Program on a continuous basis since their retirement from such employment; or~~

~~— (II) At least 5 years of service credit, which must include local governmental service and may include state service, who do not have at least 15 years of service credit to qualify under sub-subparagraph (I) 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.~~

~~→~~ as the State pays pursuant to ~~{subsection 1 of}~~ NRS 287.046 for persons retired with state service who participate in the ~~{Public Employees' Benefits}~~ Program.

5. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State shall, for the purpose of establishing

actuarial data to determine rates and coverage for persons who continue coverage for group insurance, a plan of benefits or medical and hospital service with the governing body pursuant to subsection 1, commingle the claims experience of those persons with the claims experience of active officers and employees and their dependents who participate in the group insurance, a plan of benefits or medical and hospital service.

Sec. 7. NRS 287.0402 is hereby amended to read as follows:

287.0402 As used in NRS 287.0402 to 287.049, inclusive, **and sections 2 and 3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 287.0404 to 287.04064, inclusive, **and section 2 of this act** have the meanings ascribed to them in those sections.

Sec. 8. NRS 287.043 is hereby amended to read as follows:

287.043 1. The Board shall:

(a) Establish and carry out a program to be known as the Public Employees' Benefits Program which:

(1) Must include a program relating to group life, accident or health insurance, or any combination of these; and

(2) May include:

(I) A plan that offers flexibility in benefits, and for which the rates must be based only on the experience of the participants in the plan and not in combination with the experience of participants in any other plan offered under the Program; or

(II) A program to reduce taxable compensation or other forms of compensation other than deferred compensation,

↪ for the benefit of all state officers and employees and other persons who participate in the Program.

(b) Ensure that the Program is funded on an actuarially sound basis and operated in accordance with sound insurance and business practices.

2. In establishing and carrying out the Program, the Board shall:

(a) For the purpose of establishing actuarial data to determine rates and coverage for active and retired state officers and employees and their dependents, commingle the claims experience of such active and retired officers and employees and their dependents for whom the Program provides primary health insurance coverage into a single risk pool.

(b) Except as otherwise provided in this paragraph, negotiate and contract pursuant to paragraph (a) of subsection 1 of NRS 287.025 with the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that wishes to obtain exclusive group insurance for all of its active and retired officers and employees and their dependents, except as otherwise provided in sub-subparagraph (III) of subparagraph (2) of paragraph (h), by participation in the Program. The Board shall establish separate rates and coverage for active and retired officers and employees of those local governmental agencies and their dependents based on actuarial reports that commingle the claims experience of such active and retired

officers and employees and their dependents for whom the Program provides primary health insurance coverage into a single risk pool.

(c) Except as otherwise provided in paragraph (d), provide public notice in writing of any proposed changes in rates or coverage to each participating public agency that may be affected by the changes. Notice must be provided at least 30 days before the effective date of the changes.

(d) If a proposed change is a change in the premium or contribution charged for, or coverage of, health insurance, provide written notice of the proposed change to all participants in the Program. The notice must be provided at least 30 days before the date on which a participant in the Program is required to select or change the participant's policy of health insurance.

(e) Purchase policies of life, accident or health insurance, or any combination of these, or, if applicable, a program to reduce the amount of taxable compensation pursuant to 26 U.S.C. § 125, from any company qualified to do business in this State or provide similar coverage through a plan of self-insurance established pursuant to NRS 287.0433 for the benefit of all eligible participants in the Program.

(f) Except as otherwise provided in this title, develop and establish other employee benefits as necessary.

(g) Investigate and approve or disapprove any contract proposed pursuant to NRS 287.0479.

(h) Adopt such regulations and perform such other duties as are necessary to carry out the provisions of NRS 287.010 to 287.245, inclusive, *and sections 2 and 3 of this act*, including, without limitation, the establishment of:

(1) Fees for applications for participation in the Program and for the late payment of premiums or contributions;

(2) Conditions for entry and reentry into and exit from the Program by local governmental agencies pursuant to paragraph (a) of subsection 1 of NRS 287.025, which:

(I) Must include a minimum period of 4 years of participation for entry into the Program;

(II) Must include a requirement that participation of any retired officers and employees of the local governmental agency whose last continuous period of enrollment with the Program began after November 30, 2008, terminates upon termination of the local governmental agency's contract with the Program; and

(III) May allow for the exclusion of active and retired officers and employees of the local governmental agency who are eligible for health coverage from a health and welfare plan or trust that arose out of collective bargaining under chapter 288 of NRS or a trust established pursuant to 29 U.S.C. § 186;

(3) Procedures by which a group of participants in the Program may leave the Program pursuant to NRS 287.0479 and conditions and procedures for reentry into the Program by those participants;

(4) Specific procedures for the determination of contested claims;

(5) Procedures for review and notification of the termination of coverage of persons pursuant to paragraph (b) of subsection 4 of NRS 287.023; and

(6) Procedures for the payments that are required to be made pursuant to paragraph (b) of subsection 4 of NRS 287.023.

~~{(i) Appoint an independent certified public accountant. The accountant shall:~~

~~—(1) Provide an annual audit of the Program; and~~

~~—(2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218E.420.~~

~~—(j) Appoint an attorney who specializes in employee benefits. The attorney shall:~~

~~—(1) Perform a biennial review of the Program to determine whether the Program complies with federal and state laws relating to taxes and employee benefits; and~~

~~—(2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218E.420.~~

~~—3. The Board shall submit an annual report regarding the administration and operation of the Program to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committees of the Legislature, or to the Legislative Commission when the Legislature is not in regular session, for acceptance or rejection not more than 6 months before the Board establishes rates and coverage for participants for the following plan year. The report must include, without limitation:~~

~~—(a) Detailed financial results for the Program for the preceding plan year, including, without limitation, identification of the sources of revenue for the Program and a detailed accounting of expenses which are segregated by each type of benefit offered by the Program, and administrative costs. The results must be provided separately concerning:~~

~~—(1) Participants who are active and retired state officers and employees and their dependents;~~

~~—(2) All participants in the Program other than those described in subparagraph (1); and~~

~~—(3) Within the groups described in subparagraphs (1) and (2), active participants, retired participants for which the Program provides primary health insurance coverage and retired participants in the Program who are provided coverage for medical or hospital service, or both, by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., or a plan that provides similar coverage.~~

~~—(b) An assessment of actuarial accuracy and reserves for the current plan year and the immediately preceding plan year.~~

~~—(e) A summary of the plan design for the current plan year, including, without limitation, information regarding rates and any changes in the vendors with which the Program has entered into contracts, and a comparison of the plan design for the current plan year to the plan design for the immediately preceding plan year. The information regarding rates provided pursuant to this paragraph must set forth the costs for participation in the Program paid by participants and employers on a monthly basis.~~

~~—(d) A description of all written communications provided generally to all participants by the Program during the preceding plan year.~~

~~—(e) A discussion of activities of the Board concerning purchasing coalitions.~~

~~—4.}~~ 3. The Board may use any services provided to state agencies and shall use the services of the Purchasing Division of the Department of Administration to establish and carry out the Program.

~~{5.}~~ 4. The Board may make recommendations to the Legislature concerning legislation that it deems necessary and appropriate regarding the Program.

~~{6.}~~ 5. A participating public agency is not liable for any obligation of the Program other than indemnification of the Board and its employees against liability relating to the administration of the Program, subject to the limitations specified in NRS 41.0349.

~~{7.}~~ 6. As used in this section, "employee benefits" includes any form of compensation provided to a public employee except federal benefits, wages earned, legal holidays, deferred compensation and benefits available pursuant to chapter 286 of NRS.

Sec. 9. NRS 287.044 is hereby amended to read as follows:

287.044 1. Except as otherwise provided in subsection 2, each participating state agency shall pay to the Program an amount specified by law for every state officer or employee who is employed by a participating public agency on a permanent and full-time basis and elects to participate in the Program.

2. A member of the Senate or Assembly who elects to participate in the Program shall pay the entire premium or contribution for the member's insurance.

3. State officers and employees who elect to participate in the Program must authorize deductions from their compensation for the payment of premiums or contributions for the Program. Any deduction from the compensation of a state officer or employee for the payment of such a premium or contribution must be based on the actual amount of the premium or contribution after deducting any amount ~~{of the premium or contribution which is paid}~~ **allocated by the Board** pursuant to subsection ~~{1.}~~ 6.

4. If a state officer or employee chooses to cover any dependents, whenever this option is made available by the Board, except as otherwise provided in NRS 287.021 and 287.0477, the state officer or employee must pay the difference between the amount of the premium or contribution for the

coverage for the state officer or employee and such dependents and ~~the~~ *any* amount ~~paid by the participating state agency that employs the officer or employee.~~ *allocated by the Board pursuant to subsection 6.*

5. A participating state agency shall not pay any part of those premiums or contributions if the group life insurance or group accident or health insurance is not approved by the Board.

6. The Board may allocate the money paid to the Program pursuant to ~~this section~~ *subsection 1* between the cost of premiums and contributions for group insurance for each state officer or employee, except a member of the Senate or Assembly, and the dependents of each state officer or employee.

Sec. 10. NRS 287.046 is hereby amended to read as follows:

287.046 1. The Department of Administration shall establish an assessment that is to be used to pay for a portion of the cost of premiums or contributions for the Program for persons who have retired with state service ~~. before January 1, 1994, or under the circumstances set forth in paragraph (a), (b) or (c) of subsection 3.~~

2. The money assessed pursuant to subsection 1 must be deposited into the Retirees' Fund and must be based upon ~~an~~ *a base* amount approved by the Legislature each session to pay for a portion of the current and future health and welfare benefits for ~~such retirees.~~ *persons who retired before January 1, 1994, or for persons who retire on or after January 1, 1994, as adjusted by subsection 3.* Except as otherwise provided in subsection ~~4,~~ *5*, the portion to be paid to the Program from the Retirees' Fund on behalf of such persons must be equal to a portion of the cost for each retiree and the retiree's dependents who are enrolled in the plan, as defined for each year of the plan by the Program.

3. ~~Adjustments~~ *Except as otherwise provided in subsection 4, adjustments* to the portion *of the amount approved by the Legislature pursuant to subsection 2 to be* paid by the Retirees' Fund ~~must be as follows:~~

~~(a) For~~ *for* persons who retire on or after January 1, 1994, with state service ~~to~~

~~(1)~~ *must be as follows:*

(a) For each year of service less than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be reduced by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 75 percent of the base funding level defined by the Legislature.

~~(2)~~ *(b)* For each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.

~~{(b) For persons who are}~~

4. No money may be paid by the Retirees' Fund on behalf of a retired person who is initially hired by the State on or after January 1, 2010, and who ~~retire with at least 15 years of service credit, which must include state service and may include local governmental service, and who have~~ :

(a) Has not participated in the Program on a continuous basis since ~~{their}~~ retirement from such employment ~~for each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.~~

~~— (e) For persons who are initially hired by the State on or after January 1, 2010, and who retire with at least 5 years of service credit, which must include state service and may include local governmental service, who do~~ ; or

(b) Does not have at least 15 years of service ~~{credit to qualify under paragraph (b) as}~~, **which must include state service and may include local governmental service, unless the retired person does not have at least 15 years of service 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 ~~{who have}~~ **has** participated in the Program on a continuous basis since ~~{their}~~ retirement from such employment . ~~{~~

~~— (1) For each year of service less than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be reduced by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 75 percent of the base funding level defined by the Legislature.~~

~~— (2) For each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.~~

~~—4.}~~ **5.** If the amount calculated pursuant to subsection 3 exceeds the actual premium or contribution for the plan of the Program that the retired participant selects, the balance must be credited to the Program Fund.

~~{5.}~~ **6.** For the purposes of subsection ~~{1.}~~ **3:**

(a) Credit for service must be calculated in the manner provided by chapter 286 of NRS.

(b) No proration may be made for a partial year of ~~{state}~~ service.

~~{6.}~~ **7.** The Department shall agree through the Board with the insurer for billing of remaining premiums or contributions for the retired participant and the retired participant's dependents to the retired participant and to the retired

participant's dependents who elect to continue coverage under the Program after the retired participant's death.

Sec. 11. NRS 287.0465 is hereby amended to read as follows:

287.0465 1. If ~~{an officer or employee of the State or a dependent of such an officer or employee}~~ **a member** incurs an illness or injury for which medical services are payable under the plan for self-insurance established by the Board and the illness or injury is incurred under circumstances creating a legal liability in some person, other than the ~~{officer, employee or dependent}~~ **member**, to pay all or part of the cost of those services, the Board is subrogated to the right of the ~~{officer, employee or dependent}~~ **member** to the extent of all such costs, and may join or intervene in any action by the ~~{officer, employee or dependent}~~ **member** or any ~~{successors}~~ **successor** in interest, to enforce that legal liability.

2. If ~~{an officer, employee or dependent}~~ **a member** or any ~~{successors}~~ **successor** in interest fail or refuse to commence an action to enforce that legal liability, the Board may commence an independent action, after notice to the ~~{officer, employee or dependent}~~ **member** or any ~~{successors}~~ **successor** in interest, to recover all costs to which it is entitled. In any such action by the Board, the ~~{officer, employee or dependent}~~ **member** may be joined as a third party defendant.

3. If the Board is subrogated to the rights of the ~~{officer, employee or dependent}~~ **member** or any ~~{successors}~~ **successor** in interest as provided in subsection 1, the Board has a lien upon the total proceeds of any recovery from the persons liable, whether the proceeds of the recovery are by way of a judgment or settlement or otherwise. Within 15 days after recovery by receipt of the proceeds of the judgment, settlement or other recovery, the ~~{officer, employee or dependent}~~ **member** or any successors in interest shall notify the Board of the recovery and pay the Board the amount due to it pursuant to this section. The ~~{officer, employee or dependent}~~ **member** or any successors in interest are not entitled to double recovery for the same injury.

4. The ~~{officer, employee or dependent}~~ **member** or any successors in interest shall notify the Board in writing before entering any settlement or agreement or commencing any action to enforce the legal liability referred to in subsection 1.

5. *As used in this section, "member" means:*

(a) An active or retired officer or employee of the State or a dependent of such an officer or employee who is covered under the Program; and

(b) An active or retired officer or employee of a local governmental agency or a dependent of such an officer or employee who is covered under the Program.

Sec. 12. NRS 287.0475 is hereby amended to read as follows:

287.0475 1. A retired public officer or employee or the surviving spouse **or surviving domestic partner** of a retired public officer or employee who is deceased may, in any even-numbered year, reinstate any insurance

under the Program, except life insurance, that, at the time of reinstatement, is provided by the Program if the retired public officer or employee retired:

(a) Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, from a participating state agency or was enrolled in a retirement program provided pursuant to NRS 286.802; or

(b) Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, from employment with a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State which is a participating local governmental agency at the time of the request for reinstatement ~~††~~, ***unless the retired public officer or employee is excluded from participation in the Program pursuant to sub-subparagraph (III) of subparagraph (2) of paragraph (h) of subsection 2 of NRS 287.043.***

2. Reinstatement pursuant to subsection 1 must be requested by:

(a) Giving written notice to the Program of the intent of the public officer or employee or surviving spouse ***or surviving domestic partner*** to reinstate the insurance not later than March 15 of an even-numbered year;

(b) Accepting the Program's current plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in NRS 287.046, paying any portion of the premiums or contributions for coverage under the Program, in the manner set forth in NRS 1A.470 or 286.615, which are due from the date of reinstatement and not paid by the public employer.

~~†3. Reinstatement of insurance excludes claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.~~

Sec. 13. NRS 287.0477 is hereby amended to read as follows:

287.0477 1. Except as otherwise provided in subsection 4, the surviving spouse , ***surviving domestic partner*** and any surviving child of a police officer or firefighter who was employed by a participating public agency and who was killed in the line of duty may join or continue coverage under the Public Employees' Benefits Program or another insurer or employee benefit plan approved by the Board pursuant to NRS 287.0479 if the police officer or firefighter was a participant or would have been eligible to participate on the date of the death of the police officer or firefighter. If the surviving spouse , ***surviving domestic partner*** or child elects to join or discontinue coverage under the Public Employees' Benefits Program pursuant to this subsection, the spouse, ***domestic partner***, child or legal guardian of the child must notify in writing the participating public agency that employed the police officer or firefighter within 60 days after the date of death of the police officer or firefighter.

2. Except as otherwise provided in subsection 4, the surviving spouse , ***surviving domestic partner*** and any surviving child of a volunteer firefighter who was killed in the line of duty and who was officially a member of a

volunteer fire department in this State is eligible to join the Public Employees' Benefits Program. If such a spouse, ***domestic partner*** or child elects to join the Public Employees' Benefits Program, the spouse, ***domestic partner***, child or legal guardian of the child must notify in writing the Board within 60 days after the date of death of the volunteer firefighter.

3. ~~{The}~~ ***Except as otherwise provided in this section, the*** participating public agency that employed the police officer or firefighter shall pay the entire cost of the premiums or contributions for the Public Employees' Benefits Program or another insurer or employee benefit plan approved by the Board pursuant to NRS 287.0479 for the surviving spouse or child who meets the requirements set forth in subsection 1. The State of Nevada shall pay the entire cost of the premiums or contributions for the Public Employees' Benefits Program for the surviving spouse or child who elects to join the Public Employees' Benefits Program pursuant to subsection 2.

4. A surviving spouse ***or surviving domestic partner*** is eligible to receive coverage pursuant to this section for the duration of the life of the surviving spouse ~~{}~~ ***or surviving domestic partner***. A surviving child is eligible to receive coverage pursuant to this section until the child reaches ~~{~~

~~—(a) The {the age of} 18 {26 years -} {; or~~

~~—(b) The age of 23 years, if the child is enrolled as a full time student in an accredited university, college or trade school.}~~ ***the age at which the child would not otherwise be eligible to receive coverage under the Public Employees' Benefits Program.***

5. ***A participating public agency and the State of Nevada are not required to pay the entire cost of {the premiums or contributions} health care benefits pursuant to subsection 3 for a surviving domestic partner who elects to join the Public Employees' Benefits Program pursuant to subsection 2.***

6. As used in this section "police officer" has the meaning ascribed to it in NRS 617.135.

Sec. 14. NRS 287.04366 is hereby repealed.

Sec. 15. 1. This section and sections 4 and 12 of this act become effective on July 1, 2011.

2. Sections 1, 2, 3, 5 to 11, inclusive, 13 and 14 of this act become effective on October 1, 2011.

3. ~~{Section 4 of this act expires by limitation on the date on which the provisions of the Patient Protection and Affordable Care Act, Public Law 111-148, cease to allow a grandfathered health plan to exclude claims for preexisting medical conditions.~~

~~—4.}~~ Section 4.5 of this act becomes effective on the date on which the provisions of the Patient Protection and Affordable Care Act, Public Law 111-148, cease to allow a grandfathered health plan to exclude claims for preexisting medical conditions.

TEXT OF REPEALED SECTION

287.04366 Audits and reports. The Board shall provide to the Department of Administration and to the Interim Retirement and Benefits Committee of the Legislature, created by NRS 218E.420:

1. An annual audit of the Retirees' Fund to be conducted by an independent certified public accountant;
2. An annual report concerning the Retirees' Fund; and
3. An independent biennial certified actuarial valuation and report of the State's health and welfare benefits for current and future state retirees, which are provided for the purpose of developing the annual required contribution pursuant to the statements issued by the Governmental Accounting Standards Board.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Amendment No. 686 to Assembly Bill No. 80 relates to the Public Employees' Benefits Program. It deletes specific provisions relating to the age of eligibility of a surviving child and inserts provisions that the surviving child is eligible to receive coverage until the age at which the child would not otherwise be eligible under the provisions of the insurance plan or program.

Amendment adopted.

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

Assembly Bill No. 152.

Bill read second time and ordered to third reading.

Assembly Bill No. 204.

Bill read second time and ordered to third reading.

Assembly Bill No. 212.

Bill read second time and ordered to third reading.

Assembly Bill No. 232.

Bill read second time and ordered to third reading.

Assembly Bill No. 257.

Bill read second time.

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

Amendment No. 591.

"SUMMARY—Revises provisions relating to the Open Meeting Law. (BDR 19-107)"

"AN ACT relating to the Open Meeting Law; revising provisions governing periods devoted to public comment; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Open Meeting Law requires that meetings of public bodies be open to the public, with limited exceptions. Under the Open Meeting Law, a public body is required to provide written notice of all such meetings, which must

include an agenda with a period devoted to comments by the general public and discussion of those comments. However, a public body is prohibited from taking action upon a matter that is raised during such a period for public comment until the matter has been specifically included on an agenda and is denoted to be an item upon which the public body may take action. (NRS 241.020) This bill requires the public body **, at a minimum, to provide ~~two separate~~ periods devoted to public comment ~~and discussion of any public comments as follows:~~ (1) one period at the beginning of the meeting ~~before any items on which action may be taken are heard by the public body and (2) one period before the adjournment of the meeting, each of which must allow for discussion of any public comments.~~; or (2) a period after each item on the agenda on which action may be taken is discussed by the public body, but before the public body takes action on the item.**

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

Section 1. NRS 241.020 is hereby amended to read as follows:

241.020 1. Except as otherwise provided by specific statute, all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies. A meeting that is closed pursuant to a specific statute may only be closed to the extent specified in the statute allowing the meeting to be closed. All other portions of the meeting must be open and public, and the public body must comply with all other provisions of this chapter to the extent not specifically precluded by the specific statute. Public officers and employees responsible for these meetings shall make reasonable efforts to assist and accommodate persons with physical disabilities desiring to attend.

2. Except in an emergency, written notice of all meetings must be given at least 3 working days before the meeting. The notice must include:

- (a) The time, place and location of the meeting.
- (b) A list of the locations where the notice has been posted.
- (c) An agenda consisting of:

(1) A clear and complete statement of the topics scheduled to be considered during the meeting.

(2) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items.

(3) ~~[A period]~~ ~~[At least two periods]~~ **Periods** devoted to comments by the general public, if any, ~~[which must be taken at the beginning of the meeting and before the adjournment of the meeting.]~~ and discussion of those comments. **Comments by the general public must be taken:**

(1) At the beginning of the meeting before any items on which action may be taken are heard by the public body and again before the adjournment of the meeting; or

(II) After each item on the agenda on which action may be taken is discussed by the public body, but before the public body takes action on the item.

→ The provisions of this subparagraph do not prohibit a public body from taking comments by the general public in addition to what is required pursuant to sub-subparagraph (I) or (II). No action may be taken upon a matter raised ~~under this item of the agenda~~ **during a period devoted to comments by the general public** until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2).

(4) If any portion of the meeting will be closed to consider the character, alleged misconduct or professional competence of a person, the name of the person whose character, alleged misconduct or professional competence will be considered.

(5) If, during any portion of the meeting, the public body will consider whether to take administrative action against a person, the name of the person against whom administrative action may be taken.

3. Minimum public notice is:

(a) Posting a copy of the notice at the principal office of the public body or, if there is no principal office, at the building in which the meeting is to be held, and at not less than three other separate, prominent places within the jurisdiction of the public body not later than 9 a.m. of the third working day before the meeting; and

(b) Providing a copy of the notice to any person who has requested notice of the meetings of the public body. A request for notice lapses 6 months after it is made. The public body shall inform the requester of this fact by enclosure with, notation upon or text included within the first notice sent. The notice must be:

(1) Delivered to the postal service used by the public body not later than 9 a.m. of the third working day before the meeting for transmittal to the requester by regular mail; or

(2) If feasible for the public body and the requester has agreed to receive the public notice by electronic mail, transmitted to the requester by electronic mail sent not later than 9 a.m. of the third working day before the meeting.

4. If a public body maintains a website on the Internet or its successor, the public body shall post notice of each of its meetings on its website unless the public body is unable to do so because of technical problems relating to the operation or maintenance of its website. Notice posted pursuant to this subsection is supplemental to and is not a substitute for the minimum public notice required pursuant to subsection 3. The inability of a public body to post notice of a meeting pursuant to this subsection as a result of technical problems with its website shall not be deemed to be a violation of the provisions of this chapter.

5. Upon any request, a public body shall provide, at no charge, at least one copy of:

- (a) An agenda for a public meeting;
- (b) A proposed ordinance or regulation which will be discussed at the public meeting; and
- (c) Subject to the provisions of subsection 6, any other supporting material provided to the members of the public body for an item on the agenda, except materials:
 - (1) Submitted to the public body pursuant to a nondisclosure or confidentiality agreement which relates to proprietary information;
 - (2) Pertaining to the closed portion of such a meeting of the public body; or
 - (3) Declared confidential by law, unless otherwise agreed to by each person whose interest is being protected under the order of confidentiality.

➤ The public body shall make at least one copy of the documents described in paragraphs (a), (b) and (c) available to the public at the meeting to which the documents pertain. As used in this subsection, "proprietary information" has the meaning ascribed to it in NRS 332.025.

6. A copy of supporting material required to be provided upon request pursuant to paragraph (c) of subsection 5 must be:

- (a) If the supporting material is provided to the members of the public body before the meeting, made available to the requester at the time the material is provided to the members of the public body; or
- (b) If the supporting material is provided to the members of the public body at the meeting, made available at the meeting to the requester at the same time the material is provided to the members of the public body.

➤ If the requester has agreed to receive the information and material set forth in subsection 5 by electronic mail, the public body shall, if feasible, provide the information and material by electronic mail.

7. A public body may provide the public notice, information and material required by this section by electronic mail. If a public body makes such notice, information and material available by electronic mail, the public body shall inquire of a person who requests the notice, information or material if the person will accept receipt by electronic mail. The inability of a public body, as a result of technical problems with its electronic mail system, to provide a public notice, information or material required by this section to a person who has agreed to receive such notice, information or material by electronic mail shall not be deemed to be a violation of the provisions of this chapter.

8. As used in this section, "emergency" means an unforeseen circumstance which requires immediate action and includes, but is not limited to:

- (a) Disasters caused by fire, flood, earthquake or other natural causes; or
- (b) Any impairment of the health and safety of the public.

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

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

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

Amendment No. 591 to Assembly Bill No. 257 provides that an agenda for a public meeting include the following options for public comment. At least two periods for public comment, one at the beginning of the meeting before any action items and one prior to adjournment, or after each action item on the agenda, but before the public body takes action on that item.

It clarifies that a public body may take further public comment in addition to what is required in the amendment.

Amendment adopted.

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

Assembly Bill No. 258.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 777.

"SUMMARY—Revises provisions governing the licensing and operation of interactive gaming. (BDR 41-657)"

"AN ACT relating to gaming; requiring the Nevada Gaming Commission to adopt regulations relating to the licensing and operation of interactive gaming; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes certain gaming establishments to obtain a license to operate interactive gaming. (NRS 463.750) This bill requires the Nevada Gaming Commission to establish by regulation certain provisions authorizing the licensing and operation of interactive gaming under certain circumstances. This bill further provides that a license to operate interstate interactive gaming does not become effective until: (1) the passage of federal legislation authorizing interactive gaming; or (2) the United States Department of Justice notifies the Commission or the State Gaming Control Board that interactive gaming is permissible under federal law.

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

Section 1. Chapter 463 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *The Legislature hereby finds and declares that:*

1. The State of Nevada leads the nation in gaming regulation and enforcement, such that the State of Nevada is uniquely positioned to develop an effective and comprehensive regulatory structure related to interactive gaming.

2. A comprehensive regulatory structure, coupled with strict licensing standards, will ensure the protection of consumers, prevent fraud, guard against underage and problem gambling and aid in law enforcement efforts.

3. To provide for licensed and regulated interactive gaming and to prepare for possible federal legislation, the State of Nevada must develop the necessary structure for licensure, regulation and enforcement.

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. 10.5. NRS 463.016425 is hereby amended to read as follows:

463.016425 1. "Interactive gaming" means the conduct of gambling games through the use of communications technology that allows a person, utilizing money, checks, electronic checks, electronic transfers of money, credit cards, debit cards or any other instrumentality, to transmit to a computer information to assist in the placing of a bet or wager and corresponding information related to the display of the game, game outcomes or other similar information. The term ~~does~~ :

(a) Includes, without limitation, Internet poker.

(b) Does not include the operation of a race book or sports pool that uses communications technology approved by the Board pursuant to regulations adopted by the Commission to accept wagers originating within this state for races, or sporting events or other events.

2. As used in this section, "communications technology" means any method used and the components employed by an establishment to facilitate the transmission of information, including, without limitation, transmission and reception by systems based on wire, cable, radio, microwave, light, optics or computer data networks, including, without limitation, the Internet and intranets.

Sec. 11. NRS 463.160 is hereby amended to read as follows:

463.160 1. Except as otherwise provided in subsection 4 and NRS 463.172, it is unlawful for any person, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others:

(a) To deal, operate, carry on, conduct, maintain or expose for play in the State of Nevada any gambling game, gaming device, inter-casino linked system, mobile gaming system, slot machine, race book or sports pool;

(b) To provide or maintain any information service;

(c) To operate a gaming salon; ~~for~~

(d) To receive, directly or indirectly, any compensation or reward or any percentage or share of the money or property played, for keeping, running or carrying on any gambling game, slot machine, gaming device, mobile gaming system, race book or sports pool ~~for~~ ; **or**

(e) To operate, carry on, conduct, maintain or expose for play in or from the State of Nevada any interactive gaming system,

↪ without having first procured, and thereafter maintaining in effect, all federal, state, county and municipal gaming licenses as required by statute, regulation or ordinance or by the governing board of any unincorporated town.

2. The licensure of an operator of an inter-casino linked system is not required if:

(a) A gaming licensee is operating an inter-casino linked system on the premises of an affiliated licensee; or

(b) An operator of a slot machine route is operating an inter-casino linked system consisting of slot machines only.

3. Except as otherwise provided in subsection 4, it is unlawful for any person knowingly to permit any gambling game, slot machine, gaming device, inter-casino linked system, mobile gaming system, race book or sports pool to be conducted, operated, dealt or carried on in any house or building or other premises owned by the person, in whole or in part, by a person who is not licensed pursuant to this chapter, or that person's employee.

4. The Commission may, by regulation, authorize a person to own or lease gaming devices for the limited purpose of display or use in the person's private residence without procuring a state gaming license.

5. As used in this section, "affiliated licensee" has the meaning ascribed to it in NRS 463.430.

Sec. 12. NRS 463.750 is hereby amended to read as follows:

463.750 1. ~~{Except as otherwise provided in subsections 2 and 3, the}~~
The Commission ~~{may,}~~ shall, with the advice and assistance of the Board, adopt regulations governing the licensing and operation of interactive gaming.

2. ~~{The Commission may not adopt regulations governing the licensing and operation of interactive gaming until the Commission first determines that:~~

~~—(a) Interactive gaming can be operated in compliance with all applicable laws;~~

~~—(b) Interactive gaming systems are secure and reliable, and provide reasonable assurance that players will be of lawful age and communicating only from jurisdictions where it is lawful to make such communications; and~~

~~—(c) Such regulations are consistent with the public policy of the State to foster the stability and success of gaming.~~

~~—3.}~~ The regulations adopted by the Commission pursuant to this section must:

(a) Establish the investigation fees for:

(1) A license to operate interactive gaming;

(2) A license for a manufacturer of interactive gaming systems; and

(3) A license for a manufacturer of equipment associated with interactive gaming.

(b) Provide that:

(1) A person must hold a license for a manufacturer of interactive gaming systems to supply or provide any interactive gaming system, including, without limitation, any piece of proprietary software or hardware; and

(2) A person may be required by the Commission to hold a license for a manufacturer of equipment associated with interactive gaming.

(c) Set forth standards for the suitability of a person to be licensed as a manufacturer of interactive gaming systems or manufacturer of equipment associated with interactive gaming that are as stringent as the standards for a nonrestricted license.

(d) Provide that gross revenue received by an establishment from the operation of interactive gaming is subject to the same license fee provisions of NRS 463.370 as the games and gaming devices of the establishment ~~††~~, ***unless federal law otherwise provides for a similar fee or tax.***

(e) Set forth standards for the location and security of the computer system and for approval of hardware and software used in connection with interactive gaming.

(f) Define "equipment associated with interactive gaming," "interactive gaming system," "manufacturer of equipment associated with interactive gaming," "manufacturer of interactive gaming systems," "operate interactive gaming" and "proprietary hardware and software" as the terms are used in this chapter.

~~††~~ (g) ***Provide that any license to operate interstate interactive gaming does not become effective until:***

(1) A federal law authorizing the specific type of interactive gaming for which the license was granted is enacted; or

(2) The United States Department of Justice notifies the Board or Commission in writing that it is permissible under federal law to operate the specific type of interactive gaming for which the license was granted.

3. Except as otherwise provided in ~~subsection 5,~~ ***subsections 4 and 5,*** the Commission shall not approve a license for an establishment to operate interactive gaming unless:

(a) In a county whose population is 400,000 or more, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices.

(b) In a county whose population is more than 40,000 but less than 400,000, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices or the establishment:

(1) Holds a nonrestricted license for the operation of games and gaming devices;

(2) Has more than 120 rooms available for sleeping accommodations in the same county;

(3) Has at least one bar with permanent seating capacity for more than 30 patrons that serves alcoholic beverages sold by the drink for consumption on the premises;

(4) Has at least one restaurant with permanent seating capacity for more than 60 patrons that is open to the public 24 hours each day and 7 days each week; and

(5) Has a gaming area that is at least 18,000 square feet in area with at least 1,600 slot machines, 40 table games, and a sports book and race pool.

(c) In all other counties, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices or the establishment:

(1) Has held a nonrestricted license for the operation of games and gaming devices for at least 5 years before the date of its application for a license to operate interactive gaming;

(2) Meets the definition of group 1 licensee as set forth in the regulations of the Commission on the date of its application for a license to operate interactive gaming; and

(3) Operates either:

(I) More than 50 rooms for sleeping accommodations in connection therewith; or

(II) More than 50 gaming devices in connection therewith.

~~§ 4.~~ 4. The Commission may:

(a) Issue a license to operate interactive gaming to an affiliate of an establishment if:

(1) The establishment satisfies the applicable requirements set forth in subsection ~~4;~~ and 3;

(2) The affiliate is located in the same county as the establishment; and

(3) *The establishment has held a nonrestricted license for at least 5 years before the date on which the application is filed; and*

(b) Require an affiliate that receives a license pursuant to this subsection to comply with any applicable provision of this chapter.

~~§ 5.~~ 5. ***The Commission may issue a license to operate interactive gaming to an applicant that meets any qualifications established by federal law regulating the licensure of interactive gaming.***

6. It is unlawful for any person, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others, to operate interactive gaming:

(a) Until the Commission adopts regulations pursuant to this section; and

(b) Unless the person first procures, and thereafter maintains in effect, all appropriate licenses as required by the regulations adopted by the Commission pursuant to this section.

7. A person who violates subsection 6 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years or by a fine of not more than \$50,000, or both.

Sec. 12.5. NRS 463.770 is hereby amended to read as follows:

463.770 1. ~~1.111~~ **Unless federal law otherwise provides for a similar fee or tax, all** gross revenue from operating interactive gaming received by

an establishment licensed to operate interactive gaming, regardless of whether any portion of the revenue is shared with another person, must be attributed to the licensee and counted as part of the gross revenue of the licensee for the purpose of computing the license fee required by NRS 463.370.

2. A manufacturer of interactive gaming systems who is authorized by an agreement to receive a share of the revenue from an interactive gaming system from an establishment licensed to operate interactive gaming is liable to the establishment for a portion of the license fee paid pursuant to subsection 1. The portion for which the manufacturer of interactive gaming systems is liable is 6.75 percent of the amount of revenue to which the manufacturer of interactive gaming systems is entitled pursuant to the agreement.

3. For the purposes of subsection 2, the amount of revenue to which the manufacturer of interactive gaming systems is entitled pursuant to an agreement to share the revenue from an interactive gaming system:

(a) Includes all revenue of the manufacturer of interactive gaming systems that is the manufacturer of interactive gaming systems' share of the revenue from the interactive gaming system pursuant to the agreement; and

(b) Does not include revenue that is the fixed purchase price for the sale of a component of the interactive gaming system.

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 14.5. The Nevada Gaming Commission shall, on or before January 31, 2012, adopt regulations to carry out the amendatory provisions of this act.

Sec. 15. This act becomes effective upon passage and approval.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

The amendment clarifies two things. A federal law may provide for a similar fee or tax on all gross revenue from interactive gaming and regulations adopted by the Nevada Gaming Commission pursuant to federal law apply to licenses to operate interstate interactive gaming.

Amendment adopted.

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

Assembly Bill No. 322.

Bill read second time.

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

Amendment No. 714.

"SUMMARY—Revises provisions relating to wildlife. (BDR 45-150)"

"AN ACT relating to wildlife; revising the membership of the Board of Wildlife Commissioners to include one member who **is actively engaged in conservation and** possesses experience and expertise in advocating issues

relating to conservation; revising the circumstances under which the Director of the Department of Wildlife is appointed; revising the provisions governing a program for the issuance of certain additional big game tags each year; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law creates the Board of Wildlife Commissioners, consisting of nine members appointed by the Governor, and confers broad authority upon the Commission to manage wildlife and its habitat in this State. (NRS 501.105, 501.167, 501.181) Of those nine members, existing law requires one member to be a person who is actively engaged in the conservation of wildlife. (NRS 501.171) **Section 1** of this bill revises the qualifications of that member to require him or her to be actively engaged in conservation and to possess experience and expertise in advocating issues relating to conservation.

Existing law requires the Governor to appoint the Director of the Department of Wildlife from among three or more persons nominated by the Commission. (NRS 501.333) **Section 2** of this bill revises that requirement to allow the Governor additional discretion in appointing the Director.

Existing law authorizes the Commission to establish a program for the issuance of additional big game tags each year, known as "Dream Tags," to hunt any species of pronghorn antelope, bear, deer, mountain goat, mountain lion, bighorn sheep or elk. The program must award the big game tags through a raffle conducted by a certain nonprofit organization. The money received by the nonprofit organization from the proceeds of the raffle, less any administrative costs, must be used to preserve, protect, manage or restore game and its habitat. (NRS 502.219) In lieu of authorizing the Commission to establish such a program, **section 3** of this bill establishes that program by statute.

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

Section 1. NRS 501.171 is hereby amended to read as follows:

501.171 1. A county advisory board to manage wildlife shall submit written nominations for appointments to the Commission upon the request of the Governor and may submit nominations at any other time.

2. After consideration of the written nominations submitted by a county advisory board to manage wildlife and any additional candidates for appointment to the Commission, the Governor shall appoint to the Commission:

(a) One member who is actively engaged in the ~~and possesses~~ *experience and expertise in advocating issues relating to* conservation ; ~~of~~ *wildlife;*

(b) One member who is actively engaged in farming;

(c) One member who is actively engaged in ranching;

(d) One member who represents the interests of the general public; and

(e) Five members who during at least 3 of the 4 years immediately preceding their appointment held a resident license to fish or hunt, or both, in Nevada.

3. The Governor shall not appoint to the Commission any person who has been convicted of:

- (a) A felony or gross misdemeanor for a violation of NRS 501.376;
 - (b) A gross misdemeanor for a violation of NRS 502.060;
 - (c) A felony or gross misdemeanor for a violation of NRS 504.395; or
 - (d) Two or more violations of the provisions of chapters 501 to 504, inclusive, of NRS,
- ↪ during the previous 10 years.

4. Not more than three members may be from the same county whose population is 400,000 or more, not more than two members may be from the same county whose population is 100,000 or more but less than 400,000, and not more than one member may be from the same county whose population is less than 100,000.

5. The Commission shall annually select a Chair and a Vice Chair from among its members. A person shall not serve more than two consecutive terms as Chair.

Sec. 2. NRS 501.333 is hereby amended to read as follows:

501.333 1. ~~{From among three or more nominees of the Commission, the}~~ **The** Governor shall appoint a Director of the Department, who is its Chief Administrative Officer. The Director serves at the pleasure of the Governor.

2. The Governor shall select as Director a person having an academic degree in the management of wildlife or a closely related field, substantial experience in the management of wildlife and a demonstrated ability to administer a major public agency. ***When appointing the Director, the Governor may consider any person nominated by the Commission.***

3. The Director is in the unclassified service of the State.

Sec. 3. NRS 502.219 is hereby amended to read as follows:

502.219 1. ~~{The Commission may establish a}~~ **A program is hereby established** for the issuance of additional big game tags each year to be known as "Dream Tags." ~~{If the Commission establishes such a program, the}~~ **The** program must provide:

(a) For the issuance of Dream Tags to either a resident or nonresident of this State;

(b) For the issuance of one Dream Tag for each species of big game for which 50 or more tags were available under the quota established for the species by the Commission during the previous year; and

(c) For the sale of Dream Tags to a nonprofit organization pursuant to this section.

2. ~~The {Commission may adopt regulations establishing such other provisions concerning Dream Tags as the Commission determines reasonable or necessary in carrying out the program.}~~ **Department shall administer the**

program and shall take such actions as the Department determines are necessary to carry out the provisions of this section and NRS 502.222 and 502.225.

3. A nonprofit organization established through the Community Foundation of Western Nevada which is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3) and which has as its principal purpose the preservation, protection, management or restoration of wildlife and its habitat may purchase such Dream Tags from the Department, ~~as are authorized by the Commission,~~ at prices established by the ~~Commission,~~ **Department**, subject to the following conditions:

(a) The nonprofit organization must agree to award the Dream Tags by raffle, with unlimited chances to be sold for \$5 each to persons who purchase a resource enhancement stamp pursuant to NRS 502.222.

(b) The nonprofit organization must agree to enter into a contract with a private entity that is approved by the Department which requires that the private entity agree to act as the agent of the nonprofit organization to sell chances to win Dream Tags, conduct any required drawing for Dream Tags and issue Dream Tags. For the purposes of this paragraph, a private entity that has entered into a contract with the Department pursuant to NRS 502.175 to conduct a drawing and to award and issue tags or permits as established by the Commission shall be deemed to be approved by the Department.

(c) All money received by the nonprofit organization from the proceeds of the Dream Tag raffle, less the cost of the Dream Tags purchased by the nonprofit organization and any administrative costs charged by the Community Foundation of Western Nevada, must be used for the preservation, protection, management or restoration of game and its habitat, as determined by the Advisory Board on Dream Tags created by NRS 502.225.

4. All money received by the Department for Dream Tags pursuant to this section must be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund.

5. The nonprofit organization shall, on or before February 1 of each year, report to the ~~Commission,~~ **Department** and the Interim Finance Committee concerning the Dream Tag program, including, without limitation:

(a) The number of Dream Tags issued during the immediately preceding calendar year;

(b) The total amount of money paid to the Department for Dream Tags during the immediately preceding calendar year;

(c) The total amount of money received by the nonprofit organization from the proceeds of the Dream Tag raffle, the amount of such money expended by the nonprofit organization and a description of each project for which the money was spent; and

(d) Any recommendations concerning the ~~continuation of the~~ program or necessary legislation.

6. As used in this section, "big game tag" means a tag permitting a person to hunt any species of pronghorn antelope, bear, deer, mountain goat, mountain lion, bighorn sheep or elk.

Sec. 4. 1. As soon as practicable after the effective date of this section, the Governor shall appoint one member of the Board of Wildlife Commissioners who is qualified pursuant to paragraph (a) of subsection 2 of NRS 501.171, as amended by section 1 of this act.

2. The term of the member of the Board of Wildlife Commissioners who was appointed pursuant to paragraph (a) of subsection 2 of NRS 501.171 before the effective date of this section expires:

(a) Upon the expiration of the term for which he or she was appointed; or
(b) Upon the appointment by the Governor of the member specified in subsection 1,

↪ whichever occurs first.

Sec. 5. 1. This section and sections 1, 2 and 4 of this act become effective upon passage and approval.

2. Section 3 of this act becomes effective on July 1, 2011.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

This amendment restores the language referencing "actively engaged" in relation to the qualification of the conservation representative on the Board of Wildlife Commissioners.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 328.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 675.

"SUMMARY—Enacts provisions relating to vulnerable highway users. (BDR 43-844)"

"AN ACT relating to motor vehicles; providing that a person who, while violating certain rules of the road, causes a collision with a pedestrian or person riding a bicycle has committed reckless driving; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that certain conduct by a driver of a vehicle constitutes reckless driving. (NRS 484B.653) **Section 31** of this bill provides that a person who, while violating certain rules of the road relating to bicycles, pedestrians, crosswalks, school crossing guards, school zones or speeding, is the proximate cause of a collision with a pedestrian or person riding a bicycle has committed reckless driving.

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. 12.3. NRS 483.460 is hereby amended to read as follows:

483.460 1. Except as otherwise provided by specific statute, the Department shall revoke the license, permit or privilege of any driver upon receiving a record of his or her conviction of any of the following offenses, when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:

(a) For a period of 3 years if the offense is:

(1) A violation of subsection ~~15~~ 6 of NRS 484B.653.

(2) A third or subsequent violation within 7 years of NRS 484C.110 or 484C.120.

(3) A violation of NRS 484C.110 or 484C.120 resulting in a felony conviction pursuant to NRS 484C.400 or 484C.410.

(4) A violation of NRS 484C.430 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430.

➡ The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment and the period of revocation must resume when the Department is notified pursuant to NRS 209.517 or 213.12185 that the person has completed the period of imprisonment or that the person has been placed on residential confinement or parole.

(b) For a period of 1 year if the offense is:

(1) Any other manslaughter, including vehicular manslaughter as described in NRS 484B.657, resulting from the driving of a motor vehicle or felony in the commission of which a motor vehicle is used, including the unlawful taking of a motor vehicle.

(2) Failure to stop and render aid as required pursuant to the laws of this State in the event of a motor vehicle accident resulting in the death or bodily injury of another.

(3) Perjury or the making of a false affidavit or statement under oath to the Department pursuant to NRS 483.010 to 483.630, inclusive, or pursuant to any other law relating to the ownership or driving of motor vehicles.

(4) Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 12 months.

(5) A second violation within 7 years of NRS 484C.110 or 484C.120 and the driver is not eligible for a restricted license during any of that period.

(6) A violation of NRS 484B.550.

(c) For a period of 90 days, if the offense is a first violation within 7 years of NRS 484C.110 or 484C.120.

2. The Department shall revoke the license, permit or privilege of a driver convicted of violating NRS 484C.110 or 484C.120 who fails to complete the educational course on the use of alcohol and controlled substances within the time ordered by the court and shall add a period of 90 days during which the driver is not eligible for a license, permit or privilege to drive.

3. When the Department is notified by a court that a person who has been convicted of a first violation within 7 years of NRS 484C.110 has been permitted to enter a program of treatment pursuant to NRS 484C.320, the Department shall reduce by one-half the period during which the person is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that the person was not accepted for or failed to complete the treatment.

4. The Department shall revoke the license, permit or privilege to drive of a person who is required to install a device pursuant to NRS 484C.460 but who operates a motor vehicle without such a device:

(a) For 3 years, if it is his or her first such offense during the period of required use of the device.

(b) For 5 years, if it is his or her second such offense during the period of required use of the device.

5. A driver whose license, permit or privilege is revoked pursuant to subsection 4 is not eligible for a restricted license during the period set forth in paragraph (a) or (b) of that subsection, whichever applies.

6. In addition to any other requirements set forth by specific statute, if the Department is notified that a court has ordered the revocation, suspension or delay in the issuance of a license pursuant to title 5 of NRS, NRS 176.064 or 206.330, chapters 484A to 484E, inclusive, of NRS or any other provision of law, the Department shall take such actions as are necessary to carry out the court's order.

7. As used in this section, "device" has the meaning ascribed to it in NRS 484C.450.

Sec. 12.5. NRS 483.490 is hereby amended to read as follows:

483.490 1. Except as otherwise provided in this section, after a driver's license has been suspended or revoked for an offense other than a second violation within 7 years of NRS 484C.110, and one-half of the period during

which the driver is not eligible for a license has expired, the Department may, unless the statute authorizing the suspension prohibits the issuance of a restricted license, issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) To and from work or in the course of his or her work, or both; or

(b) To acquire supplies of medicine or food or receive regularly scheduled medical care for himself, herself or a member of his or her immediate family.

➔ Before a restricted license may be issued, the applicant must submit sufficient documentary evidence to satisfy the Department that a severe hardship exists because the applicant has no alternative means of transportation and that the severe hardship outweighs the risk to the public if the applicant is issued a restricted license.

2. A person who has been ordered to install a device in a motor vehicle pursuant to NRS 484C.460:

(a) Shall install the device not later than 21 days after the date on which the order was issued; and

(b) May not receive a restricted license pursuant to this section until:

(1) After at least 1 year of the period during which the person is not eligible for a license, if the person was convicted of:

(I) A violation of NRS 484C.430 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430; or

(II) A violation of NRS 484C.110 that is punishable as a felony pursuant to NRS 484C.410 or 484C.420;

(2) After at least 180 days of the period during which the person is not eligible for a license, if the person was convicted of a violation of subsection ~~5~~ 6 of NRS 484B.653; or

(3) After at least 45 days of the period during which the person is not eligible for a license, if the person was convicted of a first violation within 7 years of NRS 484C.110.

3. If the Department has received a copy of an order requiring a person to install a device in a motor vehicle pursuant to NRS 484C.460, the Department shall not issue a restricted driver's license to such a person pursuant to this section unless the applicant has submitted proof of compliance with the order and subsection 2.

4. After a driver's license has been revoked or suspended pursuant to title 5 of NRS, the Department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) If applicable, to and from work or in the course of his or her work, or both; or

(b) If applicable, to and from school.

5. After a driver's license has been suspended pursuant to NRS 483.443, the Department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) If applicable, to and from work or in the course of his or her work, or both;

(b) To receive regularly scheduled medical care for himself, herself or a member of his or her immediate family; or

(c) If applicable, as necessary to exercise a court-ordered right to visit a child.

6. A driver who violates a condition of a restricted license issued pursuant to subsection 1 or by another jurisdiction is guilty of a misdemeanor and, if the license of the driver was suspended or revoked for:

(a) A violation of NRS 484C.110, 484C.210 or 484C.430;

(b) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430; or

(c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b),

➡ the driver shall be punished in the manner provided pursuant to subsection 2 of NRS 483.560.

7. The periods of suspensions and revocations required pursuant to this chapter and NRS 484C.210 must run consecutively, except as otherwise provided in NRS 483.465 and 483.475, when the suspensions must run concurrently.

8. Whenever the Department suspends or revokes a license, the period of suspension, or of ineligibility for a license after the revocation, begins upon the effective date of the revocation or suspension as contained in the notice thereof.

Sec. 12.7. NRS 484B.270 is hereby amended to read as follows:

484B.270 1. The driver of a motor vehicle shall not:

(a) Intentionally interfere with the movement of a person lawfully riding a bicycle or an electric bicycle; or

(b) Overtake and pass a person riding a bicycle or an electric bicycle unless the driver can do so safely without endangering the person riding the bicycle or electric bicycle.

2. The driver of a motor vehicle shall yield the right-of-way to any person riding a bicycle or an electric bicycle on the pathway or lane. The driver of a motor vehicle shall not enter, stop, stand, park or drive within a pathway or lane provided for bicycles or electric bicycles except:

(a) When entering or exiting an alley or driveway;

(b) When operating or parking a disabled vehicle;

(c) To avoid conflict with other traffic;

(d) In the performance of official duties;

(e) In compliance with the directions of a police officer; or

(f) In an emergency.

3. Except as otherwise provided in subsection 2, the driver of a motor vehicle shall not enter or proceed through an intersection while driving within a pathway or lane provided for bicycles or electric bicycles.

4. The driver of a motor vehicle shall:

(a) Exercise due care to avoid a collision with a person riding a bicycle or an electric bicycle; and

(b) Give an audible warning with the horn of the vehicle if appropriate and when necessary to avoid such a collision.

5. ***If, while violating any provision of subsections 1 to 4, inclusive, the driver of a motor vehicle is the proximate cause of a collision with a person riding a bicycle, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.***

6. The operator of a bicycle or an electric bicycle shall not:

(a) Intentionally interfere with the movement of a motor vehicle; or

(b) Overtake and pass a motor vehicle unless the operator can do so safely without endangering himself or herself or the occupants of the motor vehicle.

Sec. 13. NRS 484B.280 is hereby amended to read as follows:

484B.280 **1.** A driver of a motor vehicle shall:

~~{1-}~~ (a) Exercise due care to avoid a collision with a pedestrian;

~~{2-}~~ (b) Give an audible warning with the horn of the vehicle if appropriate and when necessary to avoid such a collision; and

~~{3-}~~ (c) Exercise proper caution upon observing a pedestrian ~~ten~~ :

(1) On or near a highway, street or road ;

(2) At or near a bus stop or bench, shelter or transit stop for passengers of public mass transportation or in the act of boarding a bus or other public transportation vehicle; or ~~ten~~

(3) In or near a school crossing zone marked in accordance with NRS 484B.363 or a marked or unmarked crosswalk.

2. ***If, while violating any provision of this section, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.***

Sec. 14. NRS 484B.283 is hereby amended to read as follows:

484B.283 **1.** Except as otherwise provided in NRS 484B.287, 484B.290 and 484B.350:

~~{1-}~~ (a) When official traffic-control devices are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be so to yield, to a pedestrian crossing the highway within a crosswalk when the pedestrian is upon the half of the highway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the highway as to be in danger.

~~{2-}~~ (b) A pedestrian shall not suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

~~{3-}~~ (c) Whenever a vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection, the driver of any other vehicle

approaching from the rear shall not overtake and pass the stopped vehicle until the driver has determined that the vehicle being overtaken was not stopped for the purpose of permitting a pedestrian to cross the highway.

~~{4-}~~ (d) Whenever signals exhibiting the words "Walk" or "Don't Walk" are in place, such signals indicate as follows:

~~{(a)}~~ (1) While the "Walk" indication is illuminated, pedestrians facing the signal may proceed across the highway in the direction of the signal and must be given the right-of-way by the drivers of all vehicles.

~~{(b)}~~ (2) While the "Don't Walk" indication is illuminated, either steady or flashing, a pedestrian shall not start to cross the highway in the direction of the signal, but any pedestrian who has partially completed the crossing during the "Walk" indication shall proceed to a sidewalk, or to a safety zone if one is provided.

~~{(c)}~~ (3) Whenever the word "Wait" still appears in a signal, the indication has the same meaning as assigned in this section to the "Don't Walk" indication.

~~{(d)}~~ (4) Whenever a signal system provides a signal phase for the stopping of all vehicular traffic and the exclusive movement of pedestrians, and "Walk" and "Don't Walk" indications control pedestrian movement, pedestrians may cross in any direction between corners of the intersection offering the shortest route within the boundaries of the intersection when the "Walk" indication is exhibited, and when signals and other official traffic-control devices direct pedestrian movement in the manner provided in this section and in NRS 484B.307.

2. *If, while violating paragraph (a) or (c) of subsection 1, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.*

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. NRS 484B.350 is hereby amended to read as follows:

484B.350 1. The driver of a vehicle:

(a) Shall stop in obedience to the direction or traffic-control signal of a school crossing guard; and

(b) Shall not proceed until the highway is clear of all persons, including, without limitation, the school crossing guard.

2. A person who violates ~~{any of the provisions of this section}~~ **subsection 1** is guilty of a misdemeanor.

3. *If, while violating subsection 1, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian or a person riding a bicycle, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.*

4. As used in this section, "school crossing guard" means a volunteer or paid employee of a local authority, local law enforcement agency or school district whose duties include assisting pupils to cross a highway.

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 484B.363 is hereby amended to read as follows:

484B.363 1. A person shall not drive a motor vehicle at a speed in excess of 15 miles per hour in an area designated as a school zone except:

- (a) On a day on which school is not in session;
- (b) During the period from a half hour after school is no longer in operation to a half hour before school is next in operation;
- (c) If the zone is designated by an operational speed limit beacon, during the hours when the pupils of the school are in class and the yellow lights of the speed limit beacon are not flashing in the manner which indicates that the speed limit is in effect; or
- (d) If the zone is not designated by an operational speed limit beacon, during the times when the sign designating the school zone indicates that the speed limit is not in effect.

2. A person shall not drive a motor vehicle at a speed in excess of 25 miles per hour in an area designated as a school crossing zone except:

- (a) On a day on which school is not in session;
- (b) During the period from a half hour after school is no longer in operation to a half hour before school is next in operation;
- (c) If the zone is designated by an operational speed limit beacon, during the hours when the pupils of the school are in class and the yellow lights of the speed limit beacon are not flashing in the manner which indicates that the speed limit is in effect; or
- (d) If the zone is not designated by an operational speed limit beacon, during the times when the sign designating the school zone indicates that the speed limit is not in effect.

3. The governing body of a local government or the Department of Transportation shall designate school zones and school crossing zones. An area must not be designated as a school zone if imposing a speed limit of 15 miles per hour would be unsafe because of higher speed limits in adjoining areas.

4. Each such governing body and the Department shall provide signs to mark the beginning and end of each school zone and school crossing zone which it respectively designates. Each sign marking the beginning of such a zone must include a designation of the hours when the speed limit is in effect or that the speed limit is in effect when children are present.

5. With respect to each school zone and school crossing zone in a school district, the superintendent of the school district or his or her designee, in conjunction with the Department of Transportation and the governing body of the local government that designated the school zone or school crossing zone and after consulting with the principal of the school and the agency that

is responsible for enforcing the speed limit in the zone, shall determine the times when the speed limit is in effect.

6. ***If, while violating subsection 1 or 2, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian or a person riding a bicycle, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.***

7. As used in this section, "speed limit beacon" means a device which is used in conjunction with a sign and equipped with two or more yellow lights that flash alternately to indicate when the speed limit in a school zone or school crossing zone is in effect.

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

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

484B.600 1. It is unlawful for any person to drive or operate a vehicle of any kind or character at:

(a) A rate of speed greater than is reasonable or proper, having due regard for the traffic, surface and width of the highway, the weather and other highway conditions.

(b) Such a rate of speed as to endanger the life, limb or property of any person.

(c) A rate of speed greater than that posted by a public authority for the particular portion of highway being traversed.

(d) In any event, a rate of speed greater than 75 miles per hour.

2. ***If, while violating any provision of subsection 1, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian or a person riding a bicycle, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.***

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

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. NRS 484B.653 is hereby amended to read as follows:

484B.653 1. It is unlawful for a person to:

(a) Drive a vehicle in willful or wanton disregard of the safety of persons or property.

(b) Drive a vehicle in an unauthorized speed contest on a public highway.

(c) Organize an unauthorized speed contest on a public highway.

↪ A violation of paragraph (a) or (b) of this subsection or subsection 1 of NRS 484B.550 constitutes reckless driving.

2. ***If, while violating the provisions of subsections 1 to 4, inclusive, of NRS 484B.270, NRS 484B.280, paragraph (a) or (c) of subsection 1 of***

NRS 484B.283, NRS 484B.350, subsection 1 or 2 of NRS 484B.363 or subsection 1 of NRS 484B.600, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian or a person riding a bicycle, the violation constitutes reckless driving.

3. A person who violates paragraph (a) of subsection 1 is guilty of a misdemeanor and:

(a) For the first offense, shall be punished:

(1) By a fine of not less than \$250 but not more than \$1,000; or

(2) By both fine and imprisonment in the county jail for not more than 6 months.

(b) For the second offense, shall be punished:

(1) By a fine of not less than \$1,000 but not more than \$1,500; or

(2) By both fine and imprisonment in the county jail for not more than 6 months.

(c) For the third and each subsequent offense, shall be punished:

(1) By a fine of not less than \$1,500 but not more than \$2,000; or

(2) By both fine and imprisonment in the county jail for not more than 6 months.

~~13-1~~ 4. A person who violates paragraph (b) or (c) of subsection 1 ***or commits a violation which constitutes reckless driving pursuant to subsection 2*** is guilty of a misdemeanor and:

(a) For the first offense:

(1) Shall be punished by a fine of not less than \$250 but not more than \$1,000;

(2) Shall perform not less than 50 hours, but not more than 99 hours, of community service; and

(3) May be punished by imprisonment in the county jail for not more than 6 months.

(b) For the second offense:

(1) Shall be punished by a fine of not less than \$1,000 but not more than \$1,500;

(2) Shall perform not less than 100 hours, but not more than 199 hours, of community service; and

(3) May be punished by imprisonment in the county jail for not more than 6 months.

(c) For the third and each subsequent offense:

(1) Shall be punished by a fine of not less than \$1,500 but not more than \$2,000;

(2) Shall perform 200 hours of community service; and

(3) May be punished by imprisonment in the county jail for not more than 6 months.

~~14-1~~ 5. In addition to any fine, community service and imprisonment imposed upon a person pursuant to subsection ~~13-1~~ 4, the court:

(a) Shall issue an order suspending the driver's license of the person for a period of not less than 6 months but not more than 2 years and requiring the person to surrender all driver's licenses then held by the person;

(b) Within 5 days after issuing an order pursuant to paragraph (a), shall forward to the Department any licenses, together with a copy of the order;

(c) For the first offense, may issue an order impounding, for a period of 15 days, any vehicle that is registered to the person who violates paragraph (b) or (c) of subsection 1 if the vehicle is used in the commission of the offense; and

(d) For the second and each subsequent offense, shall issue an order impounding, for a period of 30 days, any vehicle that is registered to the person who violates paragraph (b) or (c) of subsection 1 if the vehicle is used in the commission of the offense.

~~{5-}~~ 6. Unless a greater penalty is provided pursuant to subsection 4 of NRS 484B.550, a person who does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle in willful or wanton disregard of the safety of persons or property, if the act or neglect of duty proximately causes the death of or substantial bodily harm to another person, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years and by a fine of not less than \$2,000 but not more than \$5,000.

~~{6-}~~ 7. A person who violates any provision of this section may be subject to the additional penalty set forth in NRS 484B.130 unless the person is subject to the penalty provided pursuant to subsection 4 of NRS 484B.550.

~~{7-}~~ 8. As used in this section, "organize" means to plan, schedule or promote, or assist in the planning, scheduling or promotion of, an unauthorized speed contest on a public highway, regardless of whether a fee is charged for attending the unauthorized speed contest.

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Senator Breeden moved the adoption of the amendment.

Amendment adopted.

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

The following amendment was proposed by Senator Leslie:

Amendment No. 816.

"SUMMARY—Enacts provisions relating to ~~vulnerable highway users;~~
rules of the road. (BDR 43-844)"

"AN ACT relating to ~~motor vehicles;~~ **rules of the road;** providing that a person who, while violating certain rules of the road, causes a collision with a pedestrian or person riding a bicycle has committed reckless driving;
authorizing a county fair and recreation board or a veterans'

organization, under certain circumstances, to place street banners along roads and sidewalks and upon publicly owned or leased facilities;

providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that certain conduct by a driver of a vehicle constitutes reckless driving. (NRS 484B.653) **Section 31** of this bill provides that a person who, while violating certain rules of the road relating to bicycles, pedestrians, crosswalks, school crossing guards, school zones or speeding, is the proximate cause of a collision with a pedestrian or person riding a bicycle has committed reckless driving.

Existing law prohibits the placement of a street banner bearing any commercial advertising upon any highway. (NRS 484B.313) Section 18.5 of this bill authorizes a county fair and recreation board, pursuant to a written agreement with a county or city, to place a street banner along any street, avenue, boulevard, alley, public highway or other public right-of-way used for vehicular traffic, along any sidewalk designed primarily for use by pedestrians and upon any facility owned or leased by the county or city if the street banner: (1) is used to welcome an event, convention or trade show which is sponsored or hosted by the county fair and recreation board and which is projected to be attended by more than 30,000 persons; and (2) does not express any other commercial or political message. Section 18.5 provides similar authorization for a veterans' organization if the street banner: (1) is used to welcome a group of veterans during a parade for veterans held on Veterans' Day or Memorial Day; and (2) does not express any other commercial or political message.

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. 12.3. NRS 483.460 is hereby amended to read as follows:

483.460 1. Except as otherwise provided by specific statute, the Department shall revoke the license, permit or privilege of any driver upon receiving a record of his or her conviction of any of the following offenses,

when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:

(a) For a period of 3 years if the offense is:

(1) A violation of subsection ~~15~~ 6 of NRS 484B.653.

(2) A third or subsequent violation within 7 years of NRS 484C.110 or 484C.120.

(3) A violation of NRS 484C.110 or 484C.120 resulting in a felony conviction pursuant to NRS 484C.400 or 484C.410.

(4) A violation of NRS 484C.430 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430.

➤ The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment and the period of revocation must resume when the Department is notified pursuant to NRS 209.517 or 213.12185 that the person has completed the period of imprisonment or that the person has been placed on residential confinement or parole.

(b) For a period of 1 year if the offense is:

(1) Any other manslaughter, including vehicular manslaughter as described in NRS 484B.657, resulting from the driving of a motor vehicle or felony in the commission of which a motor vehicle is used, including the unlawful taking of a motor vehicle.

(2) Failure to stop and render aid as required pursuant to the laws of this State in the event of a motor vehicle accident resulting in the death or bodily injury of another.

(3) Perjury or the making of a false affidavit or statement under oath to the Department pursuant to NRS 483.010 to 483.630, inclusive, or pursuant to any other law relating to the ownership or driving of motor vehicles.

(4) Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 12 months.

(5) A second violation within 7 years of NRS 484C.110 or 484C.120 and the driver is not eligible for a restricted license during any of that period.

(6) A violation of NRS 484B.550.

(c) For a period of 90 days, if the offense is a first violation within 7 years of NRS 484C.110 or 484C.120.

2. The Department shall revoke the license, permit or privilege of a driver convicted of violating NRS 484C.110 or 484C.120 who fails to complete the educational course on the use of alcohol and controlled substances within the time ordered by the court and shall add a period of 90 days during which the driver is not eligible for a license, permit or privilege to drive.

3. When the Department is notified by a court that a person who has been convicted of a first violation within 7 years of NRS 484C.110 has been permitted to enter a program of treatment pursuant to NRS 484C.320, the

Department shall reduce by one-half the period during which the person is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that the person was not accepted for or failed to complete the treatment.

4. The Department shall revoke the license, permit or privilege to drive of a person who is required to install a device pursuant to NRS 484C.460 but who operates a motor vehicle without such a device:

(a) For 3 years, if it is his or her first such offense during the period of required use of the device.

(b) For 5 years, if it is his or her second such offense during the period of required use of the device.

5. A driver whose license, permit or privilege is revoked pursuant to subsection 4 is not eligible for a restricted license during the period set forth in paragraph (a) or (b) of that subsection, whichever applies.

6. In addition to any other requirements set forth by specific statute, if the Department is notified that a court has ordered the revocation, suspension or delay in the issuance of a license pursuant to title 5 of NRS, NRS 176.064 or 206.330, chapters 484A to 484E, inclusive, of NRS or any other provision of law, the Department shall take such actions as are necessary to carry out the court's order.

7. As used in this section, "device" has the meaning ascribed to it in NRS 484C.450.

Sec. 12.5. NRS 483.490 is hereby amended to read as follows:

483.490 1. Except as otherwise provided in this section, after a driver's license has been suspended or revoked for an offense other than a second violation within 7 years of NRS 484C.110, and one-half of the period during which the driver is not eligible for a license has expired, the Department may, unless the statute authorizing the suspension prohibits the issuance of a restricted license, issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) To and from work or in the course of his or her work, or both; or

(b) To acquire supplies of medicine or food or receive regularly scheduled medical care for himself, herself or a member of his or her immediate family.

➤ Before a restricted license may be issued, the applicant must submit sufficient documentary evidence to satisfy the Department that a severe hardship exists because the applicant has no alternative means of transportation and that the severe hardship outweighs the risk to the public if the applicant is issued a restricted license.

2. A person who has been ordered to install a device in a motor vehicle pursuant to NRS 484C.460:

(a) Shall install the device not later than 21 days after the date on which the order was issued; and

(b) May not receive a restricted license pursuant to this section until:

(1) After at least 1 year of the period during which the person is not eligible for a license, if the person was convicted of:

(I) A violation of NRS 484C.430 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430; or

(II) A violation of NRS 484C.110 that is punishable as a felony pursuant to NRS 484C.410 or 484C.420;

(2) After at least 180 days of the period during which the person is not eligible for a license, if the person was convicted of a violation of subsection ~~5~~ 6 of NRS 484B.653; or

(3) After at least 45 days of the period during which the person is not eligible for a license, if the person was convicted of a first violation within 7 years of NRS 484C.110.

3. If the Department has received a copy of an order requiring a person to install a device in a motor vehicle pursuant to NRS 484C.460, the Department shall not issue a restricted driver's license to such a person pursuant to this section unless the applicant has submitted proof of compliance with the order and subsection 2.

4. After a driver's license has been revoked or suspended pursuant to title 5 of NRS, the Department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) If applicable, to and from work or in the course of his or her work, or both; or

(b) If applicable, to and from school.

5. After a driver's license has been suspended pursuant to NRS 483.443, the Department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) If applicable, to and from work or in the course of his or her work, or both;

(b) To receive regularly scheduled medical care for himself, herself or a member of his or her immediate family; or

(c) If applicable, as necessary to exercise a court-ordered right to visit a child.

6. A driver who violates a condition of a restricted license issued pursuant to subsection 1 or by another jurisdiction is guilty of a misdemeanor and, if the license of the driver was suspended or revoked for:

(a) A violation of NRS 484C.110, 484C.210 or 484C.430;

(b) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430; or

(c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b),

➡ the driver shall be punished in the manner provided pursuant to subsection 2 of NRS 483.560.

7. The periods of suspensions and revocations required pursuant to this chapter and NRS 484C.210 must run consecutively, except as otherwise provided in NRS 483.465 and 483.475, when the suspensions must run concurrently.

8. Whenever the Department suspends or revokes a license, the period of suspension, or of ineligibility for a license after the revocation, begins upon the effective date of the revocation or suspension as contained in the notice thereof.

Sec. 12.7. NRS 484B.270 is hereby amended to read as follows:

484B.270 1. The driver of a motor vehicle shall not:

(a) Intentionally interfere with the movement of a person lawfully riding a bicycle or an electric bicycle; or

(b) Overtake and pass a person riding a bicycle or an electric bicycle unless the driver can do so safely without endangering the person riding the bicycle or electric bicycle.

2. The driver of a motor vehicle shall yield the right-of-way to any person riding a bicycle or an electric bicycle on the pathway or lane. The driver of a motor vehicle shall not enter, stop, stand, park or drive within a pathway or lane provided for bicycles or electric bicycles except:

(a) When entering or exiting an alley or driveway;

(b) When operating or parking a disabled vehicle;

(c) To avoid conflict with other traffic;

(d) In the performance of official duties;

(e) In compliance with the directions of a police officer; or

(f) In an emergency.

3. Except as otherwise provided in subsection 2, the driver of a motor vehicle shall not enter or proceed through an intersection while driving within a pathway or lane provided for bicycles or electric bicycles.

4. The driver of a motor vehicle shall:

(a) Exercise due care to avoid a collision with a person riding a bicycle or an electric bicycle; and

(b) Give an audible warning with the horn of the vehicle if appropriate and when necessary to avoid such a collision.

5. ***If, while violating any provision of subsections 1 to 4, inclusive, the driver of a motor vehicle is the proximate cause of a collision with a person riding a bicycle, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.***

6. The operator of a bicycle or an electric bicycle shall not:

(a) Intentionally interfere with the movement of a motor vehicle; or

(b) Overtake and pass a motor vehicle unless the operator can do so safely without endangering himself or herself or the occupants of the motor vehicle.

Sec. 13. NRS 484B.280 is hereby amended to read as follows:

484B.280 1. A driver of a motor vehicle shall:

~~1.1~~ (a) Exercise due care to avoid a collision with a pedestrian;

~~{2-}~~ (b) Give an audible warning with the horn of the vehicle if appropriate and when necessary to avoid such a collision; and

~~{3-}~~ (c) Exercise proper caution upon observing a pedestrian on or near a highway, street or road or in or near a school crossing zone marked in accordance with NRS 484B.363 or a marked or unmarked crosswalk.

2. *If, while violating any provision of this section, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.*

Sec. 14. NRS 484B.283 is hereby amended to read as follows:

484B.283 **1.** Except as otherwise provided in NRS 484B.287, 484B.290 and 484B.350:

~~{1-}~~ (a) When official traffic-control devices are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be so to yield, to a pedestrian crossing the highway within a crosswalk when the pedestrian is upon the half of the highway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the highway as to be in danger.

~~{2-}~~ (b) A pedestrian shall not suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

~~{3-}~~ (c) Whenever a vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle until the driver has determined that the vehicle being overtaken was not stopped for the purpose of permitting a pedestrian to cross the highway.

~~{4-}~~ (d) Whenever signals exhibiting the words "Walk" or "Don't Walk" are in place, such signals indicate as follows:

~~{(a)-}~~ (1) While the "Walk" indication is illuminated, pedestrians facing the signal may proceed across the highway in the direction of the signal and must be given the right-of-way by the drivers of all vehicles.

~~{(b)-}~~ (2) While the "Don't Walk" indication is illuminated, either steady or flashing, a pedestrian shall not start to cross the highway in the direction of the signal, but any pedestrian who has partially completed the crossing during the "Walk" indication shall proceed to a sidewalk, or to a safety zone if one is provided.

~~{(c)-}~~ (3) Whenever the word "Wait" still appears in a signal, the indication has the same meaning as assigned in this section to the "Don't Walk" indication.

~~{(d)-}~~ (4) Whenever a signal system provides a signal phase for the stopping of all vehicular traffic and the exclusive movement of pedestrians, and "Walk" and "Don't Walk" indications control pedestrian movement, pedestrians may cross in any direction between corners of the intersection offering the shortest route within the boundaries of the intersection when the "Walk" indication is exhibited, and when signals and other official

traffic-control devices direct pedestrian movement in the manner provided in this section and in NRS 484B.307.

2. *If, while violating paragraph (a) or (c) of subsection 1, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.*

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 18.5. NRS 484B.313 is hereby amended to read as follows:

484B.313 1. ~~##~~ **Except as otherwise provided in subsections 6 and 7,** it is unlawful for any person to place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any such device, sign or signal, and except as otherwise provided in subsection 4, a person shall not place or maintain nor may any public authority permit upon any highway any sign, signal, marking or street banner bearing thereon any commercial advertising except on benches and shelters for passengers of public mass transportation for which a franchise has been granted pursuant to NRS 244.187 and 244.188, 268.081 and 268.083, 269.128 and 269.129, or 277A.310 and 277A.330, or on monorail stations.

2. Every such prohibited sign, signal or marking is hereby declared to be a public nuisance, and the proper public authority may remove the same or cause it to be removed without notice.

3. This section does not prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official traffic-control devices.

4. A person may place and maintain commercial advertising in an airspace above a highway under the conditions specified pursuant to subsection 3 of NRS 405.110, and a public authority may permit commercial advertising that has been placed in an airspace above a highway under the conditions specified pursuant to subsection 3 of NRS 405.110.

5. If a franchisee receives revenues from commercial advertising authorized by subsection 1 and the franchisee is obligated to repay a bond issued by the State of Nevada, the franchisee shall use all revenue generated by the advertising authorized by subsection 1 to meet its obligations to the State of Nevada as set forth in the financing agreement and bond indenture, including, without limitation, the payment of operations and maintenance obligations, the funding of reserves and the payment of debt service. To the extent that any surplus revenue remains after the payment of all such obligations, the surplus revenue must be used solely to repay the bond until the bond is repaid.

6. A county fair and recreation board, pursuant to a written agreement with a county or city, may place a street banner along any street, avenue, boulevard, alley, public highway or other public right-of-way used for vehicular traffic, along any sidewalk designed primarily for use by pedestrians and upon any facility owned or leased by the county or city if the street banner:

(a) Is used to welcome an event, convention or trade show which is sponsored or hosted by the county fair and recreation board and which is projected to be attended by more than 30,000 persons; and

(b) Does not express any other commercial or political message.

7. A veterans' organization, pursuant to a written agreement with a county or city, may place a street banner along any street, avenue, boulevard, alley, public highway or other public right-of-way used for vehicular traffic, along any sidewalk designed primarily for use by pedestrians and upon any facility owned or leased by the county or city if the street banner:

(a) Is used to welcome a group of veterans during a parade for veterans held on Veterans' Day or Memorial Day; and

(b) Does not express any other commercial or political message.

8. As used in this section:

(a) "Monorail station" means:

(1) A structure for the loading and unloading of passengers from a monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695; and

(2) Any facilities or appurtenances within such a structure.

(b) "Street banner" has the meaning ascribed to it in NRS 277A.130.

Sec. 19. NRS 484B.350 is hereby amended to read as follows:

484B.350 1. The driver of a vehicle:

(a) Shall stop in obedience to the direction or traffic-control signal of a school crossing guard; and

(b) Shall not proceed until the highway is clear of all persons, including, without limitation, the school crossing guard.

2. A person who violates ~~any of the provisions of this section~~ **subsection 1** is guilty of a misdemeanor.

3. ***If, while violating subsection 1, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian or a person riding a bicycle, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.***

4. As used in this section, "school crossing guard" means a volunteer or paid employee of a local authority, local law enforcement agency or school district whose duties include assisting pupils to cross a highway.

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 484B.363 is hereby amended to read as follows:

484B.363 1. A person shall not drive a motor vehicle at a speed in excess of 15 miles per hour in an area designated as a school zone except:

- (a) On a day on which school is not in session;
- (b) During the period from a half hour after school is no longer in operation to a half hour before school is next in operation;
- (c) If the zone is designated by an operational speed limit beacon, during the hours when the pupils of the school are in class and the yellow lights of the speed limit beacon are not flashing in the manner which indicates that the speed limit is in effect; or
- (d) If the zone is not designated by an operational speed limit beacon, during the times when the sign designating the school zone indicates that the speed limit is not in effect.

2. A person shall not drive a motor vehicle at a speed in excess of 25 miles per hour in an area designated as a school crossing zone except:

- (a) On a day on which school is not in session;
- (b) During the period from a half hour after school is no longer in operation to a half hour before school is next in operation;
- (c) If the zone is designated by an operational speed limit beacon, during the hours when the pupils of the school are in class and the yellow lights of the speed limit beacon are not flashing in the manner which indicates that the speed limit is in effect; or
- (d) If the zone is not designated by an operational speed limit beacon, during the times when the sign designating the school zone indicates that the speed limit is not in effect.

3. The governing body of a local government or the Department of Transportation shall designate school zones and school crossing zones. An area must not be designated as a school zone if imposing a speed limit of 15 miles per hour would be unsafe because of higher speed limits in adjoining areas.

4. Each such governing body and the Department shall provide signs to mark the beginning and end of each school zone and school crossing zone which it respectively designates. Each sign marking the beginning of such a zone must include a designation of the hours when the speed limit is in effect or that the speed limit is in effect when children are present.

5. With respect to each school zone and school crossing zone in a school district, the superintendent of the school district or his or her designee, in conjunction with the Department of Transportation and the governing body of the local government that designated the school zone or school crossing zone and after consulting with the principal of the school and the agency that is responsible for enforcing the speed limit in the zone, shall determine the times when the speed limit is in effect.

6. ***If, while violating subsection 1 or 2, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian or a person riding a bicycle, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.***

7. As used in this section, "speed limit beacon" means a device which is used in conjunction with a sign and equipped with two or more yellow lights

that flash alternately to indicate when the speed limit in a school zone or school crossing zone is in effect.

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

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

484B.600 1. It is unlawful for any person to drive or operate a vehicle of any kind or character at:

(a) A rate of speed greater than is reasonable or proper, having due regard for the traffic, surface and width of the highway, the weather and other highway conditions.

(b) Such a rate of speed as to endanger the life, limb or property of any person.

(c) A rate of speed greater than that posted by a public authority for the particular portion of highway being traversed.

(d) In any event, a rate of speed greater than 75 miles per hour.

2. ***If, while violating any provision of subsection 1, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian or a person riding a bicycle, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.***

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

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. NRS 484B.653 is hereby amended to read as follows:

484B.653 1. It is unlawful for a person to:

(a) Drive a vehicle in willful or wanton disregard of the safety of persons or property.

(b) Drive a vehicle in an unauthorized speed contest on a public highway.

(c) Organize an unauthorized speed contest on a public highway.

↪ A violation of paragraph (a) or (b) of this subsection or subsection 1 of NRS 484B.550 constitutes reckless driving.

2. ***If, while violating the provisions of subsections 1 to 4, inclusive, of NRS 484B.270, NRS 484B.280, paragraph (a) or (c) of subsection 1 of NRS 484B.283, NRS 484B.350, subsection 1 or 2 of NRS 484B.363 or subsection 1 of NRS 484B.600, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian or a person riding a bicycle, the violation constitutes reckless driving.***

3. A person who violates paragraph (a) of subsection 1 is guilty of a misdemeanor and:

(a) For the first offense, shall be punished:

(1) By a fine of not less than \$250 but not more than \$1,000; or

(2) By both fine and imprisonment in the county jail for not more than 6 months.

(b) For the second offense, shall be punished:

(1) By a fine of not less than \$1,000 but not more than \$1,500; or

(2) By both fine and imprisonment in the county jail for not more than 6 months.

(c) For the third and each subsequent offense, shall be punished:

(1) By a fine of not less than \$1,500 but not more than \$2,000; or

(2) By both fine and imprisonment in the county jail for not more than 6 months.

~~13.1~~ **4.** A person who violates paragraph (b) or (c) of subsection 1 *or commits a violation which constitutes reckless driving pursuant to subsection 2* is guilty of a misdemeanor and:

(a) For the first offense:

(1) Shall be punished by a fine of not less than \$250 but not more than \$1,000;

(2) Shall perform not less than 50 hours, but not more than 99 hours, of community service; and

(3) May be punished by imprisonment in the county jail for not more than 6 months.

(b) For the second offense:

(1) Shall be punished by a fine of not less than \$1,000 but not more than \$1,500;

(2) Shall perform not less than 100 hours, but not more than 199 hours, of community service; and

(3) May be punished by imprisonment in the county jail for not more than 6 months.

(c) For the third and each subsequent offense:

(1) Shall be punished by a fine of not less than \$1,500 but not more than \$2,000;

(2) Shall perform 200 hours of community service; and

(3) May be punished by imprisonment in the county jail for not more than 6 months.

~~14.1~~ **5.** In addition to any fine, community service and imprisonment imposed upon a person pursuant to subsection ~~13.1~~ **4**, the court:

(a) Shall issue an order suspending the driver's license of the person for a period of not less than 6 months but not more than 2 years and requiring the person to surrender all driver's licenses then held by the person;

(b) Within 5 days after issuing an order pursuant to paragraph (a), shall forward to the Department any licenses, together with a copy of the order;

(c) For the first offense, may issue an order impounding, for a period of 15 days, any vehicle that is registered to the person who violates paragraph (b) or (c) of subsection 1 if the vehicle is used in the commission of the offense; and

(d) For the second and each subsequent offense, shall issue an order impounding, for a period of 30 days, any vehicle that is registered to the person who violates paragraph (b) or (c) of subsection 1 if the vehicle is used in the commission of the offense.

~~15-1~~ 6. Unless a greater penalty is provided pursuant to subsection 4 of NRS 484B.550, a person who does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle in willful or wanton disregard of the safety of persons or property, if the act or neglect of duty proximately causes the death of or substantial bodily harm to another person, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years and by a fine of not less than \$2,000 but not more than \$5,000.

~~16-1~~ 7. A person who violates any provision of this section may be subject to the additional penalty set forth in NRS 484B.130 unless the person is subject to the penalty provided pursuant to subsection 4 of NRS 484B.550.

~~17-1~~ 8. As used in this section, "organize" means to plan, schedule or promote, or assist in the planning, scheduling or promotion of, an unauthorized speed contest on a public highway, regardless of whether a fee is charged for attending the unauthorized speed contest.

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Senator Leslie moved the adoption of the amendment.

Remarks by Senators Leslie and Hardy.

Senator Leslie requested that the following remarks be entered in the Journal.

SENATOR LESLIE:

This amendment authorizes county fair and recreation boards to put up a welcome banner if their event is projected to host more than 30,000 people. The amendment also allows for the same kind of non-advertising, welcoming banner for veterans groups when they have a parade on Veterans Day or on Memorial Day.

SENATOR HARDY:

Thank you, Mr. President. I read that the amendment says, "may", but does the town or county have to allow the banner to be placed, which may be problematic if they cannot find a sturdy enough pole to sustain winds.

SENATOR LESLIE:

It authorizes only. This has been going on for some time, but there was an issue that it was not spelled out in State law. They asked for this specific amendment. The counties and the fair and recreation boards have looked at the language.

SENATOR HARDY:

I ask because I come from a small town that had problems with banners being tied to poles. I do not see language in the amendment that states that the city does not have to do it if there is a problem with doing it.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Leslie moved that Assembly Bill No. 328 be taken from Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senator Wiener moved Assembly Bill No. 471 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 6:03 p.m.

SENATE IN SESSION

At 6:12 p.m.

President Krolicki presiding.

Quorum present.

Senator Wiener moved that the action whereby Senate Bill No. 207 was moved to next legislative day be rescinded.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 374.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 676.

"SUMMARY—Revises provisions governing the purchase of certain mobile equipment by the Department of Transportation. (BDR 35-852)"

"AN ACT relating to mobile equipment; requiring the Director of the Department of Transportation to submit a report to the Governor and the Legislature relating to the elimination by outsourcing or the purchase or leasing of certain mobile equipment; requiring the Department to prepare and present an analysis of the costs and benefits associated with the purchasing or leasing of certain mobile equipment or contracting for the performance of the work which would have been performed using that mobile equipment; prohibiting the Board of Directors of the Department from approving the purchase of certain mobile equipment unless the Department justifies the purchase based on the costs and benefits analysis; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Director of the Department of Transportation to submit various reports to the Legislature concerning the activities of the Department. (NRS 408.203) **Section 2** of this bill provides that, on or before

February 1 of each odd-numbered year, the Director is required to submit a report to the Governor and the Legislature concerning all mobile equipment eliminated by outsourcing or purchased or leased in the previous 2 years. **Section 2** further requires that the report include, without limitation, the costs and benefits analysis prepared pursuant to **section 3** of this bill and the justification for the decision to purchase or lease the mobile equipment or to enter into a contract for the performance of the work which would have been performed using the mobile equipment.

Existing law requires the Board of Directors of the Department to authorize the purchase by the Department of any equipment which exceeds \$50,000. (NRS 408.389) **Section 3** provides that, before the Board may approve the purchase of any mobile equipment which exceeds \$50,000, the Department is required to: (1) prepare and present a costs and benefits analysis of purchasing or leasing the mobile equipment or contracting for the performance of the work which would have been performed using the mobile equipment; and (2) justify purchasing instead of leasing or contracting based on that analysis. **Section 3** further prohibits the Board from approving any purchase of mobile equipment which exceeds \$50,000 unless the Department is able to justify purchasing based on that analysis.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 408.203 is hereby amended to read as follows:

408.203 The Director shall:

1. Compile a comprehensive report outlining the requirements for the construction and maintenance of highways for the next 10 years, including anticipated revenues and expenditures of the Department, and submit it to the Director of the Legislative Counsel Bureau for transmittal to the Chairs of the Senate and Assembly Standing Committees on Transportation.

2. Compile a comprehensive report of the requirements for the construction and maintenance of highways for the next 3 years, including anticipated revenues and expenditures of the Department, no later than October 1 of each even-numbered year, and submit it to the Director of the Legislative Counsel Bureau for transmittal to the Chairs of the Senate and Assembly Standing Committees on Transportation.

3. Report to the Legislature by February 1 of odd-numbered years the progress being made in the Department's 12-year plan for the resurfacing of state highways. The report must include an accounting of revenues and expenditures in the preceding 2 fiscal years, a list of the projects which have been completed, including mileage and cost, and an estimate of the adequacy of projected revenues for timely completion of the plan.

4. *On or before February 1 of each odd-numbered year, submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report concerning all mobile equipment eliminated by outsourcing or purchased*

or leased by the Department in the preceding 2 fiscal years. The report must include, without limitation, an analysis of the costs and benefits of each purchase, lease or contract prepared pursuant to subsection 2 of NRS 408.389, the justification for the decision to purchase, lease or contract and any other information required by the Director relating to such purchase, lease or contract.

Sec. 3. NRS 408.389 is hereby amended to read as follows:

408.389 1. ~~{The}~~ *Except as otherwise provided in subsection 2, the Department shall not purchase any equipment which exceeds \$50,000, unless the purchase is first approved by the Board.*

2. *Before the Board may approve the purchase of any mobile equipment which exceeds \$50,000, the Department shall:*

(a) Prepare and present to the Board an analysis of the costs and benefits, including, without limitation, all related personnel costs, that are associated with:

(1) Purchasing, operating and maintaining the same item of equipment;

(2) Leasing, operating and maintaining the same item of mobile equipment; or

(3) Contracting for the performance of the work which would have been performed using the mobile equipment; and

(b) Justify the need for the purchase based on that analysis.

3. The Board shall not ~~{delegate}~~ :

(a) Delegate to the Director its authority to approve purchases of equipment pursuant to subsection 1 ~~{}~~ ; or

(b) Approve any purchase of mobile equipment which exceeds \$50,000 and for which the Department is unable to provide justification pursuant to subsection 2.

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

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

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

Amendment No. 676 to Assembly Bill No. 374 adds Assemblyman Atkinson as a primary bill sponsor.

Motion carried on a division of the house.

Amendment adopted.

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

Assembly Bill No. 384.

Bill read second time and ordered to third reading.

Assembly Bill No. 433.

Bill read second time.

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

Amendment No. 690.

"SUMMARY—Expands prohibition on employers taking certain actions to prohibit, punish or prevent employees from engaging in politics or becoming candidates for public office with certain exceptions. (BDR 53-63)"

"AN ACT relating to employment practices; making it unlawful for public employers to make rules or regulations that prohibit or prevent an employee from engaging in politics or becoming a candidate for public office with certain exceptions; prohibiting any employer from taking any adverse employment action against an employee because the employee has become a candidate for any public office with certain exceptions; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law makes it unlawful for a private employer to make rules or regulations that prohibit or prevent an employee from engaging in politics or becoming a candidate for public office. (NRS 613.040) A violation of that prohibition by an employer is punishable by a fine of not more than \$5,000. In addition, the costs of the proceeding to recover the fine are recoverable by the Attorney General. (NRS 613.050) The employee is also authorized to bring a separate lawsuit for damages for such a violation. (NRS 613.070) This bill makes it unlawful for public employers and labor organizations, in addition to private employers, to engage in such unlawful activity and also makes it unlawful for any public or private employer or labor organization to take any adverse employment action against an employee as a result of the employee becoming a candidate for public office. With respect to public employees, this bill makes an exception where necessary to meet requirements of federal law, such as the Hatch Act, 5 U.S.C. §§ 1501-1508, which imposes restrictions on certain political activities by state and local governmental employees.

WHEREAS, Every eligible person has a right to participate in the functions of government; and

WHEREAS, Participating as a candidate in an election for public office and participating in politics are at the core of government; and

WHEREAS, It is the policy of the State of Nevada to encourage participation in government; and

WHEREAS, Anything which tends to prevent a person from so participating is contrary to the policy of this State; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 613.040 is hereby amended to read as follows:

613.040 ~~¶¶~~

1. Except as necessary to meet requirements of federal law as it pertains to a particular public employee, it shall be unlawful for any person ~~[- firm or corporation doing business or employing labor in the State of Nevada to]~~ who employs or has under his or her direction and control any

person for wages or under a contract of hire and for any labor organization referring a person to an employer for employment:

(a) To make any rule or regulation prohibiting or preventing any employee from engaging in politics or becoming a candidate for any public office in this state.

(b) To take any adverse employment action against an employee who becomes a candidate for any public office in this State because the employee became a candidate for public office.

2. As used in this section:

(a) "Adverse employment action" ~~includes~~ :

(1) Includes, without limitation, requiring an employee to take an unpaid leave of absence during any period of his or her campaign for public office.

(2) Does not include, without limitation:

(I) Any disciplinary or other personnel action, including, without limitation, termination of employment, taken for reasons other than those prohibited pursuant to subsection 1; or

(II) Reassignment of an employee to prevent or eliminate any conflict of interest, as determined by the employer.

(b) "Candidate" has the meaning ascribed to it in NRS 294A.005.

(c) "Person" means:

(1) A natural person;

(2) Any form of business or social organization and any other nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust or agency or unincorporated organization; or

(3) A government, governmental agency or political subdivision of a government.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Assembly Bill No. 433 relates to public employees who choose to run for public office. Amendment No. 690 defines the term "adverse employment action" to provide that it does not include any disciplinary action or other personnel action, including termination, taken for reasons other than those prohibited because the employee became a candidate for office, and reassignment of an employee to eliminate any potential conflict of interest.

Amendment adopted.

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

Assembly Bill No. 463.

Bill read second time and ordered to third reading.

Assembly Bill No. 508.

Bill read second time and ordered to third reading.

Assembly Bill No. 549.

Bill read second time.

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

Amendment No. 751.

"SUMMARY—Revises various provisions governing homeland security. (BDR 19-41)"

"AN ACT relating to homeland security; increasing the number of ~~live~~^{voting} members on the Nevada Commission on Homeland Security; revising provisions governing the confidentiality of vulnerability assessments and emergency response plans of utilities, public entities and private businesses in this State; clarifying that certain documents, records and other items of information may be inspected by and released to the Legislative Auditor when conducting a postaudit; making various changes concerning grants and other funding for homeland security; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Nevada Commission on Homeland Security, for which the Governor appoints the voting members and certain nonvoting members. The Commission has certain duties relating to the protection of residents of this State and visitors to this State from acts of terrorism and related emergencies. (NRS 239C.120, 239C.160) **Section 22** of this bill increases the number of voting members that the Governor must appoint to the Commission from 14 members to 16 members, to include a representative of the broadcaster community and a representative recommended by the Inter-Tribal Council of Nevada, Inc. **Section 22 also requires the appointment of the Chief of the Division of Emergency Management of the Department of Public Safety as a nonvoting member of the Commission.**

Existing law provides that the Governor may, by executive order, determine that certain documents, records and other information relating to preventing and responding to acts of terrorism are confidential. Such documents, records and other information are not subject to subpoena or discovery, not subject to inspection by the general public and may only be inspected by and released to public safety and public health personnel. (NRS 239C.210) **Section 26** of this bill extends that authority to include vulnerability assessments and emergency response plans of utilities, public entities and private businesses in this State. **Section 26** also clarifies that the documents, records and other items of information subject to an executive order of confidentiality for security purposes, **except vulnerability assessments**, may be inspected by and released to the Legislative Auditor when conducting a postaudit. **It is subject to certain requirements.**

Section 24.5 of this bill specifies the duties of the Commission with respect to grants and related funding and requires the Commission to submit annual briefings to the Governor assessing preparedness.

Sections 30.5 and 31.5 of this bill extend to tribal governments the applicability of provisions concerning grants of money to the State or a political subdivision for prevention of or response to terrorism or other similar incidents.

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

Section 1. (Deleted by amendment.)

Sec. 1.5. Chapter 239C of NRS is hereby amended by adding thereto a new section to read as follows:

"Tribal government" means a federally recognized American Indian tribe pursuant to 25 C.F.R. §§ 83.1 to 83.13, inclusive.

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. 16.5. NRS 239C.020 is hereby amended to read as follows:

239C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 239C.030 to 239C.110, inclusive, **and section 1.5 of this act** have the meanings ascribed to them in those sections.

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. NRS 239C.120 is hereby amended to read as follows:

239C.120 1. The Nevada Commission on Homeland Security is hereby created.

2. The Governor shall appoint to the Commission ~~14~~ **16** voting members that the Governor determines to be appropriate and who serve at the Governor's pleasure, which must include at least:

(a) The sheriff of each county whose population is 100,000 or more. ~~1~~

(b) The chief of the county fire department in each county whose population is 100,000 or more. ~~1~~

(c) A member of the medical community in a county whose population is 400,000 or more. ~~and~~

(d) An employee of the largest incorporated city in each county whose population is 400,000 or more.

(e) *A representative of the broadcaster community. As used in this paragraph, "broadcaster" has the meaning ascribed to it in NRS 432.310.*

(f) *A representative recommended by the Inter-Tribal Council of Nevada, Inc., or its successor organization, to represent tribal ~~nations~~ governments in Nevada.*

3. The Governor shall appoint:

(a) An officer of the United States Department of Homeland Security whom the Department of Homeland Security has designated for this State; ~~and~~

(b) The agent in charge of the office of the Federal Bureau of Investigation in this State. ~~It~~; and

(c) The Chief of the Division.

↪ as nonvoting members of the Commission.

4. The Senate Majority Leader shall appoint one member of the Senate as a nonvoting member of the Commission.

5. The Speaker of the Assembly shall appoint one member of the Assembly as a nonvoting member of the Commission.

6. ~~{Except for the initial members, the}~~ *The* term of office of each member of the Commission who is a Legislator is 2 years. ~~and commences on July 1 of the year of appointment.~~

7. The Governor or his or her designee shall:

(a) Serve as Chair of the Commission; and

(b) Appoint a member of the Commission to serve as Vice Chair of the Commission.

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 24.5. NRS 239C.160 is hereby amended to read as follows:

239C.160 The Commission shall, within the limits of available money:

1. Make recommendations to the Governor, the Legislature, agencies of this State, political subdivisions, tribal governments, businesses located within this State and private persons who reside in this State with respect to actions and measures that may be taken to protect residents of this State and visitors to this State from potential acts of terrorism and related emergencies.

2. Make recommendations to the Governor, through the Division, on the use of money received by the State from any homeland security grant or related program, including, without limitation, the State Homeland Security Grant Program and Urban Area Security Initiative, in accordance with the following:

(a) The Division shall provide the Commission with program guidance and briefings;

(b) The Commission must be provided briefings on existing and proposed projects, and shall consider statewide readiness capabilities and priorities for the use of money, administered by the Division, from any homeland security grant or related program;

(c) The Commission shall serve as the public body which reviews and makes recommendations for the State's applications to the Federal Government for homeland security grants or related programs, as administered by the Division; and

(d) The Commission shall serve as the public body which recommends, subject to approval by the Governor, the distribution of money from any homeland security grant or related program for use by state, local and tribal government agencies and private sector organizations.

3. Propose goals and programs that may be set and carried out, respectively, to counteract or prevent potential acts of terrorism and related emergencies before such acts of terrorism and related emergencies can harm or otherwise threaten residents of this State and visitors to this State.

~~4-4~~ 4. With respect to buildings, facilities, geographic features and infrastructure that must be protected from acts of terrorism and related emergencies to ensure the safety of the residents of this State and visitors to this State, including, without limitation, airports other than international airports, the Capitol Complex, dams, gaming establishments, governmental buildings, highways, hotels, information technology infrastructure, lakes, places of worship, power lines, public buildings, public utilities, reservoirs, rivers and their tributaries, and water facilities:

(a) Identify and categorize such buildings, facilities, geographic features and infrastructure according to their susceptibility to and need for protection from acts of terrorism and related emergencies; and

(b) Study and assess the security of such buildings, facilities, geographic features and infrastructure from acts of terrorism and related emergencies.

~~4-4~~ 5. Examine the use, deployment and coordination of response agencies within this State to ensure that those agencies are adequately prepared to protect residents of this State and visitors to this State from acts of terrorism and related emergencies.

~~5-5~~ 6. Assess, examine and review the use of information systems and systems of communication used by response agencies within this State to determine the degree to which such systems are compatible and interoperable. After conducting the assessment, examination and review, the Commission shall:

(a) Establish a state plan setting forth criteria and standards for the compatibility and interoperability of those systems when used by response agencies within this State; and

(b) Advise and make recommendations to the Governor relative to the compatibility and interoperability of those systems when used by response agencies within this State, with particular emphasis upon the compatibility and interoperability of public safety radio systems.

~~16.1~~ 7. Assess, examine and review the operation and efficacy of telephone systems and related systems used to provide emergency 911 service.

~~17.1~~ 8. To the extent practicable, cooperate and coordinate with the Division to avoid duplication of effort in developing policies and programs for preventing and responding to acts of terrorism and related emergencies.

~~18.1~~ 9. *Submit an annual briefing to the Governor assessing the preparedness of the State to counteract, prevent and respond to potential acts of terrorism and related emergencies, including, but not limited to, an assessment of response plans and vulnerability assessments of utilities, public entities and private business in this State. The briefing must be based on information and documents reasonably available to the Commission and must be compiled with the advice of the Division after all utilities, public entities and private businesses assessed have a reasonable opportunity to review and comment on the Commission's findings.*

10. Perform any other acts related to their duties set forth in subsections 1 to ~~17.1~~ 9, inclusive, that the Commission determines are necessary to protect or enhance:

- (a) The safety and security of the State of Nevada;
- (b) The safety of residents of the State of Nevada; and
- (c) The safety of visitors to the State of Nevada.

Sec. 25. (Deleted by amendment.)

Sec. 26. NRS 239C.210 is hereby amended to read as follows:

239C.210 1. A document, record or other item of information described in subsection 2 that is prepared and maintained for the purpose of preventing or responding to an act of terrorism is confidential, not subject to subpoena or discovery, not subject to inspection by the general public and may only be inspected by or released to ~~public~~ :

(a) **Public** safety and public health personnel; and

(b) ~~The~~ **Except as otherwise provided in this subsection, the Legislative Auditor conducting a postaudit pursuant to NRS 218G.010 to 218G.555, inclusive,**

↪ if the Governor determines, by executive order, that the disclosure or release of the document, record or other item of information would thereby create a substantial likelihood of compromising, jeopardizing or otherwise threatening the public health, safety or welfare. **Any information that is inspected by or released to the Legislative Auditor pursuant to this subsection is not subject to the exception from confidentiality set forth in NRS 218G.130. The Legislative Auditor may confirm that vulnerability assessments have been submitted to or are in the possession of a state agency that is the subject of a postaudit, but the assessments must not be inspected by or released to the Legislative Auditor. An employee of the Audit Division of the Legislative Counsel Bureau who is conducting a postaudit that includes access to documents or information subject to the provisions of this section must be properly cleared through federal criteria**

or state or local background investigation and instructed, trained or certified, as applicable, regarding the security sensitivity of the documents or information.

2. The types of documents, records or other items of information subject to executive order pursuant to subsection 1 are as follows:

(a) Assessments, plans or records that evaluate or reveal the susceptibility of fire stations, police stations and other law enforcement stations to acts of terrorism or other related emergencies.

(b) Drawings, maps, plans or records that reveal the critical infrastructure of primary buildings, facilities and other structures used for storing, transporting or transmitting water or electricity, natural gas or other forms of energy.

(c) Documents, records or other items of information which may reveal the details of a specific emergency response plan or other tactical operations by a response agency and any training relating to such emergency response plans or tactical operations.

(d) Handbooks, manuals or other forms of information detailing procedures to be followed by response agencies in the event of an act of terrorism or other related emergency.

(e) Documents, records or other items of information that reveal information pertaining to specialized equipment used for covert, emergency or tactical operations of a response agency, other than records relating to expenditures for such equipment.

(f) Documents, records or other items of information regarding the infrastructure and security of frequencies for radio transmissions used by response agencies, including, without limitation:

(1) Access codes, passwords or programs used to ensure the security of frequencies for radio transmissions used by response agencies;

(2) Procedures and processes used to ensure the security of frequencies for radio transmissions used by response agencies; and

(3) Plans used to reestablish security and service with respect to frequencies for radio transmissions used by response agencies after security has been breached or service has been interrupted.

(g) Vulnerability assessments and emergency response plans of utilities, public entities and private businesses in this State. As used in this paragraph, "public entities" means departments, agencies or instrumentalities of the State, ~~for~~ any of its political subdivisions ~~or~~ tribal governments. The term includes general improvement districts.

3. If a person knowingly and unlawfully discloses a document, record or other item of information subject to an executive order issued pursuant to subsection 1 or assists, solicits or conspires with another person to disclose such a document, record or other item of information, the person is guilty of:

(a) A gross misdemeanor; or

(b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:

(1) Commit, cause, aid, further or conceal, or attempt to commit, cause, aid, further or conceal, any unlawful act involving terrorism or sabotage; or

(2) Assist, solicit or conspire with another person to commit, cause, aid, further or conceal any unlawful act involving terrorism or sabotage.

4. **The Governor shall review the documents, records and other items of information determined by executive order pursuant to subsection 1 to be confidential every 10 years to assess the continued need for the documents, records and other items of information to remain confidential.**

5. As used in this section, "public safety and public health personnel" includes:

- (a) State, county, ~~and~~ city **and tribal** emergency managers;
- (b) Members and staff of terrorism early warning centers or fusion intelligence centers in this State;
- (c) Employees of fire-fighting or law enforcement agencies, if the head of the agency has designated the employee as having an operational need to know *of* information that is prepared or maintained for the purpose of preventing or responding to an act of terrorism; and
- (d) Employees of a public health agency, if the agency is one that would respond to a disaster and if the head of the agency has designated the employee as having an operational need to know *of* information that is prepared or maintained for the purpose of preventing or responding to an act of terrorism. As used in this paragraph, "disaster" has the meaning ascribed to it in NRS 414.0335.

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. NRS 239C.270 is hereby amended to read as follows:

239C.270 1. Each utility shall:

- (a) Conduct a vulnerability assessment in accordance with the requirements of the federal and regional agencies that regulate the utility; and
- (b) Prepare and maintain an emergency response plan in accordance with the requirements of the federal and regional agencies that regulate the utility.

2. Each utility shall:

- (a) As soon as practicable but not later than December 31, 2003, submit its vulnerability assessment and emergency response plan to the Division; and
- (b) At least once each year thereafter, review its vulnerability assessment and emergency response plan and, as soon as practicable after its review is completed but not later than December 31 of each year, submit the results of its review and any additions or modifications to its emergency response plan to the Division.

3. Except as otherwise provided in NRS 239.0115, each vulnerability assessment and emergency response plan of a utility and any other information concerning a utility that is necessary to carry out the provisions of this section is confidential and must be securely maintained by each person or entity that has possession, custody or control of the information.

4. ~~{A}~~ *Except as otherwise provided in NRS 239C.210, a person shall not disclose such information, except:*

- (a) Upon the lawful order of a court of competent jurisdiction;
- (b) As is reasonably necessary to carry out the provisions of this section or the operations of the utility, as determined by the Division;
- (c) As is reasonably necessary in the case of an emergency involving public health or safety, as determined by the Division; or
- (d) Pursuant to the provisions of NRS 239.0115.

5. If a person knowingly and unlawfully discloses such information or assists, solicits or conspires with another person to disclose such information, the person is guilty of:

- (a) A gross misdemeanor; or
- (b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:
 - (1) Commit, cause, aid, further or conceal, or attempt to commit, cause, aid, further or conceal, any unlawful act involving terrorism or sabotage; or
 - (2) Assist, solicit or conspire with another person to commit, cause, aid, further or conceal any unlawful act involving terrorism or sabotage.

Sec. 30. (Deleted by amendment.)

Sec. 30.5. NRS 239C.300 is hereby amended to read as follows:

239C.300 1. If the State, ~~for~~ a political subdivision or a tribal government submits an application to and is approved to receive money from the Federal Government, this State, any other state, a local government, any agency or instrumentality of those governmental entities, or any private entity, to pay for a project or program relating to the prevention of, detection of, mitigation of, preparedness for, response to and recovery from acts of terrorism, the State, ~~for~~ political subdivision or tribal government shall, not later than 60 days after receiving such approval, submit to the Commission a written report that includes, without limitation:

- (a) The total amount of money that the State, ~~for~~ political subdivision or tribal government has been approved to receive for the project or program;
- (b) A description of the project or program, unless the State, ~~for~~ political subdivision or tribal government previously submitted a written report pursuant to this section relating to the same project or program; and
- (c) The items to be paid for with the money that the State, ~~for~~ political subdivision or tribal government has been approved to receive for the project or program.

2. A project or program for which the State, ~~for~~ a political subdivision or a tribal government is required to report the receipt of money pursuant to subsection 1 includes, without limitation, a project or program related to:

- (a) Homeland security;
- (b) Emergency management;
- (c) Health or hospitals;
- (d) Emergency medical services; and

(e) Chemical, biological, radiological, nuclear, explosive, agricultural or environmental acts of terrorism.

~~13. Any grant related to terrorism that is administered by the Division and is provided to a political subdivision must be approved by the local emergency planning committee.~~

Sec. 31. (Deleted by amendment.)

Sec. 31.5. NRS 239C.310 is hereby amended to read as follows:

239C.310 1. The State and each political subdivision and tribal government shall:

(a) Adopt any national system that is required as a condition to the receipt of money from the Federal Government by the United States Department of Homeland Security pursuant to federal law in preparation for, prevention of, detection of, mitigation of, response to and recovery from a domestic incident, including, without limitation, an act of terrorism.

(b) Submit to the Division documentation evidencing that the State, ~~for~~ political subdivision or tribal government has adopted the national system.

2. The Division shall submit on a quarterly basis documentation to the Commission evidencing the compliance of this State and each political subdivision and tribal government with the provisions of paragraph (a) of subsection 1.

Sec. 32. (Deleted by amendment.)

Sec. 32.5. NRS 332.830 is hereby amended to read as follows:

332.830 1. On and after October 1, 2005, a governing body or its authorized representative shall not purchase an information system or system of communication for use by a response agency unless the system complies with the plan established pursuant to subsection ~~151~~ 6 of NRS 239C.160.

2. On and after October 1, 2005, any grant or other money received by a local government from the Federal Government for the purchase of an information system or system of communication for use by a response agency must not be used to purchase such a system unless the system complies with the plan established pursuant to subsection ~~151~~ 6 of NRS 239C.160.

3. As used in this section:

(a) "Information system" has the meaning ascribed to it in NRS 239C.060.

(b) "Response agency" has the meaning ascribed to it in NRS 239C.080.

(c) "System of communication" has the meaning ascribed to it in NRS 239C.100.

Sec. 33. (Deleted by amendment.)

Sec. 33.5. NRS 333.820 is hereby amended to read as follows:

333.820 1. On and after October 1, 2005, the Chief, the Purchasing Division or a using agency shall not purchase an information system or system of communication for use by a response agency unless the system complies with the plan established pursuant to subsection ~~151~~ 6 of NRS 239C.160.

2. On and after October 1, 2005, any grant or other money received by the Chief, the Purchasing Division or a using agency from the Federal Government for the purchase of an information system or system of communication for use by a response agency must not be used to purchase such a system unless the system complies with the plan established pursuant to subsection ~~151.6~~ 6 of NRS 239C.160.

3. As used in this section:

- (a) "Information system" has the meaning ascribed to it in NRS 239C.060.
- (b) "Response agency" has the meaning ascribed to it in NRS 239C.080.
- (c) "System of communication" has the meaning ascribed to it in NRS 239C.100.

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. (Deleted by amendment.)

Sec. 38. (Deleted by amendment.)

Sec. 39. (Deleted by amendment.)

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

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

Amendment No. 751 to Assembly Bill No. 549 adds a new section to set forth a definition of "tribal government" and adds "tribal government" throughout the bill relating to homeland security reports, vulnerability assessments, and the adoption of certain homeland security measures.

It requires the Commission on Homeland Security to make recommendations to the Governor, the Legislature and other political subdivisions with respect to actions and measures that may be taken to protect State residents and visitors.

It requires the Commission to make recommendations to the Governor, through the Division of Emergency Management, on the use of State Homeland Security Grant Programs and Urban Area Security Initiative funding received by the State of Nevada.

It requires the Commission to submit an annual briefing to the Governor assessing the preparedness of the State to counteract, prevent, and respond to potential acts of terrorism and related emergencies.

It adds the Chief of the Division of Emergency Management to the list of non-voting members appointed by the Governor to the Commission.

It provides that the Legislative Auditor, during the course of a postaudit, may only confirm the possession of a vulnerability assessment by a State agency. Any employee of the Audit Division who is conducting an audit that includes access to such vulnerability assessments must be properly cleared through federal criteria or through a State or local background check and it provides that documents, records, or other items of information determined to be confidential by executive order shall be reviewed by the Governor every ten years to assess their continued need to remain confidential.

Amendment adopted.

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

Assembly Joint Resolution No. 5.

Resolution read second time.

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

Amendment No. 713.

"SUMMARY—Urges the Federal Government to engage in discussions regarding the mitigation and containment of water contamination in Nevada which resulted from certain nuclear activities that were conducted in this State by the Federal Government. (BDR R-895)"

ASSEMBLY JOINT RESOLUTION—Urging the Federal Government to engage in discussions with the State of Nevada and Clark and Nye Counties, Nevada, regarding the mitigation and containment of water contamination in Nevada which resulted from certain nuclear testing and storage activities that were conducted by the Federal Government in Nye County, Nevada.

WHEREAS, The Federal Government has conducted numerous public, secret and classified activities and military exercises in Nevada that have resulted in the contamination of the water supply in this State with radioactive material and other hazardous contaminants; and

WHEREAS, The Nevada National Security Site, formerly the Nevada Test Site, which is located in Nye County, Nevada, approximately 40 miles north of Pahrump, Nevada, and 65 miles northwest of Las Vegas, Nevada, was established by the Federal Government in 1950 for the purposes of detonating nuclear devices and conducting other public, secret and classified nuclear tests in connection with the research and development of nuclear weapons for use by the Armed Forces of the United States; and

WHEREAS, From 1951 until 1992, the Federal Government conducted 100 atmospheric nuclear tests and 828 underground nuclear tests at the Nevada National Security Site, which resulted in the detonation of 1,021 nuclear devices; and

WHEREAS, Approximately one-third of the underground nuclear tests at the Nevada National Security Site were conducted directly in aquifers, and many other underground tests were conducted above and below the water table; and

WHEREAS, Radioactive particles have migrated via water from the Paiute Mesa area of the Nevada National Security Site toward Beatty, Nevada; and

WHEREAS, The United States Department of Energy has estimated that nuclear testing at the Nevada National Security Site left behind more than 300 million curies of radionuclides, making the Site one of the most radioactively contaminated places in the United States; and

WHEREAS, Since 1961, Area 5 and Area 3 within the Nevada National Security Site have been primary storage and disposal sites of the Federal Government for low-level and mixed low-level radioactive waste; and

WHEREAS, A study conducted on behalf of Nye County concluded that nuclear testing at the Nevada National Security Site has polluted approximately 1.6 trillion gallons of water in this State; and

WHEREAS, The aforementioned activities of the Federal Government in Nevada have had a deleterious effect on the environment of this State and have resulted in the contamination of the interconnected surface and subsurface waters, groundwater and aquifers of a large geographic area of Nevada with radioactive and other contaminants; now, therefore, be it

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That the members of the 76th Session of the Nevada Legislature respectfully urge the Federal Government to engage in discussions with the State of Nevada and Clark and Nye Counties, Nevada, regarding:

1. The mitigation and containment of water contamination in Nevada which resulted from nuclear testing and storage activities that were conducted by the Federal Government at the Nevada National Security Site; and

2. The restoration of any water contaminated because of those activities; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Secretary of Defense, the Secretary of Energy, the Chairman of the Joint Chiefs of Staff, the Administrator of the Environmental Protection Agency and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

This amendment adds Clark County to the list of entities with which the federal government is urged to engage in discussions concerning the mitigation and containment of water contamination that resulted from nuclear testing and storage activities at the Nevada National Security Site.

Amendment adopted.

Resolution ordered reprinted, re-engrossed and to the General File.

Assembly Joint Resolution 6.

Resolution read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 54.

Bill read third time.

Remarks by Senator Horsford.

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

Under existing law, each nursing facility that is licensed in the State is required to pay a fee to the Division of Health Care Financing and Policy. The fees are used to increase rates paid to skilled nursing facilities providing services to Medicaid recipients. Existing law prohibits the money in the Fund from being used to replace existing General Fund appropriations paid to skilled nursing facilities.

Senate Bill No. 54, as amended, eliminates the limitation currently in statute that does not allow funds paid to the Fund to Increase Quality of Nursing Care to replace General Fund

appropriations. Additionally, Senate Bill No. 54 allows rate changes to be determined by the Division of Health Care Financing and Policy, in the event federal law or regulation prohibits the money in the Fund from being used in the manner specified in statute.

The Division of Health Care Financing and Policy indicates that this legislation may decrease the risk of litigation from the long-term care industry, resulting from rate reductions approved for the 2011-13 biennium.

This act becomes effective upon passage and approval and expires by limitation on July 1, 2013.

This is a budget implementation bill. The rate for nursing homes as approved in the budget currently will be reduced by \$5 per day per bed. This goes against a longstanding agreement with this industry whereby they had a self imposed tax on the industry to cover the quality of care in the nursing home for individuals who reside in skilled nursing facilities. I urge the body to approve this bill.

Roll call on Senate Bill No. 54:

YEAS—21.

NAYS—None.

Senate Bill No. 54 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 207.

Bill read third time.

Roll call on Senate Bill No. 207:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Senate Bill No. 207 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 208.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 770.

"SUMMARY—Creates the Task Force on Employee Misclassification. (BDR 53-164)"

"AN ACT relating to employee misclassification; requiring certain state agencies to share information relating to suspected employee misclassification under certain circumstances; creating the Task Force on Employee Misclassification; providing its duties; making various other changes relating to employee misclassification; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 7 of this bill requires the offices of the Labor Commissioner, the Division of Industrial Relations of the Department of Business and Industry, the Employment Security Division of the Department of Employment, Training and Rehabilitation, the Department of Taxation and the Attorney General to share amongst their respective offices information relating to

suspected employee misclassification that is received in the performance of their official duties under certain circumstances. **Section 4** of this bill defines "employee misclassification" as the practice by an employer of improperly classifying employees as independent contractors to avoid any legal obligation under state labor, employment and tax laws, including, without limitation, the laws governing minimum wage, overtime, unemployment insurance, workers' compensation insurance, temporary disability insurance, wage payment and payroll taxes.

Section 8 of this bill creates and sets forth the membership of the Task Force on Employee Misclassification. **Section 9** of this bill sets forth the duties of the Task Force.

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

Section 1. Chapter 607 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Employee" means a person who performs services for wages for an employer. The term does not include an independent contractor.*

Sec. 4. *"Employee misclassification" means the practice by an employer of improperly classifying employees as independent contractors to avoid any legal obligation under state labor, employment and tax laws, including, without limitation, the laws governing minimum wage, overtime, unemployment insurance, workers' compensation insurance, temporary disability insurance, wage payment and payroll taxes.*

Sec. 5. *"Employer" includes, without limitation:*

- 1. The State of Nevada, any state agency, or any county, city, town, school district or other unit of local government;*
- 2. Any public or quasi-public corporation; and*
- 3. Any person, firm, corporation, partnership or association.*

Sec. 6. *"Independent contractor" ~~means a person who performs services for an employer if:~~*

- ~~*1. The person has been and will continue to be free from control or direction by the employer over the performance of the services, both under a contract of service and in fact;*~~
 - ~~*2. The services are outside the usual course of the employer's business or the services are performed outside of all the places of business of the employer for which the services are performed; and*~~
 - ~~*3. The services are performed in the course of an independently established trade, occupation, profession or business in which the person is customarily engaged and which is of the same nature as that involved in the contract of service.*~~
- has the meaning ascribed to it in NRS 616A.255.*

Sec. 7. *The offices of the Labor Commissioner, Division of Industrial Relations of the Department of Business and Industry, Employment*

Security Division of the Department of Employment, Training and Rehabilitation, Department of Taxation and Attorney General:

1. Shall communicate between their respective offices information relating to suspected employee misclassification which is received in the performance of their official duties and which is not otherwise declared by law to be confidential.

2. May communicate between their respective offices information relating to employee misclassification which is received in the performance of their official duties and which is otherwise declared by law to be confidential, if the confidentiality of the information is otherwise maintained under the terms and conditions required by law.

Sec. 8. 1. The Task Force on Employee Misclassification, consisting of 10 members, is hereby created.

2. The following persons shall serve as ex officio members of the Task Force:

(a) The Labor Commissioner or the Labor Commissioner's designee.

(b) The Administrator of the Division of Industrial Relations of the Department of Business and Industry or the Administrator's designee.

(c) The Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation or the Administrator's designee.

(d) The Executive Director of the Department of Taxation or the Executive Director's designee.

(e) The Attorney General or the Attorney General's designee.

3. The following persons shall serve as appointed members of the Task Force:

(a) One person who represents an employer located in this State that employs more than 500 full-time or part-time employees.

(b) One person who represents an employer located in this State that employs 500 or fewer full-time or part-time employees.

(c) One person who is an independent contractor in this State.

(d) One person who represents organized labor in this State.

(e) One person who represents the general public in this State.

4. The members of the Task Force described in subsection 3:

(a) Must be appointed by the Legislative Commission from recommendations submitted to the Legislative Commission by the Governor, the Majority Leader of the Senate and the Speaker of the Assembly.

(b) After the initial terms, serve a term of 2 years and until their respective successors are appointed. A member may be reappointed in the same manner as the original appointments.

5. Any vacancy occurring in the appointed membership of the Task Force must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

6. *The Task Force shall meet at least twice each fiscal year and may meet at such additional times as deemed necessary by the Chair.*

7. *At the first meeting of each fiscal year, the Task Force shall elect from its members a Chair and a Vice Chair.*

8. *A majority of the members of the Task Force constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Task Force.*

9. *The Task Force shall comply with the provisions of chapter 241 of NRS, and all meetings of the Task Force must be conducted in accordance with that chapter.*

10. *Members of the Task Force serve without compensation.*

11. *The Legislative Counsel Bureau shall provide the personnel, facilities, equipment and supplies required by the Task Force to carry out its duties.*

Sec. 9. *The Task Force on Employee Misclassification shall:*

1. *Evaluate the policies and practices of the Labor Commissioner, Division of Industrial Relations of the Department of Business and Industry, Employment Security Division of the Department of Employment, Training and Rehabilitation, Department of Taxation and Attorney General relating to employee misclassification.*

2. *Evaluate any existing fines, penalties or other disciplinary action relating to employee misclassification that are authorized to be imposed by a state agency.*

3. *Develop recommendations for policies, practices or proposed legislation to reduce the occurrence of employee misclassification.*

4. *On or before July 1, 2012, and on or before July 1 of each subsequent year submit a written report to the Director of the Legislative Counsel Bureau for submission to the Legislative Commission. The report must include, without limitation, a summary of the work of the Task Force and recommendations for legislation concerning employee misclassification.*

Sec. 10. 1. *The Task Force on Employee Misclassification may create a subcommittee to the Task Force for any purpose that is consistent with sections 2 to 10, inclusive, of this act.*

2. *The Task Force shall appoint the members of the subcommittee and designate one of the members of the subcommittee as chair of the subcommittee. The chair of the subcommittee must be a member of the Task Force.*

3. *The subcommittee shall meet at the times and places specified by a call of the chair of the subcommittee. A majority of the members of the subcommittee constitutes a quorum, and a quorum may exercise any power or authority conferred on the subcommittee.*

Sec. 11. NRS 612.265 is hereby amended to read as follows:

612.265 1. Except as otherwise provided in this section and NRS 239.0115, *and section 7 of this act*, information obtained from any

employing unit or person pursuant to the administration of this chapter and any determination as to the benefit rights of any person is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's or employing unit's identity.

2. Any claimant or a legal representative of a claimant is entitled to information from the records of the Division, to the extent necessary for the proper presentation of the claimant's claim in any proceeding pursuant to this chapter. A claimant or an employing unit is not entitled to information from the records of the Division for any other purpose.

3. Subject to such restrictions as the Administrator may by regulation prescribe, the information obtained by the Division may be made available to:

(a) Any agency of this or any other state or any federal agency charged with the administration or enforcement of laws relating to unemployment compensation, public assistance, workers' compensation or labor and industrial relations, or the maintenance of a system of public employment offices;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation; and

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS.

➡ Information obtained in connection with the administration of the *State* Employment Service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or a public assistance program.

4. Upon written request made by a public officer of a local government, the Administrator shall furnish from the records of the Division the name, address and place of employment of any person listed in the records of employment of the Division. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Administrator may charge a reasonable fee for the cost of providing the requested information.

5. The Administrator may publish or otherwise provide information on the names of employers, their addresses, their type or class of business or industry, and the approximate number of employees employed by each such employer, if the information released will assist unemployed persons to obtain employment or will be generally useful in developing and diversifying the economic interests of this State. Upon request by a state agency which is

able to demonstrate that its intended use of the information will benefit the residents of this State, the Administrator may, in addition to the information listed in this subsection, disclose the number of employees employed by each employer and the total wages paid by each employer. The Administrator may charge a fee to cover the actual costs of any administrative expenses relating to the disclosure of this information to a state agency. The Administrator may require the state agency to certify in writing that the agency will take all actions necessary to maintain the confidentiality of the information and prevent its unauthorized disclosure.

6. Upon request therefor, the Administrator shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation and employment status of each recipient of benefits and the recipient's rights to further benefits pursuant to this chapter.

7. To further a current criminal investigation, the chief executive officer of any law enforcement agency of this State may submit a written request to the Administrator that the Administrator furnish, from the records of the Division, the name, address and place of employment of any person listed in the records of employment of the Division. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by the chief executive officer certifying that the request is made to further a criminal investigation currently being conducted by the agency. Upon receipt of such a request, the Administrator shall furnish the information requested. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

8. In addition to the provisions of subsection 5, the Administrator shall provide lists containing the names and addresses of employers, and information regarding the wages paid by each employer to the Department of Taxation, upon request, for use in verifying returns for the taxes imposed pursuant to chapters 363A and 363B of NRS. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

9. A private carrier that provides industrial insurance in this State shall submit to the Administrator a list containing the name of each person who received benefits pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS during the preceding month and request that the Administrator compare the information so provided with the records of the Division regarding persons claiming benefits pursuant to chapter 612 of NRS for the same period. The information submitted by the private carrier must be in a form determined by the Administrator and must contain the social security number of each such person. Upon receipt of the request, the Administrator shall make such a comparison and, if it appears from the information submitted that a person is simultaneously claiming benefits under chapter 612 of NRS and under chapters 616A to 616D, inclusive, or chapter 617 of NRS, the Administrator shall notify the Attorney General or

any other appropriate law enforcement agency. The Administrator shall charge a fee to cover the actual costs of any related administrative expenses.

10. The Administrator may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this chapter, and may in connection with the request transmit any such report or return to the Comptroller of the Currency of the United States as provided in section 3305(c) of the Internal Revenue Code of 1954.

11. If any employee or member of the Board of Review, the Administrator or any employee of the Administrator, in violation of the provisions of this section, discloses information obtained from any employing unit or person in the administration of this chapter, or if any person who has obtained a list of applicants for work, or of claimants or recipients of benefits pursuant to this chapter uses or permits the use of the list for any political purpose, he or she is guilty of a gross misdemeanor.

12. All letters, reports or communications of any kind, oral or written, from the employer or employee to each other or to the Division or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of this chapter.

Sec. 12. NRS 616B.012 is hereby amended to read as follows:

616B.012 1. Except as otherwise provided in this section and NRS 239.0115, 616B.015, 616B.021 and 616C.205, *and section 7 of this act*, information obtained from any insurer, employer or employee is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's identity.

2. Any claimant or legal representative of the claimant is entitled to information from the records of the insurer, to the extent necessary for the proper presentation of a claim in any proceeding under chapters 616A to 616D, inclusive, or chapter 617 of NRS.

3. The Division and Administrator are entitled to information from the records of the insurer which is necessary for the performance of their duties. The Administrator may, by regulation, prescribe the manner in which otherwise confidential information may be made available to:

(a) Any agency of this or any other state charged with the administration or enforcement of laws relating to industrial insurance, unemployment compensation, public assistance or labor law and industrial relations;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation; and

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS.

➡ Information obtained in connection with the administration of a program of industrial insurance may be made available to persons or agencies for purposes appropriate to the operation of a program of industrial insurance.

4. Upon written request made by a public officer of a local government, an insurer shall furnish from its records the name, address and place of employment of any person listed in its records. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to the local government. The insurer may charge a reasonable fee for the cost of providing the requested information.

5. To further a current criminal investigation, the chief executive officer of any law enforcement agency of this State may submit to the Administrator a written request for the name, address and place of employment of any person listed in the records of an insurer. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by the chief executive officer certifying that the request is made to further a criminal investigation currently being conducted by the agency. Upon receipt of a request, the Administrator shall instruct the insurer to furnish the information requested. Upon receipt of such an instruction, the insurer shall furnish the information requested. The insurer may charge a reasonable fee to cover any related administrative expenses.

6. Upon request by the Department of Taxation, the Administrator shall provide:

- (a) Lists containing the names and addresses of employers; and
 - (b) Other information concerning employers collected and maintained by the Administrator or the Division to carry out the purposes of chapters 616A to 616D, inclusive, or chapter 617 of NRS,
- ➡ to the Department for its use in verifying returns for the taxes imposed pursuant to chapters 363A and 363B of NRS. The Administrator may charge a reasonable fee to cover any related administrative expenses.

7. Any person who, in violation of this section, discloses information obtained from files of claimants or policyholders or obtains a list of claimants or policyholders under chapters 616A to 616D, inclusive, or chapter 617 of NRS and uses or permits the use of the list for any political purposes, is guilty of a gross misdemeanor.

8. All letters, reports or communications of any kind, oral or written, from the insurer, or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared

pursuant to the requirements of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

9. The provisions of this section do not prohibit the Administrator or the Division from disclosing any nonproprietary information relating to an uninsured employer or proof of industrial insurance.

Sec. 13. NRS 616B.015 is hereby amended to read as follows:

616B.015 1. Except as otherwise provided in subsection 2 and NRS 239.0115, **and section 7 of this act**, the records and files of the Division concerning self-insured employers and associations of self-insured public or private employers are confidential and may be revealed in whole or in part only in the course of the administration of the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS relating to those employers or upon the lawful order of a court of competent jurisdiction.

2. The records and files specified in subsection 1 are not confidential in the following cases:

(a) Testimony by an officer or agent of the Division and the production of records and files on behalf of the Division in any action or proceeding conducted pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS if that testimony or the records and files, or the facts shown thereby, are involved in the action or proceeding.

(b) Delivery to a self-insured employer or an association of self-insured public or private employers of a copy of any document filed by the employer with the Division pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

(c) Publication of statistics if classified so as to prevent:

(1) Identification of a particular employer or document; or

(2) Disclosure of the financial or business condition of a particular employer or insurer.

(d) Disclosure in confidence, without further distribution or disclosure to any other person, to:

(1) The Governor or an agent of the Governor in the exercise of the Governor's general supervisory powers;

(2) Any person authorized to audit the accounts of the Division in pursuance of an audit;

(3) The Attorney General or other legal representative of the State in connection with an action or proceeding conducted pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(4) Any agency of this or any other state charged with the administration or enforcement of the laws relating to workers' compensation or unemployment compensation; or

(5) Any federal, state or local law enforcement agency.

(e) Disclosure in confidence by a person who receives information pursuant to paragraph (d) to a person in furtherance of the administration or enforcement of the laws relating to workers' compensation or unemployment compensation.

3. As used in this section:

(a) "Division" means the Division of Insurance of the Department of Business and Industry.

(b) "Records and files" means:

(1) All credit reports, references, investigative records, financial information and data pertaining to the net worth of a self-insured employer or association of self-insured public or private employers; and

(2) All information and data required by the Division to be furnished to it pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS or which may be otherwise obtained relative to the finances, earnings, revenue, trade secrets or the financial condition of any self-insured employer or association of self-insured public or private employers.

Sec. 14. NRS 360.795 is hereby amended to read as follows:

360.795 1. Except as otherwise provided in this section and NRS 239.0115 and 360.250, **and section 7 of this act**, the records and files of the Department concerning the administration of NRS 360.760 to 360.796, inclusive, are confidential and privileged. The Department, and any employee of the Department engaged in the administration of NRS 360.760 to 360.796, inclusive, or charged with the custody of any such records or files, shall not disclose any information obtained from those records or files. Neither the Department nor any employee of the Department may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Department concerning the administration of NRS 360.760 to 360.796, inclusive, are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a person in any action or proceeding pursuant to the provisions of this chapter if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a person or his or her authorized representative of a copy of any document filed by the person pursuant to NRS 360.760 to 360.796, inclusive.

(c) Publication of statistics so classified as to prevent the identification of a particular business or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to the Governor or his or her agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of this or any other state charged with the administration or

enforcement of laws relating to workers' compensation, unemployment compensation, public assistance, taxation, labor or gaming.

(f) Exchanges of information pursuant to subsection 3.

(g) Disclosure of information concerning whether or not a person conducting a business in this State has a state business license.

3. The Nevada Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

4. The Executive Director shall periodically, as he or she deems appropriate, but not less often than annually, transmit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry a list of the businesses of which the Executive Director has a record. The list must include the mailing address of the business as reported to the Department.

Sec. 15. NRS 363A.110 is hereby amended to read as follows:

363A.110 1. Except as otherwise provided in this section and NRS 239.0115 and 360.250, **and section 7 of this act**, the records and files of the Department concerning the administration of this chapter are confidential and privileged. The Department, and any employee engaged in the administration of this chapter or charged with the custody of any such records or files, shall not disclose any information obtained from the Department's records or files or from any examination, investigation or hearing authorized by the provisions of this chapter. Neither the Department nor any employee of the Department may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Department concerning the administration of this chapter are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a taxpayer in any action or proceeding pursuant to the provisions of this chapter if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a taxpayer or his or her authorized representative of a copy of any return or other document filed by the taxpayer pursuant to this chapter.

(c) Publication of statistics so classified as to prevent the identification of a particular person or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to the Governor or his or her agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any

agency of this or any other state charged with the administration or enforcement of laws relating to taxation.

(f) Exchanges of information pursuant to subsection 3.

3. The Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

Sec. 16. NRS 363B.100 is hereby amended to read as follows:

363B.100 1. Except as otherwise provided in this section and NRS 239.0115 and 360.250, **and section 7 of this act**, the records and files of the Department concerning the administration of this chapter are confidential and privileged. The Department, and any employee engaged in the administration of this chapter or charged with the custody of any such records or files, shall not disclose any information obtained from the Department's records or files or from any examination, investigation or hearing authorized by the provisions of this chapter. Neither the Department nor any employee of the Department may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Department concerning the administration of this chapter are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a taxpayer in any action or proceeding pursuant to the provisions of this chapter if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a taxpayer or his or her authorized representative of a copy of any return or other document filed by the taxpayer pursuant to this chapter.

(c) Publication of statistics so classified as to prevent the identification of a particular person or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to the Governor or his or her agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of this or any other state charged with the administration or enforcement of laws relating to taxation.

(f) Exchanges of information pursuant to subsection 3.

3. The Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

Sec. 17. 1. As soon as practicable after passage and approval of this act, the Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall solicit applications and make recommendations to the

Legislative Commission for the appointment of members to the Task Force on Employee Misclassification who are described in subsection 3 of section 8 of this act.

2. As soon as practicable after July 1, 2011, the Legislative Commission shall, after considering each recommendation received pursuant to subsection 1, appoint the members of the Task Force on Employee Misclassification described in subsection 3 of section 8 of this act.

3. The terms of the members of the Task Force on Employee Misclassification appointed pursuant to subsection 2 expire on June 30, 2013.

Sec. 18. 1. This section and section 17 of this act become effective upon passage and approval.

2. Sections 1 to 16, inclusive, of this act become effective on July 1, 2011.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 770 to Senate Bill No. 208 deletes the definition of the term "independent contractor" used in the bill and instead substitutes the existing definition of the term in *Nevada Revised Statutes* 616A.255.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bill No. 208 be taken from its place the General File and placed on the bottom of Senate Bills on this agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 429.

Bill read third time.

Roll call on Senate Bill No. 429:

YEAS—21.

NAYS—None.

Senate Bill No. 429 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 208.

Bill read third time.

Remarks by Senators McGinness and Schneider.

Senator McGinness requested that the following remarks be entered in the Journal.

SENATOR MCGINNESS:

Thank you, Mr. President. I would like an explanation of this bill and why it has been expedited by having it reprinted in advance of the amendment. The bill has been out since March 1.

SENATOR SCHNEIDER:

This bill was referred to the Committee on Finance where it was amended. We changed the term of the employee definition.

Senate Bill No. 208 requires the offices of the Labor Commissioner, the Division of Industrial Relations, the Employment Security Division, the Department of Taxation, and the Attorney General to share amongst their respective offices information relating to suspected employee misclassification to the extent that confidentiality required by law is maintained.

The bill also establishes the ten-member Task Force on Employee Misclassification. Five members are ex officio members from specified State entities. The remaining five members are appointees selected as representatives for certain employer and labor interests, as well as a representative of the general public. The Task Force shall evaluate the policies and practices of specified State agencies relating to misclassification in the areas of labor law, workers' compensation, unemployment insurance, rehabilitation, taxation, and law enforcement; evaluate existing fines, penalties, or other disciplinary action State agencies can take relating to misclassification; and develop recommendations for policies, practices, or proposed legislation to reduce the occurrence of employee misclassification.

The Task Force shall submit a written report to the Legislative Commission on or before July 1, 2012, and on or before July 1 of each subsequent year. The report must contain a summary of its work and recommendations for legislation addressing employee misclassification.

This bill is effective upon passage and approval for the purpose of appointment of Task Force members, and on July 1, 2011, for all other purposes.

Roll call on Senate Bill No. 208:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settlemeyer—10.

Senate Bill No. 208 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bills Nos. 199, 240, 265, 273, 301, 360, 376, 413, 504, be taken from the General File and placed on the General File on the next agenda.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 128

The following Assembly amendment was read:

Amendment No. 660.

"SUMMARY—Revises provisions governing guardianships. (BDR 13-156)"

"AN ACT relating to guardianships; revising provisions governing the appointment, powers and duties of guardians; requiring certain guardians to undergo a background investigation at their own cost and expense; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law governs the appointment, powers and duties of guardians. (Chapter 159 of NRS) **Section 7** of this bill requires a private professional

guardian to undergo a background investigation at his or her own cost and expense and to present the results of the background investigation to the court upon request. **Section 8** of this bill requires every guardian to file a verified acknowledgment of the duties and responsibilities of a guardian before performing any duties as a guardian. The acknowledgment must set forth certain provisions, including certain specific duties of the guardian. The court may exempt a public guardian or private professional guardian from filing an acknowledgment in each case and may instead require the guardian to file a general acknowledgment which covers all guardianships to which the guardian may be appointed. **Section 13** of this bill prohibits the removal of a guardian by the court if the sole reason for removal is the lack of money to pay the compensation and expenses of the guardian.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 159.0595 is hereby amended to read as follows:

159.0595 1. A private professional guardian, if a person, must be qualified to serve as a guardian pursuant to NRS 159.059 and must be a certified guardian.

2. A private professional guardian, if an entity, must be qualified to serve as a guardian pursuant to NRS 159.059 and must have a certified guardian involved in the day-to-day operation or management of the entity.

3. *A private professional guardian shall, at his or her own cost and expense:*

(a) Undergo a background investigation which requires the submission of a complete set of his or her fingerprints to the Central Repository for Nevada Records of Criminal History ~~for submission~~ and to the Federal Bureau of Investigation for ~~its report~~ their respective reports; and

(b) Present the results of the background investigation to the court upon request.

4. As used in this section:

(a) "Certified guardian" means a person who is certified by the Center for Guardianship Certification or any successor organization.

(b) "Entity" includes, without limitation, a corporation, whether or not for profit, a limited-liability company and a partnership.

(c) "Person" means a natural person.

Sec. 8. NRS 159.073 is hereby amended to read as follows:

159.073 1. Every guardian, ~~shall,~~ before entering upon his or her duties as guardian and before letters of guardianship may issue ~~+~~ shall:

(a) Take and subscribe the official oath which must:

~~1(a)~~ (1) Be endorsed on the letters of guardianship; and

~~1(b)~~ (2) State that the guardian will well and faithfully perform the duties of guardian according to law.

~~12-1~~ (b) File in the proceeding the appropriate documents which include, without limitation, the full legal name of the guardian and the residence and post office addresses of the guardian.

(c) *Except as otherwise required in subsection 2, make and file in the proceeding a verified acknowledgment of the duties and responsibilities of a guardian. The acknowledgement must set forth:*

(1) *A summary of the duties, functions and responsibilities of a guardian, including, without limitation, the duty to:*

(I) *Act in the best interest of the ward at all times.*

(II) *Provide the ward with medical, surgical, dental, psychiatric, psychological, hygienic or other care and treatment as needed, with adequate food and clothing and with safe and appropriate housing.*

(III) *Protect, preserve and manage the income, assets and estate of the ward and utilize the income, assets and estate of the ward solely for the benefit of the ward.*

(IV) *Maintain the assets of the ward in the name of the ward or the name of the guardianship. Except when the spouse of the ward is also his or her guardian, the assets of the ward must not be commingled with the assets of any third party.*

(2) *A summary of the statutes, regulations, rules and standards governing the duties of a guardian.*

(3) *A list of actions regarding the ward that require the prior approval of the court.*

(4) *A statement of the need for accurate recordkeeping and the filing of annual reports with the court regarding the finances and well-being of the ward.*

2. *The court may exempt a public guardian or private professional guardian from filing an acknowledgment in each case and, in lieu thereof, require the public guardian or private professional guardian to file a general acknowledgment covering all guardianships to which the guardian may be appointed by the court.*

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. NRS 159.183 is hereby amended to read as follows:

159.183 1. Subject to the discretion and approval of the court and except as otherwise provided in subsection 4, a guardian must be allowed:

(a) Reasonable compensation for the guardian's services;

(b) Necessary and reasonable expenses incurred in exercising the authority and performing the duties of a guardian; and

(c) Reasonable expenses incurred in retaining accountants, attorneys, appraisers or other professional services.

2. Reasonable compensation and services must be based upon similar services performed for persons who are not under a legal disability. In determining whether compensation is reasonable, the court may consider:

- (a) The nature of the guardianship;
- (b) The type, duration and complexity of the services required; and
- (c) Any other relevant factors.

3. In the absence of an order of the court pursuant to this chapter shifting the responsibility of the payment of compensation and expenses, the payment of compensation and expenses must be paid from the estate of the ward. In evaluating the ability of a ward to pay such compensation and expenses, the court may consider:

- (a) The nature, extent and liquidity of the ward's assets;
- (b) The disposable net income of the ward;
- (c) Any foreseeable expenses; and
- (d) Any other factors that are relevant to the duties of the guardian pursuant to NRS 159.079 or 159.083.

4. A private professional guardian is not allowed compensation or expenses for services incurred by the private professional guardian as a result of a petition to have him or her removed as guardian if the court removes the private professional guardian pursuant to the provisions of *paragraph (b), (d), (e), (f) or (h) of subsection 12, 4, 5, 6 or 8, 1* of NRS 159.185.

Sec. 13. NRS 159.185 is hereby amended to read as follows:

159.185 **1.** The court may remove a guardian if the court determines that:

~~11-1~~ **(a)** The guardian has become mentally incompetent, unsuitable or otherwise incapable of exercising the authority and performing the duties of a guardian as provided by law;

~~12-1~~ **(b)** The guardian is no longer qualified to act as a guardian pursuant to NRS 159.059;

~~13-1~~ **(c)** The guardian has filed for bankruptcy within the previous 5 years;

~~14-1~~ **(d)** The guardian of the estate has mismanaged the estate of the ward;

~~15-1~~ **(e)** The guardian has negligently failed to perform any duty as provided by law or by any order of the court and:

~~16-1~~ **(1)** The negligence resulted in injury to the ward or the estate of the ward; or

~~17-1~~ **(2)** There was a substantial likelihood that the negligence would result in injury to the ward or the estate of the ward;

~~18-1~~ **(f)** The guardian has intentionally failed to perform any duty as provided by law or by any lawful order of the court, regardless of injury;

~~19-1~~ **(g)** The best interests of the ward will be served by the appointment of another person as guardian; or

~~20-1~~ **(h)** The guardian is a private professional guardian who is no longer qualified as a private professional guardian pursuant to NRS 159.0595.

2. *A guardian may not be removed if the sole reason for removal is the lack of money to pay the compensation and expenses of the guardian.*

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 128.

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

Amendment No. 660 requires a private professional guardian to submit a set of fingerprints to both the Central Repository for Nevada Records of Criminal History and the FBI, rather than submitting them to the Central Repository for submission to the FBI.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 221.

The following Assembly amendment was read:

Amendment No. 743

"SUMMARY—Makes various changes relating to trusts, estates and probate. (BDR 2-78)"

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

Legislative Counsel's Digest:

Sections 1-3 of this bill provide for the exemption of certain trust property, interests or powers from execution and attachment. **Sections 6-47** of this bill provide for nonprobate transfers of property, including certain real property, at the death of the owner of the property. Specifically, **sections 41 and 42** govern the registration of property in beneficiary form and the extent to which the designation of a beneficiary may be revoked or changed during the lifetime of the owner of the property or in the owner's will. **Sections 40 and 45** set forth the rights of the beneficiary during the lifetime of the owner of the property and at the owner's death. **Sections 48-64** of this bill adopt provisions governing accounts in financial institutions in which one or more persons have an interest. **Section 49** provides that an account may: (1) be owned by a single party or by multiple parties; and (2) include a payable-n-eath beneficiary designation or an agency designation, or both. **Section 50** provides sample forms for establishing multiple-person accounts. **Section 53** provides that an account is owned by the parties during their lifetimes in accordance with each party's net contribution to the account. **Section 54** sets forth the rights of the parties with respect to an account upon the death of a party.

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

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

Section 209 of this bill repeals the Uniform TOD Security Registration Act and other statutes related to nonprobate transfers of certain accounts because those issues are addressed in **sections 32-64** of this bill which govern nonprobate transfers on death.

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

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

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to

NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

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

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

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

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

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

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

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

4. Proceeds from a policy of life insurance.

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

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

7. Payments received as unemployment compensation.

8. Veteran's benefits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(f)]~~ and

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

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

17. If a trust contains a spendthrift provision:

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

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

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

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

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

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

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

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

23. Payments received as restitution for a criminal act.

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

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

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

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

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

—(5) ~~exercised~~;

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

—(6) ~~exercised~~; and

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

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

(dd) If a trust contains a spendthrift provision:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Proceeds from a policy of life insurance.

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

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

7. Payments received as unemployment compensation.

8. Veteran's benefits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~{(f)}~~ and

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

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

17. If a trust contains a spendthrift provision:

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

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

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

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

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

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

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

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

the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

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

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

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

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

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

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

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

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

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS

EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

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

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

1. A deed or any other instrument that transfers any property, interest or benefit.
2. An annuity or a policy of insurance.
3. A trust, whether created by an instrument executed during the life of the settlor, a testamentary instrument or any other instrument, judgment or decree, including, without limitation, any of the following:
 - (a) An express trust, whether private or charitable, and any additions to such a trust.
 - (b) A trust created or determined by a judgment or decree under which the trust is to be administered in the manner of an express trust.
4. A will, a codicil or any other testamentary instrument, including, without limitation, a testamentary instrument that:
 - (a) Appoints a person to serve in a fiduciary or representative capacity, nominates a guardian or revokes or revises another will, codicil or testamentary instrument; or
 - (b) Excludes or limits the right of a person or class of persons to succeed to any property, interest or benefit pursuant to the laws of intestate succession.
5. Any account or deposit that is payable or transferable on the death of a person or any instrument that provides for the payment or transfer of any property, interest or benefit on the death of a person.
6. A security registered as transferable on the death of a person . ~~for a security registered in beneficiary form pursuant to NRS 111.480 to 111.650, inclusive.~~
7. Any instrument creating or exercising a power of appointment or a durable or nondurable power of attorney.
8. Any instrument that appoints or nominates a person to serve in any fiduciary or representative capacity, including, without limitation, an agent, guardian, executor, personal representative or trustee.
9. Any public or private plan or system that entitles a person to the payment or transfer of any property, interest or benefit, including, without limitation, a plan or system that involves any of the following:
 - (a) Pension benefits, retirement benefits or other similar benefits.
 - (b) Profit-sharing or any other form of participation in profits, revenues, securities, capital or assets.
 - (c) Industrial insurance, workers' compensation or other similar benefits.
 - (d) Group insurance.
10. A partnership agreement or an agreement concerning any joint adventure, enterprise or venture.
11. A premarital, antenuptial or postnuptial agreement, a marriage contract or settlement or any other similar agreement, contract or settlement.

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

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

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

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

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

Sec. 8. *"Agent" has the meaning ascribed to it in NRS 132.045.*

Sec. 9. *"Beneficiary" has the meaning ascribed to it in NRS 132.050.*

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

Sec. 11. *"Devisee" has the meaning ascribed to it in NRS 132.100.*

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

Sec. 13. *"Governing instrument" has the meaning ascribed to it in NRS 132.155.*

Sec. 14. *"Heirs" has the meaning ascribed to it in NRS 132.165.*

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

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

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

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

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

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

2. *The term does not include:*

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

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

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

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

Sec. 19. *"Payment," as it relates to sums on deposit, includes withdrawal, payment to a party or third person pursuant to a check or other request and a pledge of sums on deposit by a party, or a set-off, reduction or other disposition of all or part of an account pursuant to a pledge.*

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

Sec. 21. *"POD designation" means the designation of:*

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

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

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

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

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

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

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

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

Sec. 28. *"Transferring entity" means a person who owes a debt or is obligated to pay money or benefits, render contract performance, deliver or convey property, or change the record of ownership of property on the books, records and accounts of an enterprise or on a certificate or document of title that evidences property rights, and includes any governmental agency or business entity that, or transfer agent who, issues certificates of ownership or title to property and a person acting as a custodial agent for an owner's property.*

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

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

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

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

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

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

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

2. *A nonprobate transfer described in subsection 1:*

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

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

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

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

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

4. *Upon a decedent's death:*

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

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

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

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

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

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

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

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

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

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

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

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

(f) *Compliance with any other express condition.*

2. *Whenever a contract provision relating to a nonprobate transfer requires any of the conditions set forth in subsection 1, nothing in sections 32 to 46, inclusive, of this act imposes an obligation on a*

transferring entity to accept an owner's request to make provision for a nonprobate transfer of property unless the conditions have been met.

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

Sec. 35. When a transferring entity accepts a beneficiary designation or beneficiary assignment or registers in beneficiary form certain property, the acceptance or registration constitutes the agreement of the owner and transferring entity that, unless the beneficiary designation is revoked or changed before the death of the owner, on proof of the death of the owner and compliance with the transferring entity's requirements for showing proof of entitlement, the property will be transferred to and placed in the name and control of the beneficiary in accordance with the beneficiary designation or transfer-on-death direction, the agreement of the parties and the provisions of sections 32 to 46, inclusive, of this act.

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

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

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

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

beneficiary transfer instrument need not be supported by consideration or be delivered to any transferee beneficiary.

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

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

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

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

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

2. On the death of one of two or more joint owners, property with respect to which a beneficiary designation has been made belongs to the surviving joint owner or owners and the right of survivorship continues as between two or more surviving joint owners.

3. On the death of a sole owner, property passes by operation of law to the beneficiary.

4. If two or more beneficiaries survive, there is no right of survivorship among the beneficiaries in the event of the death of a beneficiary thereafter unless the beneficiary designation expressly provides for survivorship among them and, unless so expressly provided, surviving beneficiaries hold their separate interests in the property as tenants in common. The share of any subsequently deceased beneficiary belongs to that beneficiary's estate.

5. If no beneficiary survives the owner, the property belongs to the estate of the owner.

Sec. 41. 1. Unless a beneficiary designation is expressly made irrevocable, a beneficiary designation may be revoked or changed in whole or in part during the lifetime of the owner. A revocation or change of a beneficiary designation involving property of joint owners may only be made with the agreement of all owners then living.

2. A subsequent beneficiary designation revokes a previous beneficiary designation unless the subsequent beneficiary designation expressly provides otherwise.

3. A revocation or change in a beneficiary designation must comply with the terms of the governing instrument, the rules of the transferring entity and the applicable law.

4. *A beneficiary designation may not be revoked or changed by the provisions of a will unless the beneficiary designation expressly grants the owner the right to revoke or change a beneficiary designation by will. If a beneficiary designation is revoked by will, it must be revoked by an express provision in the will and extrinsic evidence is not admissible to establish the testator's intent concerning the beneficiary designation.*

5. *A transfer during the owner's lifetime of the owner's interest in property, with or without consideration, terminates the beneficiary designation with respect to the property transferred.*

6. *The effective date of a revocation or change in a beneficiary designation must be determined in the same manner as the effective date of a beneficiary designation.*

Sec. 42. 1. *Property may be held in beneficiary form or registered in beneficiary form by including in the name in which the property is held or registered a direction to transfer the property on the death of the owner to a beneficiary designated by the owner.*

2. *Property is registered in beneficiary form by showing on the account record, security certificate or written instrument evidencing ownership of the property the name of the owner, and the form of ownership by which two or more joint owners hold the property, followed in substance by the words "transfer on death to..... (name of beneficiary)." In lieu of the words "transfer on death to," the words "pay on death to" or "pay on death to the owner's lineal descendants, per stirpes" or the abbreviation "TOD," "POD" or "LDPS" may be used. The designation of a person's heirs as beneficiaries does not make the property subject to administration as part of the person's estate, but the identities of the beneficiaries must be determined pursuant to chapter 134 of NRS as they relate to the owner's separate property.*

3. *A transfer-on-death direction may only be placed on an account record, security certificate or instrument evidencing ownership of property by the transferring entity or a person authorized by the transferring entity.*

4. *A transfer-on-death direction transfers the owner's interest in the property to the designated beneficiary, effective on the death of the owner, if the property is registered in beneficiary form before the death of the owner or if the request to make the transfer-on-death direction is delivered in proper form to the transferring entity before the death of the owner.*

5. *An account record, security certificate or written instrument evidencing ownership of property that contains a transfer-on-death direction written as part of the name in which the property is held or registered is conclusive evidence in the absence of fraud, duress, undue influence or evidence of clerical mistake by the transferring entity that the direction was regularly made by the owner and accepted by the transferring entity and was not revoked or changed before the death giving rise to the transfer. The transferring entity has no obligation to retain the original writing, if any, by which the owner caused the property to be held in*

beneficiary form or registered in beneficiary form, more than 6 months after the transferring entity has mailed or delivered to the owner, at the address shown on the registration, an account statement, certificate or instrument that shows the manner in which the property is held in beneficiary form or registered in beneficiary form.

Sec. 43. Any interest in property that would be distributed by nonprobate transfer to or for a beneficiary who is disqualified as a beneficiary pursuant to chapter 41B of NRS must be transferred as if the disqualified beneficiary had disclaimed the interest immediately upon the decedent's death.

Sec. 44. An agent, guardian of the person or other fiduciary may not make, revoke or change a beneficiary designation unless:

1. The power of attorney or other document establishing the agent, guardian or other fiduciary's right to act or a court order expressly authorizes such action; and

2. The action complies with the terms of the governing instrument, the rules of the transferring entity and applicable law.

Sec. 45. If property subject to a beneficiary designation is lost, destroyed, damaged or involuntarily converted during the owner's lifetime, the beneficiary succeeds to any right with respect to the loss, destruction, damage or involuntary conversion which the owner would have had if the owner had survived but has no interest in any payment or substitute property received by the owner during the owner's lifetime.

Sec. 46. 1. Except as otherwise provided in NRS 21.090 and other applicable law, a transferee of a nonprobate transfer is liable to the probate estate of the decedent for allowed claims against that decedent's probate estate to the extent the estate is insufficient to satisfy those claims.

2. The liability of a nonprobate transferee may not exceed the value of nonprobate transfers received or controlled by that transferee.

3. Nonprobate transferees are liable for the insufficiency described in subsection 1 in the following order of priority:

(a) A transferee specified in the decedent's will or any other governing instrument as being liable for such an insufficiency, in the order of priority provided in the will or other governing instrument;

(b) The trustee of a trust serving as the principal nonprobate instrument in the decedent's estate plan as shown by its designation as devisee of the decedent's residuary estate or by other facts or circumstances, to the extent of the value of the nonprobate transfer received or controlled; and

(c) Other nonprobate transferees, in proportion to the values received.

4. Unless otherwise provided by the trust instrument, interests of beneficiaries in all trusts incurring liabilities under this section abate as necessary to satisfy the liability, as if all the trust instruments were a single will and the interests were devised under it.

5. If a nonprobate transferee is a spouse or a minor child, the nonprobate transferee may petition the court to be excluded from the

liability imposed by this section as if the nonprobate property received by the spouse or minor child were part of the decedent's estate. Such a petition may be made pursuant to the applicable provisions of chapter 146 of NRS, including, without limitation, the provisions of NRS 146.010, NRS 146.020 without regard to the filing of an inventory and subsection 2 of NRS 146.070.

6. *A provision made in one instrument may direct the apportionment of the liability among the nonprobate transferees taking under that or any other governing instrument. If a provision in one instrument conflicts with a provision in another, the later one prevails.*

7. *Upon due notice to a nonprobate transferee, the liability imposed by this section is enforceable in probate proceedings in this State, whether or not the transferee is located in this State.*

8. *If a probate proceeding is pending, a proceeding under this section may be commenced by the personal representative of the decedent's estate or, if the personal representative declines to do so, by a creditor in the name of the decedent's estate, at the expense of the creditor and not of the estate. If a creditor successfully establishes an entitlement to payment under this section, the court must order the reimbursement of the costs reasonably incurred by the creditor, including attorney's fees, from the transferee from whom the payment is to be made, subject to the limitations of subsection 2, or from the estate as a cost of administration, or partially from each, as the court deems just. A personal representative who declines in good faith to commence a requested proceeding incurs no personal liability for declining.*

9. *If a probate proceeding is not pending, a proceeding under this section may be commenced as a civil action by a creditor at the expense of the creditor.*

10. *If a proceeding is commenced pursuant to this section, it must be commenced:*

(a) As to a creditor whose claim was allowed after proceedings challenging disallowance of the claim by the personal representative, within 60 days after final allowance of the claim by the probate court or within 1 year after the decedent's death, whichever is later.

(b) As to a creditor whose claim against the decedent is being adjudicated in a separate proceeding that is still pending 1 year after the decedent's death, within 60 days after the adjudication of the claim in favor of the creditor is final and no longer subject to reconsideration or appeal.

(c) As to the recovery of benefits paid for Medicaid, within 3 years after the decedent's death.

(d) As to all other creditors, within 1 year after the decedent's death.

11. *Unless a written notice asserting that a decedent's probate estate is nonexistent or insufficient to pay allowed claims and statutory allowances has been received from the decedent's personal representative, the following rules apply:*

(a) Payment or delivery of assets by a financial institution, registrar or other obligor to a nonprobate transferee in accordance with the terms of the governing instrument controlling the transfer releases the obligor from all claims for amounts paid or assets delivered.

(b) A trustee receiving or controlling a nonprobate transfer is released from liability under this section with respect to any assets distributed to the trust's beneficiaries. Each beneficiary to the extent of the distribution received becomes liable for the amount of the trustee's liability attributable to assets received by the beneficiary.

12. Notwithstanding any provision of this section to the contrary:

(a) A creditor has no claim against property transferred pursuant to a power of appointment exercised by a decedent unless it was exercisable in favor of the decedent or the decedent's estate.

(b) A purchaser for value of property or a lender who acquires a security interest in the property from a beneficiary of a nonprobate transfer after the death of the owner, in good faith:

(1) Takes the property free of any claims or of liability to the owner's estate, creditors of the owner's estate, persons claiming rights as beneficiaries under the nonprobate transfer or heirs of the owner's estate, in absence of actual knowledge that the transfer was improper; and

(2) Has no duty to verify sworn information relating to the nonprobate transfer. The protection provided by this subparagraph applies to information that relates to the ownership interest of the beneficiary in the property and the beneficiary's right to sell, encumber and transfer good title to a purchaser or lender and does not relieve a purchaser or lender from the notice imparted by instruments of record respecting the property.

13. As used in this section, "devise" has the meaning ascribed to it in NRS 132.095.

Sec. 47. 1. Except as otherwise provided by the express terms of a governing instrument, a court order or a contract relating to the division of the marital estate made between the divorced persons before or after the marriage, divorce or annulment, the divorce or annulment of a marriage:

(a) Revokes any revocable:

(1) Disposition or appointment of property made by a divorced person to his or her former spouse in a governing instrument and any disposition or appointment created by law or in a governing instrument to a relative of the divorced person's former spouse;

(2) Provision in a governing instrument conferring a general or nongeneral power of appointment on the divorced person's former spouse or on a relative of the divorced person's former spouse; and

(3) Nomination in a governing instrument that nominates a divorced person's former spouse or a relative of the divorced person's former spouse to serve in any fiduciary or representative capacity, including a personal representative capacity, including a personal representative, executor, trustee, conservator, agent or guardian; and

(b) Severs the interest of the former spouses in property held by them at the time of the divorce or annulment as joint tenants with the right of survivorship or as community property with a right of survivorship and transforms the interests of the former spouses into equal tenancies in common.

2. A severance under paragraph (b) of subsection 1 does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the survivor of the former spouses unless a writing declaring the severance has been noted, registered, filed or recorded in records appropriate to the kind and location of the property which records are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

3. The provisions of a governing instrument are given effect as if the former spouse and relatives of the former spouse disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the former spouse and relatives of the former spouse died immediately before the divorce or annulment.

4. Any provisions revoked solely by this section are revived by the divorced person's remarriage to the former spouse or by a nullification of the divorce or annulment.

5. Unless a court in an action commenced pursuant to chapter 125 of NRS specifically orders otherwise, a restraining order entered pursuant to NRS 125.050 does not preclude a party to such an action from making or changing beneficiary designations that specify who will receive the party's assets upon the party's death.

6. A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by the provisions of this section or for having taken any other action in good faith reliance on the validity of the governing instrument before the payor or other third party received written or actual notice of any event affecting a beneficiary designation. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written or actual notice of a claimed forfeiture or revocation under this section.

7. Written notice of the divorce, annulment or remarriage or written notice of a complaint or petition for divorce or annulment must be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of the divorce, annulment or remarriage, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the

decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement or transfer in accordance with the determination. Payments, transfers or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

8. A person who purchases property from a former spouse, relative of a former spouse or any other person for value and without notice, or who receives from a former spouse, relative of a former spouse or any other person a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, item of property or benefit nor is liable under this section for the amount of the payment or the value of the item of property or benefit. A former spouse, relative of a former spouse or other person who, not for value, received a payment, item of property or any other benefit to which that person is not entitled under this section is obligated to return the payment, item of property or benefit or is personally liable for the amount of the payment or the value of the item of property or benefit to the person who is entitled to it under this section.

9. If this section or any part of this section is preempted by federal law with respect to a payment, an item of property or any other benefit covered by this section, a former spouse, relative of the former spouse or any other person who, not for value, received a payment, item of property or any other benefit to which that person is not entitled under this section is obligated to return that payment, item of property or benefit or is personally liable for the amount of the payment or the value of the item of property or benefit to the person who would have been entitled to it were this section or part of this section not preempted.

10. As used in this section:

(a) "Disposition or appointment of property" includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.

(b) "Divorce or annulment" means any divorce or annulment or any dissolution or declaration of invalidity of a marriage. A decree of separation that does not terminate the status of husband and wife is not a divorce for purposes of this section.

(c) "Divorced person" includes a person whose marriage has been annulled.

(d) "Governing instrument" means a governing instrument executed by a divorced person before the divorce or annulment of the person's marriage to the person's former spouse.

(e) "Relative of the divorced person's former spouse" means a person who is related to the divorced person's former spouse by blood, adoption or affinity and who, after the divorce or annulment, is not related to the divorced person by blood, adoption or affinity.

(f) "Revocable," with respect to a disposition, appointment, provision or nomination, means one under which the divorced person, at the time of the divorce or annulment, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the person's former spouse or former spouse's relative, whether or not the divorced person was then empowered to designate himself or herself in place of his or her former spouse or in place of his or her former spouse's relative and whether or not the divorced person then had the capacity to exercise the power.

Sec. 48. The provisions of sections 48 to 64, inclusive, of this act:

1. Apply to accounts in financial institutions in this State for which ownership is determined under Nevada law.

2. Do not apply to:

(a) An account established for a partnership, joint venture or other organization for a business purpose;

(b) An account controlled by one or more persons as an agent or trustee for a corporation, unincorporated association or charitable or civic organization; or

(c) A fiduciary or trust account in which the relationship is established other than by the terms of the account.

Sec. 49. 1. An account may be for a single party or multiple parties. A multiple-party account may be with or without a right of survivorship between the parties. Subject to subsection 3 of section 54 of this act, a single-party account or a multiple-party account may have a POD designation or an agency designation, or both.

2. An account established before, on or after October 1, 2011, whether in the form prescribed in subsection 1 of section 50 of this act or in any other form, is a single-party account or a multiple-party account, with or without right of survivorship, and with or without a POD designation or an agency designation, and is governed by sections 48 to 64, inclusive, of this act.

Sec. 50. 1. An agreement of deposit that contains provisions in substantially the following form establishes the type of account provided, and the account is governed by the provisions of sections 48 to 64, inclusive, of this act applicable to an account of that type:

UNIFORM SINGLE- OR MULTIPLE-PARTY ACCOUNT FORM
PARTIES [Name one or more parties]:.....

OWNERSHIP [Select one and initial]:

..... **SINGLE-PARTY ACCOUNT**

..... **MULTIPLE-PARTY ACCOUNT**

Parties own the account in proportion to net contributions, unless there is clear and convincing evidence of a different intent.

RIGHTS AT DEATH [Select one and initial]:

..... **SINGLE-PARTY ACCOUNT**

At death of party, ownership passes as part of party's estate.

..... **SINGLE-PARTY ACCOUNT WITH POD
(PAY-ON-DEATH) DESIGNATION**
[Name one or more beneficiaries]:

.....
At death of party, ownership passes to POD beneficiaries and is not part of party's estate but may be subject to party's creditors.

..... **MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP**

At death of party, ownership passes to surviving parties.

..... **MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP AND POD (PAY-ON-DEATH) DESIGNATION**

[Name one or more beneficiaries]:

.....
At death of last surviving party, ownership passes to POD beneficiaries and is not part of last surviving party's estate.

..... **MULTIPLE-PARTY ACCOUNT WITHOUT RIGHT OF SURVIVORSHIP**

At death of party, deceased party's ownership passes as part of deceased party's estate.

AGENCY (POWER OF ATTORNEY) DESIGNATION
[Optional]

Agents may make account transactions for parties but have no ownership or rights at death unless named as POD beneficiaries.

[To add agency designation to account, name one or more agents]:

.....
[Select one and initial]:

..... **AGENCY DESIGNATION SURVIVES DISABILITY OR INCAPACITY OF PARTIES**

..... **AGENCY DESIGNATION TERMINATES ON DISABILITY OR INCAPACITY OF PARTIES**

2. An agreement of deposit that does not contain provisions in substantially the form provided in this section is governed by the provisions of sections 48 to 64, inclusive, of this act applicable to the type of account that most nearly conforms to the depositor's intent.

Sec. 51. 1. By a writing signed by all parties, the parties may designate as agent of all parties on an account a person other than a party to the account.

2. *Unless the terms of an agency designation provide that the authority of the agent terminates on disability or incapacity of a party, the agent's authority survives disability and incapacity. The agent may act for a disabled or incapacitated party until the authority of the agent is terminated.*

3. *The death of the sole party or last surviving party terminates the authority of an agent.*

4. *Any designation of an agent on an account is revocable and may be superseded by a subsequent designation:*

(a) *With regard to a single-party account, by the party; and*

(b) *With regard to a multiple-party account, by the parties or a surviving party.*

↪ *Any designation of an agent is superseded by an acknowledged power of attorney, as described in chapter 162A of NRS, when a copy of that power of attorney is delivered to the financial institution.*

Sec. 52. *The provisions of sections 52 to 57, inclusive, of this act concerning beneficial ownership as between parties or as between parties and beneficiaries:*

1. *Apply only to controversies between those persons and their creditors and other successors.*

2. *Do not apply to the right of those persons to payment as determined by the terms of the account.*

Sec. 53. 1. *During the lifetime of all parties, an account belongs to the parties in proportion to the net contribution of each to the sums on deposit, unless there is clear and convincing evidence of a different intent. As between parties married to each other, in the absence of proof otherwise, the net contribution of each is presumed to be an equal amount.*

2. *A beneficiary in an account having a POD designation has no right to sums on deposit during the lifetime of any party.*

3. *An agent in an account with an agency designation has no beneficial right to sums on deposit.*

4. *As used in this section, "net contribution" of a party means the sum of all deposits to an account made by or for the party, less all payments from the account made to or for the party which have not been paid to or applied to the use of another party and a proportionate share of any charges deducted from the account, plus a proportionate share of any interest or dividends earned, whether or not included in the current balance. The term includes any deposit life insurance proceeds added to the account by reason of the death of the party whose net contribution is in question.*

Sec. 54. 1. *Except as otherwise provided in sections 48 to 64, inclusive, of this act or in an applicable contract, on the death of a party, sums on deposit in a multiple-party account belong to the surviving party or parties. If two or more parties survive and one is the surviving spouse of the decedent, the amount to which the decedent, immediately before death,*

was beneficially entitled under section 53 of this act belongs to the surviving spouse. If two or more parties survive and none is the surviving spouse of the decedent, the amount to which the decedent, immediately before death, was beneficially entitled under section 53 of this act belongs to the surviving parties in equal shares and augments the proportion to which each survivor, immediately before the decedent's death, was beneficially entitled under section 53 of this act, and the right of survivorship continues between the surviving parties.

2. In an account with a POD designation:

(a) On the death of one of two or more parties, the rights in sums on deposit are governed by subsection 1.

(b) On the death of the sole party or the last survivor of two or more parties, sums on deposit belong to the surviving beneficiary or beneficiaries. If two or more beneficiaries survive, sums on deposit belong to them in equal and undivided shares and there is no right of survivorship in the event of the death of a beneficiary thereafter. If no beneficiary survives, sums on deposit belong to the estate of the last surviving party.

3. Sums on deposit in a single-party account without a POD designation, or in a multiple-party account that, by the terms of the account, is without right of survivorship, are not affected by the death of a party, but the amount to which the decedent, immediately before death, was beneficially entitled under section 53 of this act is transferred as part of the decedent's estate. A POD designation in a multiple-party account without right of survivorship is ineffective. For the purposes of this section, the designation of an account as a tenancy in common establishes that the account is without right of survivorship.

4. The ownership right of a surviving party or beneficiary, or of the decedent's estate, in sums on deposit is subject to requests for payment made by a party before the party's death, whether paid by the financial institution before or after the death, or unpaid. The surviving party or beneficiary, or the decedent's estate, is liable to the payee of an unpaid request for payment. The liability is limited to a proportionate share of the amount transferred under this section, to the extent necessary to discharge the request for payment.

Sec. 55. 1. The rights at death under section 54 of this act are determined by the type of account at the death of a party. The type of account may be altered by written notice given by a party to the financial institution to change the type of account or to stop or vary payment under the terms of the account. The notice must be signed by a party and received by the financial institution during the party's lifetime.

2. A right of survivorship arising from the express terms of the account, section 54 of this act or a POD designation may not be altered by a will.

Sec. 56. A transfer resulting from the application of section 54 of this act is effective by reason of the terms of the account involved and

sections 48 to 64, inclusive, of this act and is not testamentary or subject to estate administration. Nonprobate transfers are effective with or without consideration.

Sec. 57. A deposit of community property in an account does not alter the community character of the property or community rights in the property, but a right of survivorship between parties married to each other arising from the express terms of the account or section 54 of this act may not be altered by a will.

Sec. 58. A financial institution may enter into an agreement of deposit for a multiple-party account to the same extent it may enter into an agreement of deposit for a single-party account, and may provide for a POD designation and an agency designation in a single-party account or a multiple-party account. A financial institution need not inquire as to the source of a deposit to an account or as to the proposed application of a payment from an account.

Sec. 59. A financial institution, on request, may pay sums on deposit in a multiple-party account to:

1. One or more of the parties, whether or not another party is disabled, incapacitated or deceased when payment is requested and whether or not the party making the request survives another party; or

2. The personal representative, if any, or, if there is none, the heirs or devisees of a deceased party if proof of death is presented to the financial institution showing that the deceased party was the survivor of all other persons named on the account as a party or beneficiary, unless the account is without right of survivorship under section 49 of this act.

Sec. 60. A financial institution, on request, may pay sums on deposit in an account with a POD designation to:

1. One or more of the parties, whether or not another party is disabled, incapacitated or deceased when the payment is requested and whether or not a party survives another party;

2. The beneficiary or beneficiaries, if proof of death is presented to the financial institution showing that the beneficiary or beneficiaries survived all persons named as parties; or

3. The personal representative, if any, or, if there is none, the heirs or devisees of a deceased party, if proof of death is presented to the financial institution showing that the deceased party was the survivor of all other persons named on the account as a party or beneficiary.

Sec. 61. A financial institution, on request of an agent under an agency designation for an account, may pay to the agent sums on deposit in the account, whether or not a party is disabled, incapacitated or deceased when the request is made or received, and whether or not the authority of the agent terminates on the disability or incapacity of a party.

Sec. 62. If a financial institution is required or authorized to make payment pursuant to sections 48 to 64, inclusive, of this act to a minor designated as a beneficiary, payment may be made pursuant to Nevada's

Uniform Act on Transfers to Minors, as set forth in chapter 167 of NRS, or an equivalent law in another jurisdiction.

Sec. 63. 1. *Payment made pursuant to sections 48 to 64, inclusive, of this act, in accordance with the type of account, discharges the financial institution from all claims for amounts so paid, whether or not the payment is consistent with the beneficial ownership of the account as between parties, beneficiaries or their successors. Payment may be made whether or not a party, beneficiary or agent is disabled, incapacitated or deceased when payment is requested, received or made.*

2. *Protection under this section does not extend to payments made after a financial institution has received written notice from a party, or from the personal representative, surviving spouse, or heir or devisee of a deceased party, to the effect that payments in accordance with the terms of the account, including one having an agency designation, should not be authorized, and the financial institution has had a reasonable opportunity to act on it when the payment is made. Unless the notice is withdrawn by the person giving it, the successor of any deceased party must concur in a request for payment if the financial institution is to be protected under this section. Unless a financial institution has been served with process in an action or proceeding, no other notice or other information shown to have been available to the financial institution affects its right to protection under this section.*

3. *A financial institution that receives written notice pursuant to this section or otherwise has reason to believe that a dispute exists as to the rights of the parties may refuse, without liability, to make payments in accordance with the terms of the account.*

4. *Protection of a financial institution under this section does not affect the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of sums on deposit in accounts or payments made from accounts.*

Sec. 64. *A beneficiary of a nonprobate transfer takes the owner's interest in the property at death, subject to all conveyances, assignments, contracts, setoffs, licenses, easements, liens and security interests made by the owner or to which the owner was subject during the owner's lifetime. Subject to the limitation of subsection 2 of section 46:*

1. *A beneficiary of a nonprobate transfer of an account with a bank, savings and loan association, credit union, broker or mutual fund takes the owner's interest in the property at death, subject to all requests for payment of money issued by the owner before death, whether paid by the transferring entity before or after the death or unpaid.*

2. *The beneficiary is liable to the payee of an unsatisfied request for payment, to the extent that it represents an obligation that was enforceable against the owner during the owner's lifetime. To the extent that a claim properly paid by the personal representative of the owner's estate includes*

the amount of an unsatisfied request for payment to the claimant, the personal representative is subrogated to the rights of the claimant as payee.

3. Each beneficiary's liability with respect to an unsatisfied request for payment is limited to the same proportionate share of the request for payment as the beneficiary's proportionate share of the account under the beneficiary designation. Beneficiaries have the right of contribution among themselves with respect to requests for payment which are satisfied after the death of the owner, to the extent the requests for payment would have been enforceable by the payees.

4. In no event may a beneficiary's liability to payees, to the owner's estate and to other beneficiaries pursuant to this section, with respect to all requests for payment, exceed the value of the account received by the beneficiary. If a request for payment which would not have been enforceable under this section is satisfied from a beneficiary's share of the account, the beneficiary:

(a) Is not liable to any other payee or the owner's estate pursuant to this section for the amount so paid; and

(b) Has no right of contribution against other beneficiaries with respect to that amount.

Sec. 65. Chapter 132 of NRS is hereby amended by adding thereto a new section to read as follows:

"Nonprobate transfer" has the meaning ascribed to it in section 17 of this act.

Sec. 66. NRS 132.025 is hereby amended to read as follows:

132.025 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 132.030 to 132.370, inclusive, *and section 65 of this act* have the meanings ascribed to them in those sections.

Sec. 67. NRS 132.050 is hereby amended to read as follows:

132.050 "Beneficiary," as it relates to:

1. A trust, includes a person who has a present or future interest, vested or contingent, and the owner of an interest by assignment or other transfer;

2. A charitable trust, includes any person entitled to enforce the trust;

3. An instrument designating a beneficiary, includes a beneficiary of ~~an insurance policy or annuity, of an account designated as payable on death, of a security registered as transferable on death or of a pension, profit sharing, retirement or similar benefit plan or other~~ *any nonprobate transfer ; [at death;]* and

4. A beneficiary designated in a governing instrument, includes a grantee of a deed, a devisee, a beneficiary of a trust, a beneficiary under a designation, a donee, an appointee or a taker in default under a power of appointment, or a person in whose favor a power of attorney or a power held in any individual, fiduciary or representative capacity is exercised,

➡ but does not include a person who receives less than \$100 under a will.

Sec. 68. NRS 132.090 is hereby amended to read as follows:

132.090 "Designation of beneficiary" means a governing instrument naming a beneficiary of an insurance policy or annuity, of an account designated as payable on death, of a security registered as transferable on death, or of a pension, profit-sharing, retirement or similar benefit plan or other nonprobate transfer. ~~at death.~~

Sec. 69. NRS 132.185 is hereby amended to read as follows:

132.185 **1.** "Interested person" includes, without limitation, an heir, devisee, child, spouse, creditor, **settlor**, beneficiary and any other person having a property right in or claim against a trust estate or the estate of a decedent, including, without limitation, the Director of the Department of Health and Human Services in any case in which money is owed to the Department of Health and Human Services as a result of the payment of benefits for Medicaid. The term includes a person having priority for appointment as a personal representative and other fiduciaries representing interested persons. The meaning as it relates to particular persons must be determined according to the particular purposes of, and matter involved in, a proceeding.

2. The term does not include:

(a) After a will has been admitted to probate, an heir, child or spouse who is not a beneficiary of the will, except for purposes of NRS 133.110, 133.160 and 137.080.

(b) A person with regard to a motion, petition or proceeding that does not affect an interest of that person.

(c) A creditor whose claim has not been accepted by the personal representative if the enforcement of the claim of the creditor is barred under the provisions of chapter 11 or 147 of NRS or any other applicable statute of limitation.

Sec. 70. Chapter 133 of NRS is hereby amended by adding thereto a new section to read as follows:

Except to the extent that it violates public policy, a testator may:

1. Make a devise conditional upon a devisee's action or failure to take action or upon the occurrence or nonoccurrence of one or more specified events; and

2. Specify the conditions or actions which would disqualify a person from serving or which would constitute cause for removal of a person who is serving in any capacity under the will, including, without limitation, as a personal representative, guardian or trustee.

Sec. 71. NRS 133.200 is hereby amended to read as follows:

133.200 ~~When any estate is devised to any child or other relation of the testator, and the devisee dies before the testator, leaving lineal descendants, those descendants, in~~ **In** the absence of a provision in the will to the contrary, ~~take the estate so given by the will in the same manner as the devisee would have done if the devisee had survived the testator.~~ **if any beneficiary who is a descendant of the testator dies before the testator, leaving lineal descendants, the property, share or beneficial interest that**

would have been distributed or allocated to that deceased beneficiary must be distributed or allocated to that beneficiary's descendants then living, by right of representation, to be distributed under the same terms that would have applied to the deceased beneficiary.

Sec. 72. Chapter 136 of NRS is hereby amended by adding thereto a new section to read as follows:

The provisions of section 47 of this act concerning the revocation of certain transfers based upon divorce or annulment apply to transfers of property made pursuant to a will.

Sec. 73. NRS 137.005 is hereby amended to read as follows:

137.005 1. Except as otherwise provided in subsections 3 and 4, a no-contest clause in a will must be enforced by the court.

2. A no-contest clause must be construed to carry out the testator's intent. Except to the extent the will is vague or ambiguous, extrinsic evidence is not admissible to establish the testator's intent concerning the no-contest clause. The provisions of this subsection do not prohibit such evidence from being admitted for any other purpose authorized by law. *Except as otherwise provided in subsections 3 and 4, a devisee's share may be reduced or eliminated under a no-contest clause based upon conduct that is set forth by the testator in the will, including, without limitation, any testamentary trust established in the will. Such conduct may include, without limitation:*

(a) Conduct other than formal court action; and

(b) Conduct which is unrelated to the will itself, including, without limitation:

(1) The commencement of civil litigation against the testator's probate estate or family members;

(2) Interference with the administration of a trust or a business entity;

(3) Efforts to frustrate the intent of the testator's power of attorney; and

(4) Efforts to frustrate the designation of beneficiaries related to a nonprobate transfer by the testator.

3. Notwithstanding any provision to the contrary in the will, a devisee's share must not be reduced or eliminated if the devisee seeks only to:

(a) Enforce the terms of the will ~~that~~ or any document referenced in or affected by the will;

(b) Enforce the devisee's legal rights in the probate proceeding; or

(c) Obtain a court ruling with respect to the construction or legal effect of the will.

4. Notwithstanding any provision to the contrary in the will, a devisee's share must not be reduced or eliminated under a no-contest clause because the devisee institutes legal action seeking to invalidate a will if the legal action is instituted in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that ~~there was a substantial likelihood that~~ the will ~~was~~ is invalid.

5. As used in this section, "no-contest clause" means one or more provisions in a will that express a directive to reduce or eliminate the share allocated to a devisee or to reduce or eliminate the distributions to be made to a devisee if the devisee takes action to frustrate or defeat the testator's intent as expressed in the will.

Sec. 74. NRS 141.120 is hereby amended to read as follows:

141.120 ~~141.120~~ *Except as otherwise provided in section 170 of this act,* ~~an~~ interested person may appear at the hearing and file allegations in writing, showing that the personal representative should be removed.

Sec. 75. Chapter 143 of NRS is hereby amended by adding thereto the provisions set forth as sections 76 to 144, inclusive, of this act.

Sec. 76. *Sections 76 to 144, inclusive, of this act may be cited as the Independent Administration of Estates Act.*

Sec. 77. *As used in sections 76 to 144, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 78, 79 and 80 of this act have the meanings ascribed to them in those sections.*

Sec. 78. *"Court supervision" means the judicial order, authorization, approval, confirmation or instructions that would be required if authority to administer the estate had not been granted pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 79. *"Full authority" means the authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act that includes all the powers granted pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 80. *"Limited authority" means authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act that includes all the powers granted pursuant to sections 76 to 144, inclusive, of this act, except the power to do any of the following:*

1. *Sell real property.*
2. *Exchange real property.*
3. *Grant an option to purchase real property.*
4. *Borrow money with the loan secured by an encumbrance upon real property.*

Sec. 81. *The personal representative may not be granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act if the decedent's will provides that the estate must not be administered pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 82. *A special administrator may be granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act if the special administrator is appointed with, or has been granted, the powers of a general personal representative.*

Sec. 83. *The provisions of sections 76 to 144, inclusive, of this act apply in any case where authority to administer the estate is granted pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 84. 1. *To obtain authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act, the personal representative must*

petition the court for that authority in a petition for appointment of the personal representative or in a separate petition filed in the estate proceedings.

2. The personal representative may request either of the following:

(a) Full authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act; or

(b) Limited authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act.

Sec. 85. 1. If the authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act is requested in a petition for appointment of the personal representative, notice of the hearing on the petition must be given for the period and in the manner applicable to the petition for appointment.

2. Where proceedings for the administration of the estate are pending at the time a petition is filed pursuant to section 84 of this act, notice of the hearing on the petition must be given for the period and in the manner provided in NRS 155.010 to all the following persons:

(a) Each person specified in NRS 155.010;

(b) Each known heir whose interest in the estate would be affected by the petition;

(c) Each known devisee whose interest in the estate would be affected by the petition; and

(d) Each person named as personal representative in the will of the decedent.

3. The notice of hearing of the petition for authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act, whether included in the petition for appointment or in a separate petition, must include a statement in substantially the following form:

The petition requests authority to administer the estate under the Independent Administration of Estates Act. This will avoid the need to obtain court approval for many actions taken in connection with the estate. However, before taking certain actions, the personal representative will be required to give notice to interested persons unless they have waived notice or have consented to the proposed action. Independent administration authority will be granted unless good cause is shown why it should not be.

Sec. 86. 1. Except as otherwise provided in subsection 2, unless an interested person objects in writing at or before the hearing to the granting of authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act and the court determines that the interested person has shown good cause why the authority to administer the estate under those provisions should not be granted, the court shall grant the requested authority.

2. If the interested person has shown good cause why only limited authority should be granted, the court shall grant limited authority.

Sec. 87. 1. *If the personal representative is otherwise required to file a bond and has full authority, the court shall fix the amount of the bond at not more than the estimated value of the personal property, the estimated value of the decedent's interest in the real property authorized to be sold pursuant to sections 76 to 144, inclusive, of this act and the probable annual gross income of the estate or, if the bond is to be given by personal sureties, at not less than twice that amount.*

2. *If the personal representative is otherwise required to file a bond and has limited authority, the court shall fix the amount of the bond at not more than the estimated value of the personal property and the probable annual gross income of the estate or, if the bond is to be given by personal sureties, at not less than twice that amount.*

Sec. 88. 1. *Any interested person may file a petition requesting that the court make either of the following orders:*

(a) *An order revoking the authority of the personal representative to continue administration of the estate pursuant to sections 76 to 144, inclusive, of this act; or*

(b) *An order revoking the full authority of the personal representative to administer the estate pursuant to sections 76 to 144, inclusive, of this act and granting the personal representative limited authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act.*

2. *The petition must set forth the basis for the requested order.*

3. *The petitioner shall give notice for the period and in the manner provided in NRS 155.010.*

4. *If the court determines that good cause has been shown, the court shall make an order revoking the authority of the personal representative to continue administration of the estate pursuant to sections 76 to 144, inclusive, of this act. Upon the making of the order, new letters must be issued without the authority to act pursuant to sections 76 to 144, inclusive, of this act.*

5. *If the personal representative was granted full authority and the court determines that good cause has been shown, the court shall make an order revoking the full authority and granting the personal representative limited authority. Upon the making of the order, new letters must be issued indicating whether the personal representative is authorized to act pursuant to sections 76 to 144, inclusive, of this act and, if so authorized, whether the independent administration authority includes or excludes the power to do any of the following:*

(a) *Sell real property;*

(b) *Exchange real property;*

(c) *Grant an option to purchase real property; or*

(d) *Borrow money with the loan secured by an encumbrance upon real property.*

Sec. 89. 1. *Subject to the limitations and conditions of sections 76 to 144, inclusive, of this act, a personal representative who has been granted*

authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act may administer the estate as provided pursuant to sections 76 to 144, inclusive, of this act without court supervision, but in all other respects, the personal representative shall administer the estate in the same manner as a personal representative who has not been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act.

2. Notwithstanding the provisions of subsection 1, the personal representative may obtain court supervision of any action to be taken by the personal representative during administration of the estate.

Sec. 90. 1. Notwithstanding any provision of sections 76 to 144, inclusive, of this act to the contrary, whether the personal representative has been granted limited authority or full authority, a personal representative who has obtained authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act is required to obtain court approval for any of the following actions:

- (a) Allowance of the personal representative's compensation;*
- (b) Allowance of compensation of the attorney for the personal representative;*
- (c) Settlement of accounts;*
- (d) Preliminary and final distributions and discharge;*
- (e) Sale of property of the estate to the personal representative or to the attorney for the personal representative;*
- (f) Exchange of property of the estate for property of the personal representative or for property of the attorney for the personal representative;*
- (g) Grant of an option to purchase property of the estate to the personal representative or to the attorney for the personal representative;*
- (h) Allowance, payment or compromise of a claim of the personal representative, or the attorney for the personal representative, against the estate;*
- (i) Compromise or settlement of a claim, action or proceeding by the estate against the personal representative or against the attorney for the personal representative;*
- (j) Extension, renewal or modification of the terms of a debt or other obligation of the personal representative, or the attorney for the personal representative, owing to or in favor of the decedent or the estate; and*
- (k) Any transaction described in this section that would indirectly benefit the personal representative, a relative of the personal representative, the attorney for the personal representative or the attorney for a relative of the personal representative.*

2. Notwithstanding any provision of sections 76 to 144, inclusive, of this act to the contrary, a personal representative who has obtained limited authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act is required to obtain court supervision for any of the following actions:

- (a) Sale of real property;*
- (b) Exchange of real property;*
- (c) Grant of an option to purchase real property; and*
- (d) Borrowing money with the loan secured by an encumbrance upon real property.*

3. Paragraphs (e) to (k), inclusive, of subsection 1 do not apply to a transaction between the personal representative in his or her capacity as a personal representative and the personal representative as a person if all the following requirements are satisfied:

- (a) The personal representative is the sole beneficiary of the estate or all the known heirs or devisees have consented to the transaction;*
- (b) The period for filing creditor claims has expired;*
- (c) No request for special notice pursuant to NRS 155.030 is on file or all persons who filed a request for special notice have consented to the transaction; and*
- (d) The claim of each creditor who filed a claim has been paid, settled or withdrawn, or the creditor has consented to the transaction.*

4. As used in this section, "relative" has the meaning ascribed to it in NRS 163.020.

Sec. 91. 1. Subject to the conditions and limitations of sections 76 to 144, inclusive, of this act and to the duties and liabilities of the personal representative, a personal representative who has been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act has the powers described in:

- (a) Sections 93 to 106, inclusive, of this act with regard to powers that are exercisable only after giving a notice of proposed action;*
- (b) Sections 107 to 115, inclusive, of this act with regard to powers the exercise of which requires giving a notice of proposed action under certain circumstances; and*
- (c) Sections 116 to 127, inclusive, of this act with regard to powers that are exercisable without giving a notice of proposed action.*

2. The will may restrict the powers that the personal representative may exercise pursuant to sections 76 to 144, inclusive, of this act.

Sec. 92. 1. Subject to the limitations and requirements of sections 76 to 144, inclusive, of this act, when the personal representative exercises the authority to sell property of the estate pursuant to sections 76 to 144, inclusive, of this act, the personal representative may sell the property at public auction or private sale, and with or without notice, for cash or on credit, for such price and upon such terms and conditions as the personal representative may determine.

2. The requirements applicable to court confirmation of sales of real property referenced in subsection 1 include, without limitation:

- (a) Publication of the notice of sale;*
- (b) Court approval of agents' and brokers' commissions;*

(c) The sale being not less than 90 percent of appraised value of the real property;

(d) An examination by the court into the necessity for the sale of the real property, including, without limitation, any advantage to the estate and benefit to interested persons; and

(e) The efforts of the personal representative to obtain the highest and best price for the property reasonably attainable.

3. The requirements applicable to court confirmation of sales of real property and sales of personal property do not apply to a sale pursuant to this section.

Sec. 93. The personal representative may exercise the powers described in sections 93 to 106, inclusive, of this act only if the requirements of sections 128 to 140, inclusive, of this act are satisfied.

Sec. 94. The personal representative who has full authority has the power to sell or exchange real property of the estate.

Sec. 95. The personal representative who has limited authority or full authority has the power to sell or incorporate any of the following:

1. An unincorporated business or joint venture in which the decedent was engaged at the time of the decedent's death; and

2. An unincorporated business or joint venture which was wholly or partly owned by the decedent at the time of the decedent's death.

Sec. 96. The personal representative who has limited authority or full authority has the power to abandon tangible personal property where the cost of collecting, maintaining and safeguarding the property would exceed its fair market value.

Sec. 97. 1. Subject to the limitations provided in subsection 2 and NRS 143.180, the personal representative who has limited authority or full authority has the following powers:

(a) The power to borrow; and

(b) The power to place, replace, renew or extend any encumbrance upon any property of the estate.

2. Only a personal representative who has full authority has the power to borrow money with the loan secured by an encumbrance upon real property.

Sec. 98. The personal representative who has full authority has the power to grant an option to purchase real property of the estate for a period within or beyond the period of administration.

Sec. 99. If the will gives a person the option to purchase real or personal property and the person has complied with the terms and conditions stated in the will, the personal representative who has limited authority or full authority has the power to convey or transfer the property to the person.

Sec. 100. The personal representative who has limited authority or full authority has the power to convey or transfer real or personal property to

complete a contract entered into by the decedent to convey or transfer the property.

Sec. 101. The personal representative who has limited authority or full authority has the power to allow, compromise or settle any of the following:

1. A third-party claim to real or personal property if the decedent died in possession of, or holding title to, the property; or

2. The decedent's claim to real or personal property, title to or possession of which is held by another.

Sec. 102. The personal representative who has limited authority or full authority has the power to make a disclaimer.

Sec. 103. If the time for filing creditor claims has expired and it appears that the distribution may be made without loss to creditors or injury to the estate or any interested person, the personal representative who has limited authority or full authority has the power to make preliminary distributions of the following:

1. Income received during administration to the persons entitled thereto pursuant to the decedent's will or by intestate succession.

2. Household furniture and furnishings, motor vehicles, clothing, jewelry and other tangible articles of a personal nature to the persons entitled to the property under the decedent's will, not to exceed an aggregate fair market value to all persons of \$50,000 computed cumulatively through the date of distribution. Fair market value must be determined on the basis of the inventory and appraisal.

3. Cash to general pecuniary devisees entitled to it under the decedent's will, not to exceed \$10,000 to any one person.

Sec. 104. The personal representative who has limited authority or full authority has the power to do all the following:

1. Allow, pay, reject or contest any claim by or against the estate.

2. Compromise or settle a claim, action or proceeding by or for the benefit of, or against, the decedent, the personal representative or the estate.

3. Release, in whole or in part, any claim belonging to the estate to the extent that the claim is uncollectible.

4. Allow a claim to be filed after the expiration of the time for filing the claim.

Sec. 105. The personal representative who has limited authority or full authority has the power to do all the following:

1. Commence and maintain actions and proceedings for the benefit of the estate.

2. Defend actions and proceedings against the decedent, the personal representative or the estate.

Sec. 106. The personal representative who has limited authority or full authority has the power to extend, renew or in any manner modify the terms of an obligation owing to or in favor of the decedent or the estate.

Sec. 107. *Except as otherwise provided in sections 107 to 115, inclusive, of this act, the personal representative who has limited authority or full authority may exercise the powers described in sections 107 to 115, inclusive, of this act without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.*

Sec. 108. 1. *The personal representative who has limited authority or full authority has the power to manage and control property of the estate, including making allocations and determinations pursuant to NRS 164.780 to 164.925, inclusive. Except as otherwise provided in subsection 2, such a personal representative may exercise this power without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.*

2. *The personal representative shall comply with the requirements of sections 128 to 140, inclusive, of this act, and shall give notice of a proposed action in any case where a provision of sections 93 to 103, inclusive, of this act governing the exercise of a specific power so requires.*

Sec. 109. 1. *The personal representative who has limited authority or full authority has the power to enter into a contract to carry out the exercise of a specific power granted pursuant to sections 76 to 144, inclusive, of this act, including, without limitation, the powers granted by sections 108 and 117 of this act. Except as otherwise provided in subsection 2, the personal representative may exercise this power without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.*

2. *The personal representative shall comply with the requirements of sections 128 to 140, inclusive, of this act and shall give notice of a proposed action where the contract is one that by its provisions is not to be fully performed within 2 years after the date the parties entered into the contract, except that the personal representative is not required to comply with those requirements if the personal representative has the unrestricted right under the contract to terminate the contract within 2 years after the date the parties entered into the contract.*

3. *Nothing in this section excuses compliance with the requirements of sections 128 to 140, inclusive, of this act when the contract is made to carry out the exercise of a specific power, and the provision that grants that power requires compliance with sections 128 to 140, inclusive, of this act for the exercise of the power.*

Sec. 110. 1. *The personal representative who has limited authority or full authority has the power to do all the following:*

(a) *Deposit money belonging to the estate in an insured account in a financial institution in this State;*

(b) *Invest money of the estate in any one or more of the following:*

(1) *Direct obligations of the United States, or of the State of Nevada, maturing not later than 1 year after the date of making the investment;*

(2) *Savings accounts in a bank, credit union or savings and loan association in this State, to the extent that the deposit is insured by the*

Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755;

(3) Interest-bearing obligations of, or fully guaranteed by, the United States;

(4) Interest bearing obligations of the United States Postal Service or the Federal National Mortgage Association;

(5) Interest-bearing obligations of this State or of a county, city or school district of this State; or

(6) Money-market mutual funds that are invested only in obligations listed in subparagraphs (1) to (5), inclusive; or

(c) Invest money of the estate in any manner provided by the will.

2. The personal representative may exercise the powers described in subsection 1 without giving notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act.

Sec. 111. 1. Subject to the partnership agreement and the applicable provisions of chapter 87 of NRS, the personal representative who has limited authority or full authority has the power to continue as a general partner in any partnership in which the decedent was a general partner at the time of death.

2. The personal representative who has limited authority or full authority has the power to continue operation of any of the following:

(a) An unincorporated business or joint venture in which the decedent was engaged at the time of the decedent's death.

(b) An unincorporated business or joint venture which was wholly or partly owned by the decedent at the time of the decedent's death.

3. Except as otherwise provided in subsection 4, the personal representative may exercise the powers described in subsections 1 and 2 without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

4. The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act if the personal representative continues as a general partner under subsection 1, or continues the operation of any unincorporated business or joint venture under subsection 2, for a period of more than 6 months after the date on which letters are first issued to a personal representative.

Sec. 112. 1. The personal representative who has limited authority or full authority has the power to pay a reasonable family allowance. Except as otherwise provided in subsection 2, the personal representative may exercise this power without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

2. The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act for all the following:

(a) Making the first payment of a family allowance.

(b) Making the first payment of a family allowance for a period commencing more than 12 months after the death of the decedent.

(c) Making any increase in the amount of the payment of a family allowance.

Sec. 113. 1. The personal representative who has limited authority or full authority has the power to enter as lessor into a lease of property of the estate for:

(a) Any purpose, including, without limitation, exploration for and production or removal of minerals, oil, gas or other hydrocarbon substances or geothermal energy, including a community oil lease or a pooling or unitization agreement;

(b) A period within or beyond the period of administration; and

(c) Rental or royalty, or both, and upon such other terms and conditions as the personal representative may determine.

2. Except as otherwise provided in subsections 3 and 4, the personal representative may exercise this power without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

3. The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act where the personal representative enters into a lease of real property for a term in excess of 1 year. If the lease gives the lessee the right to extend the term of the lease, the lease must be considered as if the right to extend has been exercised.

4. The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act where the personal representative enters into a lease of personal property and the lease is one that by its provisions is not to be fully performed within 2 years after the date the parties entered into the lease, except that the personal representative is not required to give notice of a proposed action if the personal representative has the unrestricted right under the lease to terminate the lease within 2 years after the date the parties entered into the lease.

Sec. 114. 1. The personal representative who has limited authority or full authority has the power to sell personal property of the estate or to exchange personal property of the estate for other property upon such terms and conditions as the personal representative may determine. Except as otherwise provided in subsection 2, the personal representative shall give notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act in exercising this power.

2. The personal representative may exercise the power granted by subsection 1 without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act in case of the sale or exchange of any of the following:

(a) A security sold on an established stock or bond exchange;

(b) A security designated as a national market system security on an interdealer quotation system, or subsystem thereof, by the National Association of Securities Dealers Automated Quotations System, NASDAQ, sold through a broker-dealer registered under the Securities Exchange Act

of 1934, 15 U.S.C. §§ 78a et seq., during the regular course of business of the broker-dealer;

(c) Subscription rights for the purchase of additional securities which are owned by the estate by reason of the estate's ownership in securities if those rights are sold for cash; or

(d) Personal property which is perishable if the property is sold for cash.

Sec. 115. 1. *The personal representative who has limited authority or full authority has the following powers:*

(a) The power to grant an exclusive right to sell property for a period not to exceed 90 days.

(b) The power to grant to the same broker one or more extensions of an exclusive right to sell property, each extension being for a period not to exceed 90 days.

2. *Except as otherwise provided in subsection 3, the personal representative may exercise the powers described in subsection 1 without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.*

3. *The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act where the personal representative grants to the same broker an extension of an exclusive right to sell property and the period of the extension, together with the periods of the original exclusive right to sell the property and any previous extensions of that right, is more than 270 days.*

Sec. 116. *The personal representative who has limited authority or full authority may exercise the powers described in sections 116 to 127, inclusive, of this act without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.*

Sec. 117. *In addition to the powers granted to the personal representative pursuant to sections 76 to 144, inclusive, of this act, the personal representative who has limited authority or full authority has all the powers that the personal representative could exercise without court supervision if the personal representative had not been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 118. *The personal representative who has limited authority or full authority has the power to convey or transfer property to carry out the exercise of a specific power granted pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 119. *The personal representative who has limited authority or full authority has the power to pay all the following:*

1. *Taxes and assessments.*

2. *Expenses incurred in the collection, care and administration of the estate.*

Sec. 120. *The personal representative who has limited authority or full authority has the power to purchase an annuity from an insurer admitted*

to do business in this State to satisfy a devise of an annuity or other direction in the will for periodic payments to a devisee.

Sec. 121. *The personal representative who has limited authority or full authority has the power to exercise an option right that is property of the estate.*

Sec. 122. *The personal representative who has limited authority or full authority has the power to purchase securities or commodities required to perform an incomplete contract of sale where the decedent died having sold but not delivered securities or commodities not owned by the decedent.*

Sec. 123. *The personal representative who has limited authority or full authority has the power to hold a security in the name of a nominee or in any other form without disclosure of the estate, so that title to the security may pass by delivery.*

Sec. 124. *The personal representative who has limited authority or full authority has the power to exercise security subscription or conversion rights.*

Sec. 125. *The personal representative who has limited authority or full authority has the power to make repairs and improvements to real and personal property of the estate.*

Sec. 126. *The personal representative who has limited authority or full authority has the power to accept a deed to property which is subject to a mortgage or deed of trust in lieu of foreclosure of the mortgage or sale under the deed of trust.*

Sec. 127. *The personal representative who has limited authority or full authority has the power to give a partial satisfaction of a mortgage or to cause a partial reconveyance to be executed by a trustee under a deed of trust held by the estate.*

Sec. 128. 1. *A personal representative who has been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act shall give notice of a proposed action as provided in sections 128 to 140, inclusive, of this act before taking the proposed action without court supervision if the provisions of sections 89 to 127, inclusive, of this act giving the personal representative the power to take the action so require. Nothing in this subsection authorizes a personal representative to take an action pursuant to sections 76 to 144, inclusive, of this act if the personal representative does not have the power to take the action pursuant to those provisions.*

2. *A personal representative who has been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act may give notice of a proposed action as provided in sections 128 to 140, inclusive, of this act, even if the provisions of sections 89 to 127, inclusive, of this act giving the personal representative the power to take the action authorize the personal representative to take the action without giving notice of the proposed action. Nothing in this subsection requires the personal representative to give notice of a proposed action where not*

required under subsection 1 or authorizes a personal representative to take any action that the personal representative is not otherwise authorized to take.

Sec. 129. Except as otherwise provided in sections 130 and 131 of this act, notice of a proposed action must be given to all the following:

1. Each known devisee whose interest in the estate would be affected by the proposed action.

2. Each known heir whose interest in the estate would be affected by the proposed action.

3. Each person who has filed a request for special notice pursuant to NRS 155.030.

4. The Attorney General, at the Office of the Attorney General in Carson City, if any portion of the estate is to escheat to the State and its interest in the estate would be affected by the proposed action.

Sec. 130. Notice of a proposed action need not be given to any person who consents in writing to the proposed action. The consent may be executed at any time before or after the proposed action is taken.

Sec. 131. 1. Notice of a proposed action need not be given to any person who, in writing, waives the right to notice of a proposed action with respect to the particular proposed action. The waiver may be executed at any time before or after the proposed action is taken. The waiver must describe the particular proposed action and may waive particular aspects of the notice, such as the delivery, mailing or time requirements of section 134 of this act or the giving of the notice in its entirety for the particular proposed action.

2. Notice of a proposed action need not be given to any person who has made either of the following:

(a) A general waiver of the right to notice of a proposed action.

(b) A waiver of the right to notice of a proposed action for all transactions of a type which includes the particular proposed action.

Sec. 132. 1. A waiver or consent pursuant to section 130 or 131 of this act may be revoked only in writing and is effective only when the writing is received by the personal representative.

2. A copy of the revocation may be filed with the court, but the effectiveness of the revocation is not dependent upon a copy being filed with the court.

Sec. 133. 1. The notice of proposed action must state all the following:

(a) The name and mailing address of the personal representative.

(b) The person and telephone number to call to get additional information.

(c) The action proposed to be taken, with a reasonably specific description of the action. If the proposed action involves the sale or exchange of real property or the granting of an option to purchase real property, the notice of proposed action must state the material terms of the

transaction, including, if applicable, the sale price and the amount of, or method of calculating, any commission or compensation paid or to be paid to an agent or broker in connection with the transaction.

(d) The date on or after which the proposed action is to be taken.

2. The notice of proposed action must include a form for objecting to the proposed action.

Sec. 134. The notice of proposed action must be mailed or personally delivered to each person required to be given notice of the proposed action not less than 15 days before the date specified in the notice of proposed action on or after which the proposed action is to be taken. If mailed, the notice of proposed action must be addressed to the person at the person's last known address. The notice of proposed action must be mailed or delivered in the manner provided in NRS 155.010.

Sec. 135. 1. Any person entitled to notice of a proposed action under section 129 of this act may object to the proposed action as provided in this section.

2. The objection to the proposed action must be made by delivering or mailing a written objection to the proposed action to the personal representative at the address stated in the notice of proposed action. The person objecting to the proposed action may use the form provided in section 143 of this act or may make the objection in any other writing that identifies the proposed action with reasonable certainty and indicates that the person objects to the taking of the proposed action.

3. The personal representative is deemed to have notice of the objection to the proposed action if the notice is delivered or received at the address stated in the notice of proposed action before:

(a) The date specified in the notice of proposed action on or after which the proposed action is to be taken; or

*(b) The date on which the proposed action is actually taken,
↪ whichever occurs later.*

Sec. 136. 1. Any person who is entitled to notice of a proposed action for a proposed action described in subsection 1 of section 128 of this act, or any person who is given notice of a proposed action described in subsection 2 of section 128 of this act, may apply to the court having jurisdiction over the proceeding for an order restraining the personal representative from taking the proposed action without court supervision. The court shall grant the requested order without requiring notice to the personal representative and without cause being shown for the order.

2. The personal representative is deemed to have notice of the restraining order if the notice is given and served upon the personal representative in the manner provided in NRS 155.040 and 155.050, or in the manner authorized by the court, before:

(a) The date specified in the notice of proposed action on or after which the proposed action is to be taken; or

(b) The date on which the proposed action is actually taken,

↪ *whichever occurs later.*

Sec. 137. 1. *If the proposed action is one that would require court supervision if the personal representative had not been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act, and the personal representative has notice of a written objection made pursuant to section 135 of this act or a restraining order issued pursuant to section 136 of this act, the personal representative shall, if the personal representative desires to take the proposed action, petition the court to obtain approval from the court.*

2. *If the proposed action is one that would not require court supervision even if the personal representative had not been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act, but the personal representative has given notice of the proposed action and has notice of a written objection made pursuant to section 135 of this act or a restraining order issued pursuant to section 136 of this act, the personal representative shall, if he or she desires to take the proposed action, request instructions from the court concerning the proposed action. The personal representative may take the proposed action only under such order as may be entered by the court.*

3. *A person who objects to a proposed action as provided in section 135 of this act or serves a restraining order issued pursuant to section 136 of this act in the manner provided in that section must be given notice of any hearing on a petition for court authorization or confirmation of the proposed action.*

Sec. 138. 1. *Except as otherwise provided in subsection 3, only a person described in section 129 of this act has a right to have the court review the proposed action after it has been taken or otherwise to object to the proposed action after it has been taken. Except as otherwise provided in subsections 2 and 3, a person described in section 129 of this act waives the right to have the court review the proposed action after it has been taken, or otherwise to object to the proposed action after it has been taken, if:*

(a) The person has been given notice of the proposed action, as provided in sections 128 to 134, inclusive, of this act, and fails to object as provided in subsection 4; or

(b) The person has waived notice of or consented to the proposed action as provided in sections 130 and 131 of this act.

2. *Unless the person has waived notice of or consented to the proposed action as provided in sections 130 and 131 of this act, the court may review the action taken upon a petition filed by a person described in section 129 of this act who establishes that he or she did not actually receive the notice of proposed action before the time to object pursuant to subsection 4 expired.*

3. *The court may review the action of the personal representative upon a petition filed by an heir or devisee who establishes all the following:*

(a) At the time notice of the proposed action was given, the heir or devisee lacked capacity to object to the proposed action or was a minor;

(b) No notice of proposed action was actually received by the guardian, conservator or other legal representative of the heir or devisee;

(c) The guardian, conservator or other legal representative did not waive notice of the proposed action; and

(d) The guardian, conservator or other legal representative did not consent to the proposed action.

4. For the purposes of this section, an objection to a proposed action is made only by one or both of the following methods:

(a) Delivering or mailing a written objection as provided in section 135 of this act within the time specified in subsection 3 of that section; or

(b) Serving a restraining order obtained pursuant to section 136 of this act in the manner prescribed and within the time specified in subsection 2 of that section.

Sec. 139. 1. The failure of the personal representative who has limited authority or full authority to comply with subsection 1 of section 128 of this act and with sections 129, 133, 134 and 137 of this act, and the taking of the action by the personal representative without such compliance, does not affect the validity of the action so taken or the title to any property conveyed or transferred to bona fide purchasers or the rights of third persons who, dealing in good faith with the personal representative, changed their position in reliance upon the action, conveyance or transfer without actual notice of the failure of the personal representative to comply with those provisions.

2. A person dealing with the personal representative does not have any duty to inquire or investigate whether the personal representative has complied with the provisions listed in subsection 1.

Sec. 140. 1. In a case where notice of a proposed action is required by sections 128 to 140, inclusive, of this act, the court, in its discretion, may remove the personal representative from office unless the personal representative:

(a) Gives notice of the proposed action as provided in sections 128 to 140, inclusive, of this act;

(b) Obtains a waiver of notice of the proposed action as provided in sections 128 to 140, inclusive, of this act; or

(c) Obtains a consent to the proposed action as provided in sections 128 to 140, inclusive, of this act.

2. The court, in its discretion, may remove the personal representative from office if the personal representative takes a proposed action in violation of section 137 of this act.

Sec. 141. Letters testamentary or letters of administration pursuant to the Independent Administration of Estates Act as set forth in sections 76 to 144, inclusive, of this act may be in the following form:

LETTERS TESTAMENTARY / ADMINISTRATION

On....., 20...., the court entered an order admitting the decedent's will to probate and appointing [.....] as personal representative of the decedent's estate. The order includes:

[] full authority for the personal representative to administer the estate pursuant to the Independent Administration of Estates Act.

[] limited authority to administer the estate pursuant to the Independent Administration of Estates Act. (There is no authority, without court supervision, to: (1) sell or exchange real property; (2) grant an option to purchase real property; or (3) borrow money with the loan secured by an encumbrance upon real property.)

[] a directive for the establishment of a blocked account for sums in excess of \$.....;

[] a directive for the posting of a bond in the sum of \$.....; or

[] a directive for both the establishment of a blocked account for sums in excess of \$..... and the posting of a bond in the sum of \$.....

The personal representative, after being duly qualified, may act and has the authority and duties of a personal representative.

In testimony of which, I have this date signed these letters and affixed the seal of the court.

CLERK OF THE COURT

By:.....

Deputy Clerk

Date:.....

OATH

I, [.....], whose mailing address is....., solemnly affirm that I will faithfully perform according to law the duties of personal representative, and that all matters stated in any petition or paper filed with the court by me are true of my own knowledge or, if any matters are stated on information and belief, I believe them to be true.

.....
[.....], Personal Representative

SUBSCRIBED AND AFFIRMED

before me this.... (day) of....., 20...

By:.....

NOTARY PUBLIC

County of....., State of Nevada

Sec. 142. A notice of proposed action pursuant to the Independent Administration of Estates Act as set forth in sections 76 to 144, inclusive, of this act may be in the following form:

NOTICE OF PROPOSED ACTION

Independent Administration of Estates Act

1. The personal representative of the estate of the deceased is.....

2. *The personal representative has authority to administer the estate without court supervision pursuant to the Independent Administration of Estates Act:*

[] with full authority pursuant to the Independent Administration of Estates Act; or

[] with limited authority pursuant to the Independent Administration of Estates Act. (There is no authority, without court supervision, to: (1) sell or exchange real property; (2) grant an option to purchase real property; or (3) borrow money with the loan secured by an encumbrance upon real property.)

3. *On or after.....(date), the personal representative will take the following action without court supervision:*

Describe in specific terms the proposed action.

If the action involves the sale or exchange of or a grant of an option to purchase real property, provide the sale price, the amount of or method of calculating any commission or compensation of the real estate broker and the value of the property in the probate inventory.

NOTICE: A sale of real property without court supervision means that the sale will NOT be presented to the court for confirmation at a hearing at which higher bids for the property may be presented and the property sold to the highest bidder.

4. *If you OBJECT to the proposed action:*

(a) Sign the objection form provided with this Notice of Proposed Action and deliver or mail it to the personal representative at the following address (specify name and address);

(b) Send your own written objection to the address set forth in paragraph (a), identifying the proposed action and state that you object to it; or

(c) Apply to the court for an order preventing the personal representative from taking the proposed action without court supervision.

NOTE: Your written objection or the court order must be received by the personal representative before the date indicated in item 3 or before the proposed action is taken, whichever is later. If you object, the personal representative may take the proposed action only under court supervision.

5. *If you approve of the proposed action, you may sign the consent form provided with this Notice of Proposed Action and return it to the address set forth in paragraph (a) of item 4. If you do not object in writing or obtain a court order, you will be treated as if you consented to the proposed action.*

6. *If you need more INFORMATION, call: (name) (telephone).*

Date:

.....
Personal representative

Sec. 143. *An objection to a proposed action pursuant to the Independent Administration of Estates Act as set forth in sections 76 to 144, inclusive, of this act may be in the following form:*

OBJECTION TO PROPOSED ACTION

I OBJECT to the action proposed in item 3 of the Notice of Proposed Action.

NOTICE: *Sign and return this form – all pages – to the address set forth in paragraph (a) of item 4 of the Notice of Proposed Action. This form must be received before the date set forth in item 3 of the Notice of Proposed Action, or before the proposed action is taken, whichever is later. (You may want to use certified mail, with return receipt requested. Make a copy of this form for your records.)*

Date:.....

.....
 Type or print name

Signature of Objector

Sec. 144. *Consent to a proposed action pursuant to the Independent Administration of Estates Act as set forth in sections 76 to 144, inclusive, of this act may be in the following form:*

CONSENT TO PROPOSED ACTION

I CONSENT to the action proposed in item 3 of the Notice of Proposed Action.

NOTICE: *You may indicate your consent by signing and returning this form – all pages – to the address set forth in paragraph (a) of item 4 of the Notice of Proposed Action. If you do not object in writing or obtain a court order, you will be treated as if you consent to the proposed action.*

Date:.....

.....
 Type or print name

Signature of Objector

Sec. 145. NRS 143.050 is hereby amended to read as follows:

143.050 ~~After~~ **Except as otherwise provided in section 111 of this act,** after notice given as provided in NRS 155.010 or in such other manner as the court directs, the court may authorize the personal representative to continue the operation of the decedent's business to such an extent and subject to such restrictions as may seem to the court to be for the best interest of the estate and any interested persons.

Sec. 146. NRS 143.140 is hereby amended to read as follows:

143.140 1. ~~111~~ **Except as otherwise provided in section 101, 104, 106, 126 or 127 of this act,** if a debtor of the decedent is unable to pay all debts, the personal representative, with the approval of the court, may give the person a discharge upon such terms as may appear to the court to be for the best interest of the estate.

2. A compromise may also be authorized by the court when it appears to be just and for the best interest of the estate.

3. The court may also authorize the personal representative, on such terms and conditions as may be approved by it, to extend or renew, or in any manner modify the terms of, any obligation owing to or running in favor of the decedent or the estate of the decedent.

4. To obtain approval or authorization the personal representative shall file a petition showing the advantage of the settlement, compromise, extension, renewal or modification. The clerk shall set the petition for hearing by the court, and the petitioner shall give notice for the period and in the manner required by NRS 155.010.

Sec. 147. NRS 143.175 is hereby amended to read as follows:

143.175 1. ~~1A~~ *Except as otherwise provided in section 110 of this act,* a personal representative may, with court approval:

(a) Invest the property of the estate, make loans and accept security therefor, in the manner and to the extent authorized by the court; and

(b) Exercise options of the estate to purchase or exchange securities or other property.

2. A personal representative may, without prior approval of the court, invest the property of the estate in:

(a) Savings accounts in a bank, credit union or savings and loan association in this State, to the extent that the deposit is insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755;

(b) Interest-bearing obligations of, or fully guaranteed by, the United States;

(c) Interest-bearing obligations of the United States Postal Service or the Federal National Mortgage Association;

(d) Interest-bearing obligations of this State or of a county, city or school district of this State;

(e) Money-market mutual funds that are invested only in obligations listed in paragraphs (a) to (d), inclusive; or

(f) Any other investment authorized by the will of the decedent.

Sec. 148. Chapter 150 of NRS is hereby amended by adding thereto the provisions set forth as sections 149 and 150 of this act.

Sec. 149. *If the estate is set aside pursuant to NRS 146.070, the court may order reasonable attorney's fees and costs to be paid from the assets being set aside directly to the attorney for the petitioner.*

Sec. 150. 1. *Notwithstanding any provision to the contrary in the will, a personal representative who is an attorney retained to perform services for the personal representative may receive compensation for services as a personal representative or for services as an attorney for the personal representative, but not both, unless the court:*

(a) *Approves a different method of compensation in advance; and*

(b) Finds that method of compensation to be for the advantage, benefit and best interests of the decedent's estate.

2. The provisions of this section shall not be construed to disallow compensation for services rendered by an attorney as a personal representative if:

(a) Such services are included as part of the legal services of the attorney in a manner consistent with NRS 150.060; and

(b) The attorney does not receive compensation pursuant to subsection 1 of NRS 150.020.

3. The services which are rendered by a personal representative who is an attorney and for which compensation is requested pursuant to this section include services rendered by an employee, associate or partner in the same firm of such an attorney and services rendered by an affiliate of such an attorney.

4. As used in this section, "affiliate" has the meaning ascribed to it in NRS 163.020.

Sec. 151. NRS 150.010 is hereby amended to read as follows:

150.010 ~~The~~ A personal representative must be allowed all necessary expenses in the administration and settlement of the estate, and fees for services as provided by law, but if the decedent by will makes some other provision for the compensation of the personal representative, this shall be deemed a full compensation for those services, unless within 60 days after his or her appointment the personal representative files a renunciation, in writing, of all claim for the compensation provided by the will.

Sec. 152. NRS 150.050 is hereby amended to read as follows:

150.050 1. A personal representative, at any time after the issuance of letters and upon such notice to the interested persons as the court requires, may apply to the court for an allowance upon his or her fees.

2. On the hearing, the court shall enter an order allowing ~~the~~ a personal representative *who applied to the court pursuant to subsection 1* such portion of the fees, for services rendered up to that time, as the court deems proper, and the portion so allowed may be charged against the estate.

Sec. 153. NRS 150.060 is hereby amended to read as follows:

150.060 1. ~~Attorneys for personal representatives are~~ *An attorney for a personal representative is* entitled to reasonable compensation for ~~their~~ *the attorney's* services, to be paid out of the decedent's estate.

2. An attorney for a personal representative may be compensated based on:

- (a) The applicable hourly rate of the attorney;
- (b) The value of the estate accounted for by the personal representative;
- (c) An agreement as set forth in subsection 4 of NRS 150.061; or
- (d) Any other method preapproved by the court pursuant to a request in the initial petition for the appointment of the personal representative.

3. If the attorney is requesting compensation based on the hourly rate of the attorney, he or she may include, as part of that compensation for ordinary

services, a charge for legal services or paralegal services performed by a person under the direction and supervision of the attorney.

4. If the attorney is requesting compensation based on the value of the estate accounted for by the personal representative, the allowable compensation of the attorney for ordinary services must be determined as follows:

- (a) For the first \$100,000, at the rate of 4 percent;
- (b) For the next \$100,000, at the rate of 3 percent;
- (c) For the next \$800,000, at the rate of 2 percent;
- (d) For the next \$9,000,000, at the rate of 1 percent;
- (e) For the next \$15,000,000, at the rate of 0.5 percent; and
- (f) For all amounts above \$25,000,000, a reasonable amount to be determined by the court.

5. Before an attorney may receive compensation based on the value of the estate accounted for by the personal representative, the personal representative must sign a written agreement as required by subsection 8. The agreement must be prepared by the attorney and must include detailed information, concerning, without limitation:

- (a) The schedule of fees to be charged by the attorney;
- (b) The manner in which compensation for extraordinary services may be charged by the attorney; and
- (c) The fact that the court is required to approve the compensation of the attorney pursuant to subsection 8 before the personal representative pays any such compensation to the attorney.

6. For the purposes of determining the compensation of an attorney pursuant to subsection 4, the value of the estate accounted for by the personal representative:

- (a) Is the total amount of the appraisal of property in the inventory, plus:
 - (1) The gains over the appraisal value on sales; and
 - (2) The receipts, less losses from the appraisal value on sales; and
- (b) Does not include encumbrances or other obligations on the property of the estate.

7. In addition to the compensation for ordinary services of an attorney set forth in this section, an attorney may also be entitled to receive compensation for extraordinary services as set forth in NRS 150.061.

8. The compensation of the attorney must be fixed by written agreement between the personal representative and the attorney, and is subject to approval by the court, after petition, notice and hearing as provided in this section. If the personal representative and the attorney fail to reach agreement, or if the attorney is also the personal representative, the amount must be determined and allowed by the court. The petition requesting approval of the compensation of the attorney must contain specific and detailed information supporting the entitlement to compensation, including:

(a) If the attorney is requesting compensation based upon the value of the estate accounted for by the personal representative, the attorney must provide the manner of calculating the compensation in the petition; and

(b) If the attorney is requesting compensation based on an hourly basis, or is requesting compensation for extraordinary services, the attorney must provide the following information to the court:

- (1) Reference to time and hours;
- (2) The nature and extent of services rendered;
- (3) Claimed ordinary and extraordinary services;
- (4) The complexity of the work required; and
- (5) Other information considered to be relevant to a determination of entitlement.

9. The clerk shall set the petition for hearing, and the petitioner shall give notice of the petition to the personal representative if he or she is not the petitioner and to all known heirs in an intestacy proceeding and devisees in a will proceeding. The notice must be given for the period and in the manner provided in NRS 155.010. If a complete copy of the petition is not attached to the notice, the notice must include a statement of the amount of the fee which the court will be requested to approve or allow.

10. On similar petition, notice and hearing, the court may make an allowance to an attorney for services rendered up to a certain time during the proceedings. If the attorney is requesting compensation based upon the value of the estate as accounted for by the personal representative, the court may apportion the compensation as it deems appropriate given the amount of work remaining to close the estate.

11. An heir or devisee may file objections to a petition filed pursuant to this section, and the objections must be considered at the hearing.

12. Except as otherwise provided in this subsection, an attorney for minor, absent, unborn, incapacitated or nonresident heirs is entitled to compensation primarily out of the estate of the distributee so represented by the attorney in those cases and to such extent as may be determined by the court. If the court finds that all or any part of the services performed by the attorney for the minor, absent, unborn, incapacitated or nonresident heirs was of value to the decedent's entire estate as such and not of value only to those heirs, the court shall order that all or part of the attorney's fee be paid to the attorney out of the money of the decedent's entire estate as a general administrative expense of the estate. The amount of these fees must be determined in the same manner as the other attorney's fees provided for in this section.

Sec. 154. NRS 150.063 is hereby amended to read as follows:

150.063 **1.** If there are two or more attorneys for a personal representative, the compensation must be apportioned among the attorneys by the court according to the services actually rendered by each attorney unless otherwise provided in an agreement by the attorneys.

2. *If there are two or more personal representatives and the personal representatives have separate legal representation, each attorney for each personal representative is entitled to have the compensation for attorneys apportioned among the attorneys by the court according to the services actually rendered by each attorney unless otherwise provided in an agreement by the attorneys.*

Sec. 155. NRS 150.065 is hereby amended to read as follows:

150.065 1. At any time after the expiration of the period for creditors of the estate to file their claims in a summary or full administration pursuant to NRS 145.060 or 147.040, as applicable, ~~the~~ a personal representative or ~~the~~ an attorney for ~~the~~ a personal representative may file a petition with the court for an allowance upon the compensation of the attorney for the personal representative.

2. The clerk shall set the petition for hearing and the petitioner shall give notice of the petition to the personal representative if he or she is not the petitioner and to all known heirs in an intestacy proceeding and devisees in a will proceeding. The notice must be given for the period and in the manner provided in NRS 155.010. If a complete copy of the petition is not attached to the notice, the notice must include a statement of the amount of the compensation which the court will be requested to approve or allow and the manner in which the compensation was determined.

3. On the hearing, the court may enter an order allowing the portion of the compensation of the attorney for the personal representative for such services rendered up to that time as the court deems proper. The order must authorize the personal representative to charge against the estate the amount of compensation allowed by the court pursuant to this subsection.

Sec. 156. Chapter 153 of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided in a will establishing a testamentary trust, a person holding a power of appointment pursuant to a testamentary trust does not owe a fiduciary duty to any person and is not liable to any person with respect to the exercise or nonexercise of the power of appointment.

Sec. 157. NRS 153.031 is hereby amended to read as follows:

153.031 1. A trustee or beneficiary may petition the court regarding any aspect of the affairs of the trust, including:

- (a) Determining the existence of the trust;
- (b) Determining the construction of the trust instrument;
- (c) Determining the existence of an immunity, power, privilege, right or duty;
- (d) Determining the validity of a provision of the trust;
- (e) Ascertaining beneficiaries and determining to whom property is to pass or be delivered upon final or partial termination of the trust, to the extent not provided in the trust instrument;
- (f) Settling the accounts and reviewing the acts of the trustee, including the exercise of discretionary powers;

- (g) Instructing the trustee;
- (h) Compelling the trustee to report information about the trust or account, to the beneficiary;
- (i) Granting powers to the trustee;
- (j) Fixing or allowing payment of the trustee's compensation, or reviewing the reasonableness of the trustee's compensation;
- (k) Appointing or removing a trustee;
- (l) Accepting the resignation of a trustee;
- (m) Compelling redress of a breach of the trust;
- (n) Approving or directing the modification or termination of the trust;
- (o) Approving or directing the combination or division of trusts;
- (p) Amending or conforming the trust instrument in the manner required to qualify the estate of a decedent for the charitable estate tax deduction under federal law, including the addition of mandatory requirements for a charitable-remainder trust;
- (q) Compelling compliance with the terms of the trust or other applicable law; and
- (r) Permitting the division or allocation of the aggregate value of community property assets in a manner other than on a pro rata basis.

2. A petition under this section must state the grounds of the petition and the name and address of each interested person, including the Attorney General if the petition relates to a charitable trust, and the relief sought by the petition. Except as otherwise provided in this chapter, the clerk shall set the petition for hearing and the petitioner shall give notice for the period and in the manner provided in NRS 155.010. The court may order such further notice to be given as may be proper.

3. If the court grants any relief to the petitioner, the court may, in its discretion, order any or all of the following additional relief if the court determines that such additional relief is appropriate to redress or avoid an injustice:

- (a) Order a reduction in the trustee's compensation.
- (b) Order the trustee to pay to the petitioner or any other party all reasonable costs incurred by the party to adjudicate the affairs of the trust pursuant to this section, including, without limitation, reasonable attorney's fees. ~~¶The~~ ***Except as otherwise provided in section 193 of this act, the trustee may not be held personally liable for the payment of such costs unless the court determines that the trustee was negligent in the performance of or breached his or her fiduciary duties.***

Sec. 158. Chapter 155 of NRS is hereby amended by adding thereto the provisions set forth as sections 159 to 170, inclusive, of this act.

Sec. 159. *As used in sections 159 to 169, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 160 to 166, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 160. *"Caregiver" means any person who has provided significant assistance or services to or for a person, regardless of whether the person is incompetent, incapacitated or of limited capacity and regardless of whether the person is being compensated for the assistance or services provided.*

Sec. 161. *"Independent attorney" means an attorney, other than a attorney who:*

1. *Is described in subsection 2 of section 167 of this act; or*
2. *Has served as an attorney for a person who is described in subsection 2 of section 167 of this act.*

Sec. 162. *"Related to, affiliated with or subordinate to any person" includes, without limitation:*

1. *The person's spouse;*
2. *A relative of the person within the third degree of consanguinity or the spouse of such a relative;*
3. *A co-owner of a business with the person;*
4. *An employee of a business if the person:*
 - (a) *Has an ownership interest in the business; or*
 - (b) *Holds a supervisory position with the business;*
5. *An attorney or employee of a law firm for which the person is or was a client; and*
6. *Any entity owned or controlled by a person described in subsections 1 to 5, inclusive.*

Sec. 163. *"Spouse" includes a domestic partner as defined in NRS 122A.030.*

Sec. 164. *"Transfer instrument" means the legal document intended to effectuate a transfer effective on or after the transferor's death and includes, without limitation, a will, trust, deed, form designated as payable on death, contract or other beneficiary designation form.*

Sec. 165. *"Transferee" means a devisee, a beneficiary of trust, a grantee of a deed, including a grantee of a deed pursuant to NRS 111.109, and any other person designated in a transfer instrument to receive a nonprobate transfer.*

Sec. 166. *"Transferor" means a testator, settlor, grantor of a deed and a decedent whose interest is transferred pursuant to a nonprobate transfer.*

Sec. 167. 1. *To the extent the court finds that a transfer was the product of fraud, duress or undue influence, the transfer is void and each transferee who is found responsible for the fraud, duress or undue influence shall bear the costs of the proceedings, including, without limitation, reasonable attorney's fees.*

2. *Except as otherwise provided in section 168 of this act, a transfer is presumed to be void if the transfer is effective on or after a transferor's death and the transfer is to a transferee who is:*

- (a) *The person who drafted the transfer instrument;*
- (b) *A caregiver of the transferor;*

(c) *A person who arranged for or paid for the drafting of the transfer instrument; or*

(d) *A person who is related to, affiliated with or subordinate to any person described in paragraph (a), (b) or (c).*

Sec. 168. *The presumption established by section 167 of this act does not apply:*

1. *To a transfer of property under a will if the transferee is an heir of the testator whose share in the estate of the testator under the terms of the testator's will is not greater than the share the transferee would be entitled to pursuant to chapter 134 of NRS if the testator had died intestate.*

2. *Except as otherwise provided in this subsection, if the court determines, upon clear and convincing evidence, that the transfer was not the product of fraud, duress or undue influence. The determination of the court pursuant to this subsection must not be based solely upon the testimony of a person described in subsection 2 of section 167 of this act.*

3. *If the transfer instrument is reviewed by an independent attorney who:*

(a) *Counsels the transferor about the nature and consequences of the intended transfer;*

(b) *Attempts to determine if the intended consequence is the result of fraud, duress or undue influence; and*

(c) *Signs and delivers to the transferor an original certificate of that review in substantially the following form:*

CERTIFICATE OF INDEPENDENT REVIEW

I,..... (attorney's name), have reviewed..... (name of transfer instrument) and have counseled my client,..... (name of client), on the nature and consequences of the transfer or transfers of property to..... (name of transferee) contained in the transfer instrument. I am disassociated from the interest of the transferee to the extent that I am in a position to advise my client independently, impartially and confidentially as to the consequences of the transfer. On the basis of this counsel, I conclude that the transfer or transfers of property in the transfer instrument that otherwise might be invalid pursuant to section 167 of this act are valid because the transfer or transfers are not the product of fraud, duress or undue influence

.....
(Name of Attorney)

.....
(Date)

4. *To a transferee that is:*

(a) *A federal, state or local public entity; or*

(b) *An entity that is recognized as exempt under section 501(c)(3) or 501(c)(19) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3) or 501(c)(19), or a trust holding an interest for such an entity but only to the extent of the interest of the entity or the interest of the trustee of the trust.*

5. *A transfer of property if the fair market value of the property does not exceed \$3,000.*

Sec. 169. *The provisions of sections 167 and 168 of this act do not abrogate or limit any principle or rule of the common law, unless the common law principle or rule is inconsistent with the provisions of sections 167 and 168 of this act.*

Sec. 170. 1. *The court may find that a person is a vexatious litigant if the person files a petition, objection, motion or other pleading which is without merit or intended to harass or annoy the personal representative or a trustee. In determining whether the person is a vexatious litigant, the court may take into consideration whether the person has previously filed pleadings in a proceeding that were without merit or intended to harass or annoy a fiduciary.*

2. *If a court finds that a person is a vexatious litigant pursuant to subsection 1, the court may impose sanctions on the person in an amount sufficient to reimburse the estate or trust for all or part of the expenses incurred by the estate or trust to respond to the petition, objection, motion or other pleading and for any other pecuniary losses which are associated with the actions of the vexatious litigant. The court may make an order directing entry of judgment for the amount of such sanctions.*

3. *The court may deny standing to an interested party to bring a petition or motion if the court finds that:*

(a) *The subject matter of the petition or motion is unrelated to the interests of the interested party;*

(b) *The interests of the interested party are minimal as it relates to the subject matter of the petition or motion; or*

(c) *The interested party is a vexatious litigant pursuant to subsection 1.*

4. *If a court finds that a person is a vexatious litigant pursuant to subsection 1, that person does not have standing to:*

(a) *Object to the issuance of letters; or*

(b) *Request the removal of a personal representative or a trustee.*

Sec. 171. NRS 155.030 is hereby amended to read as follows:

155.030 1. At any time after the issuance of letters in the estate of a decedent, an interested person or the person's attorney may serve upon the personal representative or the personal representative's attorney, and file with the clerk of the court wherein administration of the estate is pending, a written request stating that the interested person desires special notice and a copy of any further filings, steps or proceedings in the administration of the estate.

2. The request must state the post office address of the requester or the requester's attorney, and thereafter a brief notice of the filing of any returns, petitions, accounts, reports or other proceedings, together with a copy of the filing, must be addressed to that person or the person's attorney, at his or her stated mailing address, and deposited with the United States Postal Service with the postage thereon prepaid, within 2 days after each is filed, or personal

service of the notice may be made on the person or the person's attorney within the 2 days, and the personal service is equivalent to deposit in the post office, and proof of mailing or of personal service must be filed with the clerk before the hearing of the proceeding.

3. If, upon the hearing, it appears to the satisfaction of the court that the notice has been regularly given, the court shall so find in its order and the order is final and conclusive upon all persons.

4. An interested person in a testamentary trust or its property, or the attorney for that person, may serve upon the trustee or the trustee's attorney, and file with the clerk of the court wherein administration of the trust is pending, a written request stating that he or she desires notice of the filing of accounts and petitions in connection with the trust. The provisions of subsections 2 and 3 apply to such a request.

5. *An attorney whose only appearance on behalf of an interested person has been the filing of a written request for notice pursuant to subsection 1 may, without further court order:*

(a) Terminate his or her services;

(b) Serve upon the personal representative or the personal representative's attorney an amended written request for notice directing that any further notice be sent to the interested person at his or her last known address; and

(c) File the amended written request for notice with the clerk of the court wherein administration of the estate is pending.

6. *Any filing of a motion for substitution of counsel or order authorizing withdrawal of counsel of record for an attorney who has filed a written request for notice on behalf of an interested person pursuant to subsection 1 shall be deemed to be an amended written request for notice as described in subsection 5, and any further notice must be sent to the address provided in the motion for substitution of counsel or the order authorizing the withdrawal of counsel, as applicable.*

7. On the filing of an inventory or a inventory or a supplementary inventory, the personal representative shall mail a copy to each person who has requested special notice.

Sec. 172. NRS 155.140 is hereby amended to read as follows:

155.140 1. In a proceeding involving the estate of a decedent or a testamentary trust:

(a) Interests to be affected must be described in pleadings that give reasonable information to owners by name or class, by reference to the instrument creating the interest or in another appropriate manner.

(b) An order binding the sole holder or all co-holders of a power of revocation or presently exercisable general power of appointment, including a power of amendment, binds other persons to the extent their interests, as objects, takers in default or otherwise, are subject to the power.

(c) To the extent there is no conflict of interest between them or among persons represented:

(1) An order binding a guardian of the estate binds the person whose estate the guardian controls.

(2) An order binding a guardian of the person binds the ward if no separate guardian of the estate of the ward has been appointed.

(3) An order binding a trustee binds beneficiaries of the trust in a proceeding to probate a will establishing or adding to the trust, to review the acts or accounts of a previous fiduciary, or involving creditors or other third parties.

(4) An order binding a personal representative binds persons interested in the undistributed assets of the estate of a decedent in an action or proceeding by or against the estate.

(d) If there is no conflict of interest and no guardian of the estate has been appointed, a parent may represent his or her minor child.

(e) An unborn or unascertained person who is not otherwise represented is bound by an order to the extent his or her interest is adequately represented by another person having a substantially identical interest in the proceeding.

(f) Notice as prescribed by this title must be given to every interested person or to one who can bind an interested person under ~~{subsection}~~ **paragraph** (b), (c) or (d). Notice may be given both to a person and to another who can bind him or her.

(g) Notice is given to unborn or unascertained persons who are not represented under ~~{subsection}~~ **paragraph** (b), (c) or (d) by giving notice to all known persons whose interest in the proceeding is substantially identical to that of the unborn or unascertained persons.

(h) At any stage of a proceeding, the court may appoint a guardian ad litem or an attorney to represent the interest of a minor, an incapacitated, unborn or unascertained person, or a person whose identity or address is unknown, if the court determines that representation of the interest would otherwise be inadequate. If not precluded by conflict of interest, a guardian ad litem or an attorney may be appointed to represent several persons or interests. The court shall set out its reasons for appointing a guardian ad litem or an attorney as a part of the record of the proceeding.

2. If an attorney has been appointed for minors or other interested persons, the attorney, until another may be appointed, shall represent the person or persons for whom the attorney has been appointed in all subsequent proceedings.

3. *In any proceeding filed pursuant to this title, the court has jurisdiction and authority to fix and adjudicate fees and costs due an attorney from his or her client for services performed by the attorney in connection with the proceeding.*

Sec. 173. NRS 155.170 is hereby amended to read as follows:

155.170 ~~{The testimony of a witness or witnesses in other counties of this State, or in other jurisdictions of the United States, or in foreign countries, may be taken by deposition as provided in the Nevada Rules of Civil Procedure.}~~ ***Unless otherwise ordered by the court, upon the filing of***

a proceeding pursuant to this title and service of the notice of hearing to other interested persons, an interested person who has appeared in the proceeding and given notice of his or her appearance to other interested persons:

1. May obtain discovery, perpetuate testimony or conduct examinations in any manner authorized by law or by the Nevada Rules of Civil Procedure relevant to such proceeding; and

2. Is not required to satisfy any rule requiring the initial disclosure of experts, attendance at an early case conference or the filing of a report on an early case conference as a prerequisite to commencing an action described in subsection 1.

Sec. 174. NRS 159.065 is hereby amended to read as follows:

159.065 1. Except as otherwise provided by law, every guardian shall, before entering upon his or her duties as guardian, execute and file in the guardianship proceeding a bond, with sufficient surety or sureties, in such amount as the court determines necessary for the protection of the ward and the estate of the ward, and conditioned upon the faithful discharge by the guardian of his or her authority and duties according to law. The bond must be approved by the clerk. Sureties must be jointly and severally liable with the guardian and with each other.

2. If a banking corporation, as defined in NRS 657.016, doing business in this state, is appointed guardian of the estate of a ward, no bond is required of the guardian, unless specifically required by the court.

3. Joint guardians may unite in a bond to the ward or wards, or each may give a separate bond.

4. If there are no assets of the ward, no bond is required of the guardian.

5. If a person ~~is appointed in a will~~ **has been nominated** to be guardian **in a will, power of attorney or other written instrument that has been acknowledged before two disinterested witnesses or acknowledged before a notary public** and the will, **power of attorney or other written instrument** provides that no bond is to be required of the guardian, the court may direct letters of guardianship to issue to the guardian after the guardian:

(a) Takes and subscribes the oath of office; and

(b) Files the appropriate documents which contain the full legal name and address of the guardian.

6. In lieu of executing and filing a bond, the guardian may request that access to certain assets be blocked. The court may grant the request and order letters of guardianship to issue to the guardian if sufficient evidence is filed with the court to establish that such assets are being held in a manner that prevents the guardian from accessing the assets without a specific court order.

Sec. 175. Chapter 162 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An attorney who represents a fiduciary does not, solely as a result of such attorney-client relationship, assume a corresponding duty of care or other fiduciary duty to a principal.

2. Nothing in this section limits a principal, fiduciary or successor fiduciary's ability to assert appropriate claims against the attorney resulting from the negligent or intentional acts of the attorney.

3. As used in this section:

(a) "Fiduciary" has the meaning ascribed to it in NRS 162.020.

(b) "Principal" has the meaning ascribed to it in NRS 162.020.

Sec. 176. Chapter 163 of NRS is hereby amended by adding thereto a new section to read as follows:

Except to the extent that it violates public policy, a settlor may:

1. Make a devise conditional upon a beneficiary's action or failure to take action or upon the occurrence or nonoccurrence of one or more specified events; and

2. Specify the conditions or actions which would disqualify a person from serving or which would constitute cause for removal of a person who is serving in any capacity under the trust, including, without limitation, as a trustee, trust protector or trust adviser.

Sec. 177. NRS 163.00195 is hereby amended to read as follows:

163.00195 1. Except as otherwise provided in subsections 3 and 4, a no-contest clause in a trust must be enforced by the court.

2. A no-contest clause must be construed to carry out the settlor's intent. Except to the extent the no-contest clause in the trust is vague or ambiguous, extrinsic evidence is not admissible to establish the settlor's intent concerning the no-contest clause. The provisions of this subsection do not prohibit such evidence from being admitted for any other purpose authorized by law. *Except as otherwise provided in subsections 3 and 4, a beneficiary's share may be reduced or eliminated under a no-contest clause based upon conduct that is set forth by the settlor in the trust. Such conduct may include, without limitation:*

(a) Conduct other than formal court action; and

(b) Conduct which is unrelated to the trust itself, including, without limitation:

(1) The commencement of civil litigation against the settlor's probate estate or family members;

(2) Interference with the administration of another trust or a business entity;

(3) Efforts to frustrate the intent of the settlor's power of attorney; and

(4) Efforts to frustrate the designation of beneficiaries related to a nonprobate transfer by the settlor.

3. Notwithstanding any provision to the contrary in the trust, a beneficiary's share must not be reduced or eliminated if the beneficiary seeks only to:

(a) Enforce the terms of the trust , *any document referenced in or affected by the trust*, or any other trust-related instrument;

(b) Enforce the beneficiary's legal rights related to the trust , *any document referenced in or affected by the trust*, or any trust-related instrument; or

(c) Obtain a court ruling with respect to the construction or legal effect of the trust , *any document referenced in or affected by the trust*, or any other trust-related instrument.

4. Notwithstanding any provision to the contrary in the trust, a beneficiary's share must not be reduced or eliminated under a no-contest clause in a trust because the beneficiary institutes legal action seeking to invalidate a trust , *any document referenced in or affected by the trust*, or any other trust-related instrument if the legal action is instituted in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that ~~there was a substantial likelihood that~~ the trust , *any document referenced in or affected by the trust*, or other trust-related instrument ~~was~~ is invalid.

5. As used in this section:

(a) "No-contest clause" means one or more provisions in a trust that express a directive to reduce or eliminate the share allocated to a beneficiary or to reduce or eliminate the distributions to be made to a beneficiary if the beneficiary takes action to frustrate or defeat the settlor's intent as expressed in the trust or in a trust-related instrument.

(b) "Trust" means the original trust instrument and each amendment made pursuant to the terms of the original trust instrument.

(c) "Trust-related instrument" means any document purporting to transfer property to or from the trust or any document made pursuant to the terms of the trust purporting to direct the distribution of trust assets or to affect the management of trust assets, including, without limitation, documents that attempt to exercise a power of appointment.

Sec. 178. NRS 163.004 is hereby amended to read as follows:

163.004 1. A trust may be created for any purpose that is not illegal or against public policy.

2. ~~{A trust created for an indefinite or general purpose is not invalid for that reason if it can be determined with reasonable certainty that a particular use of the trust property is within that purpose.}~~ *Except as otherwise provided by a specific statute, federal law or common law, the terms of a trust instrument may vary the rights and interests of beneficiaries in any manner that is not illegal or against public policy, including, without limitation, specifying:*

(a) The grounds for removing a fiduciary;

(b) The circumstances, if any, in which the fiduciary must diversify investments; and

(c) A fiduciary's powers, duties, standards of care, rights of indemnification and liability to persons whose interests arise from the trust instrument.

3. Nothing in this section shall be construed to:

(a) Authorize the exculpation or indemnification of a fiduciary for the fiduciary's own willful misconduct or gross negligence; or

(b) Preclude a court of competent jurisdiction from removing a fiduciary because of the fiduciary's willful misconduct or gross negligence.

4. The rule that statutes in derogation of the common law are to be strictly construed has no application to this section. This section must be liberally construed to give maximum effect to the principle of freedom of disposition and to the enforceability of trust instruments.

Sec. 179. NRS 163.556 is hereby amended to read as follows:

163.556 1. Unless the terms of a testamentary instrument or irrevocable trust provide otherwise, a trustee with discretion or authority to distribute trust income or principal to or for a beneficiary of the trust may exercise such discretion or authority by appointing the property subject to such discretion or authority in favor of a second trust for the benefit of one or more of those beneficiaries.

2. Notwithstanding subsection 1, a trustee may not appoint property of the original trust to a second trust if:

(a) The second trust includes a beneficiary who is not a beneficiary of the original trust. For purposes of this paragraph, a permissible appointee of a power of appointment exercised by a beneficiary of the second trust is not considered a beneficiary of the second trust.

(b) Appointing the property will reduce any current fixed income interest, annuity interest or unitrust interest of a beneficiary of the original trust. As used in this paragraph, "unitrust" has the meaning ascribed to it in NRS 164.700.

(c) A contribution made to the original trust qualified for a marital or charitable deduction for federal or state income, gift or estate taxes or qualified for a gift tax exclusion for federal or state tax purposes and the terms of the second trust include a provision which if included in the original trust would prevent the original trust from qualifying for the tax deduction or exclusion.

(d) The property to be appointed is subject to a power of withdrawal which is held by a beneficiary of the original trust and may be executed at the time of the proposed appointment ~~††~~, ***unless after the exercise of such appointment, the beneficiary of the original trust's power of withdrawal is unchanged with respect to the trust property.***

(e) Property specifically allocated for one beneficiary of the original trust is no longer allocated for that beneficiary under either or both trusts, unless the beneficiary consents in writing.

(f) Property held for the benefit of one or more beneficiaries under both the original and the second trust has a lower value than the value of the

property held for the benefit of the same beneficiaries under only the original trust, unless:

(1) The benefit provided is limited to a specific amount or periodic payments of a specific amount; and

(2) The value of the property held in either or both trusts for the benefit of one or more beneficiaries is actuarially adequate to provide the benefit.

(g) Under the second trust:

(1) Discretionary distributions may be made by the trustee to a beneficiary or group of beneficiaries of the original trust;

(2) Distributions are not limited by an ascertainable standard; and

(3) A beneficiary or group of beneficiaries has the power to remove and replace the trustee of the second trust with a beneficiary of the second trust or with a trustee that is related to or subordinate to a beneficiary of the second trust.

(h) A contribution made to the original trust qualified for a gift tax exclusion as described in section 2503(b) of the Internal Revenue Code, 26 U.S.C. § 2503(b), by reason of the application of section 2503(c) of the Internal Revenue Code, 26 U.S.C. § 2503(c), unless the second trust provides that the beneficiary's remainder interest must vest not later than the date upon which such interest would have vested under the terms of the original trust.

3. Notwithstanding the provisions of subsection 1, a trustee who is a beneficiary of the original trust may not exercise the authority to appoint property of the original trust to a second trust if:

(a) Under the terms of the original trust or pursuant to law governing the administration of the original trust:

(1) The trustee does not have discretion to make distributions to himself or herself;

(2) The trustee's discretion to make distributions to himself or herself is limited by an ascertainable standard ~~that~~, ***and under the terms of the second trust, the trustee's discretion to make distributions to himself or herself is not limited by the same ascertainable standard;*** or

(3) The trustee's discretion to make distributions to himself or herself can only be exercised with the consent of a cotrustee or a person holding an adverse interest and under the terms of the second trust the trustee's discretion to make distributions to himself or herself is not limited by an ascertainable standard and may be exercised without consent; or

(b) Under the terms of the original trust or pursuant to law governing the administration of the original trust, the trustee of the original trust does not have discretion to make distributions that will discharge the trustee's legal support obligations but under the second trust the trustee's discretion is not limited.

4. ***The provisions of subsection 3 do not prohibit a trustee who is not a beneficiary of the original trust from exercising the authority to appoint***

property of the original trust to a second trust pursuant to the provisions of subsection 1.

5. Before appointing property pursuant to subsection 1, a trustee may give notice of a proposed action pursuant to NRS 164.725 or may petition a court for approval pursuant to NRS 153.031, 164.015 or 164.725. Any notice of a proposed action or a petition for a court's approval must include the trustee's opinion of how the appointment of property will affect the trustee's compensation and the administration of other trust expenses.

~~{5.} Notwithstanding the provisions of subsection 2 or 3, the~~

6. The trust instrument of the second trust may:

(a) Grant a power of appointment to one or more of the beneficiaries of the second trust who are proper objects of the exercise of the power in the original trust. The power of appointment includes, without limitation, the power to appoint trust property to the holder of the power, the holder's creditors, the holder's estate, the creditors of the holder's estate or any other person.

(b) Provide that, at a time or occurrence of an event specified in the trust instrument, the remaining trust assets in the second trust must be held for the beneficiaries of the original trust upon terms and conditions that are substantially identical to the terms and conditions of the original trust.

~~{6.}~~ 7. The power to appoint the property of the original trust pursuant to subsection 1 must be exercised by a writing, signed by the trustee and filed with the records of the trust.

~~{7.}~~ 8. The exercise of the power to invade principal of the original trust pursuant to subsection 1 is considered the exercise of a power of appointment, other than power to appoint the property to the trustee, the trustee's creditors, the trustee's estate or the creditors of the trustee's estate and the provisions of NRS 111.1031 apply to such power of appointment.

~~{8.}~~ 9. The provisions of this section do not abridge the right of any trustee who has the power to appoint property which arises under any other law.

~~{9.}~~ 10. The provisions of this section do not impose upon a trustee a duty to exercise the power to appoint property pursuant to subsection 1.

~~{10.}~~ 11. The power to appoint property to another trust pursuant to subsection 1 is not a power to amend the trust and a trustee is not prohibited from appointing property to another trust pursuant to subsection 1 if the original trust is irrevocable or provides that it may not be amended.

~~{11.}~~ 12. A trustee's power to appoint property to another trust pursuant to subsection 1 is not limited by the existence of a spendthrift provision in the original trust.

~~{12.}~~ 13. A trustee exercising any power granted pursuant to this section may designate himself or herself or any other person permitted to act as a trustee as the trustee of the second trust.

~~{13.}~~ 14. The trustee of a second trust, resulting from the exercise of the power to appoint property to another trust pursuant to subsection 1, may also

exercise the powers granted pursuant to this section with respect to the second trust.

~~{14-}~~ 15. As used in this section, "ascertainable standard" means a standard relating to an individual's health, education, support or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code , *26 U.S.C. § 2041(b)(1)(A) or 2514(c)(1)*, and any regulations of the United States Treasury promulgated thereunder.

Sec. 179.5. ~~{Chapter 164 of NRS is hereby amended by adding thereto the provisions set forth as sections 180 and 180.5 of this act.}~~ **(Deleted by amendment.)**

Sec. 180. **Chapter 164 of NRS is hereby amended by adding thereto a new section to read as follows:**

The provisions of section 47 of this act concerning the revocation of certain transfers based upon divorce or annulment apply to transfers of property made pursuant to a trust.

Sec. 180.5. ~~{The notice that a trustee is required to provide pursuant to subsection 3 of NRS [164.900] may be in the following form:~~

~~NOTICE TO BENEFICIARY~~

~~You are hereby notified, as required by subsection 3 of NRS [164.900], that:~~

~~—1. The undersigned is the trustee of the trust that is designated as.....(specify name and date or another type of identification of the trust).~~

~~—2. You are being given this notice because, under the terms of the trust instrument, the trustee is authorized or required to make distributions of income to you or for your benefit. The above named trust became irrevocable before October 1, 2011, and the trust instrument does not contain specific direction as to the amount of income that is to be applied toward standard fiduciary compensation and toward expenses for accountings, judicial proceedings or certain other matters. For the purposes of this notice, "standard fiduciary compensation" means the regular compensation of the trustee and any person providing advisory or custodial services to the trustee whose compensation is based on the value of the trust's principal or a portion of the trust's principal.~~

~~—3. Under the Uniform Principal and Income Act (1997), as adopted in Nevada, one half of the standard fiduciary compensation and the expenses described above are generally paid from trust income and the balance of the standard fiduciary compensation and expenses are generally paid from the trust's principal.~~

~~—4. Subsection 2 of NRS [164.900] places a limit on the amount of income that can be applied toward standard fiduciary compensation and the expenses described above, but that limit does not apply to this trust unless the adult beneficiaries to whom or for whose benefit net income of the trust presently is or may be payable, by majority vote,~~

~~make an election to have the limitation apply as authorized under subsection 7 of NRS [164.900.]~~

~~5. If such an election is made, it may or may not increase the income that is available for distribution, but such an election will not reduce distributable income.~~

~~6. If you want to have the limitation authorized under subsection 7 of NRS [164.900] apply to this trust, you must notify the trustee by signing at the bottom of this form and returning the form to the trustee. Failure to sign this form and return it to the trustee will be considered a negative vote with regard to applying the limitation described in subsection 2 of NRS [164.900] to this trust.~~

.....
~~(Signature of Trustee) (Date)~~

~~(Address of Trustee)~~

~~If you would like to make the election under subsection 7 of NRS [164.900.] as explained above, please sign below and send the signed copy by certified or registered mail to the trustee or personally deliver the signed copy to the trustee.~~

~~NOTICE OF ELECTION~~

~~UNDER SUBSECTION 7 OF NRS [164.900]~~

~~I, the undersigned beneficiary, hereby make the election authorized under subsection 7 of NRS [164.900] to limit the amount of income that can be paid toward the regular compensation of the trustee and of any person providing advisory or custodial services to the trustee whose compensation is based on the value of the trust's principal or a portion of the trust's principal and toward expenses for accountings, judicial proceedings or certain other matters. I understand that the election will only be effective after the adult beneficiaries to whom or for whose benefit net income of the trust presently is or may be payable, by majority vote, make this election.~~

~~(Signature of Beneficiary) (Date) (Deleted by amendment.)~~

Sec. 181. NRS 164.021 is hereby amended to read as follows:

164.021 1. When a revocable trust becomes irrevocable because of the death of a settlor or by the express terms of the trust, the trustee may, ~~within 90 days~~ after the trust becomes irrevocable, provide notice to any beneficiary of the irrevocable trust, any heir of the settlor or to any other interested person.

2. The notice provided by the trustee must contain:

- (a) The identity of the settlor of the trust and the date of execution of the trust instrument;
- (b) The name, mailing address and telephone number of any trustee of the trust;

(c) Any provision of the trust instrument which pertains to the beneficiary or notice that the heir or interested person is not a beneficiary under the trust;

(d) Any information required to be included in the notice expressly provided by the trust instrument; and

(e) A statement set forth in a separate paragraph, in 12-point boldface type or an equivalent type which states: "You may not bring an action to contest the trust more than 120 days from the date this notice is served upon you."

3. The trustee shall serve the notice pursuant to the provisions of NRS 155.010.

4. No person upon whom notice is served pursuant to this section may bring an action to contest the validity of the trust more than 120 days from the date the notice is served upon the person, unless the person proves that he or she did not receive actual notice.

Sec. 181.5. ~~NRS 164.780 is hereby amended to read as follows:~~
~~164.780 NRS 164.700, subsection 2 of NRS 164.720 and NRS 164.780 to 164.925, inclusive, and section 180.5 of this act, may be cited as the Uniform Principal and Income Act (1997).† (Deleted by amendment.)~~

Sec. 182. NRS 164.900 is hereby amended to read as follows:

164.900 1. A

~~†1. Except as otherwise provided in the trust instrument or in an order of the court, a~~ trustee shall make the following disbursements from income to the extent that they are not disbursements to which paragraph (b) or (c) of subsection 2 of NRS 164.800 applies:

~~††1. (a) Except as otherwise provided in subsection 2 or otherwise ordered by the court, one-half of the~~

~~† (a) One-half of:~~

~~—— (1) Except as otherwise provided in subsection 2:~~

~~—— (i) The~~ regular compensation of the trustee and of any person providing investment advisory or custodial services to the trustee ;

~~†2.† (b) Except as otherwise ordered by the court, one-half of all ~~whose compensation is based on the value of the trust's principal or a portion thereof; and~~~~

~~—— (ii) All~~ expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests;

~~†3.† (c) All the other ordinary ~~and~~~~

~~—— (2) All ~~other~~ expenses incurred in connection with the administration, management or preservation of trust property and the distribution of income, ~~not specifically mentioned in subparagraph (1) or in paragraph (b);~~† including interest, ordinary repairs ; ~~for trust property;~~† regularly recurring taxes assessed against principal ; and ~~recurring premiums on insurance covering the loss of a principal asset~~~~

~~—— (b) All expenses related to the distribution of income, including interest, ~~the~~† expenses of a proceeding or other matter that concerns primarily the income interest ; and~~

~~[4.] (d) All [and the] recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the [any] asset.~~

~~[2. The amount payable from income for compensation and other expenses specifically mentioned in subparagraph (1) of paragraph (a) of subsection 1 must not exceed the applicable income percentage of income for the accounting period.~~

~~3. The trustee of a trust that became irrevocable before October 1, 2011, and whose trust instrument does not otherwise address the allocation of compensation and other expenses specifically mentioned in subparagraph (1) of paragraph (a) of subsection 1, shall notify each adult beneficiary who, at the time the notice is provided, is a person to whom or for whose benefit net income of the trust presently is or may be payable, of the right to elect to apply the limitation set forth in subsection 2 to the trust.~~

~~4. Such an election:~~

~~(a) Must be evidenced by a written election to apply the limitation set forth in subsection 2 to the trust which is signed by a majority of the adult beneficiaries described in subsection 3; and~~

~~(b) May be applied to the disbursement of income only after a majority of the adult beneficiaries described in subsection 3 have so elected to apply the limitation set forth in subsection 2 to the trust.~~

~~5. For the purposes of determining a majority pursuant to subsection 4, each adult beneficiary described in subsection 3 has:~~

~~(a) One vote if, pursuant to the terms of the trust instrument, the trustee has the discretion to make distributions to two or more such beneficiaries in equal or unequal amounts; and~~

~~(b) One vote for each percentage of income to which that beneficiary is entitled if, pursuant to the terms of the trust instrument, the trustee is required to pay a specific percentage of the net income to two or more such beneficiaries.~~

~~6. Except as otherwise provided in subsection 7, the trustee shall provide the notice required pursuant to this section to each adult beneficiary described in subsection 3 at least three times, not less than 30 days apart. The notice must:~~

~~(a) Be given by personal delivery or by certified or registered mail to the beneficiary's last known address;~~

~~(b) Be in at least 12 point type or font except that the provision in which the beneficiary makes the election to apply the limitation set forth in subsection 2 to the trust must be in at least 16 point bold type or font;~~

~~(c) Describe the availability of such an election;~~

~~(d) Describe the effect of such an election on the distribution of income from the trust; and~~

~~(e) Inform the beneficiary of the manner in which such an election may be made.~~

~~7. An adult beneficiary described in subsection 3 may:~~

~~(a) By written notice given to the trustee by personal delivery or by certified or registered mail or as otherwise directed by the trustee, consent to a different form of notice or waive the right to receive notice pursuant to this section; and~~

~~(b) Elect to apply the limitation set forth in subsection 2 to the trust at any time after the date on which the first notice is personally delivered or mailed to any such beneficiary.~~

~~8. The provisions of subsection 2:~~

~~(a) Apply to a trust that becomes irrevocable on or after October 1, 2011.~~

~~(b) Do not apply to a trust that became irrevocable before October 1, 2011, unless a majority of adult beneficiaries described in subsection 3 elect to apply the limitation in the manner provided in subsection 4.~~

~~9. As used in this section, "applicable income percentage" means:~~

~~(a) For an accounting period that includes a calendar year, the interest rate fixed on January 1 of that year pursuant to subsection 1 of NRS 99.040, plus 2 percentage points; and~~

~~(b) For an accounting period that includes a portion of a calendar year, the income percentage described in paragraph (a) prorated for that portion of the calendar year included in the accounting period.~~

2. If the amount charged to the income of an irrevocable trust pursuant to paragraph (a) of subsection 1 exceeds 15 percent of the income of the trust in the accounting period, the trustee shall exercise the authority in NRS 164.795 to equitably reduce the amount charged against income for that accounting period unless:

(a) The trustee, after taking into consideration the terms of the trust instrument, reasonably concludes that the reduction is not in the best interest of the beneficiaries of the trust;

(b) The reduction of the amount charged to income would violate the express terms of the trust instrument other than a general directive to comply with the Uniform Principal and Income Act (1997) or with a general provision that contains language similar to that found in paragraph (a) of subsection 1;

(c) The trustee is authorized under the terms of the trust instrument to distribute trust principal to each income beneficiary; or

(d) The trustee gives notice in compliance with NRS 164.725 of the intent not to make the adjustment and no current income beneficiary objects.

Sec. 183. NRS 164.905 is hereby amended to read as follows:

164.905 1. A trustee shall make the following disbursements from principal:

(a) The remaining portion of the disbursements described in ~~subsections~~ paragraph (a) of subsection 1 and 2 of NRS 164.900;

(b) All the trustee's compensation calculated on principal as a fee for acceptance, distribution or termination, and disbursements made to prepare property for sale;

(c) Payments on the principal of a trust debt;

(d) Expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property;

(e) Premiums paid on a policy of insurance not described in paragraph (d) of subsection 1 of NRS 164.900 of which the trust is the owner and beneficiary;

(f) Estate, inheritance and other transfer taxes, including penalties, apportioned to the trust; and

(g) Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common law claims by third parties, and defending claims based on environmental matters.

2. If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

Sec. 184. Chapter 165 of NRS is hereby amended by adding thereto the provisions set forth as sections 185 to 198, inclusive, of this act.

Sec. 185. *As used in NRS 165.135 and sections 185 to 198, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 186 to 191, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 186. *"Accounting period" means the period for which the trustee is accounting, and except as otherwise provided in this section, commencing with the first day following the previous accounting period and ending on the date specified by the trustee or on the date specified by the court if the account is ordered by the court. If the account is an initial account, the account commences on the day the trustee became the trustee.*

Sec. 187. *"Broad power of appointment" means a power of appointment held by a person, commonly referred to as a power holder, that can be exercised in favor of:*

1. *The power holder, without any restriction or limitation; or*

2. *Any person other than one or more of the following:*

(a) *The power holder;*

(b) *The power holder's estate;*

(c) *The power holder's creditors; or*

(d) *The creditors of the power holder's estate.*

Sec. 188. *"Current beneficiary" means a distribution beneficiary to whom or for whose benefit the trustee is authorized or required to make distributions of income or principal at any time during the accounting period.*

Sec. 189. *"Distribution beneficiary" has the meaning ascribed to it in NRS 163.415.*

Sec. 190. *"Remainder beneficiary" means a beneficiary who will become a current beneficiary upon the death of an existing current beneficiary or upon the occurrence of some other event that may occur during the beneficiary's lifetime, regardless of whether the beneficiary's share is subject to elimination under a power of appointment other than a broad power of appointment.*

Sec. 191. *"Remote beneficiary" means a beneficiary who may become a current beneficiary upon the death of two or more persons or upon the occurrence of some other event that cannot possibly occur during the beneficiary's lifetime.*

Sec. 192. 1. *The following provisions apply to the extent that the trust instrument does not expressly provide otherwise:*

(a) *The trustee shall provide an account to each current beneficiary and to each remainder beneficiary upon request but is not required to provide an account to a remote beneficiary;*

(b) *A trustee is not required to provide an account more than once in any calendar year unless ordered by a court to do so upon good cause shown;*

(c) *Each account provided to a beneficiary must comply with the provisions of subsection 3 or 4 of NRS 165.135;*

(d) *In addition to other methods of providing an account to a beneficiary, a trustee may provide an account to a beneficiary by electronic mail or through a secure website on the Internet;*

(e) *While a trust is revocable, the trustee is not required to provide an account to any person other than a person having the right of revocation except that a trustee of such a trust shall provide an account if:*

(1) *A court-appointed guardian of the trust estate requests an account on behalf of the settlor; or*

(2) *The court, in considering a petition filed under NRS 164.015, determines that the settlor is incompetent or is susceptible to undue influence and directs the trustee to provide an account, specifying the nature and extent of the account to be provided and the person or persons who are entitled to receive the account;*

(f) *While an irrevocable trust in its entirety is subject to a broad power of appointment, the trustee is not required to provide an account for that trust to any person other than the power holder;*

(g) *The cost of an account must be charged as provided in the Uniform Principal and Income Act (1997) as set forth in chapter 164 of NRS;*

(h) An account shall be deemed approved by a beneficiary who received a copy of the account if no written objection thereto is given to the trustee within 120 days after the date on which the trustee provided the account to that beneficiary;

(i) An account shall be deemed approved by a minor, unborn or unknown beneficiary if it is deemed approved as to an adult beneficiary who has a similar interest;

(j) A trustee is not required to provide to a beneficiary information that does not affect the beneficiary's interest in the trust, and an adult beneficiary may, by a written declaration that is signed by that beneficiary, waive the right to receive any information otherwise required to be provided pursuant to the provisions of subsection 3 or 4 of NRS 165.135; and

(k) For the purposes of paragraph (h), a beneficiary shall be deemed to have received a copy of an account provided by the trustee to the beneficiary by electronic mail or through a secure website on the Internet if the trustee:

(1) Sent the beneficiary an electronic mail in a manner that complies with subsection 1 of NRS 719.320 and the beneficiary received the electronic mail in a manner that complies with subsection 2 of NRS 719.320; and

(2) Attached the account to the electronic mail as an electronic record or included in the electronic mail a notice to the beneficiary indicating the availability of the account on the secure website.

2. As used in this section:

(a) "Electronic mail" has the meaning ascribed to it in NRS 41.715.

(b) "Electronic record" has the meaning ascribed to it in NRS 132.117.

Sec. 193. Notwithstanding any provision to the contrary in the trust instrument:

1. If the amount distributable to a current beneficiary is affected by the amount of administrative expenses or is affected by the allocation of receipts and disbursements to income or principal, the trustee shall, upon request, provide an account annually to the current beneficiary. An account provided to a current beneficiary pursuant to this subsection must comply with the provisions of subsection 3 or 4 of NRS 165.135, except to the extent that the current beneficiary agrees otherwise in writing.

2. Except as otherwise provided in this subsection, upon request, an account must be provided annually to each remainder beneficiary of an irrevocable trust. A beneficiary who has been eliminated by the exercise of a power of appointment has no right to request or receive an account pursuant to this subsection.

3. A trustee, at the expense of the trust, may provide:

(a) An unrequested account to one or more beneficiaries at any time; and

(b) More information to beneficiaries, including, without limitation, remote beneficiaries, than is required under the trust instrument or by law.

4. Unless the court determines that there is clear and convincing evidence that the trustee was acting in good faith, a trustee who fails to provide an account when required pursuant to NRS 165.135 and sections 185 to 198, inclusive, of this act is personally liable to each beneficiary who requested the account in writing for all costs reasonably incurred by each such beneficiary to enforce NRS 165.135 and sections 185 to 198, inclusive, of this act, including, without limitation, reasonable attorney's fees and court costs. The trustee may not expend trust funds therefor.

Sec. 194. A beneficiary may send a written demand for an account pursuant to NRS 165.135 and sections 185 to 198, inclusive, of this act to the trustee in accordance with the following procedure:

1. The demand on the trustee must be sent to the trustee or to the trustee's attorney of record and the demand must include, without limitation:

(a) The identity of the demanding beneficiary, including the beneficiary's mailing address or the address of the beneficiary's attorney;

(b) The accounting period for which an account is demanded; and

(c) The nature and extent of the account demanded and the legal basis for the demand.

2. Within 14 days after the trustee has received a demand for an account from a beneficiary, the trustee shall notify the demanding beneficiary of the trustee's acceptance or rejection of the demand. The trustee shall:

(a) Provide an account within 60 days after receipt of the demand, unless that time is modified by consent of the beneficiary or by order of the court if the trustee accepts the beneficiary's demand for an account; or

(b) Set forth the grounds for rejecting the beneficiary's demand for an account in the notice of rejection and inform the beneficiary that the beneficiary has 60 days in which to petition the court to review the rejection if the trustee rejects the beneficiary's demand for an account.

3. The demand by the beneficiary and the notice of acceptance or rejection of the demand by the trustee must be delivered by first-class mail, personal delivery or commercial carrier. If delivery of the demand or of the notice is in dispute, proof of delivery may be established by a return receipt or other proof of delivery provided by the person making the delivery or by affidavit of the person who arranged for the delivery setting forth the delivery address, the method of delivery arranged for and the actions taken by that person to arrange for the delivery.

4. If the trustee fails to accept or reject a beneficiary's demand for an account as required by subsection 2, the beneficiary's demand shall be deemed rejected.

Sec. 195. 1. *A beneficiary whose demand for an account in compliance with section 194 of this act is rejected or deemed rejected must file a petition seeking the court's review of the trustee's rejection within 60 days after the rejection date as described in subsection 2. A petition filed pursuant to this section may also seek additional relief pursuant to NRS 153.031.*

2. *If the trustee rejects the beneficiary's demand for an account, the rejection date is the date on which the trustee provides the beneficiary with a notice of rejection. If the trustee fails to accept or reject the beneficiary's demand, the rejection date is deemed to be 14 days after the beneficiary gave the trustee the demand.*

3. *If the court has not previously accepted jurisdiction over the trust, the beneficiary must petition the court to confirm the appointment of the trustee pursuant to NRS 164.010. Such a petition may be combined with the petition for the court's review of the trustee's rejection.*

4. *The clerk shall set the petition for hearing, and the petitioner shall give notice to all interested persons for the period and in the manner provided in NRS 155.010. The notice must state the filing of the petition, the object and the time and place of the hearing.*

5. *If one or more other beneficiaries with interests substantially similar to the petitioner request to join the petition at or before the hearing, the court shall consider the other beneficiaries to be additional petitioners without requiring those beneficiaries to file separate petitions or to give separate notices of the hearing.*

6. *At the hearing, as to each petitioner, the court may enter an order:*

(a) *Compelling the trustee to provide an account to the petitioner and specifying the nature and extent of the account to be provided;*

(b) *Declaring that the petitioner is not entitled to an account and setting forth the reason or reasons the petitioner is not so entitled; or*

(c) *Compelling the trustee to provide an account to the petitioner as described in paragraph (a) and authorizing an independent review of the account using the procedure set forth in section 196 of this act.*

7. *Except as otherwise provided in subsection 3 of NRS 153.031 and subsection 4 of section 193 of this act, each petitioner shall pay his or her own expenses, including, without limitation, attorney's fees, that arise in conjunction with filing a petition pursuant to this section.*

Sec. 196. *If, while considering a petition filed pursuant to section 195 of this act, the court finds that the beneficiary is entitled to an account pursuant to this section and that the trust instrument authorizes or directs the trustee not to provide the account with the disclosures required by this section, the court shall, upon the beneficiary's request, compel the trustee to confidentially provide an account in accordance with the following procedure:*

1. *If the beneficiary has not been previously provided with a copy of the trust instrument, the court shall direct the trustee to provide the court and*

each reviewer selected pursuant to subsection 2 with a copy of the trust instrument, or such portions as the court deems to be pertinent to the determination of the adequacy of the trustee's account and to the enforcement of the beneficiary's rights under the trust.

2. The court shall direct the account to be provided confidentially to the court and to one or more reviewers selected by the beneficiary. The court may direct that the account be filed with the court clerk under seal or delivered to the court for in camera review. The account provided must contain the information required by this section without regard to any trust provision restricting the information to be provided to the requesting beneficiary.

3. A reviewer must be either a certified public accountant or an attorney.

4. Subject to the provisions of paragraph (b) of subsection 5, the beneficiary requesting the account must pay for the services of each reviewer. The expense of preparing the account must be paid as an expense of the trust.

5. Each reviewer must agree that:

(a) The account provided must be reviewed confidentially and must not be provided to the beneficiary except as otherwise provided in paragraph (b) or in an order of the court; and

(b) The reviewer's duty is to review the account and to prepare a written report, which must be filed with the court clerk under seal or submitted to the court for in camera review, informing the court if there is anything that would indicate that the trust, as it affects the beneficiary's interest, has not been or may not have been properly administered or accounted for in accordance with applicable law, the trust instrument and generally accepted accounting principles applicable to trusts. At the same time a copy of the reviewer's report is provided to the court, a copy of each reviewer's report must be delivered to the trustee or to the trustee's attorney of record.

6. The trustee may submit to the court and to each reviewer an objection to the report of a reviewer within 10 days after the trustee received the reviewer's report. The trustee shall submit the objections to the court and to each reviewer in the same manner as the trustee provided the account. The court may consider each reviewer's report and the objections of the trustee with or without a hearing. If the court, after considering the report of any reviewer and any objection submitted by the trustee, finds that the trust, as it affects the beneficiary's interest, has not been or may not have been properly administered or accounted for in accordance with applicable law, the trust instrument and generally accepted accounting principles applicable to trusts, in addition to any other relief granted by the court pursuant to NRS 153.031 or section 195 of this act, the court shall enter an order granting the relief necessary to protect the beneficiary's interests or to allow the beneficiary to enforce his or her rights under the trust.

7. *An order granting relief described in subsection 6 may include one or more of the following:*

(a) A directive to the trustee to provide the beneficiary an account which complies with the provisions of subsection 3 or 4 of NRS 165.135, together with such additional information as the beneficiary may require to properly enforce his or her rights under the trust;

(b) A directive to the trustee to provide further annual accounts required under this section without further court order;

(c) A directive to the trustee to provide the court and each reviewer a more complete account or such additional information as the court deems necessary to determine if the trust is being properly administered in compliance with the trust instrument and applicable law;

(d) A directive to the trustee to take action to remedy or mitigate the effects of any improper administration of the trust;

(e) A declaration relieving each reviewer from any further obligation of confidentiality; and

(f) Any such additional relief as the court deems proper to ensure the trustee's compliance with the trust instrument and applicable law and to allow enforcement of the beneficiary's rights.

8. *If the beneficiary is granted any relief by the court on the basis that the trust was not properly administered or accounted for, the provisions of subsection 3 of NRS 153.031 and subsection 4 of section 193 of this act apply with regard to the reimbursement of costs incurred by the beneficiary.*

Sec. 197. 1. *Upon request by a beneficiary who is entitled to receive an account pursuant to the terms of NRS 165.135 and sections 185 to 198, inclusive, of this act, a trustee shall provide a copy of the trust instrument to that beneficiary except as expressly provided otherwise in the trust instrument.*

2. *Notwithstanding the provisions of subsection 1 or any provision to the contrary in the trust instrument, the court may direct the trustee to provide a beneficiary who is entitled to receive an account pursuant to the terms of NRS 165.135 and sections 185 to 198, inclusive, of this act a copy of the trust instrument, or such portions as the court deems to be pertinent to the determination of the adequacy of the trustee's account and to the enforcement of the beneficiary's rights under the trust.*

3. *Except as otherwise provided in section 196 of this act or by order of the court for good cause shown, the trustee must not be compelled to provide a copy of the trust instrument to a person who is not a beneficiary of the trust or a person who is not entitled to an account of the trust pursuant to the provisions of NRS 165.135 and sections 185 to 198, inclusive, of this act.*

Sec. 198. *Except as otherwise provided in a trust instrument, a person holding a power of appointment pursuant to a nontestamentary trust does*

not owe a fiduciary duty to any person and is not liable to any person with respect to the exercise or nonexercise of the power of appointment.

Sec. 199. NRS 165.135 is hereby amended to read as follows:

165.135 *1.* The trustee of a nontestamentary trust shall ~~[-, not less often than annually,]~~ furnish to each beneficiary ~~[-who is currently entitled to receive income pursuant to the terms of the trust, to each residuary beneficiary who is then living, to each specific beneficiary then living who has not received complete distribution, and to any surety on the bond of the trustee of the trust]~~ an account ~~[-showing:~~

~~—1. The period which the account covers;~~

~~—2. In a separate schedule:~~

~~—(a) Additions to trust principal during the accounting period with the dates and sources of acquisition;~~

~~—(b) Investments collected, sold or charged off during the accounting period;~~

~~—(c) Investments made during the accounting period, with the date, source and cost of each;~~

~~—(d) Deductions from principal during the accounting period, with the date and purpose of each; and~~

~~—(e) The trust principal, invested or uninvested, on hand at the end of the accounting period, reflecting the approximate market value thereof;~~

~~—3. In a separate schedule:~~

~~—(a) Trust income on hand at the beginning of the accounting period, and in what form held;~~

~~—(b) Trust income received during the accounting period, when and from what source;~~

~~—(c) Trust income paid out during the accounting period, when, to whom and for what purpose; and~~

~~—(d) Trust income on hand at the end of the accounting period and how invested;~~

~~—4. A statement of any unpaid claims with the reason for failure to pay them; and~~

~~—5. A brief summary of the account.] in accordance with the provisions of this section and sections 185 to 198, inclusive, of this act.~~

2. At a minimum, the trustee shall furnish an account to each beneficiary in accordance with the terms and conditions stated in the trust instrument. The cost of each account must be allocated to income and principal as provided in the trust instrument.

3. Except as otherwise provided in this section, an account provided by a trustee to a beneficiary who is entitled to an account pursuant to this section and sections 185 to 198, inclusive, of this act must include:

(a) A statement indicating the accounting period;

(b) With respect to the trust principal:

(1) *The trust principal held at the beginning of the accounting period, and in what form held, and the approximate market value thereof at the beginning of the accounting period;*

(2) *Additions to the trust principal during the accounting period, with the dates and sources of acquisition;*

(3) *Investments collected, sold or charged off during the accounting period;*

(4) *Investments made during the accounting period, with the date, source and cost of each investment;*

(5) *Any deductions from the trust principal during the accounting period, with the date and purpose of each deduction; and*

(6) *The trust principal, invested or uninvested, on hand at the end of the accounting period, reflecting the approximate market value thereof at that time;*

(c) *With respect to trust income, the trust income:*

(1) *On hand at the beginning of the accounting period, and in what form held;*

(2) *Received during the accounting period, when and from what source;*

(3) *Paid out during the accounting period, when, to whom and for what purpose; and*

(4) *On hand at the end of the accounting period and how invested;*

(d) *A statement of unpaid claims with the reason for failure to pay them; and*

(e) *A brief summary of the account.*

4. *In lieu of the information required to be provided by a trustee to a beneficiary pursuant to subsection 3, a trustee may provide to such a beneficiary a statement indicating the accounting period and a financial report of the trust which is prepared by a certified public accountant and which summarizes the information required by paragraphs (b) to (e), inclusive, of subsection 3. Upon request, the trustee shall make all the information used in the preparation of the financial report available to each beneficiary who was provided a copy of the financial report.*

5. *For the purposes of NRS 165.135 and sections 185 to 198, inclusive, of this act, the information provided by a trustee to a beneficiary pursuant to subsection 4 shall be deemed to be an account.*

Sec. 200. NRS 165.160 is hereby amended to read as follows:

165.160 1. ~~Except for the provisions of NRS 165.135, provisions of this chapter shall have no application to nontestamentary trusts unless the settlor shall expressly so declare in the instrument creating the trust. But no expression of intent by any settlor shall affect the jurisdiction of the courts of this state over inventories and accounts of trustees, insofar as such jurisdiction does not depend upon the provisions of this chapter.] as otherwise provided by a specific statute, federal law or common law, the terms of a trust instrument may expand, restrict, eliminate or otherwise~~

vary the rights and interests of beneficiaries in any manner that is not illegal or against public policy, including, without limitation, specifying:

(a) The right to be informed of the beneficiary's interest for a period of time;

(b) The grounds for removing a fiduciary;

(c) The circumstances, if any, in which the fiduciary must diversify investments; and

(d) A fiduciary's powers, duties, standard of care, rights of indemnification and liability to persons whose interests arise from the trust instrument.

2. Nothing in this section shall be construed to:

(a) Authorize the exculpation or indemnification of a fiduciary for the fiduciary's own willful misconduct or gross negligence; or

(b) Preclude a court of competent jurisdiction from removing a fiduciary because of the fiduciary's willful misconduct or gross negligence.

3. The rule that statutes in derogation of the common law are to be strictly construed has no application to this section. This section must be liberally construed to give maximum effect to the principle of freedom of disposition and to the enforceability of trust instruments.

Sec. 201. Chapter 166 of NRS is hereby amended by adding thereto the provisions set forth as sections 202 and 203 of this act.

Sec. 202. *1. A trust administered under the laws of another state, or under the laws of a foreign jurisdiction, is a spendthrift trust pursuant to this chapter if:*

(a) The trustee of the trust complies with any requirements set forth in the trust instrument and any requirements of the laws of the state or jurisdiction from which the trust is being transferred;

(b) The trustee or other person having the power to transfer the domicile of the trust declares such intent to transfer in writing;

(c) The writing declaring the intent to transfer the domicile of the trust is delivered to the trustee, if it is executed by a person other than the trustee; and

(d) All requirements of this chapter are satisfied simultaneously with, or immediately after, the change of domicile.

2. For purposes of NRS 166.170, if the domicile of an existing trust is transferred from another state or from a foreign jurisdiction to this State and the laws of the other state or jurisdiction are similar to the provisions of this chapter, the transfer shall be deemed to have occurred:

(a) On the date on which the settlor of the trust transferred assets into the trust if the applicable law of the trust has at all times been substantially similar to the provisions of this chapter; or

(b) On the earliest date on which the applicable laws of the trust were substantially similar to the provisions of this chapter.

Sec. 203. *The settlor of a spendthrift trust has only those powers and rights that are conferred to the settlor by the trust instrument. An*

agreement or understanding, express or implied, between the settlor and the trustee that attempts to grant or permit the retention of greater rights or authority than is stated in the trust instrument is void.

Sec. 204. NRS 166.015 is hereby amended to read as follows:

166.015 1. Unless the writing declares to the contrary, expressly, this chapter governs the construction, operation and enforcement, in this State, of all spendthrift trusts created in or outside this State if:

- (a) All or part of the land, rents, issues or profits affected are in this State;
- (b) All or part of the personal property, interest of money, dividends upon stock and other produce thereof, affected, are in this State;
- (c) The declared domicile of the creator of a spendthrift trust affecting personal property is in this State; or
- (d) At least one trustee qualified under subsection 2 has powers that include maintaining records and preparing income tax returns for the trust, and all or part of the administration of the trust is performed in this State.

2. If the settlor is a beneficiary of the trust, at least one trustee of a spendthrift trust must be:

- (a) A natural person who resides and has his or her domicile in this State;
- (b) A trust company that:
 - (1) Is organized under federal law or under the laws of this State or another state; and
 - (2) Maintains an office in this State for the transaction of business; or
- (c) A bank that:
 - (1) Is organized under federal law or under the laws of this State or another state;
 - (2) Maintains an office in this State for the transaction of business; and
 - (3) Possesses and exercises trust powers.

~~3. Except as otherwise provided in subsection 1, this chapter also governs the construction, operation and enforcement, outside of this State, of all spendthrift trusts created in this State, except so far as prohibited by valid laws of other states. Unless the writing declares to the contrary, expressly, it shall be deemed to be made in the light of this chapter and all other acts relating to spendthrift trusts enacted in this State.~~

Sec. 205. NRS 166.040 is hereby amended to read as follows:

166.040 1. Any person competent by law to execute a will or deed may, by writing only, duly executed, by will, conveyance or other writing, create a spendthrift trust in real, personal or mixed property for the benefit of:

- (a) A person other than the settlor;
- (b) The settlor if the writing is irrevocable, does not require that any part of the income or principal of the trust be distributed to the settlor, and was not intended to hinder, delay or defraud known creditors; or
- (c) Both the settlor and another person if the writing meets the requirements of paragraph (b).

2. For the purposes of this section, a writing is:

~~—(a) Is "irrevocable" meets the requirements of paragraph (b) of subsection 1 even if [the] under the terms of the writing:~~

~~(a) The settlor may prevent a distribution from the trust [or];~~

~~(b) The settlor holds a special lifetime or testamentary [special] power of appointment [or similar power].~~

~~—(b) Does not "require" a distribution to the settlor if the trust instrument provides that the settlor may receive it only in the discretion of another person.] that cannot be exercised in favor of the settlor, the settlor's estate, a creditor of the settlor or a creditor of the settlor's estate;~~

~~(c) The settlor is a beneficiary of a trust that qualifies as a charitable remainder trust pursuant to 26 U.S.C. § 664, or any successor provision, even if the settlor has the right to release the settlor's retained interest in such a trust, in whole or in part, in favor of one or more of the remainder beneficiaries of the trust;~~

~~(d) The settlor is authorized or entitled to receive a percentage of the value of the trust each year as specified in the trust instrument of the initial value of the trust assets or their value determined from time to time pursuant to the trust instrument, but not exceeding:~~

~~(1) The amount that may be defined as income pursuant to 26 U.S.C. § 643(b); or~~

~~(2) With respect to benefits from any qualified retirement plan or any eligible deferred compensation plan, the minimum required distribution as defined in 26 U.S.C. § 4974(b);~~

~~(e) The settlor is authorized or entitled to receive income or principal from a grantor retained annuity trust paying out a qualified annuity interest within the meaning of 26 C.F.R. § 25.2702-3(b) or a grantor retained unitrust paying out a qualified unitrust interest within the meaning of 26 C.F.R. § 25.2702-3(c);~~

~~(f) The settlor is authorized or entitled to use real property held under a qualified personal residence trust as described in 26 C.F.R. § 25.2702-5(c), and any successor provision, or the settlor may possess or actually possesses a qualified annuity interest within the meaning of that term as described in 26 C.F.R. § 25.2702-3(b), and any successor provision;~~

~~(g) The settlor is authorized to receive income or principal from the trust, but only subject to the discretion of another person; or~~

~~(h) The settlor is authorized to use real or personal property owned by the trust.~~

3. Except for the power of the settlor to make distributions to himself or herself without the consent of another person, the provisions of this section shall not be construed to prohibit the settlor of a spendthrift trust from holding other powers under the trust, whether or not the settlor is a cotrustee, including, without limitation, the power to remove and replace a trustee, direct trust investments and execute other management powers.

4. As used in this section, "remainder beneficiary" has the meaning ascribed to it in NRS 164.785.

Sec. 206. NRS 166.170 is hereby amended to read as follows:

166.170 1. A person may not bring an action with respect to a transfer of property to a spendthrift trust:

(a) If the person is a creditor when the transfer is made, unless the action is commenced within:

(1) Two years after the transfer is made; or

(2) Six months after the person discovers or reasonably should have discovered the transfer,

↪ whichever is later.

(b) If the person becomes a creditor after the transfer is made, unless the action is commenced within 2 years after the transfer is made.

2. A person shall be deemed to have discovered a transfer at the time a public record is made of the transfer, including, without limitation, the conveyance of real property that is recorded in the office of the county recorder of the county in which the property is located or the filing of a financing statement pursuant to chapter 104 of NRS.

3. A creditor may not bring an action with respect to transfer of property to a spendthrift trust unless a creditor can prove **by clear and convincing evidence** that the transfer of property was a fraudulent transfer pursuant to chapter 112 of NRS or ~~it was otherwise wrongful as to the~~ **that the transfer violates a legal obligation owed to the creditor under a contract or a valid court order that is legally enforceable by that** creditor. In the absence of such **clear and convincing** proof, the property transferred is not subject to the claims of the creditor. Proof by one creditor that a transfer of property was fraudulent or wrongful does not constitute proof as to any other creditor and proof of a fraudulent or wrongful transfer of property as to one creditor shall not invalidate any other transfer of property.

4. If property transferred to a spendthrift trust is conveyed to the settlor or to a beneficiary for the purpose of obtaining a loan secured by a mortgage or deed of trust on the property and then reconveyed to the trust, for the purpose of subsection 1, the transfer is disregarded and the reconveyance relates back to the date the property was originally transferred to the trust. The mortgage or deed of trust on the property shall be enforceable against the trust.

5. A person may not bring a claim against an adviser to the settlor or trustee of a spendthrift trust unless the person can show by clear and convincing evidence that the adviser acted in violation of the laws of this State, knowingly and in bad faith, and the adviser's actions directly caused the damages suffered by the person.

6. ***A person other than a beneficiary or settlor may not bring a claim against a trustee of a spendthrift trust unless the person can show by clear and convincing evidence that the trustee acted in violation of the laws of this State, knowingly and in bad faith, and the trustee's actions directly caused the damages suffered by the person. As used in this subsection, "trustee" includes a cotrustee, if any, and a predecessor trustee.***

7. *If more than one transfer is made to a spendthrift trust:*

(a) *The subsequent transfer to the spendthrift trust must be disregarded for the purpose of determining whether a person may bring an action pursuant to subsection 1 with respect to a prior transfer to the spendthrift trust; and*

(b) *Any distribution to a beneficiary from the spendthrift trust shall be deemed to have been made from the most recent transfer made to the spendthrift trust.*

8. *Notwithstanding any other provision of law, no action of any kind, including, without limitation, an action to enforce a judgment entered by a court or other body having adjudicative authority, may be brought at law or in equity against the trustee of a spendthrift trust if, as of the date the action is brought, an action by a creditor with respect to a transfer to the spendthrift trust would be barred pursuant to this section.*

9. *For purposes of this section, if a trustee exercises his or her discretion or authority to distribute trust income or principal to or for a beneficiary of the spendthrift trust, by appointing the property of the original spendthrift trust in favor of a second spendthrift trust for the benefit of one or more of the beneficiaries as authorized by NRS 163.556, the time of the transfer for purposes of this section shall be deemed to have occurred on the date the settlor of the original spendthrift trust transferred assets into the original spendthrift trust, regardless of the fact that the property of the original spendthrift trust may have been transferred to a second spendthrift trust.*

10. As used in this section:

(a) "Adviser" means any person, including, without limitation, an accountant, attorney or investment adviser, who gives advice concerning or was involved in the creation of, transfer of property to, or administration of the spendthrift trust or who participated in the preparation of accountings, tax returns or other reports related to the trust.

(b) "Creditor" has the meaning ascribed to it in subsection 4 of NRS 112.150.

Sec. 207. NRS 253.0415 is hereby amended to read as follows:

253.0415 1. The public administrator shall:

(a) Investigate:

(1) The financial status of any decedent for whom he or she has been requested to serve as administrator to determine the assets and liabilities of the estate.

(2) Whether there is any qualified person who is willing and able to serve as administrator of the estate of an intestate decedent to determine whether he or she is eligible to serve in that capacity.

(3) Whether there are beneficiaries named on any asset of the estate or whether any deed upon death executed pursuant to NRS 111.109 is on file with the county recorder.

(b) Except as otherwise provided in NRS 253.0403 and 253.0425, petition the court for letters of administration of the estate of an intestate decedent if, after investigation, the public administrator finds that there is no other qualified person having a prior right who is willing and able to serve.

(c) Upon court order, act as administrator of the estate of an intestate decedent, regardless of the amount of assets in the estate of the decedent if no other qualified person is willing and able to serve.

2. The public administrator shall not administer any estate:

(a) Held in joint tenancy unless all joint tenants are deceased; *or*

(b) ~~{For which a beneficiary form has been registered pursuant to NRS 111.480 to 111.650, inclusive; or~~

~~—(e)—~~ For which a deed upon death has been executed pursuant to NRS 111.109.

3. As used in this section, "intestate decedent" means a person who has died without leaving a valid will, trust or other estate plan.

Sec. 208. NRS 678.630 is hereby amended to read as follows:

678.630 1. Any account payable to a trustee for another person may be paid to the trustee on demand.

2. ~~{Unless a credit union has received written notice of the terms of any trust other than the form of the account, payment may be made to the:~~

~~—(a) Personal representative or heirs of a deceased trustee if proof of death is presented to the credit union showing that the decedent was the survivor of all other persons named on the account either as trustee or beneficiary; or~~

~~—(b) Beneficiary upon presentation to the credit union of proof of death showing that such beneficiary or beneficiaries survived all persons named as trustees.~~

~~—3—~~ The protection provided a credit union in ~~{subsections 1 and 2}~~ **subsection 1** has no bearing on the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of funds in, or withdrawn from, multiple-party accounts.

Sec. 209. NRS 111.480, 111.490, 111.500, 111.510, 111.520, 111.530, 111.540, 111.550, 111.560, 111.570, 111.580, 111.590, 111.600, 111.610, 111.620, 111.630, 111.640, 111.650, 133.105, 663.025, 673.370, 677.614, 678.580, 678.590, 678.600, 678.610, 678.620 and 678.640 are hereby repealed.

Sec. 210. The amendatory provisions of:

1. Sections 73 and 177 of this act apply to existing wills, whenever created.

2. Sections 185 to 199, inclusive, of this act apply to nontestamentary trusts, whenever created, but shall not be construed to require a trustee to modify or update an account that:

(a) Has been approved by the court or by the trust's beneficiaries; or

(b) Is deemed approved by the trust's beneficiaries pursuant to the provisions of the trust instrument or pursuant to paragraph (h) of subsection 1 of section 192 of this act.

LEADLINES OF REPEALED SECTIONS

- 111.480 Short title; uniformity of application and construction.**
- 111.490 Definitions.**
- 111.500 "Beneficiary" defined.**
- 111.510 "Beneficiary form" defined.**
- 111.520 "Register" defined.**
- 111.530 "Registering entity" defined.**
- 111.540 "Security" defined.**
- 111.550 Applicability.**
- 111.560 Persons eligible to obtain registration; manner in which multiple owners of registered securities hold title.**
- 111.570 Validity of registration.**
- 111.580 Designation of beneficiary required for registration.**
- 111.590 Words or abbreviations indicating registration.**
- 111.600 Effect of designation of beneficiary on ownership of registered securities; cancellation or modification of registration.**
- 111.610 Disposition of registered securities upon death of owner.**
- 111.620 Transfer on death of registered security is contractual and not testamentary; rights of creditors.**
- 111.630 Offer or acceptance of requests for registration by registering entity.**
- 111.640 Right of registering entity to establish terms and conditions for receiving and effectuating registrations; substitution and identification of beneficiaries.**
- 111.650 Liability of registering entity.**
- 133.105 Transfer of security issued in registered form or beneficiary form effective without compliance with formal requirements of chapter.**
- 663.025 Deposits in trust.**
- 673.370 Payment to beneficiary on death of trustee; payment as valid discharge of association.**
- 677.614 Payment of withdrawal value and interest to beneficiary upon death of fiduciary.**
- 678.580 Presumptions concerning ownership of accounts.**
- 678.590 Multiple-party accounts: Proportional ownership; tenancy in common.**
- 678.600 Multiple-party accounts: Survivorship.**
- 678.610 Trust accounts.**
- 678.620 Payment as valid discharge of credit union.**
- 678.640 Payment of multiple-party accounts.**

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 221.

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

Amendment No. 743 requires a trustee who is administering an irrevocable trust to equitably reduce the amount of expenses charged against an income beneficiary if those charges would exceed 15 percent of the trust's income, unless one of the following exceptions applies: the

trustee reasonably concludes that the reduction is not in the best interest of the beneficiaries; the reduction would violate the express terms of the trust instrument; the trust instrument authorizes the trustee to distribute trust principal to each income beneficiary; or the trustee gives notice of the intent not to make the adjustment, and no current income beneficiary objects.

Motion carried by a constitutional majority.
Bill ordered enrolled.

Senator Horsford moved that the Senate recess until 8 p.m.
Motion carried.

Senate in recess at 6:41 p.m.

SENATE IN SESSION

At 8:41 p.m.
President Krolicki presiding.
Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which were referred Senate Bills Nos. 421, 426, 443, 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 Finance, to which was re-referred Senate Bills Nos. 60, 440, 446; Assembly Bill No. 117, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

STEVEN A. HORSFORD, *Chair*

Mr. President:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 242, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN J. LEE, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 136, 294, 388, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

VALERIE WIENER, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which were referred Assembly Bills Nos. 81, 337, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID R. PARKS, *Chair*

Mr. President:

Your Committee on Transportation, to which was referred Assembly Bill No. 277, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHIRLEY A. BREEDEN, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that all necessary rules be suspended, all Senate bills and resolutions reported out of committee be immediately placed on the appropriate reading files, time permitting, for this legislative day.

Motion carried.

Senator Halseth moved that the action whereby Assembly Bill No. 379 was moved to the next legislative day be recinded.

Motion carried.

Senator Halseth moved to place Assembly Bill No. 379 on the Second Reading File on this agenda.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 421.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 608.

"SUMMARY—Revises provisions relating to certain funds. (BDR 40-1170)"

"AN ACT relating to public health; increasing the percentage of certain money received by the State to be allocated to the Fund for a Healthy Nevada; revising provisions relating to the allocation of money in the Fund for a Healthy Nevada; eliminating the Trust Fund for Public Health; providing for the transfer of money remaining in the Trust Fund for Public Health; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Trust Fund for Public Health receives 10 percent of all "tobacco settlement" money, which is that money received by the State pursuant to any settlement entered into by the State and a manufacturer of tobacco products and money received by the State pursuant to any judgment in a civil action against a manufacturer of tobacco products. The Trust Fund for Public Health uses interest and income earned on that money to fund grants for programs relating to public health. (NRS 439.605) Additionally, 50 percent of all tobacco settlement money goes to the Fund for a Healthy Nevada and is then allocated to various other programs relating to public health in amounts or according to percentages of available revenues set by statute. (NRS 439.620, 439.630)

This bill eliminates the Trust Fund for Public Health and provides for money in the Trust Fund for Public Health to be transferred to the Fund for a Healthy Nevada. This bill also increases to 60 percent the share of tobacco settlement money allocated to the Fund for a Healthy Nevada. Additionally, this bill removes the provisions setting the percentages of available revenues to be allocated from the Fund for a Healthy Nevada on specific programs and instead requires the Department of Health and Human Services to propose a

biennial plan for the allocation of money for those programs. The plan must be submitted as part of the proposed biennial budget of the Department. Finally, this bill removes certain programs relating to the prevention, reduction and treatment of tobacco use from the list of programs for which money in the Fund for a Healthy Nevada must be allocated.

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

Section 1. NRS 439.620 is hereby amended to read as follows:

439.620 1. The Fund for a Healthy Nevada is hereby created in the State Treasury. The State Treasurer shall deposit in the Fund:

(a) ~~Fifty~~ **Sixty** percent of all money received by this State pursuant to any settlement entered into by the State of Nevada and a manufacturer of tobacco products; and

(b) ~~Fifty~~ **Sixty** percent of all money recovered by this State from a judgment in a civil action against a manufacturer of tobacco products.

2. The State Treasurer shall administer the Fund. As administrator of the Fund, the State Treasurer:

(a) Shall maintain the financial records of the Fund;

(b) Shall invest the money in the Fund as the money in other state funds is invested;

(c) Shall manage any account associated with the Fund;

(d) Shall maintain any instruments that evidence investments made with the money in the Fund;

(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and

(f) May perform any other duties necessary to administer the Fund.

3. The interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.

4. The State Treasurer or the Department may submit to the Interim Finance Committee a request for an allocation for administrative expenses from the Fund pursuant to this section. Except as otherwise limited by this subsection, the Interim Finance Committee may allocate all or part of the money so requested. The annual allocation for administrative expenses from the Fund must:

(a) Not exceed 2 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the State Treasurer to administer the Fund; and

(b) Not exceed 5 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the Department, including, without limitation, the Aging and Disability Services Division of the Department, to carry out its duties set forth in NRS 439.630, to administer the provisions of NRS 439.635 to 439.690, inclusive, and NRS 439.705 to 439.795, inclusive.

↪ For the purposes of this subsection, the amount of money available for allocation to pay for the administrative costs must be calculated at the beginning of each fiscal year based on the total amount of money anticipated by the State Treasurer to be deposited in the Fund during that fiscal year.

5. The money in the Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.

6. All money that is deposited or paid into the Fund is hereby appropriated to be used for any purpose authorized by the Legislature or by the Department for expenditure or allocation in accordance with the provisions of NRS 439.630. Money expended from the Fund must not be used to supplant existing methods of funding that are available to public agencies.

Sec. 2. NRS 439.630 is hereby amended to read as follows:

439.630 1. The Department shall:

(a) Conduct, or require the Grants Management Advisory Committee created by NRS 232.383 to conduct, public hearings to accept public testimony from a wide variety of sources and perspectives regarding existing or proposed programs that:

(1) Promote public health;

(2) Improve health services for children, senior citizens and persons with disabilities;

(3) Reduce or prevent the abuse of and addiction to alcohol and drugs; and

(4) Offer other general or specific information on health care in this State.

(b) Establish a process to evaluate the health and health needs of the residents of this State and a system to rank the health problems of the residents of this State, including, without limitation, the specific health problems that are endemic to urban and rural communities, and report the results of the evaluation to the Legislative Committee on Health Care on an annual basis.

(c) ~~Allocate not more than 30 percent of available revenues.~~ **Subject to legislative appropriation, allocate money** for direct expenditure by the Department to pay for prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, for senior citizens pursuant to NRS 439.635 to 439.690, inclusive. From the money allocated pursuant to this paragraph, the Department may subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to senior citizens pursuant to NRS 439.635 to 439.690, inclusive. The Department shall consider recommendations from the Grants Management Advisory Committee in carrying out the provisions of NRS 439.635 to 439.690, inclusive. The

Department shall submit a quarterly report to the Governor, the Interim Finance Committee, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate regarding the general manner in which expenditures have been made pursuant to this paragraph.

(d) ~~{Allocate}~~ ***Subject to legislative appropriation, allocate***, by contract or grant, ***money*** for expenditure ~~{not more than 30 percent of available revenues for allocation}~~ by the Aging and Disability Services Division of the Department in the form of grants for existing or new programs that assist senior citizens with independent living, including, without limitation, programs that provide:

- (1) Respite care or relief of informal caretakers;
- (2) Transportation to new or existing services to assist senior citizens in living independently; and
- (3) Care in the home which allows senior citizens to remain at home instead of in institutional care.

➤ The Aging and Disability Services Division of the Department shall consider recommendations from the Grants Management Advisory Committee concerning the independent living needs of senior citizens.

(e) Allocate \$200,000 of all revenues deposited in the Fund for a Healthy Nevada each year for direct expenditure by the Director to:

- (1) Provide guaranteed funding to finance assisted living facilities that satisfy the criteria for certification set forth in NRS 319.147; and
- (2) Fund assisted living facilities that satisfy the criteria for certification set forth in NRS 319.147 and assisted living supportive services that are provided pursuant to the provisions of the home and community-based services waiver which are amended pursuant to NRS 422.2708.

➤ The Director shall develop policies and procedures for distributing the money allocated pursuant to this paragraph. Money allocated pursuant to this paragraph does not revert to the Fund at the end of the fiscal year.

(f) ~~{Allocate to the Health Division not more than 15 percent of available revenues for programs that are consistent with the guidelines established by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services relating to evidence based best practices to prevent, reduce or treat the use of tobacco and the consequences of the use of tobacco. In making allocations pursuant to this paragraph, the Health Division shall allocate the money, by contract or grant:~~

- ~~— (1) To the district board of health in each county whose population is 100,000 or more for expenditure for such programs in the respective county;~~
- ~~— (2) For such programs in counties whose population is less than 100,000; and~~
- ~~— (3) For statewide programs for tobacco cessation and other statewide services for tobacco cessation and for statewide evaluations of programs which receive an allocation of money pursuant to this paragraph, as determined necessary by the Health Division and the district boards of health.~~

~~—(g) Allocate.~~ ***Subject to legislative appropriation, allocate,*** by contract or grant, ***money*** for expenditure ~~{not more than 10 percent of available revenues}~~ for programs that improve the health ~~{services for children}~~ and well-being of residents of this State.

~~{(h) Allocate.}~~

(g) Subject to legislative appropriation, allocate, by contract or grant, ***money*** for expenditure ~~{not more than 10 percent of available revenues}~~ for programs that improve the health and well-being of persons with disabilities. In making allocations pursuant to this paragraph, the Department shall, to the extent practicable, allocate the money evenly among the following three types of programs:

(1) Programs that provide respite care or relief of informal caretakers for persons with disabilities;

(2) Programs that provide positive behavioral supports to persons with disabilities; and

(3) Programs that assist persons with disabilities to live safely and independently in their communities outside of an institutional setting.

~~{(i) Allocate not more than 5 percent of available revenues}~~

(h) Subject to legislative appropriation, allocate money for direct expenditure by the Department to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive. The Department shall consider recommendations from the Grants Management Advisory Committee in carrying out the provisions of NRS 439.705 to 439.795, inclusive.

~~{(i)}~~ ***(i)*** Maximize expenditures through local, federal and private matching contributions.

~~{(k)}~~ ***(j)*** Ensure that any money expended from the Fund will not be used to supplant existing methods of funding that are available to public agencies.

~~{(k)}~~ ***(k)*** Develop policies and procedures for the administration and distribution of contracts, grants and other expenditures to state agencies, political subdivisions of this State, nonprofit organizations, universities, state colleges and community colleges. A condition of any such contract or grant must be that not more than 8 percent of the contract or grant may be used for administrative expenses or other indirect costs. The procedures must require at least one competitive round of requests for proposals per biennium.

~~{(m)}~~ ***(l)*** To make the allocations required by paragraphs ~~{(f)}~~ (g) and (h):

(1) Prioritize and quantify the needs for these programs;

(2) Develop, solicit and accept applications for allocations;

(3) Review and consider the recommendations of the Grants Management Advisory Committee submitted pursuant to NRS 232.385;

(4) Conduct annual evaluations of programs to which allocations have been awarded; and

(5) Submit annual reports concerning the programs to the Governor, the Interim Finance Committee, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

~~[(n)]~~ **(m)** Transmit a report of all findings, recommendations and expenditures to the Governor, each regular session of the Legislature, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

(n) Develop a plan each biennium to determine the percentage of available money in the Fund for a Healthy Nevada to be allocated from the Fund for the purposes described in paragraphs (c), (d), (f), (g) and (h). The plan must be submitted as part of the proposed budget submitted to the Chief of the Budget Division of the Department of Administration pursuant to NRS 353.210.

2. The Department may take such other actions as are necessary to carry out its duties.

3. To make the allocations required by paragraph (d) of subsection 1, the Aging and Disability Services Division of the Department shall:

- (a) Prioritize and quantify the needs of senior citizens for these programs;
- (b) Develop, solicit and accept grant applications for allocations;
- (c) As appropriate, expand or augment existing state programs for senior citizens upon approval of the Interim Finance Committee;
- (d) Award grants, contracts or other allocations;
- (e) Conduct annual evaluations of programs to which grants or other allocations have been awarded; and
- (f) Submit annual reports concerning the allocations made by the Aging and Disability Services Division pursuant to paragraph (d) of subsection 1 to the Governor, the Interim Finance Committee, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

4. The Aging and Disability Services Division of the Department shall submit each proposed grant or contract which would be used to expand or augment an existing state program to the Interim Finance Committee for approval before the grant or contract is awarded. The request for approval must include a description of the proposed use of the money and the person or entity that would be authorized to expend the money. The Aging and Disability Services Division of the Department shall not expend or transfer any money allocated to the Aging and Disability Services Division pursuant to this section to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to senior citizens pursuant to NRS 439.635 to 439.690, inclusive, or to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other

devices that enhance the ability to hear, to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive.

5. A veteran may receive benefits or other services which are available from the money allocated pursuant to this section for senior citizens or persons with disabilities to the extent that the veteran does not receive other benefits or services provided to veterans for the same purpose if the veteran qualifies for the benefits or services as a senior citizen or a person with a disability, or both.

~~{6. As used in this section, "available revenues" means the total revenues deposited in the Fund for a Healthy Nevada each year minus \$200,000.}~~

Sec. 3. The State Controller shall transfer to the Fund for a Healthy Nevada created by NRS 439.620, as soon as practicable on or after July 1, 2011, all money remaining in the Trust Fund for Public Health created by NRS 439.605 that has not been committed for expenditure.

Sec. 4. NRS 439.605, 439.610 and 439.615 are hereby repealed.

Sec. 5. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTIONS

439.605 Creation and administration of Fund; permissible investments; appropriation and expenditure of interest and income.

1. The Trust Fund for Public Health is hereby created in the State Treasury. The State Treasurer shall deposit in the Trust Fund:

(a) Ten percent of all money received by this State pursuant to any settlement entered into by the State of Nevada and a manufacturer of tobacco products; and

(b) Ten percent of all money recovered by this State from a judgment in a civil action against a manufacturer of tobacco products.

2. The State Treasurer shall administer the Trust Fund. As administrator of the Trust Fund, the State Treasurer, except as otherwise provided in this section:

(a) Shall maintain the financial records of the Trust Fund;

(b) Shall invest the money in the Trust Fund as the money in other state funds is invested;

(c) Shall manage any account associated with the Trust Fund;

(d) Shall maintain any instruments that evidence investments made with the money in the Trust Fund;

(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and

(f) May perform any other duties necessary to administer the Trust Fund.

3. In addition to the investments authorized pursuant to paragraph (b) of subsection 2, the State Treasurer may, except as otherwise provided in subsection 4, invest the money in the Trust Fund in:

(a) Common or preferred stock of a corporation created by or existing under the laws of the United States or of a state, district or territory of the United States, if:

(1) The stock of the corporation is:

(I) Listed on a national stock exchange; or
(II) Traded in the over-the-counter market, if the price quotations for the over-the-counter stock are quoted by the National Association of Securities Dealers Automated Quotations System (NASDAQ);

(2) The outstanding shares of the corporation have a total market value of not less than \$50,000,000;

(3) The maximum investment in stock is not greater than 50 percent of the book value of the total investments of the Trust Fund;

(4) Except for investments made pursuant to paragraph (c), the amount of an investment in a single corporation is not greater than 3 percent of the book value of the assets of the Trust Fund; and

(5) Except for investments made pursuant to paragraph (c), the total amount of shares owned by the Trust Fund is not greater than 5 percent of the outstanding stock of a single corporation.

(b) A pooled or commingled real estate fund or a real estate security that is managed by a corporate trustee or by an investment advisory firm that is registered with the Securities and Exchange Commission, either of which may be retained by the State Treasurer as an investment manager. The shares and the pooled or commingled fund must be held in trust. The total book value of an investment made under this paragraph must not at any time be greater than 5 percent of the total book value of all investments of the Trust Fund.

(c) Mutual funds or common trust funds that consist of any combination of the investments authorized pursuant to paragraph (b) of subsection 2 and paragraphs (a) and (b) of this subsection.

4. The State Treasurer shall not invest any money in the Trust Fund pursuant to subsection 3 unless the State Treasurer obtains a judicial determination that the proposed investment or category of investments will not violate the provisions of Section 9 of Article 8 of the Constitution of the State of Nevada. The State Treasurer shall contract for the services of independent contractors to manage any investments of the State Treasurer made pursuant to subsection 3. The State Treasurer shall establish such criteria for the qualifications of such an independent contractor as are appropriate to ensure that each independent contractor has expertise in the management of such investments.

5. The interest and income earned on the money in the Trust Fund is hereby appropriated to the Board of Trustees of the Trust Fund for Public Health and must, after deducting any applicable charges, be credited to the Fund and accounted for separately. All claims against the Fund must be paid as other claims against the State are paid.

6. Only the interest and income earned on the money in the Trust Fund may be expended. Such expenditures may be made for:

(a) Grants made pursuant to NRS 439.615 for:

(1) The promotion of public health and programs for the prevention of disease or illness;

- (2) Research on issues related to public health; and
- (3) The provision of direct health care services to children and senior citizens;
- (b) Expenses related to the operation of the Board of Trustees of the Trust Fund;
- (c) Actual costs incurred by the Health Division for providing administrative assistance to the Board, but in no event may more than 2 percent of the money in the Fund be used for administrative expenses or other indirect costs; and
- (d) Any other purpose authorized by the Legislature.

7. The money in the Trust Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.

439.610 Board of Trustees of Fund: Creation; membership; election of Chair; meetings; quorum; compensation of members; administrative support.

1. The Board of Trustees of the Trust Fund for Public Health is hereby created.

2. The Board consists of 11 members composed of:

- (a) The Administrator or a designee of the Administrator.
- (b) The State Health Officer or a designee of the State Health Officer.
- (c) The Chair of the Nevada Commission on Aging or a designee of the Chair.
- (d) The Chair of the State Board of Health or a designee of the Chair.
- (e) The Chair of the Advisory Board on Maternal and Child Health or a designee of the Chair.
- (f) The superintendent of schools of the school district in this State that has the highest number of enrolled pupils or a designee of that superintendent.
- (g) The county health officers of the two most populous counties in this State.
- (h) One member appointed by the Nevada Association of Counties, or its successor, who serves as a county health officer in a rural area of this State.
- (i) A representative of the University of Nevada School of Medicine appointed by the Dean of the School of Medicine.
- (j) One member appointed by the Governor who possesses knowledge, skill and experience in providing health care services.

3. The term of a member of the Board who is appointed pursuant to paragraph (h), (i) or (j) of subsection 2 is 4 years.

4. The Board shall annually elect a Chair from among its members. The Board shall meet at least quarterly. A majority of the members constitutes a quorum, and a majority of those present must concur in any decision.

5. Each member of the Board serves without compensation. While engaged in the business of the Board, each member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. The per diem allowance and travel expenses of:

(a) A member of the Board who is an officer or employee of this State or a local government thereof must be paid by the state agency or the local government.

(b) Any other member of the Board must be paid from the interest and income earned on the money in the Trust Fund.

6. Each member of the Board who is an officer or employee of this State or a local government must be relieved from his or her duties without loss of his or her regular compensation so that the officer or employee may perform his or her duties relating to the Board in the most timely manner practicable. A state agency or local government shall not require an officer or employee who is a member of the Board to:

(a) Make up the time he or she is absent from work to fulfill his or her obligations as a member of the Board; or

(b) Take annual leave or compensatory time for the absence.

7. The Health Division shall provide such administrative support to the Board as is required to carry out the duties of the Board.

439.615 Board of Trustees of Fund: Powers and duties.

1. The Board of Trustees shall:

(a) In accordance with the provisions set forth in subsection 6 of NRS 439.605, develop policies and procedures for the expenditure of the interest and income earned on the money in the Trust Fund for Public Health.

(b) After deducting authorized expenses, annually make grants in a cumulative amount equal to the interest and income earned on the money in the Trust Fund for Public Health.

(c) Develop forms for requests for proposals for grants and disseminate information about the grant program. A condition of each such grant must be that not more than 8 percent of the grant may be used for administrative expenses and other indirect costs.

(d) Publish an annual report of the activities of the Board and the grants made by the Board. A copy of each such report must be transmitted to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

2. The Board may take such other actions as are necessary to carry out its duties and the provisions of this section and NRS 439.605 and 439.610.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

Amendment No. 608 eliminates the Trust Fund for Public Health, and in so doing increases the share of Tobacco Settlement Funds allocated to the Fund for a Healthy Nevada from 50 percent to 60 percent.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 426.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 818.

"SUMMARY—Makes various changes related to energy. (BDR 58-1156)"

"AN ACT relating to energy; eliminating the Renewable Energy and Energy Efficiency Authority and the position of Nevada Energy Commissioner; requiring the Office of Energy and its Director to assume certain responsibilities of the repealed entities; transferring authority for the program to track the use of energy in buildings occupied by state agencies to the Office of Energy; revising provisions governing certain contracts necessary to carry out the program; revising provisions relating to the partial abatement of certain taxes for qualified energy systems; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes a Renewable Energy and Energy Efficiency Authority and creates the position of Nevada Energy Commissioner as its head. (NRS 701.330-701.400) This bill repeals the position of Nevada Energy Commissioner and the Renewable Energy and Energy Efficiency Authority and requires the Office of Energy and its Director to assume the duties of those entities. **Sections 15 and 19** of this bill give the Director of the Office of Energy the authority to add not more than three members to the State and Local Government Panel on Renewable and Efficient Energy and the New Energy Industry Task Force, respectively. **Section 34** of this bill transfers responsibility for the program to track the use of energy in buildings occupied by state agencies from the Buildings and Grounds Division of the Department of Administration to the Office of Energy ~~and~~ and authorizes the Director of the Office of Energy to enter into certain contracts to carry out the program.

Section 23.5 of this bill revises certain provisions relating to eligibility for the partial abatement of certain taxes for certain energy systems that are used to heat or cool buildings or the water used by such buildings or to provide electricity to certain buildings or irrigation systems.

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

Section 1. NRS 701.020 is hereby amended to read as follows:

701.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS ~~{701.025}~~ **701.030** to 701.090, inclusive, have the meanings ascribed to them in those sections.

Sec. 2. NRS 701.160 is hereby amended to read as follows:

701.160 The Director shall prepare a report concerning the status of energy in the State of Nevada and submit it to:

1. The Governor ~~{and the Commissioner}~~ on or before ~~{July 1}~~ **January 30** of each year; and

2. The Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature on or before ~~July 1~~ **January 30** of each ~~even-numbered~~ **odd-numbered** year.

Sec. 3. NRS 701.180 is hereby amended to read as follows:

701.180 The Director shall:

1. Acquire and analyze information relating to energy and to the supply, demand and conservation of its sources, including, without limitation:

(a) Information relating to the Solar Energy Systems Incentive Program created pursuant to NRS 701B.240 including, without limitation, information relating to:

(1) The development of distributed generation systems in this State pursuant to participation in the Solar Energy Systems Incentive Program;

(2) The use of carbon-based energy in residential and commercial applications due to participation in the Program; and

(3) The average cost of generation on a kilowatt-hour basis for residential and commercial applications due to participation in the Program; and

(b) Information relating to any money distributed pursuant to NRS 702.270.

2. Review and evaluate information which identifies trends and permits forecasting of the energy available to the State. Such forecasts must include estimates on:

(a) The level of demand for energy in the State for 5-, 10- and 20-year periods;

(b) The amount of energy available to meet each level of demand;

(c) The probable implications of the forecast on the demand and supply of energy; and

(d) The sources of renewable energy and other alternative sources of energy which are available and their possible effects.

3. Study means of reducing wasteful, inefficient, unnecessary or uneconomical uses of energy and encourage the maximum utilization of existing sources of energy in the State.

4. Solicit and serve as the point of contact for grants and other money from the Federal Government, including, without limitation, any grants and other money available pursuant to any program administered by the United States Department of Energy, and other sources : ~~to cooperate with the Commissioner and the Authority;~~

(a) To promote energy projects that enhance the economic development of the State;

(b) To promote the use of renewable energy in this State;

(c) To promote the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy;

(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and

(e) If the ~~{Commissioner}~~ **Director** determines that it is feasible and cost-effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).

5. Coordinate the activities and programs of the Office of Energy with the activities and programs of the ~~{Authority, the}~~ Consumer's Advocate and the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

6. If requested to make a determination pursuant to NRS 111.239 or 278.0208, make the determination within 30 days after receiving the request. If the Director needs additional information to make the determination, the Director may request the information from the person making the request for a determination. Within 15 days after receiving the additional information, the Director shall make a determination on the request.

7. Carry out all other directives concerning energy that are prescribed by the Governor.

Sec. 4. NRS 701.190 is hereby amended to read as follows:

701.190 1. The ~~{Commissioner}~~ **Director** shall prepare a comprehensive state energy plan which provides for the promotion of:

- (a) Energy projects that enhance the economic development of the State;
- (b) The use of renewable energy;
- (c) The use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy; and
- (d) A program for the safe disposal and recycling of electronic waste, electrical equipment and other waste, including, without limitation, a program for the safe disposal and recycling of compact fluorescent light bulbs.

2. The comprehensive state energy plan must include provisions for:

- (a) The assessment of the potential benefits of proposed energy projects on the economic development of the State.
- (b) The education of persons and entities concerning renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.
- (c) The creation of incentives for investment in and the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.
- (d) Grants and other money to establish programs and conduct activities which promote:

(1) Energy projects that enhance the economic development of the State;

(2) The use of renewable energy;

(3) The use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy; and

(4) The recycling of electronic waste, electrical equipment and other waste, including, without limitation, a program for the safe disposal and recycling of compact fluorescent light bulbs.

(e) The development or incorporation by reference of model and uniform building and energy codes and standards which are written in language that is easy to understand and which include performance standards for conservation of energy and efficient use of energy.

(f) The promotion of the development in this State of a curriculum for a program of renewable energy education and recycling education in kindergarten through grade 12.

(g) The promotion of the development by institutions of higher education in this State of research and educational programs relating to renewable energy.

(h) Oversight and accountability with respect to all programs and activities described in this subsection.

(i) Any other matter that the ~~Commissioner~~ **Director** determines to be relevant to the issues of energy resources, energy use, energy conservation and energy efficiency.

Sec. 5. NRS 701.200 is hereby amended to read as follows:

701.200 1. The ~~Commissioner~~ **Director** may recommend to state agencies, local governments and appropriate private persons and entities, standards for conservation of energy and its sources and for carrying out the comprehensive state energy plan.

2. In recommending such standards, the ~~Commissioner~~ **Director** shall consider the usage of energy and its sources in the State and the methods available for conservation of those sources.

Sec. 6. NRS 701.210 is hereby amended to read as follows:

701.210 The ~~Commissioner~~ **Director** shall:

1. Prepare, subject to the approval of the Governor, petroleum allocation and rationing plans for possible energy contingencies. The plans shall be carried out only by executive order of the Governor.

2. Carry out and administer any federal programs which authorize state participation in fuel allocation programs.

Sec. 7. NRS 701.220 is hereby amended to read as follows:

701.220 1. The ~~Commissioner~~ **Director** shall adopt regulations for the conservation of energy in buildings, including manufactured homes. Such regulations must include the adoption of the most recent version of the International Energy Conservation Code, issued by the International Code Council, and any amendments to the Code that will not materially lessen the effective energy savings requirements of the Code and are deemed necessary to support effective compliance and enforcement of the Code, and must establish the minimum standards for:

(a) The construction of floors, walls, ceilings and roofs;

(b) The equipment and systems for heating, ventilation and air-conditioning;

(c) Electrical equipment and systems;

(d) Insulation; and

(e) Other factors which affect the use of energy in a building.

➔ The regulations must provide for the adoption of the most recent version of the International Energy Conservation Code, and any amendments thereto, every third year.

2. The ~~{Commissioner}~~ **Director** may exempt a building from a standard if the ~~{Commissioner}~~ **Director** determines that application of the standard to the building would not accomplish the purpose of the regulations.

3. The regulations must authorize allowances in design and construction for sources of renewable energy used to supply all or a part of the energy required in a building.

4. The standards adopted by the ~~{Commissioner}~~ **Director** are the minimum standards for the conservation of energy and energy efficiency in buildings in this State. The governing body of a local government that is authorized by law to adopt and enforce a building code:

(a) Except as otherwise provided in paragraph (b), shall incorporate the standards adopted by the ~~{Commissioner}~~ **Director** in its building code;

(b) May adopt higher or more stringent standards and must report any such higher or more stringent standards, along with supporting documents, to the ~~{Commissioner}~~ **Director**; and

(c) Shall enforce the standards adopted.

5. The ~~{Commissioner}~~ **Director** shall solicit comments regarding the adoption of regulations pursuant to this section from:

(a) Persons in the business of constructing and selling homes;

(b) Contractors;

(c) Public utilities;

(d) Local building officials; and

(e) The general public,

➔ before adopting any regulations. The ~~{Commissioner}~~ **Director** must conduct at least three hearings in different locations in the State, after giving 30 days' notice of each hearing, before the ~~{Commissioner}~~ **Director** may adopt any regulations pursuant to this section.

Sec. 8. NRS 701.240 is hereby amended to read as follows:

701.240 1. The ~~{Commissioner}~~ **Director** shall develop a program to distribute money, within the limits of legislative appropriation, in the form of grants, incentives or rebates to persons to pay or defray, in whole or in part, the costs for those persons to acquire, install or improve net metering systems, if the ~~{Commissioner}~~ **Director** determines that the distribution of money to a person for that purpose will encourage, promote or stimulate:

(a) The development or use of sources of renewable energy in the State or the development of industries or technologies that use sources of renewable energy in the State;

(b) The conservation of energy in the State, the diversification of the types of energy used in the State or any reduction in the dependence of the State on foreign sources of energy;

(c) The protection of the natural resources of the State or the improvement of the environment;

(d) The enhancement of existing utility facilities or any other infrastructure in the State or the development of new utility facilities or any other infrastructure in the State; or

(e) The investment of capital or the expansion of business opportunities in the State or any growth in the economy of the State.

2. The ~~{Commissioner}~~ **Director** may adopt any regulations that are necessary to carry out the provisions of this section.

3. The ~~{Commissioner}~~ **Director** shall not distribute money to any person pursuant to this section unless:

(a) The person complies with any requirements that the ~~{Commissioner}~~ **Director** adopts by regulation; and

(b) The distribution of the money is consistent with one or more of the public purposes set forth in paragraphs (a) to (e), inclusive, of subsection 1.

4. As used in this section, "person" includes, without limitation, any state or local governmental agency or entity.

Sec. 9. NRS 701.250 is hereby amended to read as follows:

701.250 1. The ~~{Commissioner}~~ **Director** 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.

Sec. 10. NRS 701.260 is hereby amended to read as follows:

701.260 1. Between January 1, 2012, and December 31, 2015, inclusive, no general purpose light may be sold in this State unless it produces at least 25 lumens per watt of electricity consumed.

2. On and after January 1, 2016, no general purpose light may be sold in this State unless it meets or exceeds the minimum standard of energy

efficiency established by the ~~{Commissioner}~~ **Director** pursuant to subsection 3 for lumens per watt of electricity consumed.

3. The ~~{Commissioner}~~ **Director** shall adopt regulations to carry out the provisions of this section. The regulations must, without limitation:

(a) Establish a minimum standard of energy efficiency for lumens per watt of electricity consumed that must be produced by general purpose lights sold in this State on and after January 1, 2016. The minimum standard of energy efficiency established by the ~~{Commissioner}~~ **Director** must exceed 25 lumens per watt of electricity consumed.

(b) Attempt to minimize the overall cost to consumers for general purpose lighting, considering the needs of consumers relating to lighting, technological feasibility and anticipated product availability and performance.

4. As used in this section, "general purpose light" means lamps, bulbs, tubes or other devices that provide functional illumination for indoor or outdoor use. The term does not include "specialty lighting" or "lighting necessary to provide illumination for persons with special needs," as defined by the ~~{Commissioner}~~ **Director** by regulation.

Sec. 11. NRS 701.370 is hereby amended to read as follows:

701.370 1. The Trust Fund for Renewable Energy and Energy Conservation is hereby created in the State Treasury.

2. The ~~{Authority}~~ **Director** shall administer the Fund. As administrator of the Fund, the ~~{Authority}~~ **Director**:

(a) Shall maintain the financial records of the Fund;

(b) Shall invest the money in the Fund as the money in other state funds is invested;

(c) Shall manage any account associated with the Fund;

(d) Shall maintain any instruments that evidence investments made with the money in the Fund;

(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and

(f) May perform any other duties that are necessary to administer the Fund.

3. The interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.

4. Not more than 2 percent of the money in the Fund may be used to pay the costs of administering the Fund.

5. The money in the Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.

6. All money that is deposited or paid into the Fund may only be expended pursuant to an allocation made by the ~~{Authority}~~ **Director**. Money expended from the Fund must not be used to supplant existing methods of funding that are available to public agencies.

Sec. 12. NRS 701.380 is hereby amended to read as follows:

701.380 1. The ~~Authority~~ **Director** shall:

(a) Coordinate ~~its~~ **the** activities and programs **of the Office of Energy** with the activities and programs of the ~~Office of Energy, the~~ Consumer's Advocate and the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(b) Spend the money in the Trust Fund for Renewable Energy and Energy Conservation to:

(1) Educate persons and entities concerning renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(2) Create incentives for investment in and the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(3) Distribute grants and other money to establish programs and projects which incorporate the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(4) Conduct feasibility studies, including, without limitation, any feasibility studies concerning the establishment or expansion of any grants, incentives, rebates or other programs to enable or assist persons to reduce the cost of purchasing distributed generation systems and on-site generation systems and net metering systems that use renewable energy.

(c) Take any other actions that the ~~Authority~~ **Director** deems necessary to carry out ~~its~~ **the** duties ~~of~~ **of the Office of Energy**, including, without limitation, contracting with consultants, if necessary, for the purposes of program design or to assist the ~~Authority~~ **Director** in carrying out ~~its~~ **the** duties ~~of~~ **of the Office**.

2. The ~~Authority~~ **Director** shall prepare an annual report concerning ~~its~~ **the** activities and programs **of the Office of Energy** and submit the report to the Legislative Commission and the Governor on or before January 30 of each year. The annual report must include, without limitation:

(a) A description of the objectives of each activity and program;

(b) An analysis of the effectiveness and efficiency of each activity and program in meeting the objectives of the activity or program;

(c) The amount of money distributed for each activity and program from the Trust Fund for Renewable Energy and Energy Conservation and a detailed description of the use of that money for each activity and program;

(d) An analysis of the coordination between the ~~Authority~~ **Office of Energy** and other officers and agencies; and

(e) Any changes planned for each activity and program.

3. As used in this section:

(a) "Distributed generation system" means a facility or system for the generation of electricity that is in close proximity to the place where the electricity is consumed:

(1) That uses renewable energy as defined in NRS 704.7811 to generate electricity;

(2) That is located on the property of a customer of an electric utility;

(3) That is connected on the customer's side of the electricity meter;

(4) That provides electricity primarily to offset customer load on that property; and

(5) The excess generation from which is periodically exported to the grid in accordance with the provisions governing net metering systems used by customer-generators pursuant to NRS 704.766 to 704.775, inclusive.

(b) "Electric utility" has the meaning ascribed to it in NRS 704.7571.

Sec. 13. NRS 701.390 is hereby amended to read as follows:

701.390 The ~~Commissioner~~ **Director** shall:

1. Utilize all available public and private means to:

(a) Provide information to the public about issues relating to energy and to explain how conservation of energy and its sources may be accomplished; and

(b) Work with educational and research institutions, trade associations and any other public and private entities in this State to create a database for information on technological development, financing opportunities and federal and state policy developments regarding renewable energy and energy efficiency.

2. Encourage the development of any sources of renewable energy and any energy projects which will benefit the State and any measures which conserve or reduce the demand for energy or which result in more efficient use of energy, including, without limitation, by:

(a) Identifying appropriate areas in this State for the development of sources of renewable energy, based on:

(1) Assessments of solar, wind and geothermal potential;

(2) Evaluations of natural resource constraints;

(3) Current electric transmission infrastructure and capacity; and

(4) The feasibility of the construction of new electric transmission lines;

(b) Working with renewable energy developers to locate their projects within appropriate areas of this State, including, without limitation, assisting the developers to interact with the Bureau of Land Management, the Department of Defense and other federal agencies in:

(1) Expediting land leases;

(2) Resolving site issues; and

(3) Receiving permits for projects on public lands within the appropriate areas of this State;

(c) Coordinating the planning of renewable energy projects in appropriate areas of this State to establish a mix of solar, wind and geothermal renewable

energy systems that create a reliable source of energy and maximize the use of current or future transmission lines and infrastructure; and

(d) Developing proposals for the financing of future electric transmission projects for renewable energy if no such financing proposals exist.

3. Review jointly with the Nevada System of Higher Education the policies of this State relating to the research and development of the geothermal energy resources in this State and make recommendations to the appropriate state and federal agencies concerning methods for the development of those resources.

4. If the ~~Commissioner~~ **Director** determines that it is feasible and cost-effective, enter into contracts with researchers from the Nevada System of Higher Education:

(a) To conduct environmental studies relating to the identification of appropriate areas in this State for the development of renewable energy resources, including, without limitation, hydrologic studies, solar resource mapping studies and wind power modeling studies; and

(b) For the development of technologies that will facilitate the energy efficiency of the electricity grid for this State, including, without limitation, meters that facilitate energy efficiency for consumers of electricity.

(c) For the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State with energy efficiency measures.

5. ~~Cooperate with the Director:~~

~~—(a) To promote energy projects that enhance the economic development of the State;~~

~~—(b) To promote the use of renewable energy in this State;~~

~~—(c) To promote the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy;~~

~~—(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and~~

~~—(e) If the Commissioner determines that it is feasible and cost effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).~~

~~—6. Coordinate the activities and programs of the Authority with the activities and programs of the Office of Energy, the Consumer's Advocate and the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~—7.} Carry out all other directives concerning energy that are prescribed by the Legislature.~~

Sec. 14. NRS 701.400 is hereby amended to read as follows:

701.400 The ~~{Commissioner}~~ **Director** may:

1. ~~{Administer any gifts or grants which the Authority is authorized to accept.~~

~~2. To the extent not inconsistent with the terms or conditions of a gift, grant, appropriation or authorization, expend money received from those gifts or grants or from any money received through legislative appropriations or authorizations to contract with qualified persons or institutions for research in the production and efficient use of energy resources.~~

~~3. Enter into any cooperative agreement with any federal or state agency or political subdivision.~~

~~4. Participate in any program established by the Federal Government relating to sources of energy and adopt regulations to carry out such a program.~~

~~5. 2. Assist developers of renewable energy systems in preparing and making requests to obtain money for development through the issuance of industrial development revenue bonds pursuant to NRS 349.400 to 349.670, inclusive.~~

~~6. Adopt any regulations that the Commissioner determines are necessary to carry out the duties of the Commissioner or the Authority.~~

~~7. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the Commissioner or the Authority.~~

Sec. 15. NRS 701.450 is hereby amended to read as follows:

701.450 1. The State and Local Government Panel on Renewable and Efficient Energy is hereby created.

2. ~~{The}~~ **Except as otherwise provided in subsection 3, the** Panel consists of the ~~{Commissioner}~~ **Director** and the following seven members appointed by the ~~{Commissioner}~~ **Director**:

- (a) A representative of the State Public Works Board;
- (b) A representative of the Housing Division of the Department of Business and Industry;
- (c) A representative of the Buildings and Grounds Division of the Department of Administration;
- (d) A representative of the Department of Wildlife;
- (e) A representative of the Nevada Association of Counties or its successor organization;
- (f) A representative of the Nevada League of Cities or its successor organization; and
- (g) A representative of the Nevada Association of School Boards or its successor organization.

3. The Director may appoint not more than three additional members to the Panel to represent state and local government agencies or private industry in the field of renewable energy or energy efficiency.

Sec. 16. NRS 701.455 is hereby amended to read as follows:

701.455 1. The ~~{Commissioner}~~ **Director** is the Chair of the Panel.

2. The members of the Panel shall meet at the call of the ~~{Commissioner}~~ **Director**. The Panel shall prescribe regulations for its management and government.

3. A majority of the members of the Panel constitutes a quorum, and a quorum may exercise all the powers conferred on the Panel.

4. The members of the Panel serve at the pleasure of the ~~{Commissioner}~~ **Director**.

5. The members of the Panel serve without compensation.

6. The members of the Panel who are state employees:

(a) Must be relieved from their duties without loss of their regular compensation to perform their duties relating to the Panel in the most timely manner practicable; and

(b) May not be required to make up the time they are absent from work to fulfill their obligations as members of the Panel or to take annual leave or compensatory time for the absence.

Sec. 17. NRS 701.460 is hereby amended to read as follows:

701.460 The Panel:

1. Shall advise the ~~{Commissioner and the Authority}~~ **Director** on the viability and progress of energy efficiency and renewable energy retrofit projects at public buildings and schools; and

2. May apply for any available grants and accept any gifts, grants or donations to assist the Panel in carrying out its duties pursuant to this section.

Sec. 18. NRS 701.465 is hereby amended to read as follows:

701.465 The ~~{Authority}~~ **Office of Energy** shall provide the personnel, facilities, equipment and supplies required by the Panel to carry out the provisions of NRS 701.450 to 701.465, inclusive.

Sec. 19. NRS 701.500 is hereby amended to read as follows:

701.500 1. The New Energy Industry Task Force is hereby created.

2. ~~{The}~~ **Except as otherwise provided in subsection 3, the** Task Force consists of the ~~{Commissioner}~~ **Director** and the following eight members who must be appointed by the ~~{Commissioner}~~ **Director**:

(a) A representative of the large-scale solar energy industry in this State;

(b) A representative of the geothermal energy industry in this State;

(c) A representative of the wind energy industry in this State;

(d) A representative of the distributed generation industry, energy efficiency equipment and installation industry or manufacturers of equipment for renewable energy power plants in this State;

(e) A representative of an electric utility in this State;

(f) A representative of an organization in this State that advocates on behalf of environmental or public lands issues who has expertise in or knowledge of environmental or public lands issues;

(g) A representative of a labor organization in this State; and

(h) A representative of an organization that represents contractors in this State.

3. *The Director may appoint not more than three additional members to the Task Force to represent state and local government agencies or private industry in the field of renewable energy or energy efficiency.*

Sec. 20. NRS 701.505 is hereby amended to read as follows:

701.505 1. The ~~{Commissioner}~~ **Director** is the Chair of the Task Force.

2. The members of the Task Force shall meet at the call of the ~~{Commissioner}~~ **Director**. The Task Force shall prescribe regulations for its management and government.

3. A majority of the members of the Task Force constitutes a quorum, and a quorum may exercise all the powers conferred on the Task Force.

4. The members of the Task Force serve at the pleasure of the ~~{Commissioner}~~ **Director**.

5. The members of the Task Force serve without compensation.

Sec. 21. NRS 701.510 is hereby amended to read as follows:

701.510 The Task Force:

1. Shall advise the ~~{Commissioner and the Authority}~~ **Director** on measures to promote the development of renewable energy and energy efficiency projects in this State; and

2. May apply for any available grants and accept any gifts, grants or donations to assist the Task Force in carrying out its duties pursuant to this section.

Sec. 22. NRS 701.515 is hereby amended to read as follows:

701.515 The ~~{Authority}~~ **Director** shall provide the personnel, facilities, equipment and supplies required by the Task Force to carry out the provisions of NRS 701.500 to 701.515, inclusive.

Sec. 23. NRS 701A.110 is hereby amended to read as follows:

701A.110 1. Except as otherwise provided in this section, the Director shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure that is determined to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100, if:

(a) No funding is provided by any governmental entity in this State for the acquisition, design or construction of the building or other structure or for the acquisition of any land therefor. For the purposes of this paragraph:

(1) Private activity bonds must not be considered funding provided by a governmental entity.

(2) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.

(b) The owner of the property:

(1) Submits an application for the partial abatement to the Director. If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of

the project after that date, the application must be amended to include the change or changes.

(2) Except as otherwise provided in this subparagraph, provides to the Director, within 48 months after applying for the partial abatement, proof that the building or other structure meets the equivalent of the silver level or higher, as determined by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100. The Director may, for good cause shown, extend the period for providing such proof.

(3) Files a copy of each application and amended application submitted to the Director pursuant to subparagraph (1) with the:

- (I) Chief of the Budget Division of the Department of Administration;
- (II) Department of Taxation;
- (III) County assessor;
- (IV) County treasurer;
- (V) Commission on Economic Development;
- (VI) Board of county commissioners; and
- (VII) City manager and city council, if any.

2. As soon as practicable after the Director receives the application and proof required by subsection 1, the Director shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:

- (a) Department of Taxation;
- (b) County assessor;
- (c) County treasurer; and
- (d) Commission on Economic Development.

3. ~~As soon as practicable after receiving a copy of:~~

~~(a) An application pursuant to subparagraph (3) of paragraph (b) of subsection 1;~~

~~(1) The *Director may, with the assistance of the* Chief of the Budget Division ~~shall~~ *and the Department of Taxation*, publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State ~~;~~ and~~

~~(2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement; and on each affected local government. ~~;~~ and If the Director publishes a fiscal note that estimates the fiscal impact of the partial abatement on local government, the Director shall forward a copy of the fiscal note to each affected local government.~~

~~(b) A~~ *As soon as practicable after receiving a copy of a* certificate of eligibility pursuant to subsection 2, the Department of Taxation shall forward a copy of the certificate to each affected local government.

4. The partial abatement:

(a) Must be for a duration of not more than 10 years and in an annual amount that equals, for a building or other structure that meets the equivalent of:

(1) The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land;

(2) The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land; or

(3) The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land.

(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.

(c) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

(1) Department of Taxation, who shall immediately notify each affected local government of the determination;

(2) County assessor;

(3) County treasurer; and

(4) Commission on Economic Development.

5. The Director shall adopt regulations:

(a) Establishing the qualifications and methods to determine eligibility for the abatement;

(b) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(c) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of subparagraph (1) of paragraph (b) of subsection 1,

➡ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

6. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.

(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) "Taxes imposed for public education" means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.

Sec. 23.5. NRS 701A.200 is hereby amended to read as follows:

701A.200 1. For purposes of the assessment of property pursuant to chapter 361 of NRS:

(a) Except as otherwise provided in paragraph (b), ~~the value of~~ a qualified system ~~must not be included in the assessed value of a building;~~ **is exempt from taxation.**

(b) ~~Any value added by a~~ **A** qualified system ~~must be included in the assessed value of a commercial or industrial building during~~ **is not exempt from taxation:**

(1) During any period in which the ~~business that owns the commercial or industrial building~~ **qualified system** is ~~receiving~~ **subject to** another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS ~~or~~; **or**

(2) If the system is constructed after July 1, 2009, and is part of a facility which is eligible for a partial abatement of taxes pursuant to NRS 701A.360.

2. The ~~Department of Taxation~~ **Nevada Tax Commission** shall adopt such regulations as it determines to be necessary for the administration of this section.

3. As used in this section, "qualified system" means any system, method, construction, installation, machinery, equipment, device or appliance which is designed, constructed or installed in ~~a residential, commercial or industrial building~~ **or adjacent to one or more buildings or an irrigation system in an agricultural operation** to heat or cool the building **or buildings** or water used in the building ~~or~~ **or buildings**, or to provide electricity used in the building ~~or~~ **or buildings or irrigation system regardless of whether the owner of the system, building or buildings or irrigation system participates in net metering pursuant to NRS 704.766 to 704.775, inclusive,** by using:

(a) Energy from the wind or from solar devices; ~~not thermally insulated from the area where the energy is used;~~

(b) Geothermal resources;

(c) Energy derived from conversion of solid wastes; or

(d) Waterpower,

➔ which conforms to standards established by regulation of the ~~Department of Taxation~~ **Nevada Tax Commission.**

Sec. 24. NRS 701A.360 is hereby amended to read as follows:

701A.360 1. A person who intends to locate a facility for the generation of process heat from solar renewable energy, a wholesale facility for the generation of electricity from renewable energy, a facility for the generation of electricity from geothermal resources or a facility for the transmission of electricity produced from renewable energy or geothermal resources in this State may apply to the Director for a partial abatement of the local sales and use taxes, the taxes imposed pursuant to chapter 361 of NRS, or both local sales and use taxes and taxes imposed pursuant to chapter 361 of NRS.

2. A facility that is owned, operated, leased or otherwise controlled by a governmental entity is not eligible for an abatement pursuant to NRS 701A.300 to 701A.390, inclusive.

3. As soon as practicable after the Director receives an application for a partial abatement, the Director shall ~~submit the application to the Commissioner and~~ forward a copy of the application to:

- (a) The Chief of the Budget Division of the Department of Administration;
- (b) The Department of Taxation;
- (c) The board of county commissioners;
- (d) The county assessor;
- (e) The county treasurer; and
- (f) The Commission on Economic Development.

4. With the copy of the application forwarded to the county treasurer, the Director shall include a notice that the local jurisdiction may request a presentation regarding the facility. A request for a presentation must be made within 30 days after receipt of the application.

5. The ~~Commissioner~~ **Director** shall hold a public hearing on the application. The hearing must not be held earlier than 30 days after all persons listed in subsection 3 have received a copy of the application.

Sec. 25. NRS 701A.365 is hereby amended to read as follows:

701A.365 1. Except as otherwise provided in subsection 2, the ~~Commissioner~~ **Director** shall approve an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, if the ~~Commissioner~~ **Director** makes the following determinations:

(a) The applicant has executed an agreement with the ~~Commissioner~~ **Director** which must:

(1) State that the facility will, after the date on which a certificate of eligibility for the abatement is issued pursuant to NRS 701A.370, continue in operation in this State for a period specified by the ~~Commissioner~~ **Director**, which must be at least 10 years, and will continue to meet the eligibility requirements for the abatement; and

(2) Bind the successors in interest in the facility for the specified period.

(b) The facility is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the facility operates.

(c) No funding is or will be provided by any governmental entity in this State for the acquisition, design or construction of the facility or for the acquisition of any land therefor, except any private activity bonds as defined in 26 U.S.C. § 141.

(d) If the facility will be located in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the facility meets the following requirements:

(1) There will be 75 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the ~~{Commissioner}~~ **Director** for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least \$10,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the ~~{Commissioner}~~ **Director** by regulation pursuant to NRS 701A.390.

(e) If the facility will be located in a county whose population is less than 100,000 or a city whose population is less than 60,000, the facility meets the following requirements:

(1) There will be 50 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the ~~{Commissioner}~~ **Director** for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least \$3,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly

wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the ~~{Commissioner}~~ **Director** by regulation pursuant to NRS 701A.390.

(f) The financial benefits that will result to this State from the employment by the facility of the residents of this State and from capital investments by the facility in this State will exceed the loss of tax revenue that will result from the abatement.

2. The ~~{Commissioner}~~ **Director** shall not approve an application for a partial abatement of the taxes imposed pursuant to chapter 361 of NRS submitted pursuant to NRS 701A.360 by a facility for the generation of electricity from geothermal resources unless the application is approved pursuant to this subsection. The board of county commissioners of a county must approve or deny the application not later than 30 days after the board receives a copy of the application. The board of county commissioners must not condition the approval of the application on a requirement that the facility for the generation of electricity from geothermal resources agree to purchase, lease or otherwise acquire in its own name or on behalf of the county any infrastructure, equipment, facilities or other property in the county that is not directly related to or otherwise necessary for the construction and operation of the facility. If the board of county commissioners does not approve or deny the application within 30 days after the board receives the application, the application shall be deemed denied.

3. Notwithstanding the provisions of subsection 1, the ~~{Commissioner}~~ **Director** may, if the ~~{Commissioner}~~ **Director** determines that such action is necessary:

(a) Approve an application for a partial abatement for a facility that does not meet the requirements set forth in paragraph (d) or (e) of subsection 1; or

(b) Add additional requirements that a facility must meet to qualify for a partial abatement.

Sec. 26. NRS 701A.370 is hereby amended to read as follows:

701A.370 1. If the ~~Commissioner~~ **Director** approves an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, of:

(a) Property taxes imposed pursuant to chapter 361 of NRS, the partial abatement must:

(1) Be for a duration of the 20 fiscal years immediately following the date of approval of the application;

(2) Be equal to 55 percent of the taxes on real and personal property payable by the facility each year; and

(3) Not apply during any period in which the facility is receiving another abatement or exemption from property taxes imposed pursuant to chapter 361 of NRS, other than any partial abatement provided pursuant to NRS 361.4722.

(b) Local sales and use taxes:

(1) The partial abatement must:

(I) Be for the 3 years beginning on the date of approval of the application;

(II) Be equal to that portion of the combined rate of all the local sales and use taxes payable by the facility each year which exceeds 0.25 percent; and

(III) Not apply during any period in which the facility is receiving another abatement or exemption from local sales and use taxes.

(2) The Department of Taxation shall issue to the facility a document certifying the abatement which can be presented to retailers at the time of sale. The document must clearly state that the purchaser is only required to pay sales and use taxes imposed in this State at the rate of 2.25 percent.

2. Upon approving an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, the ~~Commissioner~~ **Director** shall immediately ~~notify the Director of the terms of the abatement and the Director shall immediately~~ forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation;

(b) The board of county commissioners;

(c) The county assessor;

(d) The county treasurer; and

(e) The Commission on Economic Development.

Sec. 27. NRS 701A.375 is hereby amended to read as follows:

701A.375 1. ~~As soon as practicable after receiving a copy of an application pursuant to NRS 701A.360:~~

~~—(a) The~~ **Director may, with the assistance of the** Chief of the Budget Division of the Department of Administration ~~shall~~ **and the Department of Taxation,** publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State and ~~forward a copy of the fiscal note to the Director for submission to the Commissioner; and~~

~~—(b) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement~~ on each affected local government . ~~— and —~~ ***If the Director publishes a fiscal note that estimates the fiscal impact of the partial abatement on local government, the Director shall*** forward a copy of the fiscal note to each affected local government . ~~and to the Director for submission to the Commissioner.~~

2. As soon as practicable after receiving a copy of a certificate of eligibility pursuant to NRS 701A.370, the Department of Taxation shall forward a copy of the certificate to each affected local government.

Sec. 28. NRS 701A.380 is hereby amended to read as follows:

701A.380 1. A partial abatement approved by the ~~{Commissioner}~~ **Director** pursuant to NRS 701A.300 to 701A.390, inclusive, terminates upon any determination by the ~~{Commissioner}~~ **Director** that the facility has ceased to meet any eligibility requirements for the abatement.

2. The ~~{Commissioner}~~ **Director** shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the facility has ceased to meet those requirements.

3. The ~~{Commissioner}~~ **Director** shall immediately provide notice of each determination of termination ~~to the Director, and the Director shall immediately provide a copy of the notice~~ to:

- (a) The Department of Taxation, which shall immediately notify each affected local government of the determination;
- (b) The board of county commissioners;
- (c) The county assessor;
- (d) The county treasurer; and
- (e) The Commission on Economic Development.

Sec. 29. NRS 701A.385 is hereby amended to read as follows:

701A.385 Notwithstanding any statutory provision to the contrary, if the ~~{Commissioner}~~ **Director** approves an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, of:

1. Property taxes imposed pursuant to chapter 361 of NRS, the amount of all the property taxes which are collected from the facility for the period of the abatement must be allocated and distributed in such a manner that:

- (a) Forty-five percent of that amount is deposited in the Renewable Energy Fund created by NRS 701A.450; and
- (b) Fifty-five percent of that amount is distributed to the local governmental entities that would otherwise be entitled to receive those taxes in proportion to the relative amount of those taxes those entities would otherwise be entitled to receive.

2. Local sales and use taxes, the State Controller shall allocate, transfer and remit an amount equal to all the sales and use taxes imposed in this State and collected from the facility for the period of the abatement in the same manner as if that amount consisted solely of the proceeds of taxes imposed by NRS 374.110 and 374.190.

Sec. 30. NRS 701A.390 is hereby amended to read as follows:

701A.390 The ~~{Commissioner}~~ **Director:**

1. Shall adopt regulations:

(a) Prescribing the minimum level of benefits that a facility must provide to its employees if the facility is going to use benefits paid to employees as a basis to qualify for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive;

(b) Prescribing such requirements for an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, as will ensure that all information and other documentation necessary for the ~~{Commissioner}~~ **Director** to make an appropriate determination is filed with the Director;

(c) Requiring each recipient of a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, to file annually with the Director ~~for submission to the Commissioner,~~ such information and documentation as may be necessary for the ~~{Commissioner}~~ **Director** to determine whether the recipient is in compliance with any eligibility requirements for the abatement; and

(d) Regarding the capital investment that a facility must make to meet the requirement set forth in paragraph (d) or (e) of subsection 1 of NRS 701A.365; and

2. May adopt such other regulations as the ~~{Commissioner}~~ **Director** determines to be necessary to carry out the provisions of NRS 701A.300 to 701A.390, inclusive.

Sec. 31. NRS 701A.450 is hereby amended to read as follows:

701A.450 1. The Renewable Energy Fund is hereby created.

2. The ~~{Nevada Energy Commissioner}~~ **Director of the Office of Energy** appointed pursuant to NRS ~~{701.340}~~ **701.150** shall administer the Fund.

3. The interest and income earned on the money in the Fund must be credited to the Fund.

4. Not less than 75 percent of the money in the Fund must be used to offset the cost of electricity to retail customers of a public utility that is subject to the portfolio standard established by the Public Utilities Commission of Nevada pursuant to NRS 704.7821.

5. The ~~{Nevada Energy Commissioner}~~ **Director of the Office of Energy** may establish other uses of the money in the Fund by regulation.

Sec. 32. NRS 704.764 is hereby amended to read as follows:

704.764 1. The Commission shall adopt regulations requiring each electric utility to disclose to its retail customers information about the safe disposal and recycling of electronic waste, electrical systems and other waste, including, without limitation, compact fluorescent light bulbs, in accordance with the comprehensive state energy plan established by the ~~{Nevada Energy Commissioner}~~ **Director of the Office of Energy** pursuant to NRS 701.190. The disclosure must:

(a) Be in a standard, uniform format established by the Commission by regulation; and

(b) Be included:

(1) At least two times each calendar year, as an insert in the bills that the electric utility sends to its retail customers; and

(2) If the electric utility maintains a website on the Internet or any successor to the Internet, on that website.

2. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 33. NRS 113.115 is hereby amended to read as follows:

113.115 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,~~ **Director of the Office of Energy**, 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.

Sec. 34. NRS 331.095 is hereby amended to read as follows:

331.095 1. The ~~Chief~~ **Director of the Office of Energy** shall establish a program to track the use of energy in buildings owned by the State and in other buildings which are occupied by a state agency and whose owners comply with the program pursuant to subsection 6.

2. The program established pursuant to this section must:

(a) Record utility bills for each building for each month and preserve those records indefinitely;

(b) Allow for the comparison of utility bills for a building from month to month and year to year;

(c) Allow for the comparison of utility bills between buildings, including comparisons between similar buildings or types of buildings;

(d) Allow for adjustments to the information based upon variations in weather conditions, the length of the billing period and other changes in relevant conditions;

(e) Facilitate identification of errors in utility bills and meter readings;

(f) Allow for the projection of costs for energy for a building; and

(g) Identify energy and cost savings associated with efforts to conserve energy.

3. The ~~{Chief}~~ **Director of the Office of Energy** may apply for any available grants and accept any gifts, grants or donations to assist in establishing and carrying out the program.

4. In accordance with, and out of any money received pursuant to, the American Recovery and Reinvestment Act of 2009, Public Law 111-5, the Interim Finance Committee may determine an amount of money to be used by the ~~{Chief}~~ **Director of the Office of Energy** to fulfill the requirements of subsection 1.

5. To the extent that there is not sufficient money available for the support of the program, each state agency that occupies a building in which the use of energy is tracked pursuant to the program shall reimburse the ~~{Buildings and Grounds Division}~~ **Office of Energy** for the agency's proportionate share of the unfunded portion of the cost of the program. The reimbursement must be based upon the energy consumption of the respective state agencies that occupy buildings in which the use of energy is tracked.

6. Notwithstanding any other provision of law, an owner of a building who enters into a contract with a state agency for occupancy in the building:

(a) If the contract is entered into before May 28, 2009, may comply with the program; and

(b) If the contract is entered into on or after May 28, 2009, shall, to the extent practicable as determined by the ~~{Chief}~~ **Director of the Office of Energy**, comply with the program.

➔ If an owner chooses not to comply with the program pursuant to paragraph (a), a state or local agency shall not, after May 28, 2009, enter into a contract for occupancy of a building owned by the owner, except that the Chief may authorize a state or local agency to enter into a contract for the occupancy of a building owned by an owner who does not comply with the program if the ~~{Chief}~~ **Director of the Office of Energy** determines that it is impracticable for the owner to comply with the program.

7. *The Chief shall provide such assistance to the Director of the Office of Energy as is necessary to carry out the provisions of this section.*

8. *The Director of the Office of Energy may, pursuant to chapter 333 of NRS, enter into contracts for any engineering, procurement and construction services necessary to carry out the provisions of this section. A contract entered into pursuant to this subsection is not subject to the provisions of chapter 333A of NRS. A contractor who enters into a contract with the Director of the Office of Energy pursuant to this subsection shall*

submit to the State Public Works Board a copy of any building permit required for any work performed under the contract.

Sec. 35. NRS 332.430 is hereby amended to read as follows:

332.430 A qualified service company shall provide to the ~~{Renewable Energy and Energy Efficiency Authority}~~ **Office of Energy** information concerning each performance contract which the qualified service company enters into pursuant to NRS 332.300 to 332.440, inclusive, including, without limitation, the name of the project, the local government for which the project is being carried out and the expected operating cost savings. The ~~{Renewable Energy and Energy Efficiency Authority}~~ **Office of Energy** may report any energy savings realized as a result of such performance contracts to the United States Department of Energy pursuant to 42 U.S.C. § 13385.

Sec. 36. NRS 333A.080 is hereby amended to read as follows:

333A.080 1. The State Public Works Board shall determine those companies that satisfy the requirements of qualified service companies for the purposes of this chapter. In making such a determination, the State Public Works Board shall enlist the assistance of the staffs of the ~~{Renewable Energy and Energy Efficiency Authority}~~ **Office of Energy**, the Buildings and Grounds Division of the Department of Administration and the Purchasing Division of the Department of Administration. The State Public Works Board shall prepare and issue a request for qualifications to not less than three potential qualified service companies.

2. In sending out a request for qualifications, the State Public Works Board:

(a) Shall attempt to identify at least one potential qualified service company located within this State; and

(b) May consider whether and to what extent the companies to which the request for qualifications will be sent will use local contractors.

3. The State Public Works Board shall adopt, by regulation, criteria to determine those companies that satisfy the requirements of qualified service companies. The criteria for evaluation must include, without limitation, the following areas as substantive factors to assess the capability of such companies:

- (a) Design;
- (b) Engineering;
- (c) Installation;
- (d) Maintenance and repairs associated with performance contracts;
- (e) Experience in conversions to different sources of energy or fuel and other services related to operating cost-savings measures provided that is done in association with a comprehensive energy, water or waste disposal cost-savings retrofit;
- (f) Monitoring projects after the projects are installed;
- (g) Data collection and reporting of savings;
- (h) Overall project experience and qualifications;
- (i) Management capability;

- (j) Ability to access long-term financing;
- (k) Experience with projects of similar size and scope; and

(l) Such other factors determined by the State Public Works Board to be relevant and appropriate to the ability of a company to perform the projects.

➡ In determining whether a company satisfies the requirements of a qualified service company, the State Public Works Board shall also consider whether the company holds the appropriate licenses required for the design, engineering and construction which would be completed pursuant to a performance contract.

4. The State Public Works Board shall compile a list of those companies that it determines satisfy the requirements of qualified service companies.

Sec. 37. NRS 333A.140 is hereby amended to read as follows:

333A.140 A qualified service company shall provide to the ~~{Renewable Energy and Energy Efficiency Authority}~~ **Office of Energy** information concerning each performance contract which the qualified service company enters into pursuant to this chapter, including, without limitation, the name of the project, the using agency for which the project is being carried out and the expected operating cost savings. The ~~{Renewable Energy and Energy Efficiency Authority}~~ **Office of Energy** may report any energy savings realized as a result of such performance contracts to the United States Department of Energy pursuant to 42 U.S.C. § 13385.

Sec. 38. NRS 338.1908 is hereby amended to read as follows:

338.1908 1. The governing body of each local government shall, by July 28, 2009, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:

(a) Be developed with input from one or more energy retrofit coordinators designated pursuant to NRS 338.1907, if any.

(b) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

- (1) The length of time necessary to commence the project.
- (2) The number of workers estimated to be employed on the project.
- (3) The effectiveness of the project in reducing energy consumption.
- (4) The estimated cost of the project.
- (5) Whether the project is able to be powered by or otherwise use sources of renewable energy.

(6) Whether the project has qualified for participation in one or more of the following programs:

(I) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(II) The Renewable Energy School Pilot Program created by NRS 701B.350;

(III) The Wind Energy Systems Demonstration Program created by NRS 701B.580; or

(IV) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820.

(c) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in 42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.

2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the ~~Nevada Energy Commissioner~~ **Director of the Office of Energy** and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection 11 of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

- (1) Biomass;
- (2) Fuel cells;
- (3) Geothermal energy;
- (4) Solar energy;
- (5) Waterpower; and
- (6) Wind.

↪ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy-efficient.

Sec. 39. NRS 701.025, 701.035, 701.330, 701.340 and 701A.310 are hereby repealed.

Sec. 40. 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 responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

Sec. 41. This act becomes effective on July 1, 2011.

LEADLINES OF REPEALED SECTIONS

701.025 "Authority" defined.

701.035 "Commissioner" defined.

701.330 Creation; Authority may request assistance from Public Utilities Commission of Nevada.

701.340 Appointment and qualifications of Commissioner; personnel, consultants and legal counsel; prohibited conflicts of interest.

701A.310 "Commissioner" defined.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

This is one of the budget implementation bills from the Executive Budget. It eliminates the position of the Nevada Energy Commissioner and the Renewable Energy and Energy Efficiency Authority and transfers the duties of the Commissioner and the Authority to the Director and the Nevada State Office of Energy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 440.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 817.

"SUMMARY—Creates the Silver State Health Insurance Exchange. (BDR 57-1172)"

"AN ACT relating to health insurance; creating the Silver State Health Insurance Exchange; setting forth the purposes of the Exchange; providing for the composition, appointment and terms of members and powers and duties of the Board of Directors of the Exchange; providing for the appointment and powers and duties of the Executive Director of the Exchange; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill creates the Silver State Health Insurance Exchange to provide services relating to the purchase and sale of health insurance by residents and certain employers in this State. The Exchange is governed by the Board of Directors consisting of five voting members appointed by the Governor, one voting member appointed by the Senate Majority Leader and one voting member appointed by the Speaker of the Assembly. The Board also consists of the directors, or designees thereof, of the Department of Health and Human Services, the Department of Business and Industry and the Department of Administration as ex officio nonvoting members to assist the voting members by providing advice and expertise. Voting members of the Board serve terms of 3 years each. The Board appoints an Executive Director of the Exchange, who in turn may employ such persons as are necessary and as funding allows. Among other duties, the Exchange is required to create and administer a state-based health insurance exchange, facilitate the purchase and sale of qualified health plans, provide for the establishment of a program to help certain small employers in Nevada in facilitating the enrollment of employees in qualified health plans, and perform all other duties that are required of it pursuant to the federal Patient Protection and Affordable Care Act, the federal Health Care and Education Reconciliation

Act of 2010 and any amendments to or regulations or guidance issued pursuant to those acts. (Pub. L. No. 111-148, Pub. L. No. 111-152)

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

Section 1. Title 57 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 27, inclusive, of this act.

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

Sec. 3. *"Board" means the Board of Directors of the Exchange.*

Sec. 4. *"Exchange" means the Silver State Health Insurance Exchange.*

Sec. 5. *"Executive Director" means the Executive Director of the Exchange.*

Sec. 6. *"Federal Act" means the federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and any amendments to, or regulations or guidance issued pursuant to, those acts.*

Sec. 7. *"Medical facility" has the meaning ascribed to it in NRS 449.0151.*

Sec. 8. *"Provider of health care" has the meaning ascribed to it in NRS 629.031.*

Sec. 9. *Except as otherwise provided in section 22 of this act, "qualified health plan" has the meaning ascribed to it in § 1301 of the Federal Act.*

Sec. 10. *"Qualified individual" means a person, including, without limitation, a minor, who:*

1. Is seeking to enroll in a qualified health plan offered to persons through the Exchange;

2. Resides in Nevada;

3. At the time of enrollment is not incarcerated, unless the person is incarcerated pending the disposition of charges; and

4. Is, and is reasonably expected to be, for the entire period for which enrollment is sought, a citizen of the United States or an alien lawfully present in the United States.

Sec. 11. *"Qualified small employer" means a small employer that chooses to make all of its full-time employees ~~f, and some or all of its part-time employees,~~ eligible for one or more qualified health plans offered through the ~~program~~ Exchange to assist qualified small employers in Nevada in facilitating the enrollment of their employees in qualified health plans offered in the small group market, if the employer:*

1. *Has its principal place of business in Nevada and chooses to provide coverage through the ~~program~~ Exchange to all of its eligible employees, regardless of where those employees are employed; or*

2. *Regardless of the location of its principal place of business, chooses to provide coverage through the ~~program~~ Exchange to all of its eligible employees who are principally employed in Nevada.*

Sec. 12. "Small employer" has the meaning ascribed to it in NRS 689C.095.

Sec. 13. *The Silver State Health Insurance Exchange is hereby established to:*

1. *Facilitate the purchase and sale of qualified health plans in the individual market in Nevada;*

2. *Assist qualified small employers in Nevada in facilitating the enrollment and purchase of coverage and the application for subsidies for small business enrollees;*

3. *Reduce the number of uninsured persons in Nevada;*

4. *Provide a transparent marketplace for health insurance and consumer education on matters relating to health insurance; and*

5. *Assist residents of Nevada with access to programs, premium assistance tax credits and cost-sharing reductions.*

Sec. 14. 1. *The Exchange shall:*

(a) *Create and administer a state-based health insurance exchange;*

(b) *Facilitate the purchase and sale of qualified health plans;*

(c) *Provide for the establishment of a program to assist qualified small employers in Nevada in facilitating the enrollment of their employees in qualified health plans offered in the small group market;*

(d) *Make only qualified health plans available to qualified individuals and qualified small employers on or after January 1, 2014; and*

(e) *Unless the Federal Act is repealed or is held to be unconstitutional or otherwise invalid or unlawful, perform all duties that are required of the Exchange to implement the requirements of the Federal Act.*

2. *The Exchange may:*

(a) *Enter into contracts with any person, including, without limitation, a local government, a political subdivision of a local government and a governmental agency, to assist in carrying out the duties and powers of the Exchange or the Board; and*

(b) *Apply for and accept any gift, donation, bequest, grant or other source of money to carry out the duties and powers of the Exchange or the Board.*

3. *The Exchange is subject to the provisions of chapter 333 of NRS.*

Sec. 15. 1. *The governing authority of the Exchange is the Board, consisting of seven voting members and three ex officio nonvoting members.*

2. *Subject to the provisions of subsections 3, 4 and 5:*

(a) *The Governor shall appoint five voting members of the Board;*

(b) *The Senate Majority Leader shall appoint one voting member of the Board; and*

(c) *The Speaker of the Assembly shall appoint one voting member of the Board.*

3. *Each voting member of the Board must have:*

(a) *Expertise in the individual or small employer health insurance market;*

(b) *Expertise in health care administration, health care financing or health information technology;*

(c) *Expertise in the administration of health care delivery systems; ~~for~~*

(d) *Experience as a consumer who would benefit from services provided by the Exchange ~~for~~; or*

(e) *Experience as a consumer advocate, including, without limitation, experience in consumer outreach and education for those who would benefit from services provided by the Exchange.*

4. *When making an appointment pursuant to subsection 2, the Governor, the Majority Leader and the Speaker of the Assembly shall consider the collective expertise and experience of the voting members of the Board and shall attempt to make each appointment so that:*

(a) *The areas of expertise and experience described in subsection 3 are collectively represented by the voting members of the Board; and*

(b) *The voting members of the Board represent a range and diversity of skills, knowledge, experience and geographic and stakeholder perspectives.*

5. *A voting member of the Board may not be a Legislator ~~for~~ or hold any elective office in State Government, ~~for be an employee of the State or a municipality of the State.~~*

6. *While serving on the Board, a voting member may not be in any way affiliated with a health insurer, including, without limitation, being an employee of, consultant to or member of the board of directors of a health insurer, having an ownership interest in a health insurer or otherwise being a representative of a health insurer.*

7. *The following are ex officio nonvoting members of the Board who shall assist the voting members of the Board by providing advice and expertise:*

(a) *The Director of the Department of Health and Human Services, or his or her designee;*

(b) *The Director of the Department of Business and Industry, or his or her designee; and*

(c) *The Director of the Department of Administration, or his or her designee.*

Sec. 16. 1. *After the initial terms, the term of each voting member of the Board is 3 years.*

2. *A voting member of the Board may be reappointed to the Board.*

3. *The appointing authority who appoints a voting member of the Board may remove that voting member if the voting member neglects his or her duty or commits misfeasance, malfeasance or nonfeasance in office.*

4. *A vacancy on the Board in the position of a voting member must be filled in the same manner as the original appointment.*

5. *Upon the expiration of his or her term of office, a voting member of the Board may continue to serve until he or she is reappointed or a person is appointed as a successor.*

Sec. 17. 1. *The Board shall elect a Chair and a Vice Chair from among its members.*

2. *The terms of the Chair and Vice Chair are 1 year.*

3. *The Chair and Vice Chair may be reelected to one or more terms.*

4. *If a vacancy occurs, the members of the Board shall elect a replacement Chair or Vice Chair, as applicable, for the remainder of the unexpired term.*

Sec. 18. 1. *Except as otherwise provided in subsection 2, the voting members of the Board shall serve without compensation.*

2. *If sufficient money is available from federal grant funds or revenues generated by the Exchange, each member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally while attending meetings of the Board or otherwise engaged in the business of the Board.*

Sec. 19. 1. *The Board shall meet:*

(a) *At least once each calendar quarter; and*

(b) *At other times upon the call of the Chair or a majority of the voting members.*

2. *A majority of the voting members of the Board constitutes a quorum for the transaction of business.*

3. *A member of the Board may not vote by proxy.*

Sec. 20. 1. *The Board may appoint subcommittees and advisory committees composed of members of the Board, former members of the Board and members of the general public who have experience with or knowledge of matters relating to health care to consider specific problems or other matters within the scope of the powers, duties and functions of the Board.*

2. *To the extent practicable, the members of such a subcommittee or advisory committee must be representative of the various geographic areas and ethnic groups of this State.*

3. *A member of a subcommittee or an advisory committee will not be compensated or reimbursed for travel or other expenses relating to any duties as a member of the subcommittee or advisory committee.*

Sec. 21. *The Board and any subcommittee or advisory committee appointed by the Board shall comply with the provisions of chapter 241 of NRS.*

Sec. 22. 1. *The Board shall:*

(a) Adopt bylaws setting forth its procedures and governing its operations;

(b) On or before June 30 and December 31 of each year, submit a written fiscal and operational report to the Governor and the Legislature, which must include, without limitation, any recommendations concerning the Exchange;

(c) On or before December 31 of each year, prepare a report for the public summarizing the activities of the Board and the contributions of the Exchange to the health of the residents of Nevada during the previous year;

(d) Provide for an annual audit of its functions and operations;

(e) Submit all reports required by federal law to the appropriate federal agency and in a timely manner; and

(f) If the Federal Act is repealed or is held unconstitutional or otherwise invalid or unlawful, define by regulation "qualified health plan" for the purposes of this act.

2. The Board may:

(a) Adopt regulations to carry out the duties and powers of the Exchange;

(b) Prepare special reports concerning the Exchange for the Governor, the Legislature and the public; and

(c) Contract for the services of such legal, professional, technical and operational personnel and consultants as the execution of its duties and powers and the operation of the Exchange may require.

3. The Board is subject to Legislative and Executive Branch audits.

Sec. 23. 1. The Board shall appoint an Executive Director of the Exchange.

2. The Executive Director:

(a) Is in the nonclassified service of the State;

(b) Is responsible to the Board and serves at the pleasure of the Board;

(c) Must have experience in the administration of health care or health insurance; and

(d) Is responsible for the administrative matters of the Board.

3. Subject to the limits of available funding, the Executive Director may appoint and remove such employees of the Exchange as are necessary for the administration of the Exchange.

4. Employees of the Exchange appointed pursuant to subsection 3 are in the nonclassified service of the State.

Sec. 24. 1. The Board and the Department of Health and Human Services shall ensure that the Exchange coordinates with Medicaid, the Children's Health Insurance Program and any other applicable state or local public programs to create a single point of entry for users of the Exchange who are eligible for such programs and to promote continuity of coverage and care.

2. *As used in this section, "Children's Health Insurance Program" has the meaning ascribed to it in NRS 422.021.*

Sec. 25. *The Department of Health and Human Services, the Division of Insurance of the Department of Business and Industry and any other relevant state agency shall work with and provide support to the Exchange as it carries out its duties and powers, including, without limitation, entering into agreements to share information and intergovernmental agreements with the Exchange.*

Sec. 26. 1. *If the Executive Director determines that the current expenses of the Exchange exceed the amount of money available because of a delay in the receipt of money from federal grants or a delay in the receipt of revenue from other sources, the Executive Director may request from the Department of Administration an advance from the State General Fund for the payment of authorized expenses.*

2. *If the Director of the Department of Administration approves a request made pursuant to subsection 1, he or she shall notify the State Controller and the Fiscal Analysis Division of the Legislative Counsel Bureau of the amount of advance approved.*

3. *Upon receiving notification pursuant to subsection 2, the State Controller shall draw his or her warrant for payment of the approved amount.*

4. *An advance made pursuant to this section must not exceed 25 percent of the revenue expected to be received from any source other than legislative appropriation during the fiscal year in which the request is made.*

5. *Any money which is advanced pursuant to this section must be repaid by the Exchange to the State General Fund not later than August 31 immediately after the end of the fiscal year during which the advance is made.*

Sec. 27. *Nothing in this act, and no action taken by the Exchange pursuant to this act, shall be construed to preempt or supersede the authority of the Commissioner to regulate the business of insurance within this State.*

Sec. 28. 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.

(n) *The Silver State Health Insurance Exchange.*

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) 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.

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. 29. On or before July 1, 2011:

1. The Governor shall appoint two voting members of the Board of Directors of the Silver State Health Insurance Exchange to terms commencing July 1, 2011, and expiring June 30, 2012.

2. The Governor and the Speaker of the Assembly shall each appoint one voting member of the Board of Directors of the Silver State Health Insurance Exchange to terms commencing July 1, 2011, and expiring June 30, 2013.

3. The Governor shall appoint two voting members of the Board of Directors of the Silver State Health Insurance Exchange, and the Senate Majority Leader shall appoint one voting member of the Board of Directors of the Silver State Health Insurance Exchange, to terms commencing July 1, 2011, and expiring June 30, 2014.

Sec. 30. On or before December 31, 2011, the Board of Directors of the Silver State Health Insurance Exchange shall adopt a plan for the implementation and operation of the Silver State Health Insurance Exchange and shall submit the plan to the Governor and the Legislature.

Sec. 31. Until an Executive Director of the Silver State Health Insurance Exchange is appointed pursuant to section 23 of this act, the Director of the Department of Health and Human Services is ex officio responsible for the administrative matters of the Board of Directors of the Silver State Health Insurance Exchange.

Sec. 32. This act becomes effective upon passage and approval for the purpose of appointing voting members of the Board of Directors of the Silver State Health Insurance Exchange and on July 1, 2011, for all other purposes.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

The amendment adds to the list of individuals that the Governor shall appoint. It adds an individual as a consumer advocate, including, without limitation, the consumer with experience for outreach in education, and it makes other technical amendments to the bill as a whole.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 443.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 821.

"SUMMARY—Requires counties to pay a percentage of the expense of presentence or general investigations and reports made by the Division of Parole and Probation of the Department of Public Safety. (BDR 14-1202)"

"AN ACT relating to probation; requiring counties to pay a percentage of the expense of presentence or general investigations and reports made by the Division of Parole and Probation of the Department of Public Safety; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Division of Parole and Probation of the Department of Public Safety to make presentence or general investigations and reports in certain circumstances. (NRS 176.133-176.159) This bill requires that 70 percent of the expense of any presentence or general investigation and report made by the Division, other than the expense of a psychosexual evaluation, be paid by the county in which the indictment was found or the information filed. Under this bill, a county must pay to the Division all such expenses according to a schedule established by the Division, which must require payment on at least a quarterly basis.

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

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

~~The~~

1. Seventy percent of the expense of any presentence or general investigation and report made by the Division pursuant to ~~this section and~~ NRS ~~176.133 to 176.159, inclusive,~~ 176.135 or 176.151, other than the expense of a psychosexual evaluation conducted pursuant to NRS 176.139, must be paid by the county in which the indictment was found or the information filed.

2. Each county shall pay to the Division all expenses required pursuant to subsection 1 according to a schedule established by the Division, which must require payment on at least a quarterly basis.

Sec. 2. NRS 176.133 is hereby amended to read as follows:

176.133 As used in NRS 176.133 to 176.159, inclusive, *and section 1 of this act*, unless the context otherwise requires:

1. "Person professionally qualified to conduct psychosexual evaluations" means a person who has received training in conducting psychosexual evaluations and is:

(a) A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc.;

(b) A psychologist licensed to practice in this State;

(c) A social worker holding a master's degree in social work and licensed in this State as a clinical social worker;

(d) A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State;

(e) A marriage and family therapist licensed in this State pursuant to chapter 641A of NRS; or

(f) A clinical professional counselor licensed in this State pursuant to chapter 641A of NRS.

2. "Psychosexual evaluation" means an evaluation conducted pursuant to NRS 176.139.

3. "Sexual offense" means:

(a) Sexual assault pursuant to NRS 200.366;

(b) Statutory sexual seduction pursuant to NRS 200.368, if punished as a felony;

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(d) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation and is punished as a felony;

(e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(f) Incest pursuant to NRS 201.180;

(g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195, if punished as a felony;

(h) Open or gross lewdness pursuant to NRS 201.210, if punished as a felony;

(i) Indecent or obscene exposure pursuant to NRS 201.220, if punished as a felony;

(j) Lewdness with a child pursuant to NRS 201.230;

(k) Sexual penetration of a dead human body pursuant to NRS 201.450;

(l) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony;

(m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive, if punished as a felony; or

(n) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

Sec. 3. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 4. This act becomes effective upon passage and approval for the purpose of adopting regulations and on July 1, 2011 ~~1-1~~, for all other purposes.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

The amendment requires that 70 percent of the expense of any presentence or general investigation report prepared by the Division of Parole and Probation be paid by the county in which the indictment was found or the information filed.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 446.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 820.

"SUMMARY—Revises provisions governing the composition of the State Department of Conservation and Natural Resources. (BDR 18-1209)"

"AN ACT relating to governmental administration; revising provisions governing the composition of the State Department of Conservation and Natural Resources; eliminating the Advisory Board on Natural Resources, the Division of Conservation Districts ~~the State Conservation Commission~~ and the Commission for the Preservation of Wild Horses; creating the Conservation Districts Program within the Department; transferring the duties of the ~~State Conservation Commission~~ Division of Conservation Districts to the ~~State Environmental Commission~~; ~~revising certain provisions governing the administration of conservation districts; repealing certain provisions governing those districts;~~ Conservation Districts Program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law creates of the Advisory Board on Natural Resources to advise the Director of the State Department of Conservation and Natural Resources on certain matters relating to the use of land and natural resources in this State. (NRS 232.085) **Section 35** of this bill eliminates the Advisory Board. **Section 2** of this bill requires the Director to consider input from members of the public, industries in this State and representatives of organizations, associations, groups or other entities concerned with matters of conservation and natural resources on the matters upon which the Advisory Board provided input.

Existing law creates the State Department of Conservation and Natural Resources, consisting of several divisions and commissions including the Division of Conservation Districts, the State Environmental Commission, the State Conservation Commission and the Commission for the Preservation of Wild Horses. (NRS 232.090) ~~Sections 3 and 35~~ **Section 3** ~~and 35~~ of this bill ~~eliminate~~ **eliminates** the Division of Conservation Districts ~~the State Conservation Commission~~ and the Commission for the Preservation of Wild Horses.

~~Existing law provides for the creation of conservation districts in this State to provide local planning for the conservation and development of natural resources in their areas and requires the State Conservation Commission, with the assistance of the Division of Conservation Districts, to oversee the conservation districts. (NRS 548.105, 548.175) Section 9 of this bill transfers the authority to oversee the conservation districts to the State Environmental Commission, and section 4 of this bill requires the Division of Environmental Protection to provide the Commission with assistance as necessary.~~

~~Existing law authorizes the adoption of regulations for the use of land within conservation districts, including provisions for: (1) carrying out engineering operations; (2) methods of cultivation; (3) specifications of cropping programs; (4) requirements for the retirement from cultivation of erosive areas; and (5) other measures that may assist in conservation. Existing law also provides for the establishment of boards of adjustment, which have the power to grant variances to the established land use regulations. (NRS 548.410-548.510) Section 35 of this bill repeals the authority to adopt land use regulations and eliminates the boards of adjustments. However, section 37 of this bill provides that existing land use regulations in effect on July 1, 2011, will remain in effect until amended or repealed.~~ **and creates the Conservation Districts Program within the Department. Section 14.5 of this bill transfers the duties of the Division of Conservation Districts to the Conservation Districts Program. Section 35 of this bill repeals provisions relating to the Advisory Board on Natural Resources, the Division of Conservation Districts and the Commission for the Preservation of Wild Horses.**

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

Section 1. NRS 232.055 is hereby amended to read as follows:

232.055 1. The Director shall appoint ~~two assistant directors~~ ***one deputy director*** of the Department and shall assign ~~their~~ ***his or her*** duties.

2. ~~Each assistant~~ ***The deputy*** director is in the unclassified service of the State.

3. Except as otherwise provided in NRS 284.143, ~~each assistant~~ ***the deputy*** director shall devote his or her entire time and attention to the business of his or her office and shall not engage in any other gainful employment or occupation.

Sec. 2. NRS 232.070 is hereby amended to read as follows:

232.070 1. As executive head of the Department, the Director is responsible for the administration, through the divisions and other units of the Department, of all provisions of law relating to the functions of the Department, except functions assigned by law to the State Environmental Commission ~~or the State Conservation Commission, for the Commission for the Preservation of Wild Horses.~~

2. Except as otherwise provided in subsection 4, the Director shall:

- (a) Establish departmental goals, objectives and priorities.
- (b) Approve divisional goals, objectives and priorities.
- (c) Approve divisional and departmental budgets, legislative proposals, contracts, agreements and applications for federal assistance.
- (d) Coordinate divisional programs within the Department and coordinate departmental and divisional programs with other departments and with other levels of government.
- (e) Appoint the executive head of each division within the Department.

(f) Delegate to the executive heads of the divisions such authorities and responsibilities as the Director deems necessary for the efficient conduct of the business of the Department.

(g) Establish new administrative units or programs which may be necessary for the efficient operation of the Department, and alter departmental organization and reassign responsibilities as the Director deems appropriate.

(h) From time to time adopt, amend and rescind such regulations as the Director deems necessary for the administration of the Department.

(i) Consider input from members of the public, industries and representatives of organizations, associations, groups or other entities concerned with matters of conservation and natural resources on the following:

(1) Matters relating to the establishment and maintenance of an adequate policy of forest and watershed protection;

(2) Matters relating to the park and recreational policy of the State;

(3) The use of land within this State which is under the jurisdiction of the Federal Government;

(4) The effect of state and federal agencies' programs and regulations on the users of land under the jurisdiction of the Federal Government, and on the problems of those users of land; and

(5) The preservation, protection and use of this State's natural resources.

3. Except as otherwise provided in subsection 4, the Director may enter into cooperative agreements with any federal or state agency or political subdivision of the State, any public or private institution located in or outside the State of Nevada, or any other person, in connection with studies and investigations pertaining to any activities of the Department.

4. This section does not confer upon the Director any powers or duties which are delegated by law to the State Environmental Commission, ~~or the State Conservation Commission~~, ~~for the Commission for the Preservation of Wild Horses,~~ but the Director may foster cooperative agreements and coordinate programs and activities involving the powers and duties of the commissions.

5. All gifts of money and other property which the Director is authorized to accept must be accounted for in the Department of Conservation and Natural Resources Gift Fund which is hereby created as a trust fund.

Sec. 3. NRS 232.090 is hereby amended to read as follows:

232.090 1. The Department consists of the Director and the following divisions:

(a) The Division of Water Resources.

(b) The Division of State Lands.

(c) The Division of Forestry.

(d) The Division of State Parks.

(e) ~~The Division of Conservation Districts.~~

~~—(f)~~ The Division of Environmental Protection.

~~{(g)}~~ (f) Such other divisions as the Director may from time to time establish.

2. The State Environmental Commission, the State Conservation Commission, the [Commission for the Preservation of Wild Horses,] **Conservation Districts Program**, the Nevada Natural Heritage Program and the Board to Review Claims are within the Department.

Sec. 4. ~~NRS 232.136 is hereby amended to read as follows:~~
~~232.136 1. The Division of Environmental Protection consists of the Administrator and any other necessary personnel.~~
~~2. The Administrator is appointed by the Director and is in the unclassified service of the State.~~
~~3. In addition to any other duties provided by law, the Administrator shall assist the State Environmental Commission in carrying out the provisions of chapter 548 of NRS.~~ **(Deleted by amendment.)**

Sec. 5. NRS 318.1181 is hereby amended to read as follows:

318.1181 In the case of a district created wholly or in part for the purpose of furnishing fire protection, the board may:

1. Acquire fire protection equipment and acquire, construct or improve fire protection facilities and make improvements necessary and incidental thereto;

2. Eliminate fire hazards existing within the district in the manner prescribed in NRS 474.580 for districts created pursuant to chapter 474 of NRS;

3. Clear public highways and private lands of dry grass, stubble, bushes, rubbish and other inflammable material which in its judgment constitute a fire hazard;

4. Coordinate fire protection activities with the State Forester Firewarden; ~~and the Advisory Board on Natural Resources;~~ and

5. Cooperate with the State Forester Firewarden ~~and the Advisory Board on Natural Resources~~ in formulating a statewide plan for the prevention and control of fires.

Sec. 6. NRS 321.355 is hereby amended to read as follows:

321.355 1. Before any state land may be leased, exchanged, sold or contracted for sale, the State Land Registrar, in consultation with the Department of Transportation ~~[, the Advisory Board on Natural Resources]~~ and with counties and local governments, shall designate any existing routes over the land which the State Land Registrar determines to be necessary for public access to any other land that is open to public use. If such a route is designated, the land must be conveyed with a right-of-way and all rights of access and abutter's rights for the route reserved in the name of the State of Nevada. Any right-of-way reserved pursuant to this subsection may, when necessary as determined by the State Land Registrar and otherwise approved as required by law, be used by a public utility pursuant to the requirements set forth in NRS 322.050 and 322.060.

2. After the land or interest in the land is conveyed, if the route is determined by the State Land Registrar, in consultation with the Department of Transportation ~~and the Advisory Board on Natural Resources~~ and with counties and local governments, to be no longer necessary for public access to other land which is open to public use, the State Land Registrar shall, subject to the provisions of subsections 3 and 4, release the right, title and interest of the State in and to the right-of-way to the purchaser or lessee of the land, his or her assigns or successors in interest.

3. Before releasing the state's interest in the right-of-way, the State Land Registrar shall cause to be published in a newspaper of general circulation in the county where the right-of-way is located a notice of intent to release that interest. The notice must be published at least 30 days before the proposed date for the release and must contain:

- (a) A description of the location of the right-of-way;
- (b) The date upon which the release is to be effective; and
- (c) The mailing address of the State Land Registrar to which persons may send protests against the proposed release.

4. The State Land Registrar may, or upon the receipt of a written protest against the proposed release shall, hold a public hearing. The hearing must be:

- (a) Held in the county in which the right-of-way is located; and
- (b) Advertised at least 30 days before the date of the hearing in a newspaper of general circulation in the county where the right-of-way is located.

Sec. 7. NRS 321.7355 is hereby amended to read as follows:

321.7355 1. The State Land Use Planning Agency shall prepare, in cooperation with appropriate federal and state agencies and local governments throughout the State, plans or statements of policy concerning the acquisition and use of lands in the State of Nevada that are under federal management.

2. The State Land Use Planning Agency shall, in preparing the plans and statements of policy, identify lands which are suitable for acquisition for:

- (a) Commercial, industrial or residential development;
- (b) The expansion of the property tax base, including the potential for an increase in revenue by the lease and sale of those lands; or
- (c) Accommodating increases in the population of this State.

↪ The plans or statements of policy must not include matters concerning zoning or the division of land and must be consistent with local plans and regulations concerning the use of private property.

3. The State Land Use Planning Agency shall:

- (a) Encourage public comment upon the various matters treated in a proposed plan or statement of policy throughout its preparation and incorporate such comments into the proposed plan or statement of policy as are appropriate;

(b) Submit its work on a plan or statement of policy periodically for review and comment by the Land Use Planning Advisory Council ~~to the Advisory Board on Natural Resources~~ and any committees of the Legislature or subcommittees of the Legislative Commission that deal with matters concerning the public lands;

(c) On or before February 1 of each odd-numbered year, prepare and submit a written report to the Legislature concerning any activities engaged in by the Agency pursuant to the provisions of this section during the immediately preceding biennium, including, without limitation:

(1) The progress and any results of its work; or

(2) Any plans or statements of policy prepared pursuant to this section; and

(d) Provide written responses to written comments received from a county or city upon the various matters treated in a proposed plan or statement of policy.

4. Whenever the State Land Use Planning Agency prepares plans or statements of policy pursuant to subsection 1 and submits those plans or policy statements to the Governor, Legislature or an agency of the Federal Government, the State Land Use Planning Agency shall include with each plan or statement of policy the comments and recommendations of:

(a) The Land Use Planning Advisory Council; *and*

(b) ~~The Advisory Board on Natural Resources; and~~

~~(c) Any committees of the Legislature or subcommittees of the Legislative Commission that deal with matters concerning the public lands.~~

5. A plan or statement of policy must be approved by the governing bodies of the county and cities affected by it before it is put into effect.

Sec. 8. NRS 407.063 is hereby amended to read as follows:

407.063 1. The Administrator may acquire for the Division, subject to the approval of the Director and with the concurrence of the Interim Finance Committee, and within the limits of legislative appropriation where money is required, real or personal property by lease or purchase. The right of eminent domain as provided by chapter 37 of NRS may be exercised by the Division. The Interim Finance Committee may clarify the legislative intent of an appropriation at the request of the Director ~~to any member of the advisory board on natural resources~~ or the Administrator.

2. Before approving the acquisition of real property to expand the area of land that surrounds a state park and in which development is to be restricted, the Interim Finance Committee shall consult the governing body of the county, city or town in which the land to be acquired is located.

Sec. 9. ~~NRS 445B.210 is hereby amended to read as follows:~~

~~445B.210 The Commission may:~~

~~1. Subject to the provisions of NRS 445B.215, adopt regulations consistent with the general intent and purposes of NRS 445B.100 to 445B.640, inclusive, to prevent, abate and control air pollution.~~

~~2. Establish standards for air quality.~~

- ~~3. Require access to records relating to emissions which cause or contribute to air pollution.~~
- ~~4. Cooperate with other governmental agencies, including other states and the Federal Government.~~
- ~~5. Establish such requirements for the control of emissions as may be necessary to prevent, abate or control air pollution.~~
- ~~6. By regulation:~~
- ~~(a) Designate as a hazardous air pollutant any substance which, on or after October 1, 1993, is on the federal list of hazardous air pollutants pursuant to 42 U.S.C. § 7412(b); and~~
- ~~(b) Delete from designation as a hazardous air pollutant any substance which, after October 1, 1993, is deleted from the federal list of hazardous air pollutants pursuant to 42 U.S.C. § 7412(b),~~
- ~~— based upon the Commission's determination of the extent to which such a substance presents a risk to the public health.~~
- ~~7. Hold hearings to carry out the provisions of NRS 445B.100 to 445B.640, inclusive, except as otherwise provided in those sections.~~
- ~~8. Establish fuel standards for both stationary and mobile sources of air contaminants. Fuel standards for mobile sources of air contaminants must be established to achieve air quality standards that protect the health of the residents of the State of Nevada.~~
- ~~9. Require elimination of devices or practices which cannot be reasonably allowed without generation of undue amounts of air contaminants.~~
- ~~10. Administer the provisions of chapter 548 of NRS.] (Deleted by amendment.)~~

Sec. 10. NRS 501.020 is hereby amended to read as follows:

501.020 ~~{Except as otherwise provided in NRS 504.430 to 504.490, inclusive,}~~ "Commission" means the Board of Wildlife Commissioners.

Sec. 11. NRS 502.225 is hereby amended to read as follows:

502.225 1. There is hereby created the Advisory Board on Dream Tags, consisting of the following five members:

- (a) One member appointed by the Governor;
- (b) One member appointed by the Majority Leader of the Senate;
- (c) One member appointed by the Speaker of the Assembly;
- (d) One member appointed by the ~~{Advisory Board on}~~ **Director of the State Department of Conservation and** Natural Resources; and
- (e) The Vice Chair of the Commission, who serves as an ex officio member of the Board.

2. Each appointed member of the Board must be a resident of this State and, following the initial terms, serves a term of 2 years.

3. At its first meeting each year, the members of the Board shall elect a Chair, who shall serve until the next Chair is elected. The Board shall meet as necessary at the call of the Chair.

4. A majority of the members of the Board constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Board.

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

6. To the extent of legislative appropriation, the Department shall provide the Board with such staff as is necessary to carry out the duties of the Board.

7. The Board shall, in accordance with the requirements of paragraph (c) of subsection 3 of NRS 502.219, determine the appropriate use of money received by a nonprofit organization from the proceeds of a Dream Tag raffle.

Sec. 12. NRS 504.490 is hereby amended to read as follows:

504.490 1. Any person, not authorized to do so, who:

- (a) Removes or attempts to remove a wild horse from the public lands;
 - (b) Converts a wild horse to private use;
 - (c) Harasses a wild horse or, except as otherwise provided in subsection 2, kills a wild horse;
 - (d) Uses an aircraft or a motor vehicle to hunt any wild horse;
 - (e) Pollutes or causes the pollution of a watering hole on public land to trap, wound, kill or maim a wild horse;
 - (f) Makes or causes the remains of a wild horse to be made into any commercial product; *or*
 - (g) Sells a wild horse which strays onto private property, ~~for~~ *or*
 - ~~(h) Willfully violates a regulation adopted by the Commission for the Preservation of Wild Horses,~~
- ↪ is guilty of a gross misdemeanor.

2. A person who willfully and maliciously kills a wild horse is guilty of a category C felony and shall be punished as provided in NRS 193.130.

Sec. 12.3. Chapter 548 of NRS is hereby amended by adding thereto a new section to read as follows:

"Program" means the Conservation Districts Program in the State Department of Conservation and Natural Resources.

Sec. 12.7. NRS 548.015 is hereby amended to read as follows:

548.015 As used in this chapter, the following terms have the meanings attributed to them in NRS 548.020 to 548.090, inclusive, and section 12.3 of this act, unless the context otherwise requires.

Sec. 13. ~~NRS 548.030 is hereby amended to read as follows:~~

~~548.030 "Commission" means the State [Conservation] Environmental Commission in the State Department of Conservation and Natural Resources. (Deleted by amendment.)~~

Sec. 14. ~~NRS 548.035 is hereby amended to read as follows:~~

~~548.025 "Division" means the Division of [Conservation Districts] Environmental Protection in the State Department of Conservation and Natural Resources.] (Deleted by amendment.)~~

Sec. 14.5. NRS 548.157 is hereby amended to read as follows:

548.157 The ~~[Division of Conservation Districts in the State Department of Conservation and Natural Resources]~~ **Program** shall perform staff services for the Commission in carrying out its responsibilities under this chapter.

Sec. 15. NRS 548.175 is hereby amended to read as follows:

548.175 The Commission has the following duties and powers:

1. To carry out the policies of this State in programs at the state level for the conservation of the renewable natural resources of this State and to represent the State in matters affecting such resources.

2. To offer such assistance as may be appropriate to the supervisors of conservation districts in the carrying out of any of their powers and programs, to propose programs and to assist and guide districts in the preparation and carrying out of programs authorized under this chapter, to review district programs, to coordinate the programs of the districts and resolve any conflicts in such programs, and to facilitate, promote, assist, harmonize, coordinate and guide the programs and activities of districts as they relate to other special-purpose districts, counties and other public agencies.

3. To keep the supervisors of each of the districts informed of the activities and experience of all other districts organized pursuant to this chapter, and to facilitate an interchange of advice and experience among those districts and promote cooperation among them.

4. To secure the cooperation and assistance of the United States, any of its agencies and of other agencies of this State in the work of conservation districts.

5. To serve, along with conservation districts, as the official state agency for cooperating with the Natural Resources Conservation Service of the United States Department of Agriculture in carrying on conservation operations within the boundaries of conservation districts as created under this chapter.

6. To enlist the cooperation and collaboration of state, federal, interstate, local, public and private agencies with the conservation districts and to facilitate arrangements under which the conservation districts may serve county governing bodies and other agencies as their local operating agencies in the administration of any activity concerned with the conservation and use of renewable natural resources.

7. To make available, with the assistance of the ~~[Division.]~~ **Program**, information concerning the needs and the work of the districts and the Commission to the Director of the State Department of Conservation and Natural Resources, the Legislature, executive agencies and political subdivisions of this State, cooperating federal agencies and the general public.

8. To cooperate with and give such assistance as may be requested by cities, counties, irrigation districts, and other special-purpose districts in the State of Nevada for the purpose of cooperating with the United States through the Secretary of Agriculture in the furtherance of conservation, pursuant to the provisions of the Watershed Protection and Flood Prevention Act, 16 U.S.C. §§ 1001 et seq., and the requirements of other special programs of the United States Department of Agriculture.

9. Pursuant to procedures developed mutually by the Commission and federal, state and local agencies that are authorized to plan or administer activities significantly affecting the conservation and use of renewable natural resources, to receive from those agencies, for review and comment, suitable descriptions of their plans, programs and activities for purposes of coordination with the conservation districts' programs and to arrange for and participate in conferences necessary to avoid conflict among the plans and programs, to call attention to omissions and to avoid duplication of effort.

10. ~~2.~~ To submit, with the assistance of the ~~{Division,}~~ **Program**, a report to the Director of the State Department of Conservation and Natural Resources whenever the Commission determines that there exists a substantial conflict between the program of a district and the proposed plans or activities directly affecting the conservation of natural resources prepared by any other local governmental unit or agency of this State.

11. ~~3.~~ By administrative order of the Commission, upon the written request of the board of supervisors of the conservation district or districts involved, with a showing that the request has been approved by a majority vote of the members of each of the boards involved:

(a) To transfer lands from one district established under the provisions of this chapter to another.

(b) To divide a single district into two or more districts, each of which must, thereafter, operate as a separate district under the provisions of this chapter.

(c) To consolidate two or more districts established under the provisions of this chapter into a single district under the provisions of this chapter.

(d) To inform the ~~{Administrative Officer,}~~ ~~{Administrator of the Division,}~~ **Program** of any action taken pursuant to this subsection for ~~{his or her,}~~ **its** approval of any new name and the appropriate entry in the ~~{Administrative Officer's,}~~ ~~{Administrator's,}~~ **Program's** records of the changes made.

12. ~~4.~~ To authorize the change of name of any district, upon receipt by the Commission of a resolution by the board of supervisors of the district for such a change and to present the resolution to the ~~{Administrative Officer,}~~ ~~{Administrator of the Division,}~~ **Program** for processing and recording in accordance with the provisions of NRS 548.240.

13. ~~5.~~ To apply for any available grants and to accept and use any grants, gifts or donations to make available grants of money to qualified conservation districts to aid the districts in carrying out the provisions of this chapter.

Sec. 16. NRS 548.185 is hereby amended to read as follows:

548.185 1. Any 10 occupiers of land lying within the limits of the territory proposed to be organized into a district may file a petition with the ~~{State Conservation}~~ Commission asking that a conservation district be organized to function in the territory described in the petition.

2. The petition shall set forth:

- (a) The proposed name of the district.
- (b) That there is need, in the interest of public health, safety and welfare, for a conservation district to function in the territory described in the petition.
- (c) A description of the territory proposed to be organized as a district, which shall consist of one or more townships created pursuant to chapter 257 of NRS.

(d) A request that a referendum be held within the territory so defined on the question of the creation of a conservation district in such territory, and that the Commission determine that such a district be created.

3. Where more than one petition is filed covering parts of the same territory, the ~~{State Conservation}~~ Commission may consolidate all or any such petitions.

Sec. 17. NRS 548.190 is hereby amended to read as follows:

548.190 1. Within 30 days after such a petition has been filed with the ~~{State Conservation}~~ Commission, it shall cause due notice to be given of a proposed hearing upon:

- (a) The question of the desirability and necessity, in the interest of the public health, safety and welfare, of the creation of such district.
- (b) The question of the appropriate boundaries to be assigned to such district.
- (c) The propriety of the petition and other proceedings taken under this chapter.
- (d) All questions relevant to such inquiries.

2. All occupiers of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested persons, shall have the right to attend such hearings and to be heard.

3. If it shall appear upon the hearing that it may be desirable to include, within the proposed district, territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing shall be held.

Sec. 18. NRS 548.195 is hereby amended to read as follows:

548.195 1. After such hearing, if the Commission determines, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety and welfare, for a conservation district to function in the territory considered at the hearing, the Commission shall make and record

such determination, and shall determine the township or townships to be included in the district.

2. In making such determination, the Commission shall give due weight and consideration to:

- (a) The topography of the area considered and of the State.
- (b) The composition of soils therein.
- (c) The distribution of erosion.
- (d) The prevailing land use practices.
- (e) The desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries.
- (f) The relation of the proposed area to existing watersheds and agricultural regions, and to other conservation districts already organized or proposed for organization under the provisions of this chapter.

(g) Such other physical, geographical and economic factors as are relevant, having due regard to the legislative determinations set forth in NRS 548.095 to 548.110, inclusive.

3. After consideration of the petition and of any other evidence of interest in the organization of a district, and of the relevant factors regarding the need for a district to function in the territory being considered, the ~~{State Conservation}~~ Commission may make the determination of such need without holding a hearing.

Sec. 19. NRS 548.220 is hereby amended to read as follows:

548.220 After 6 months shall have expired from the date of entry of a determination by the ~~{State Conservation}~~ Commission that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed and action taken thereon in accordance with the provisions of this chapter.

Sec. 20. NRS 548.235 is hereby amended to read as follows:

548.235 1. The five appointed supervisors shall present to the ~~{Administrative Officer}~~ ~~{Administrator of the Division}~~ Program an application signed by them, which states:

- (a) That a petition for the creation of the district was filed with the Commission pursuant to the provisions of this chapter, and that the proceedings specified in this chapter were taken pursuant to that petition.
- (b) That the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body, corporate and politic, under this chapter.
- (c) That the Commission has appointed them as supervisors.
- (d) The name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office.
- (e) The term of office of each of the supervisors.
- (f) The name which is proposed for the district.
- (g) The location of the principal office of the supervisors of the district.

2. The application must be subscribed and sworn to by each of the supervisors before a person authorized to take and certify oaths, who shall certify upon the application that the person personally knows the supervisors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence.

3. The application must be accompanied by a statement by the Commission:

(a) That a petition was filed, notice issued and hearing held as required by this chapter.

(b) That the Commission did determine that there is need, in the interest of the public health, safety and welfare, for a conservation district to function in the proposed territory and did define the township or townships to be included.

(c) That notice was given and a referendum held on the question of the creation of such a district, and that a majority of the votes cast in such referendum were in favor of the creation of the district.

(d) That thereafter the Commission did determine that the operation of the proposed district is administratively practicable and feasible.

4. The statement must set forth the township or townships to be included.

Sec. 21. NRS 548.240 is hereby amended to read as follows:

548.240 1. The ~~{Administrative Officer}~~ ~~{Administrator of the Division}~~ Program shall examine the application and statement, and if the ~~{Administrative Officer}~~ ~~{Administrator}~~ Program finds that the name proposed for the district is not identical with that of any other conservation district of this State or so nearly similar as to lead to confusion or uncertainty, the ~~{Administrative Officer}~~ ~~{Administrator}~~ Program shall record them in an appropriate book of record, ~~{in his or her office.}~~

2. If the ~~{Administrative Officer}~~ ~~{Administrator of the Division}~~ Program finds that the name proposed for the district is identical with that of any other conservation district of this State, or so nearly similar as to lead to confusion and uncertainty, the ~~{Administrative Officer}~~ ~~{Administrator}~~ Program shall notify the Commission. The Commission shall thereupon submit a new name for the district. Upon receipt of a new name, free of such defects, the ~~{Administrative Officer}~~ ~~{Administrator}~~ Program shall record the application and statement, with the name so modified, in an appropriate book of record, ~~{in his or her office.}~~

3. When the application and statement have been recorded, the district becomes a governmental subdivision of this State and a public body corporate and politic.

4. The ~~{Administrative Officer}~~ ~~{Administrator of the Division}~~ Program shall make and issue to the supervisors a certificate, over ~~{his or her}~~ the signature of a member of the staff of the Program, of the organization of the district.

5. The boundaries of the district must include the territory determined by the Commission, but must not include any area included within the

boundaries of another conservation district organized under the provisions of this chapter.

Sec. 22. NRS 548.245 is hereby amended to read as follows:

548.245 1. In any suit, action or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding or action of the district, the district shall be deemed to have been established in accordance with the provisions of this chapter upon proof of the issuance of the certificate by the ~~{Administrative Officer}~~ ~~{Administrator of the Division}~~ **Program**.

2. A copy of such a certificate issued by the ~~{Administrative Officer}~~ ~~{Administrator of the Division}~~ **Program** is admissible in evidence in any such suit, action or proceeding and is proof of the contents thereof.

Sec. 23. NRS 548.250 is hereby amended to read as follows:

548.250 1. Within 30 days after the date of issuance by the ~~{Administrative Officer}~~ ~~{Administrator of the Division}~~ **Program** of a certificate of organization of a conservation district, nominating petitions may be filed with the Commission to nominate candidates for supervisors at large of the district.

2. The Commission may extend the time within which nominating petitions may be filed.

3. No nominating petition may be accepted by the Commission unless it is subscribed by three or more registered voters residing within the district.

4. Registered voters of the district may sign more than one nominating petition to nominate more than one candidate for supervisor.

Sec. 24. NRS 548.285 is hereby amended to read as follows:

548.285 1. The county clerk of the county in which a conservation district is situated, or the county clerk's designee, shall conduct a biennial nonpartisan election for the replacement of any supervisors whose terms are about to expire and shall pay all costs of that election from county funds.

2. The election must be held either at a mass meeting of electors, held in a centrally located public meeting place within the district, or as part of the general election.

3. If a mass meeting is held for the election, it must be held on one of the first 10 days of November in each even-numbered year.

4. If the election is held at a mass meeting:

(a) The chair of the district supervisors shall preside at this meeting and the secretary of the district shall keep a record of transactions at the meeting.

(b) Nominations of candidates must be made verbally from the floor.

(c) Voting must be by secret ballot. The chair of the district supervisors shall appoint three electors present to act, without pay, as judges and tellers to count the votes at the conclusion of voting.

5. If the election is held as part of the general election:

(a) Candidates are bound by the election laws governing county elections.

(b) Ballots must be provided bearing the names of candidates in alphabetical order by surnames with a square before each name and a

direction to insert an X mark in the square before the name or names of the voter's choice.

(c) At the close of polling, the sealed ballot boxes must be delivered unopened to the county clerk or the county clerk's designee, who shall appoint three electors to act, without pay, as judges and tellers to open the boxes and count the votes.

6. The result of the election must be certified to the Commission and to the ~~{Administrative Officer of the Division}~~ **Program** by the county clerk or the county clerk's designee, within 1 week following the date of election.

7. If a conservation district embodies land lying in more than one county, the county clerks of the respective counties shall confer and delegate to the clerk of the county having the greatest number of qualified electors of the conservation district the duty of carrying out the provisions of this section and shall reimburse that county on a pro rata basis for their respective counties' shares of the expenses of conducting the election.

Sec. 25. NRS 548.295 is hereby amended to read as follows:

548.295 1. A vacancy in the office of supervisor of a district must be filled for the unexpired term as soon as practicable after the office becomes vacant, by appointment by the remaining supervisors of the district.

2. The chair of the governing body of a district shall certify all such appointments immediately to the Commission and to the ~~{Administrative Officer of the Division}~~ **Program**.

Sec. 26. ~~{NRS 548.405 is hereby amended to read as follows:~~

~~548.405 1. Agencies of this State which shall have jurisdiction over, or be charged with the administration of, any state owned lands, and agencies of any county or other governmental subdivision of the State which shall have jurisdiction over, or be charged with the administration of, any county owned or other publicly owned lands, lying within the boundaries of any district organized under this chapter, shall cooperate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this chapter.~~

~~2. The supervisors of such districts shall be given free access to enter and perform work upon such publicly owned lands.~~

~~3. The provisions of land use regulations adopted pursuant to NRS 548.410 to 548.435, inclusive, shall have the force and effect of law over all such publicly owned lands, and shall be in all respects observed by the agencies administering such lands.}}~~ **(Deleted by amendment.)**

Sec. 27. NRS 548.515 is hereby amended to read as follows:

548.515 1. Petitions for including additional territory within an existing district shall be filed with the ~~{State Conservation}~~ Commission.

2. The proceedings provided for in this chapter in the case of petitions to organize a district shall be observed in the case of petitions for inclusion, except that the application for a certificate of inclusion shall be signed by the chair and the secretary of the governing body of the district into which the additional territory is to be included.

3. The ~~{State Conservation}~~ Commission shall prescribe the form for the petitions, which shall be, as nearly as practicable, in the form prescribed in this chapter for petitions to organize a district.

4. Where the total number of land occupiers in the area proposed for inclusion shall be less than 25, the petition may be filed when signed by a majority of the occupiers of such area, and in such case no referendum need be held.

5. In referenda upon petitions for inclusion, all occupiers of land lying within the proposed additional area shall be eligible to vote.

6. The Commission shall determine whether or not such inclusion shall be made.

Sec. 28. NRS 548.520 is hereby amended to read as follows:

548.520 1. Petitions to withdraw lands from a district may be filed with the ~~{State Conservation}~~ Commission at any time.

2. The Commission shall prescribe the form of the petition, which shall be, as nearly as practicable, in the form prescribed in this chapter for petitions to organize a district.

3. Where the total number of land occupiers in the area affected by a proposed withdrawal will be less than 25, the petition may be filed when signed by a majority of the occupiers of such area, and in such case no referendum need be held.

4. In referenda upon petitions for withdrawal, all occupiers of land lying within the area affected by the proposed change in boundary shall be eligible to vote.

5. The Commission shall determine whether or not such withdrawal shall be made.

Sec. 29. NRS 548.525 is hereby amended to read as follows:

548.525 1. At any time after 5 years after the organization of a district under the provisions of this chapter, any 10 occupiers of land lying within the boundaries of such district may file a petition with the ~~{State Conservation}~~ Commission praying that the operations of the district be terminated and the existence of the district be discontinued.

2. The Commission may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof.

3. The Commission shall determine, on the basis of information presented in the petition or brought out in public hearings and on the basis of the number of petitioners in relation to the total number of occupiers of land lying within the district, whether it can render a reasonable determination of approval or denial of the petition without holding a referendum, or whether a referendum shall be held.

Sec. 30. NRS 548.530 is hereby amended to read as follows:

548.530 1. Within 60 days after a petition for discontinuance has been received by the ~~{state conservation commission}~~ **Commission**, it shall give due notice of the holding of the referendum if one is to be held.

2. The Commission shall supervise the referendum and issue appropriate regulations governing the conduct thereof.

3. The question shall be submitted by ballots upon which the words "For terminating the existence of the (name of the conservation district to be here inserted)" and "Against terminating the existence of the (name of the conservation district to be here inserted)" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of the propositions, as the voter may favor or oppose discontinuance of such district.

4. All persons determined by the county clerk or clerks to be registered voters residing within the district are eligible to vote in such referendum.

5. No informalities in the conduct of such referendum or in any matters relating thereto invalidate the referendum or the result thereof if notice thereof was given substantially as provided in this chapter and the referendum was fairly conducted.

6. The Commission shall publish the result of the referendum.

Sec. 31. NRS 548.540 is hereby amended to read as follows:

548.540 The ~~[State Conservation]~~ Commission shall not entertain petitions for the discontinuance of any district, nor conduct referenda upon such petitions, nor make any determination pursuant to such petitions in accordance with the provisions of this chapter, more often than once in 5 years.

Sec. 32. NRS 548.545 is hereby amended to read as follows:

548.545 1. Upon receipt from the Commission of a certification that the Commission has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of NRS 548.535, the supervisors shall forthwith proceed to terminate the affairs of the district.

2. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of the sale to the State Treasurer for deposit in the State Treasury.

3. The supervisors shall thereupon file an application with the ~~[Administrative Officer]~~ ~~[Administrator of the Division]~~ **Program** for the discontinuance of the district, and shall transmit with the application the certificate of the Commission setting forth the determination of the Commission that the continued operation of the district is not administratively practicable and feasible. The application must recite that the property of the district has been disposed of and the proceeds paid over as provided in this section, and must set forth a full accounting of those properties and proceeds of the sale.

4. The ~~[Administrative Officer]~~ ~~[Administrator of the Division]~~ **Program** shall issue to the supervisors a certificate of dissolution and shall record the certificate in an appropriate book of records. ~~[in his or her office.]~~

Sec. 33. NRS 548.550 is hereby amended to read as follows:

548.550 1. Upon the issuance of a certificate of dissolution under the provisions of NRS 548.545, all ordinances and regulations theretofore adopted and in force within such district shall be of no further force and effect.

2. All contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The ~~State Conservation~~ Commission shall be substituted for the district or supervisors as a party to such contracts. The Commission shall be entitled to all benefits and shall be subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as the supervisors of the district would have had.

3. Such dissolution shall not affect the lien of any judgment entered under the provisions of NRS 548.455, nor the pendency of any action instituted under the provisions of NRS 548.445 and 548.450, and the Commission shall succeed to all the rights and obligations of the district or supervisors as to such liens and actions.

Sec. 34. NRS 561.218 is hereby amended to read as follows:

561.218 1. The Director shall appoint a person to manage the activities of the Department relating to natural resources, land use planning and the management and control of wild horses, estrays and feral livestock. The person must be appointed on the basis of merit and is in the unclassified service of the State. The Director may remove the person from office with the approval of the Board.

2. The person appointed shall:

(a) Establish and carry out a policy for the management and control of estrays and the preservation and allocation of natural resources necessary to advance and protect the livestock and agricultural industries in this State.

(b) Develop cooperative agreements and working relationships with federal and state agencies and local governments for land use planning and the preservation and allocation of natural resources necessary to advance and protect the livestock and agricultural industries in this State.

(c) Cooperate with private organizations and governmental agencies to develop procedures and policies for the management and control of wild horses.

(d) Monitor gatherings of estrays and feral livestock conducted pursuant to the provisions of NRS 569.040 to 569.130, inclusive, and assist district brand inspectors in identifying estrays before they are sold or given a placement or other disposition through a cooperative agreement established pursuant to NRS 569.031.

(e) Provide the members of the general public with information relating to the activities of the Department and solicit recommendations from the members of the general public and advisory groups concerning those activities.

(f) Make assessments of the level of competition between livestock and wildlife for food and water, collect data concerning the movement of livestock and perform activities necessary to control noxious weeds.

(g) Participate in land use planning relating to the competition for food and water between livestock and wildlife to ensure the maintenance of the habitat of both livestock and wildlife.

(h) Present testimony, conduct research and prepare reports for the Governor, the Legislature, the Director and any other person or governmental entity as directed by the Director.

(i) Develop and carry out a program to educate the members of the general public concerning the programs administered by the Department, including programs for the management and control of estrays and feral livestock.

(j) Make proposals to the Director for the amendment of the regulations adopted by the Board pursuant to NRS 561.105.

(k) Perform such other duties as directed by the Director.

3. As used in this section:

(a) "Estray" has the meaning ascribed to it in NRS 569.0075.

(b) "Feral livestock" has the meaning ascribed to it in NRS 569.008.

(c) "Wild horse" ~~has the meaning ascribed to it in NRS 504.430.~~ **means a horse, mare or colt which is unbranded and unclaimed and lives on public land.**

Sec. 35. NRS 232.085, 232.125, 504.430, 504.440, 504.450, 504.460, 504.470, 504.480, 504.485, ~~548.115, 548.120, 548.125, 548.135, 548.140, 548.145, 548.148, 548.150, 548.155, 548.157, 548.165, 548.170, 548.180, 548.200, 548.230, 548.410, 548.415, 548.420, 548.425, 548.430, 548.435, 548.440, 548.445, 548.450, 548.455, 548.460, 548.465, 548.470, 548.475, 548.480, 548.485, 548.490, 548.495, 548.500, 548.505~~ and ~~548.510~~ **548.035** are hereby repealed.

Sec. 36. The member of the Advisory Board on Dream Tags appointed by the Advisory Board on Natural Resources shall continue to serve on the Advisory Board on Dream Tags for the duration of his or her term unless removed before that date in the manner authorized by law.

Sec. 37. ~~1. The administrative regulations adopted by the State Conservation Commission pursuant to NRS 548.160 and 548.178 remain in force and are hereby transferred to become the administrative regulations of the State Environmental Commission on July 1, 2011. On and after July 1, 2011, these regulations must be interpreted in a manner so that all references to the State Conservation Commission are read and interpreted as being references to the State Environmental Commission, regardless of whether those references have been conformed pursuant to section 39 of this act at the time of interpretation.~~

~~2. Any land use regulations adopted by the State Conservation Commission for a conservation district pursuant to NRS 548.410 which are in force on July 1, 2011, remain in effect until amended or repealed.~~
(Deleted by amendment.)

Sec. 38. As soon as is practicable after July 1, 2011, at the time the Heil Trust Fund for Wild Horses established pursuant to NRS 504.450 is abolished, the State Treasurer shall ensure that any money remaining in the Heil Trust Fund for Wild Horses is transferred to the State General Fund.

Sec. 39. The Legislative Counsel shall, in preparing:

1. The reprint and supplements to the Nevada Revised Statutes, with respect to any section which is not amended by this act or is adopted or amended by another act, appropriately change any reference to an officer or agency whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer of agency. If any internal reference is made to a section repealed by this act, the Legislative Counsel shall delete the reference and replace it by reference to the superseding section, if any.

2. Supplements to the Nevada Administrative Code, appropriately change any reference to an officer or agency whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer of agency. If any internal reference is made to a section repealed by this act, the Legislative Counsel shall delete the reference and replace it by reference to the superseding section, if any.

Sec. 40. This act becomes effective on July 1, 2011.

LEADLINES OF REPEALED SECTIONS

232.085 Advisory Board on Natural Resources: Creation; qualifications of members; meetings; compensation; officers; duties.

232.125 Division of Conservation Districts: Administrative Officer; powers and duties.

504.430 Definitions.

504.440 Commission for Preservation of Wild Horses: Creation; membership; terms and compensation of members; meetings.

504.450 Heil Trust Fund for Wild Horses.

504.460 Appointment and duties of Administrator of Commission; prerequisites to filing of certain protests or appeals on behalf of Commission; review by Commission.

504.470 Powers and duties of Commission.

504.480 Agreements with Federal Government.

504.485 Wildlife agencies required to confer with Commission regarding consultations with Secretary of Interior.

~~**548.115 Creation; number and appointment of members.**~~

~~**548.120 Ex officio members and alternates.**~~

~~**548.125 Appointment and terms of office of appointed members; vacancies.**~~

~~**548.135 Seal.**~~

~~**548.140 Chair.**~~

~~**548.145 Compensation of members and employees; operating expenses.**~~

~~**548.148 Meetings.**~~

~~**548.150 Quorum.**~~

~~548.155 Personnel: Employment; compensation; surety bonds; delegation of authority.~~
~~548.157 Division of Conservation Districts in State Department of Conservation and Natural Resources to supply staff.~~
~~548.165 Records.~~
~~548.170 Attorney General to provide legal services.~~
~~548.180 Cooperation of state agencies and state institutions with Commission.~~
~~548.300 Removal from office.~~
~~548.330 Supervisors to furnish Commission information.~~
~~548.410 Petition; formulation; hearings; determination of whether referendum to be held.~~
~~548.415 Proposed ordinance; notices of referendum; form of question; informalities not to invalidate referendum.~~
~~548.420 Approval of proposed ordinance; effect of regulations.~~
~~548.425 Procedure for amendment or repeal of regulations.~~
~~548.430 Permissible provisions.~~
~~548.435 Uniformity of regulations; availability to occupiers of lands within district.~~
~~548.440 Enforcement of regulations; damages.~~
~~548.445 Petition to district court to require observance.~~
~~548.450 Service of process; appointment of master; hearing; order of court.~~
~~548.455 Court to retain jurisdiction until work completed; entry of judgment for costs and expenses; judgment as lien.~~
~~548.460 Board of adjustment: Establishment.~~
~~548.465 Board of adjustment: Number, appointment and terms of members.~~
~~548.470 Board of adjustment: Vacancies.~~
~~548.475 Board of adjustment: Removal of member.~~
~~548.480 Board of adjustment: Compensation of members and employees.~~
~~548.485 Board of adjustment: Chair.~~
~~548.490 Board of adjustment: Meetings; quorum.~~
~~548.495 Board of adjustment: Rules; records.~~
~~548.500 Board of adjustment: Commission to pay expenses.~~
~~548.505 Petition for variance: Notice; hearing; determination of board; order.~~
~~548.510 Procedure for review of order of board of adjustment by district court.~~

548.035 "Division" defined.

Senator Horsford moved the adoption of the amendment.
Remarks by Senator Horsford.

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

This eliminates the Commission for the Preservation of Wild Horses and the Advisory Board for Natural Resources from the Department of Conservation and Natural Resources. This measure eliminates the Division of Conservation Districts within the Department of Conservation and Natural Resources and replaces it with the Conservation Districts Program. This is another budget implementation bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 81.

Bill read second time.

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

Amendment No. 685.

"SUMMARY—Revises various provisions relating to elections. (BDR 24-406)"

"AN ACT relating to elections; clarifying how a minor political party may be organized; revising certain requirements for petitions of referendum; revising provisions relating to counting ballots, posting voting results and recounts; providing that the residency of spouses of certain military personnel is not changed whether absent or present in this State; making various changes concerning campaign contributions and expenditures; making various other changes to provisions governing elections; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

In order to qualify to place the names of candidates on the ballot, under existing law, a minor political party must have filed with the Secretary of State a certificate of existence and a list of candidates. Also, the minor political party must have: (1) at the last preceding general election, polled for any of its candidates for partisan office a number of votes equal to or more than 1 percent of the total number of votes cast for the offices of Representative in Congress; (2) been designated as the political party on the applications to register to vote of at least 1 percent of the total number of registered voters in this State; or (3) filed a petition with the Secretary of State which is signed by a number of registered voters equal to at least 1 percent of the total number of votes cast at the last preceding election for the offices of Representative of Congress. Alternatively, the minor political party may place the name of a candidate on the ballot if the minor political party has filed with the Secretary of State a certificate of existence and a petition on behalf of the candidate that it wants to place on the ballot containing a certain number of signatures. (NRS 293.1715) **Sections 16, 16.2 and 16.4** of this bill remove the option of a minor political party to place a candidate on the ballot by filing a petition on behalf of the candidate. **Sections 6 and 15-18** of this bill clarify that an organization is organized as a minor political party when it files a certificate of existence. A minor political

party must still meet the other requirements in order to qualify to place candidates on the ballot.

Sections 7-12 and 64 of this bill provide that the signature and verification requirements for initiative petitions also apply to petitions for referendum.

Existing law provides the requirements for nominating candidates for office and placing candidates on the ballot for the general election. (NRS 293.165, 293.166, 293.368) **Sections 13, 14 and 25** of this bill move the date after which no change may be made on the ballot for the general election from the first Tuesday after the primary election to the fourth Friday in June of the year in which the general election is held.

Existing law provides that if a person willfully files a declaration or acceptance of candidacy that contains a false statement, the name of the person must not appear on the ballot for the election for which the person filed the declaration or acceptance of candidacy. (NRS 293.184, 293C.1865) **Sections 19 and 32** of this bill further require that if the name of such a person appears on the ballot because the deadline for making changes to the ballot has passed, the Secretary of State, county clerk or city clerk must inform voters by posting signs at polling places that the person is disqualified from entering upon the duties of office.

Section 21 of this bill allows a person to cast a primary ballot for a major political party only if the person is a member of that major political party.

Existing law sets forth procedures for depositing absent ballots in the ballot box, including verifying the absent voter's signature that appears on the back of the return envelope or facsimile. (NRS 293.333, 293C.332) Because certain military personnel and overseas citizens may return special absent ballots via approved electronic transmission other than facsimile, **sections 23 and 33** of this bill authorize the verification of the signature of these voters by comparing the signature from the special absent ballot or the oath of the voter that must be included in the special absent ballot with that on the original application to register to vote.

Existing law sets forth the period for early voting by personal appearance at a primary or general election, which excludes Sundays and state and federal holidays. (NRS 293.3568, 293C.3568) **Sections 24 and 34** of this bill provide that state holidays are not excluded from that period.

Section 26 of this bill prohibits a county clerk from posting voting results for a statewide or multicounty race or ballot question until the Secretary of State notifies the county clerk that all polling places are closed and all votes have been cast.

Section 27 of this bill revises the procedure for demands for an election recount in a county or city using a mechanical voting system and for recounts affecting more than one county.

Existing law provides that a person does not gain or lose residence in the State by reason of his or her presence or absence while being employed in the military, naval or civil service of the United States or the State of Nevada or while engaged in the navigation of the waters of the United States or of the

high seas. (NRS 293.487) **Section 30** of this bill provides that the spouse of such a person also does not gain or lose residence in the State.

Sections 36.5 and 39.5 of this bill differentiate between "campaign expenses" and "expenditures" for purposes of campaign reporting requirements.

Section 37 of this bill requires certain persons, committees for political action, political parties and committees of political parties that expend more than \$100 for the purpose of financing certain public communications to disclose on the communication the name of the person, committee or political party that paid for the communication.

Section 41.5 of this bill prohibits a person from making a contribution to a committee for political action with the knowledge and intent that the committee for political action will contribute that money to a specific candidate which, in combination with the total contributions already made by the person for the same election, would violate the limitations on contributions in existing law.

Section 49 of this bill provides that if a committee for political action fails to register with the Secretary of State before engaging in any activity within the State, the Secretary of State may impose on the committee a civil penalty for each time the committee engages in activity without being registered.

Sections 40, 44, 45, 47, 48, 50-53, 55, 59-62 and 69 of this bill repeal the term "business entity" and remove the term from provisions governing registration and campaign contribution and expenditure reporting. These entities, however, are not exempt from the provisions because they are business organizations included within the term "person" as defined in existing law. (NRS 294A.009)

Section 54 of this bill: (1) prohibits a candidate or public officer from using campaign contributions to pay civil or criminal penalties; and (2) authorizes a candidate or public officer to use campaign contributions to pay for legal expenses that the candidate or public officer incurred in relation to a campaign or while serving in public office. Any such candidate or public officer is not required to establish a legal defense fund in order to use campaign contributions to pay for legal expenses, but **sections 29, 54, 56, 58, 59, 61 and 62** of this bill require the candidate or public officer to report the expenditure of such money on his or her campaign expenditure reports.

Section 58 of this bill adds contributions made to another candidate, a nonprofit corporation, a committee for political action or a committee for the recall of a public officer to the categories of expenditures that must be reported on campaign expenditure reports.

Section 59.5 of this bill requires the Secretary of State, for the purposes of implementing and administering the election laws, to consider whether organization of or actions taken by a group or entity are for the purpose of avoiding the limitations on campaign contributions.

Section 65 of this bill requires the affidavit executed by a circulator of a petition for initiative or referendum to include the contact information of the circulator and a statement that the circulator is at least 18 years of age.

Sections 65.5 and 66 of this bill: (1) clarify that a candidate for or person appointed to the office of Legislator is required to file a statement of financial disclosure with the Secretary of State; and (2) requires a public officer who leaves office to file a statement of financial disclosure on January 15th of the year immediately following the year in which the public officer leaves office unless the public officer leaves office before January 15 in the prior year.

Sections 67 and 68 of this bill require that candidates for city office in the cities of Carlin and Wells file declarations of candidacy at the same time as candidates for statewide office.

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *"Central counting place" means the location designated by the county or city clerk for the compilation of election returns.*

Sec. 3. *"Undervote" means a ballot that has been cast by a voter but shows no legally valid selection for any candidate for a particular office or for a ballot question.*

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 293.010 is hereby amended to read as follows:

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 6. NRS 293.066 is hereby amended to read as follows:

293.066 "Minor political party" means any organization which ~~qualifies~~ *is organized* as such pursuant to NRS 293.171.

Sec. 7. NRS 293.127561 is hereby amended to read as follows:

293.127561 1. The Legislature shall establish petition districts from which signatures for a petition for initiative *or referendum* that proposes a ~~statute, an amendment to a statute or an amendment to the Constitution of this State~~ *constitutional amendment or statewide measure* must be gathered. The petition districts must be established in a manner that is fair to all residents of the State, represent approximately equal populations and ensure that each signature is afforded the same weight.

2. Petition districts must be:

(a) Based on the population databases compiled by the Bureau of the Census of the United States Department of Commerce as validated and incorporated into the geographic information system by the Legislative Counsel Bureau for use by the Nevada Legislature.

(b) Designated in the maps filed with the Office of the Secretary of State pursuant to NRS 293.127562.

Sec. 8. NRS 293.127563 is hereby amended to read as follows:

293.127563 1. As soon as practicable after each general election, the Secretary of State shall determine the number of signatures required to be gathered from each petition district within the State for a petition for initiative **or referendum** that proposes a ~~statute, an amendment to a statute or an amendment to the Constitution of this State.~~ **constitutional amendment or statewide measure.**

2. To determine the number of signatures required to be gathered from a petition district, the Secretary of State shall calculate the amount that equals 10 percent of the voters who voted in that petition district at the last preceding general election.

Sec. 9. NRS 293.1276 is hereby amended to read as follows:

293.1276 1. Within 4 days, excluding Saturdays, Sundays and holidays, after the submission of a petition containing signatures which are required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110, the county clerk shall determine the total number of signatures affixed to the documents and, in the case of a petition for **initiative or referendum** proposing a ~~statute, an amendment to a statute or an amendment to the Constitution.~~ **constitutional amendment or statewide measure**, shall tally the number of signatures for each petition district contained fully or partially within the county and forward that information to the Secretary of State.

2. If the Secretary of State finds that the total number of signatures filed with all the county clerks is less than 100 percent of the required number of registered voters, the Secretary of State shall so notify the person who submitted the petition and the county clerks and no further action may be taken in regard to the petition. If the petition is a petition to recall a county, district or municipal officer, the Secretary of State shall also notify the officer with whom the petition is to be filed.

3. After the petition is submitted to the county clerk, it must not be handled by any other person except by an employee of the county clerk's office until it is filed with the Secretary of State.

Sec. 10. NRS 293.1277 is hereby amended to read as follows:

293.1277 1. If the Secretary of State finds that the total number of signatures submitted to all the county clerks is 100 percent or more of the number of registered voters needed to declare the petition sufficient, the Secretary of State shall immediately so notify the county clerks. Within 9 days, excluding Saturdays, Sundays and holidays, after notification, each of the county clerks shall determine the number of registered voters who have signed the documents submitted in the county clerk's county and, in the case of a petition **for initiative or referendum** proposing a ~~statute, an amendment to a statute or an amendment to the Constitution.~~ **constitutional amendment**

or statewide measure, shall tally the number of signatures for each petition district contained or fully contained within the county clerk's county.

2. If more than 500 names have been signed on the documents submitted to a county clerk, the county clerk shall examine the signatures by sampling them at random for verification. The random sample of signatures to be verified must be drawn in such a manner that every signature which has been submitted to the county clerk is given an equal opportunity to be included in the sample. The sample must include an examination of at least 500 or 5 percent of the signatures, whichever is greater.

3. In determining from the records of registration the number of registered voters who signed the documents, the county clerk may use the signatures contained in the file of applications to register to vote. If the county clerk uses that file, the county clerk shall ensure that every application in the file is examined, including any application in his or her possession which may not yet be entered into the county clerk's records. The county clerk shall rely only on the appearance of the signature and the address and date included with each signature in making his or her determination.

4. In the case of a petition *for initiative or referendum* proposing a ~~statute, an amendment to a statute or an amendment to the Constitution,~~ *constitutional amendment or statewide measure*, when the county clerk is determining the number of registered voters who signed the documents from each petition district contained fully or partially within the county clerk's county, he or she must use the statewide voter registration list available pursuant to NRS 293.675.

5. Except as otherwise provided in subsection 7, upon completing the examination, the county clerk shall immediately attach to the documents a certificate properly dated, showing the result of the examination, including the tally of signatures by petition district, if required, and transmit the documents with the certificate to the Secretary of State. ~~## In the case of a petition for initiative or referendum proposing a constitutional amendment or statewide measure, if a petition district comprises more than one county , and the petition proposes a statute, an amendment to a statute or an amendment to the Constitution,~~ the appropriate county clerks shall comply with the regulations adopted by the Secretary of State pursuant to this section to complete the certificate. A copy of this certificate must be filed in the clerk's office. When the county clerk transmits the certificate to the Secretary of State, the county clerk shall notify the Secretary of State of the number of requests to remove a name received by the county clerk pursuant to NRS 295.055 or 306.015.

6. A person who submits a petition to the county clerk which is required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110 must be allowed to witness the verification of the signatures. A public officer who is the subject of a recall petition must also be allowed to witness the verification of the signatures on the petition.

7. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not transmit to the Secretary of State the documents containing the signatures of the registered voters.

8. The Secretary of State shall by regulation establish further procedures for carrying out the provisions of this section.

Sec. 11. NRS 293.1278 is hereby amended to read as follows:

293.1278 1. If the certificates received by the Secretary of State from all the county clerks establish that the number of valid signatures is less than 90 percent of the required number of registered voters, the petition shall be deemed to have failed to qualify, and the Secretary of State shall immediately so notify the petitioners and the county clerks.

2. If those certificates establish that the number of valid signatures is equal to or more than the sum of 100 percent of the number of registered voters needed to make the petition sufficient plus the total number of requests to remove a name received by the county clerks pursuant to NRS 295.055 or 306.015 and, in the case of a petition *for initiative or referendum* proposing a ~~statute, an amendment to a statute or an amendment to the Constitution,~~ **constitutional amendment or statewide measure**, that the petition has the minimum number of signatures required for each petition district, the petition shall be deemed to qualify as of the date of receipt by the Secretary of State of those certificates, and the Secretary of State shall immediately so notify the petitioners and the county clerks.

3. If the certificates establish that the petitioners have 100 percent or more of the number of registered voters needed to make the petition sufficient but the petition fails to qualify pursuant to subsection 2, each county clerk who received a request to remove a name pursuant to NRS 295.055 or 306.015 shall remove each name as requested, amend the certificate and transmit the amended certificate to the Secretary of State. If the amended certificates establish that the petitioners have 100 percent or more of the number of registered voters needed to make the petition sufficient and, in the case of a petition *for initiative or referendum* proposing a ~~statute, an amendment to a statute or an amendment to the Constitution,~~ **constitutional amendment or statewide measure**, that the petition has the minimum number of signatures required for each petition district, the petition shall be deemed to qualify as of the date of receipt by the Secretary of State of the amended certificates, and the Secretary of State shall immediately so notify the petitioners and the county clerks.

Sec. 12. NRS 293.1279 is hereby amended to read as follows:

293.1279 1. If the statistical sampling shows that the number of valid signatures filed is 90 percent or more, but less than the sum of 100 percent of the number of signatures of registered voters needed to declare the petition sufficient plus the total number of requests to remove a name received by the county clerks pursuant to NRS 295.055 or 306.015, the Secretary of State

shall order the county clerks to examine the signatures for verification. The county clerks shall examine the signatures for verification until they determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid. If the county clerks received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerks may not determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid until they have removed each name as requested pursuant to NRS 295.055 or 306.015.

2. Except as otherwise provided in this subsection, if the statistical sampling shows that the number of valid signatures filed in any county is 90 percent or more but less than the sum of 100 percent of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county plus the total number of requests to remove a name received by the county clerk in that county pursuant to NRS 295.055 or 306.015, the Secretary of State may order the county clerk in that county to examine every signature for verification. If the county clerk received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerk may not determine that 100 percent or more of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county are valid until the county clerk has removed each name as requested pursuant to NRS 295.055 or 306.015. In the case of a petition for initiative *or referendum* that proposes a ~~statute, an amendment to a statute or an amendment to the Constitution of this State,~~ **constitutional amendment or statewide measure**, if the statistical sampling shows that the number of valid signatures in any petition district is 90 percent or more but less than the sum of 100 percent of the number of signatures of registered voters required for that petition district pursuant to NRS 295.012 plus the total number of requests to remove a name received by the county clerk or county clerks, if the petition district comprises more than one county, pursuant to NRS 295.055, the Secretary of State may order a county clerk to examine every signature for verification.

3. Within 12 days, excluding Saturdays, Sundays and holidays, after receipt of such an order, the county clerk or county clerks shall determine from the records of registration what number of registered voters have signed the petition and, if appropriate, tally those signatures by petition district. If necessary, the board of county commissioners shall allow the county clerk additional assistants for examining the signatures and provide for their compensation. In determining from the records of registration what number of registered voters have signed the petition and in determining in which petition district the voters reside, the county clerk must use the statewide voter registration list. The county clerk may rely on the appearance of the signature and the address and date included with each signature in determining the number of registered voters that signed the petition.

4. Except as otherwise provided in subsection 5, upon completing the examination, the county clerk or county clerks shall immediately attach to the documents of the petition an amended certificate, properly dated, showing the result of the examination and shall immediately forward the documents with the amended certificate to the Secretary of State. A copy of the amended certificate must be filed in the county clerk's office. In the case of a petition ~~for initiative or referendum to propose a statute, an amendment to a statute or an amendment to the Constitution,~~ **constitutional amendment or statewide measure**, if a petition district comprises more than one county, the county clerks shall comply with the regulations adopted by the Secretary of State pursuant to this section to complete the amended certificate.

5. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not forward to the Secretary of State the documents containing the signatures of the registered voters.

6. Except for a petition to recall a county, district or municipal officer, the petition shall be deemed filed with the Secretary of State as of the date on which the Secretary of State receives certificates from the county clerks showing the petition to be signed by the requisite number of voters of the State.

7. If the amended certificates received from all county clerks by the Secretary of State establish that the petition is still insufficient, the Secretary of State shall immediately so notify the petitioners and the county clerks. If the petition is a petition to recall a county, district or municipal officer, the Secretary of State shall also notify the officer with whom the petition is to be filed.

8. The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 13. NRS 293.165 is hereby amended to read as follows:

293.165 1. Except as otherwise provided in NRS 293.166, a vacancy occurring in a major or minor political party nomination for a partisan office may be filled by a candidate designated by the party central committee of the county or State, as the case may be, of the major political party or by the executive committee of the minor political party subject to the provisions of subsections 4 and 5.

2. A vacancy occurring in a nonpartisan nomination after the close of filing and on or before 5 p.m. of the second Tuesday in April must be filled by filing a nominating petition that is signed by registered voters of the State, county, district or municipality who may vote for the office in question. The number of registered voters who sign the petition must not be less than 1 percent of the number of persons who voted for the office in question in the State, county, district or municipality at the last preceding general election. The petition must be filed not earlier than the first Tuesday in March and not later than the fourth Tuesday in April. The petition may consist of more than

one document. Each document must bear the name of one county and must be signed only by a person who is a registered voter of that county and who may vote for the office in question. Each document of the petition must be submitted for verification pursuant to NRS 293.1276 to 293.1279, inclusive, to the county clerk of the county named on the document. A candidate nominated pursuant to the provisions of this subsection:

(a) Must file a declaration of candidacy or acceptance of candidacy and pay the statutory filing fee on or before the date the petition is filed; and

(b) May be elected only at a general election, and the candidate's name must not appear on the ballot for a primary election.

3. A vacancy occurring in a nonpartisan nomination after 5 p.m. of the second Tuesday in April and on or before 5 p.m. on the ~~first Tuesday after the primary election~~ **fourth Friday in June of the year in which the general election is held** must be filled by the person who receives the next highest vote for the nomination in the primary.

4. No change may be made on the ballot for the general election after 5 p.m. on the ~~first Tuesday after the primary election~~ **fourth Friday in June of the year in which the general election is held**. If a nominee dies after that time and date, the nominee's name must remain on the ballot for the general election and, if elected, a vacancy exists.

5. All designations provided for in this section must be filed on or before 5 p.m. on the ~~first Tuesday after the primary election~~ **fourth Friday in June of the year in which the general election is held**. In each case, the statutory filing fee must be paid and an acceptance of the designation must be filed on or before 5 p.m. on the date the designation is filed.

Sec. 14. NRS 293.166 is hereby amended to read as follows:

293.166 1. A vacancy occurring in a party nomination for the office of State Senator, Assemblyman or Assemblywoman from a legislative district comprising more than one county may be filled as follows, subject to the provisions of subsections 2 and 3. The county commissioners of each county, all or part of which is included within the legislative district, shall meet to appoint a person who is of the same political party as the former nominee and who actually, as opposed to constructively, resides in the district to fill the vacancy, with the chair of the board of county commissioners of the county whose population residing within the district is the greatest presiding. Each board of county commissioners shall first meet separately and determine the single candidate it will nominate to fill the vacancy. Then, the boards shall meet jointly and the chairs on behalf of the boards shall cast a proportionate number of votes according to the percent, rounded to the nearest whole percent, which the population of its county is of the population of the entire district. Populations must be determined by the last decennial census or special census conducted by the Bureau of the Census of the United States Department of Commerce. The person who receives a plurality of these votes is appointed to fill the vacancy. If no person receives a plurality of the votes, the boards of county commissioners of the respective counties shall each as a

group select one candidate, and the nominee must be chosen by drawing lots among the persons so selected.

2. No change may be made on the ballot after the ~~{first Tuesday after the primary election}~~ **fourth Friday in June** of the year in which the general election is held. If a nominee dies after that date, the nominee's name must remain on the ballot and, if elected, a vacancy exists.

3. The designation of a nominee pursuant to this section must be filed with the Secretary of State **on or** before 5 p.m. on the ~~{first Tuesday after the primary election}~~ **fourth Friday in June of the year in which the general election is held**, and the statutory filing fee must be paid with the designation.

Sec. 15. NRS 293.171 is hereby amended to read as follows:

293.171 1. To ~~{qualify}~~ **be organized** as a minor political party, an organization must file with the Secretary of State a certificate of existence which includes the:

- (a) Name of the political party;
- (b) Names of its officers;
- (c) Names of the members of its executive committee; and
- (d) Name of the person authorized to file the list of its candidates for partisan office with the Secretary of State.

2. A copy of the constitution or bylaws of the party must be affixed to the certificate.

3. A minor political party shall file with the Secretary of State an amended certificate of existence within 5 days after any change in the information contained in the certificate.

4. The constitution or bylaws of a minor political party must provide a procedure for the nomination of its candidates in such a manner that only one candidate may be nominated for each office.

5. A minor political party whose candidates for partisan office do not appear on the ballot for the general election must file a notice of continued existence with the Secretary of State not later than the second Friday in August preceding the general election.

6. A minor political party which fails to file a notice of continued existence as required by subsection 5 ceases to exist as a minor political party in this State.

Sec. 16. NRS 293.1715 is hereby amended to read as follows:

293.1715 1. The names of the candidates for partisan office of a minor political party must not appear on the ballot for a primary election.

2. The names of the candidates for partisan office of a minor political party must be placed on the ballot for the general election if the **minor political party ~~{has}~~ is qualified. To qualify as a minor political party, the minor political party must have** filed a certificate of existence and **be organized pursuant to NRS 293.171, must have filed** a list of its candidates for partisan office pursuant to the provisions of NRS 293.1725 with the Secretary of State and:

(a) At the last preceding general election, the minor political party *must have* polled for any of its candidates for partisan office a number of votes equal to or more than 1 percent of the total number of votes cast for the offices of Representative in Congress;

(b) On January 1 preceding a primary election, the minor political party ~~has~~ *must have* been designated as the political party on the applications to register to vote of at least 1 percent of the total number of registered voters in this State; or

(c) Not later than the ~~second~~ *third* Friday in ~~June~~ *May* preceding the general election, ~~files~~ *must file* a petition with the Secretary of State which is signed by a number of registered voters equal to at least 1 percent of the total number of votes cast at the last preceding general election for the offices of Representative in Congress.

3. ~~[The name of a candidate for partisan office for a minor political party other than a candidate for the office of President or Vice President of the United States must be placed on the ballot for the general election if the party has filed:~~

~~—(a) A certificate of existence;~~

~~—(b) A list of candidates for partisan office containing the name of the candidate pursuant to the provisions of NRS 293.1725 with the Secretary of State; and~~

~~—(c) Not earlier than the first Monday in March preceding the general election and not later than 5 p.m. on the second Friday after the first Monday in March, a petition on behalf of the candidate with the Secretary of State containing not less than:~~

~~—(1) Two hundred fifty signatures of registered voters if the candidate is to be nominated for a statewide office; or~~

~~—(2) One hundred signatures of registered voters if the candidate is to be nominated for any office except a statewide office.~~

~~➔ A minor political party that places names of one or more candidates for partisan office on the ballot pursuant to this subsection may also place the names of one or more candidates for partisan office on the ballot pursuant to subsection 2.~~

~~—4.]~~ The name of only one candidate of each minor political party for each partisan office may appear on the ballot for a general election.

~~{5.}~~ 4. A minor political party must file a copy of the petition required by paragraph (c) of subsection 2 ~~for paragraph (c) of subsection 3~~ with the Secretary of State before the petition may be circulated for signatures.

Sec. 16.2. NRS 293.172 is hereby amended to read as follows:

293.172 1. A petition filed pursuant to subsection 2 ~~for 3~~ of NRS 293.1715 may consist of more than one document. Each document of the petition must:

(a) Bear the name of the minor political party and, if applicable, the candidate and office to which the candidate is to be nominated.

(b) Include the affidavit of the person who circulated the document verifying that the signers are registered voters in this State according to his or her best information and belief and that the signatures are genuine and were signed in his or her presence.

(c) Bear the name of a county and be submitted to the county clerk of that county for verification in the manner prescribed in NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last day to file the petition. A challenge to the form of a document must be made in a district court in the county that is named on the document.

(d) Be signed only by registered voters of the county that is named on the document.

2. If the office to which the candidate is to be nominated is a county office, only the registered voters of that county may sign the petition. If the office to which the candidate is to be nominated is a district office, only the registered voters of that district may sign the petition.

3. Each person who signs a petition shall also provide the address of the place where he or she resides, the date that he or she signs and the name of the county in which he or she is registered to vote.

4. The county clerk shall not disqualify the signature of a voter who failed to provide all the information required by subsection 3 if the voter is registered in the county named on the document.

Sec. 16.4. NRS 293.1725 is hereby amended to read as follows:

293.1725 1. Except as otherwise provided in subsection 4, a minor political party that wishes to place its candidates for partisan office on the ballot for a general election and:

(a) Is entitled to do so pursuant to paragraph (a) or (b) of subsection 2 of NRS 293.1715; *or*

(b) Files or will file a petition pursuant to paragraph (c) of subsection 2 of NRS 293.1715, ~~or~~

~~—(c) Whose candidates are entitled to appear on the ballot pursuant to subsection 3 of NRS 293.1715;~~

↪ must file with the Secretary of State a list of its candidates for partisan office not earlier than the first Monday in March preceding the election nor later than 5 p.m. on the second Friday after the first Monday in March. The list must be signed by the person so authorized in the certificate of existence of the minor political party before a notary public or other person authorized to take acknowledgments. ~~[The Secretary of State shall strike from the list each candidate who is not entitled to appear on the ballot pursuant to subsection 3 of NRS 293.1715 if the minor political party is not entitled to place candidates on the ballot pursuant to subsection 2 of NRS 293.1715.]~~ The list may be amended not later than 5 p.m. on the second Friday after the first Monday in March.

2. The Secretary of State shall immediately forward a certified copy of the list of candidates for partisan office of each minor political party to the

filing officer with whom each candidate must file his or her declaration of candidacy.

3. Each candidate on the list must file his or her declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the date on which the list of candidates for partisan office of the minor political party is filed with the Secretary of State nor later than 5 p.m. on the second Friday after the first Monday in March.

4. A minor political party that wishes to place candidates for the offices of President and Vice President of the United States on the ballot and has qualified to place the names of its candidates for partisan office on the ballot for the general election pursuant to subsection 2 of NRS 293.1715 must file with the Secretary of State a certificate of nomination for these offices not later than the first Tuesday in September.

Sec. 17. NRS 293.174 is hereby amended to read as follows:

293.174 ~~1.1~~ If the qualification of a minor political party *to place the names of candidates on the ballot pursuant to NRS 293.1715* is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the third Friday in June. Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the third Friday in June. A challenge pursuant to this ~~subsection~~ **section** must be filed with the First Judicial District Court if the petition was filed with the Secretary of State.

~~1.2. If the qualification of a candidate of a minor political party other than a candidate for the office of President or Vice President of the United States is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the fourth Monday in March. Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the fourth Monday in March. A challenge pursuant to this subsection must be filed with:~~

~~—(a) The First Judicial District Court; or~~

~~—(b) If a candidate who filed a declaration of candidacy with a county clerk is challenged, the district court for the county where the declaration of candidacy was filed.~~

Sec. 18. NRS 293.176 is hereby amended to read as follows:

293.176 1. Except as otherwise provided in subsection 2, no person may be a candidate of a major political party for partisan office in any election if the person has changed:

(a) The designation of his or her political party affiliation; or

(b) His or her designation of political party from nonpartisan to a designation of a political party affiliation,

↪ on an application to register to vote in the State of Nevada or in any other state during the time beginning on December 31 preceding the closing filing date for that election and ending on the date of that election whether or not the person's previous registration was still effective at the time of the change in party designation.

2. The provisions of subsection 1 do not apply to any person who is a candidate of a political party that ~~was~~ **is** not ~~qualified~~ **organized** pursuant to NRS 293.171 on the December 31 next preceding the closing filing date for the election.

Sec. 19. NRS 293.184 is hereby amended to read as follows:

293.184 **1.** In addition to any other penalty provided by law, if a person ~~knowingly and~~ willfully files a declaration of candidacy or acceptance of candidacy ~~which~~ **knowing that the declaration of candidacy or acceptance of candidacy** contains a false statement:

~~1. The~~

(a) Except as otherwise provided in NRS 293.165 and 293.166, the name of the person must not appear on any ballot for the election for which the person filed the declaration of candidacy or acceptance of candidacy; and

~~2. The~~ **(b) The person is disqualified from entering upon the duties of the office for which he or she was a candidate.**

2. If the name of a person who is disqualified from entering upon the duties of an office pursuant to subsection 1 appears on a ballot for the election is disqualified because the deadline set forth in NRS 293.165 and 293.166 for making changes to the ballot has passed, the Secretary of State and county clerk must post a sign at each polling place where the person's name will appear on the ballot informing voters that the person is disqualified from entering upon the duties of office.

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 293.257 is hereby amended to read as follows:

293.257 **1.** There must be a separate primary ballot for each major political party. The names of candidates for partisan offices who have designated a major political party in the declaration of candidacy or acceptance of candidacy must appear on the primary ballot of the major political party designated.

2. The county clerk may choose to place the names of candidates for nonpartisan offices on the ballots for each major political party or on a separate nonpartisan primary ballot, but the arrangement which the county clerk selects must permit all registered voters to vote on them.

3. A registered voter may cast a primary ballot for a major political party at a primary election only if the registered voter designated on his or her application to register to vote an affiliation with that major political party.

Sec. 22. (Deleted by amendment.)

Sec. 23. NRS 293.333 is hereby amended to read as follows:

293.333 On the day of an election, the precinct or district election boards receiving the absent voters' ballots from the county clerk shall, in the presence of a majority of the election board officers, remove the ballots from the ballot box and the containers in which the ballots were transported pursuant to NRS 293.325 and deposit the ballots in the regular ballot box in the following manner:

1. The name of the voter, as shown on the return envelope, ~~for~~ facsimile, *special absent ballot or oath of the voter required pursuant to NRS 293.3157, as applicable*, must be called and checked as if the voter were voting in person;

2. The signature on the back of the return envelope or on the facsimile, *special absent ballot or oath of the voter required pursuant to NRS 293.3157, as applicable*, must be compared with that on the original application to register to vote;

3. If the board determines that the absent voter is entitled to cast a ballot, the envelope must be opened, the numbers on the ballot and envelope compared, the number strip or stub detached from the ballot and, if the numbers are the same, the ballot deposited in the regular ballot box; and

4. The election board officers shall mark in the roster opposite the name of the voter the word "Voted."

Sec. 24. NRS 293.3568 is hereby amended to read as follows:

293.3568 1. The period for early voting by personal appearance begins the third Saturday preceding a primary or general election and extends through the Friday before election day, Sundays and *federal* holidays excepted.

2. The county clerk may:

(a) Include any Sunday or *federal* holiday that falls within the period for early voting by personal appearance.

(b) Require a permanent polling place for early voting to remain open until 8 p.m. on any Saturday that falls within the period for early voting.

3. A permanent polling place for early voting must remain open:

(a) On Monday through Friday:

(1) During the first week of early voting, from 8 a.m. until 6 p.m.

(2) During the second week of early voting, from 8 a.m. until 6 p.m., or until 8 p.m. if the county clerk so requires.

(b) On any Saturday that falls within the period for early voting, for at least 4 hours between 10 a.m. and 6 p.m.

(c) If the county clerk includes a Sunday that falls within the period for early voting pursuant to subsection 2, during such hours as the county clerk may establish.

Sec. 25. NRS 293.368 is hereby amended to read as follows:

293.368 1. Whenever a candidate whose name appears upon the ballot at a primary election dies after 5 p.m. of the second Tuesday in April, the deceased candidate's name must remain on the ballot and the votes cast for the deceased candidate must be counted in determining the nomination for the office for which the decedent was a candidate.

2. If the deceased candidate on the ballot at the primary election receives the number of votes required to receive the nomination to the office for which he or she was a candidate, except as otherwise provided in subsection 3 of NRS 293.165, the deceased candidate shall be deemed nominated and the vacancy in the nomination must be filled as provided in

NRS 293.165 or 293.166. If the deceased person was a candidate for a nonpartisan office, the nomination must be filled pursuant to subsection 2 of NRS 293.165.

3. Whenever a candidate whose name appears upon the ballot at a general election dies after 5 p.m. on the ~~first Tuesday after the primary election,~~ ***fourth Friday in June of the year in which the general election is held,*** the votes cast for the deceased candidate must be counted in determining the results of the election for the office for which the decedent was a candidate.

4. If the deceased candidate on the ballot at the general election receives the majority of the votes cast for the office, the deceased candidate shall be deemed elected and the office to which he or she was elected shall be deemed vacant at the beginning of the term for which he or she was elected. The vacancy thus created must be filled in the same manner as if the candidate had died after taking office for that term.

Sec. 26. NRS 293.383 is hereby amended to read as follows:

293.383 1. Except as otherwise provided in ~~subsection 2,~~ ***this section,*** each counting board, before it adjourns, shall post a copy of the voting results in a conspicuous place on the outside of the place where the votes were counted.

2. ~~When~~ ***Except as otherwise provided in subsection 3, when*** votes are cast on ballots which are mechanically or electronically tabulated in accordance with the provisions of chapter 293B of NRS, the county clerk shall, as soon as possible, post copies of the tabulated voting results in a conspicuous place on the outside of the counting facility or courthouse.

3. ***The Secretary of State shall notify each county clerk as soon as is reasonably practicable when every polling place is closed and all votes have been cast. A county clerk shall not post copies of the tabulated voting results for a statewide or multicounty race or ballot question until the county clerk has received notification from the Secretary of State that all polling places are closed and all votes have been cast.***

4. Each copy of the voting results posted in accordance with subsections 1, ~~and~~ ***2 and 3*** must set forth the accumulative total of all the votes cast within the county or other political subdivision conducting the election and must be signed by the members of the counting board or the computer program and processing accuracy board.

Sec. 27. NRS 293.404 is hereby amended to read as follows:

293.404 1. Where a recount is demanded pursuant to the provisions of NRS 293.403, the:

(a) County clerk of each county affected by the recount shall employ a recount board to conduct the recount in the county, and shall act as chair of the recount board unless the recount is for the office of county clerk, in which case the registrar of voters of the county, if a registrar of voters has been appointed for the county, shall act as chair of the recount board. If a registrar of voters has not been appointed for the county, the chair of the

board of county commissioners, if the chair is not a candidate on the ballot, shall act as chair of the recount board. If the recount is for the office of county clerk, a registrar of voters has not been appointed for the county and the chair of the board of county commissioners is a candidate on the ballot, the chair of the board of county commissioners shall appoint another member of the board of county commissioners who is not a candidate on the ballot to act as chair of the recount board. A member of the board of county commissioners who is a candidate on the ballot may not serve as a member of the recount board.

(b) City clerk shall employ a recount board to conduct the recount in the city, and shall act as chair of the recount board unless the recount is for the office of city clerk, in which case the mayor of the city, if the mayor is not a candidate on the ballot, shall act as chair of the recount board. If the recount is for the office of city clerk and the mayor of the city is a candidate on the ballot, the mayor of the city shall appoint another member of the city council who is not a candidate on the ballot to act as chair of the recount board. A member of the city council who is a candidate on the ballot may not serve as a member of the recount board.

2. Each candidate for the office affected by the recount and the voter who demanded the recount, if any, may be present in person or by an authorized representative, but may not be a member of the recount board.

3. Except in counties or cities using a mechanical voting system, the recount must include a count and inspection of all ballots, including rejected ballots, and must determine whether those ballots are marked as required by law.

4. If a recount is demanded in a county or city using a mechanical voting system, the person who demanded the recount shall select the ballots for the office or ballot question affected from 5 ~~1~~¹/₃ percent of the ***total number of precincts*** ~~1~~¹/₃ ***for that particular office or ballot question***, but in no case fewer than three precincts, after notification to each candidate for the office or the candidate's authorized representative.

5. The recount board shall examine the selected ballots, including any duplicate or rejected ballots, shall determine whether the ballots have been voted in accordance with this title and shall ~~count~~ ***recount*** the valid ballots ~~by hand. In addition, a recount by computer must be made of all the selected ballots.~~ ***in the same manner in which the ballots were originally tabulated.*** If the ~~count by hand or the~~ recount ~~by computer~~ of the selected ballots ***for all 5 percent of the precincts selected*** shows a ***total combined*** discrepancy of ***all precincts selected*** equal to or greater than 1 percent or five votes, whichever is greater, for the candidate demanding the recount or the candidate who won the election according to the original canvass of the returns, or in favor of or against a ballot question, according to the original canvass of the returns, the county or city clerk, ***as applicable***, shall ***determine whether the person who demanded the recount is entitled to a recount and, if so, shall*** order a ~~count by hand~~ ***recount*** of all the ballots for that office or

ballot question. ~~{Otherwise, the county or city clerk shall order a recount by computer of all the ballots for all candidates for the office or all the ballots for the ballot question.}~~

~~{5.}~~ 6. The county or city clerk shall unseal and give to the recount board all ballots to be counted.

~~{6.}~~ 7. In the case of a demand for a recount affecting more than one county, ***including, without limitation, a statewide office or a ballot question***, the demand must be made to the Secretary of State. ***The person who demanded the recount shall select the ballots for the statewide office or ballot question affected from 5 percent of the total number of precincts for that particular office or ballot question after notification to each candidate for the office or the candidate's representative. The Secretary of State shall notify the county clerks to proceed with the recount of the 5 percent of statewide precincts selected by the person who demanded the recount to examine the ballots in accordance with the provisions of this section and to notify the Secretary of State of the results of the recount in their respective precincts. If the separate examinations, when combined, show a total discrepancy equal to or greater than 1 percent for the candidate demanding the recount or the candidate who won the election, according to the original canvass of the returns, or in favor of or against a ballot question, according to the original canvass of the returns, the Secretary of State shall determine whether the person who demanded the recount is entitled to a recount and, if so, shall order the county or city clerk, as applicable, to recount all the ballots for that office or ballot question.***

8. ***The Secretary of State may adopt regulations to carry out the provisions of this section.***

Sec. 28. (Deleted by amendment.)

Sec. 29. NRS 293.4687 is hereby amended to read as follows:

293.4687 1. The Secretary of State shall maintain a website on the Internet for public information maintained, collected or compiled by the Secretary of State that relates to elections, which must include, without limitation:

(a) The Voters' Bill of Rights required to be posted on the Secretary of State's Internet website pursuant to the provisions of NRS 293.2549;

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293.388;

(c) A current list of the registered voters in this State that also indicates the petition district in which each registered voter resides;

(d) A map or maps indicating the boundaries of each petition district; and

(e) All reports on campaign contributions and expenditures submitted to the Secretary of State pursuant to the provisions of NRS 294A.120, 294A.125, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.283, 294A.360 and 294A.362 and all reports on contributions received by and expenditures made from a legal defense fund

or used to pay for legal expenses submitted to the Secretary of State pursuant to NRS 294A.286.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by the Secretary of State pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by a county clerk or city clerk, the Secretary of State may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 30. NRS 293.487 is hereby amended to read as follows:

293.487 No person may gain or lose residence by reason of his or her presence or absence while ~~employed~~ :

1. ***Employed*** in the military, naval or civil service of the United States or of the State of Nevada, or while engaged in the navigation of the waters of the United States or of the high seas ~~1, or while at~~ ***or while married to another person who is so employed or engaged;***

2. ***A*** student at any seminary or other institution of learning ~~1, or while at~~ ***and*** ; or

3. ***An*** inmate of any public institution.

Sec. 31. (Deleted by amendment.)

Sec. 32. NRS 293C.1865 is hereby amended to read as follows:

293C.1865 1. In addition to any other penalty provided by law, if a person ~~knowingly and~~ willfully files a declaration of candidacy or acceptance of candidacy ~~which~~ ***knowing that the declaration of candidacy or acceptance of candidacy*** contains a false statement:

~~1. The~~

(a) ***Except as otherwise provided in NRS 293.165 or 293.166, the*** name of the person must not appear on any ballot for the election for which the person filed the declaration of candidacy or acceptance of candidacy; and

~~2.~~ (b) The person is disqualified from entering upon the duties of the office for which he or she was a candidate.

2. ***If the name of a person who is disqualified from entering upon the duties of an office pursuant to subsection 1 appears on a ballot for the election is disqualified because the deadline set forth in NRS 293.165 and 293.166 for making changes to the ballot has passed, the Secretary of State and city clerk must post a sign at each polling place where the person's name will appear on the ballot informing voters that the person is disqualified from entering upon the duties of office.***

Sec. 33. NRS 293C.332 is hereby amended to read as follows:

293C.332 On the day of an election, the precinct or district election boards receiving the absent voters' ballots from the city clerk shall, in the presence of a majority of the election board officers, remove the ballots from the ballot box and the containers in which the ballots were transported

pursuant to NRS 293C.325 and deposit the ballots in the regular ballot box in the following manner:

1. The name of the voter, as shown on the return envelope, ~~for~~ facsimile, *special absent ballot or oath of the voter required pursuant to NRS 293.3157, as applicable*, must be called and checked as if the voter were voting in person;

2. The signature on the back of the return envelope or on the facsimile, *special absent ballot or oath of the voter required pursuant to NRS 293.3157, as applicable*, must be compared with that on the original application to register to vote;

3. If the board determines that the absent voter is entitled to cast a ballot, the envelope must be opened, the numbers on the ballot and envelope compared, the number strip or stub detached from the ballot and, if the numbers are the same, the ballot deposited in the regular ballot box; and

4. The election board officers shall mark in the roster opposite the name of the voter the word "Voted."

Sec. 34. NRS 293C.3568 is hereby amended to read as follows:

293C.3568 1. The period for early voting by personal appearance begins the third Saturday preceding a primary city election or general city election, and extends through the Friday before election day, Sundays and *federal* holidays excepted.

2. The city clerk may:

(a) Include any Sunday or *federal* holiday that falls within the period for early voting by personal appearance.

(b) Require a permanent polling place for early voting to remain open until 8 p.m. on any Saturday that falls within the period for early voting.

3. A permanent polling place for early voting must remain open:

(a) On Monday through Friday:

(1) During the first week of early voting, from 8 a.m. until 6 p.m.

(2) During the second week of early voting, from 8 a.m. until 6 p.m., or until 8 p.m. if the city clerk so requires.

(b) On any Saturday that falls within the period for early voting, for at least 4 hours between 10 a.m. and 6 p.m.

(c) If the city clerk includes a Sunday that falls within the period for early voting pursuant to subsection 2, during such hours as the city clerk may establish.

Sec. 35. Chapter 294A of NRS is hereby amended by adding thereto the provisions set forth as sections 36 to 38, inclusive, of this act.

Sec. 36. *"Advocates expressly" or "expressly advocates" means that a communication, taken as a whole, is susceptible to no other reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate or group or candidates or a question or group of questions on the ballot at a primary election, primary city election, general election, general city election or special election. A communication does not have to include the words "vote for," "vote against," "elect,"*

"support" or other similar language to be considered a communication that expressly advocates the passage or defeat of a candidate or a question.

Sec. 36.5. "Campaign expenses" means:

1. All expenses incurred by a candidate for a campaign, including, without limitation:

- (a) Office expenses;*
- (b) Expenses related to volunteers;*
- (c) Expenses related to travel;*
- (d) Expenses related to advertising;*
- (e) Expenses related to paid staff;*
- (f) Expenses related to consultants;*
- (g) Expenses related to polling;*
- (h) Expenses related to special events;*
- (i) Expenses related to a legal defense fund; and*

(j) Contributions made to another candidate, a nonprofit corporation that is registered or required to be registered pursuant to NRS 294A.225, a committee for political action that is registered or required to be registered pursuant to NRS 294A.230 or a committee for the recall of a public officer that is registered or required to be registered pursuant to NRS 294A.250.

2. Expenditures, as defined in NRS 294A.004.

Sec. 37. 1. A person, committee for political action, political party or committee sponsored by a political party that expends more than \$100 for the purpose of financing a communication through any television or radio broadcast, newspaper, magazine, outdoor advertising facility, mailing or any other type of general public political advertising that:

(a) Advocates expressly the election or defeat of a clearly identified candidate or group of candidates; or

(b) Solicits a contribution through any television or radio broadcast, newspaper, magazine, outdoor advertising facility, mailing or any other type of general public political advertising,

↪ shall disclose on the communication the name of the person, committee for political action, political party or committee sponsored by a political party that paid for the communication.

2. If a communication described in subsection 1 is approved by a candidate, in addition to the requirements of subsection 1, the communication must state that the candidate approved the communication and disclose the street address, telephone number and Internet address, if any, of the person, committee for political action, political party or committee sponsored by a political party that paid for the communication.

3. A person, committee for political action, political party or committee sponsored by a political party that has an Internet website available for viewing by the general public or that sends out an electronic mailing to more than 500 people that:

(a) Advocates expressly the election or defeat of a clearly identified candidate or group of candidates; or

(b) Solicits a contribution through any television or radio broadcast, newspaper, magazine, outdoor advertising facility, mailing or any other type of general public political advertising,

↪ shall disclose on the Internet website or electronic mailing, as applicable, the name of the person, committee for political action, political party or committee sponsored by a political party.

4. The disclosures and statements required pursuant to this section must be clear and conspicuous, and easy to read or hear, as applicable.

Sec. 38. (Deleted by amendment.)

Sec. 39. NRS 294A.002 is hereby amended to read as follows:

294A.002 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS ~~294A.003~~ **294A.004** to 294A.009, inclusive, *and sections 36 and 36.5 of this act* have the meanings ascribed to them in those sections.

Sec. 39.5. NRS 294A.004 is hereby amended to read as follows:

294A.004 ~~["Campaign expenses" and "expenditures" mean:]~~
"Expenditures" means:

1. Those expenditures made for advertising on television, radio, billboards, posters and in newspapers; and

2. All other expenditures made,

↪ to advocate expressly the election or defeat of a clearly identified candidate or group of candidates or the passage or defeat of a clearly identified question or group of questions on the ballot, including any payments made to a candidate or any person who is related to the candidate within the second degree of consanguinity or affinity.

Sec. 40. NRS 294A.007 is hereby amended to read as follows:

294A.007 1. "Contribution" means a gift, loan, conveyance, deposit, payment, transfer or distribution of money or of anything of value other than the services of a volunteer, and includes:

(a) The payment by any person, other than a candidate, of compensation for the personal services of another person which are rendered to a:

(1) Candidate;

(2) Person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group;

(3) Committee for political action, political party ~~or~~ **or** committee sponsored by a political party ~~for business entity~~ which makes an expenditure on behalf of a candidate or group of candidates; or

(4) Person or group of persons organized formally or informally ~~including a business entity,~~ who advocates the passage or defeat of a question or group of questions on the ballot,

↪ without charge to the candidate, person, committee or political party.

(b) The value of services provided in kind for which money would have otherwise been paid, such as paid polling and resulting data, paid direct mail,

paid solicitation by telephone, any paid paraphernalia that was printed or otherwise produced to promote a campaign and the use of paid personnel to assist in a campaign.

2. As used in this section, "volunteer" means a person who does not receive compensation of any kind, directly or indirectly, for the services provided to a campaign.

Sec. 41. (Deleted by amendment.)

Sec. 41.5. NRS 294A.112 is hereby amended to read as follows:

294A.112 1. A person shall not:

(a) Make a contribution in the name of another person;
 (b) Knowingly allow his or her name to be used to cause a contribution to be made in the name of another person or assist in the making of a contribution in the name of another person;

(c) Knowingly assist a person to make a contribution in the name of another person; ~~for~~

(d) Knowingly accept a contribution made by a person in the name of another person ~~for~~; *or*

(e) *Make a contribution to a committee for political action with the knowledge and intent that the committee for political action will contribute that money to a specific candidate which, in combination with the total contributions already made by the person for the same election, would violate the limitations on contributions set forth in this chapter.*

2. As used in this section, "make a contribution in the name of another person" includes, without limitation:

(a) Giving money or an item of value, all or part of which was provided *or reimbursed to the contributor* by another person, without disclosing the source of the money or item of value to the recipient at the time the contribution is made; and

(b) Giving money or an item of value, all or part of which belongs to the person who is giving the money or item of value, and claiming that the money or item of value belongs to another person.

Sec. 42. (Deleted by amendment.)

Sec. 43. (Deleted by amendment.)

Sec. 44. NRS 294A.140 is hereby amended to read as follows:

294A.140 1. Every person who is not under the direction or control of a candidate for office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group, and every committee for political action, political party ~~for~~ *and* committee sponsored by a political party ~~and business entity~~ which *receives contributions in excess of \$100 or* makes an expenditure on behalf of such a candidate or group of candidates shall, not later than January 15 of each year that the provisions of this subsection apply to the person, committee ~~for~~ *or* political party, ~~for business entity~~, for the

period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The provisions of this subsection apply to the person, committee ~~or~~ political party ~~for business entity~~ beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office.

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

(a) Seven days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election for that office, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election for that office, for the period from 11 days before the general election or general city election through June 30 of that year,

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

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

4. Every person, committee ~~or~~ political party ~~for business entity~~ described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held

on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election for that office, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

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

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

(a) Seven days before the special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the period from the nomination of the candidate through 12 days before the special election; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 45. NRS 294A.150 is hereby amended to read as follows:

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

(a) Each year in which:

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

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

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

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

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election, for the period from 11 days before the general election or general city election through June 30 of that year,

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

3. The name and address of the contributor and the date on which the contribution was received must be included on the report for each

contribution in excess of \$1,000 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

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

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

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

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

(a) Seven days before the special election, for the period from the date that the question qualified for the ballot through 12 days before the special election; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 46. (Deleted by amendment.)

Sec. 47. NRS 294A.210 is hereby amended to read as follows:

294A.210 1. Every person who is not under the direction or control of a candidate for an office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group, and every committee for political action, political party ~~or~~ committee sponsored by a political party ~~for business entity~~ which ***receives contributions in excess of \$100 or*** makes an expenditure on behalf of such a candidate or group of candidates shall, not later than January 15 of each year that the provisions of this subsection apply to the person, committee ~~or~~ political party, ~~for business entity,~~ for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee ~~or~~ political party ~~for business entity~~ under penalty of perjury. The provisions of this subsection apply to the person, committee ~~or~~ political party ~~for business entity~~ beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office.

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

(a) Seven days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election for that office, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election for that office, for the period from 11 days before the general election or general city election through the June 30 of that year,

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

the committee ~~or~~ **or** political party ~~for business entity~~ under penalty of perjury.

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

(a) Seven days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election for that office, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

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

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

(a) Seven days before the special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the period from the nomination of the candidate through 12 days before the special election; and

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

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

5. Every person, committee ~~or~~ **or** political party ~~for business entity~~ described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of such candidates shall list each expenditure made on behalf of the candidate, the group of candidates or a

candidate in the group of candidates in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the committee ~~† or political party for business entity†~~ under penalty of perjury, 30 days after:

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

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

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

7. The reports must be filed with:

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

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

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

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

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

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

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

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

Sec. 48. NRS 294A.220 is hereby amended to read as follows:

294A.220 1. Except as otherwise provided in NRS 294A.283, every person or group of persons organized formally or informally ~~†, including a business entity,†~~ who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall, not later than January 15 of each year that the provisions of this subsection apply to the person or group of persons,

for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$1,000 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group ~~for business entity~~ under penalty of perjury. The provisions of this subsection apply to the person ~~or~~ group of persons : ~~for business entity~~.

(a) Each year in which:

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

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

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

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

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election, for the period from 11 days before the general election or general city election through the June 30 immediately preceding that July 15,

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

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

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

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

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

(a) Seven days before the special election, for the period from the date the question qualified for the ballot through 12 days before the special election; and

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

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

5. Every person or group of persons organized formally or informally ~~including a business entity,~~ who advocates the passage or defeat of a question or group of questions on the ballot at a special election to determine whether a public officer will be recalled and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall list each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$1,000 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group ~~for business entity~~ under penalty of perjury, 30 days after:

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

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

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

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

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

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

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

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

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

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

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

Sec. 49. NRS 294A.230 is hereby amended to read as follows:

294A.230 1. Each committee for political action shall, before it engages in any activity in this State, register with the Secretary of State on forms supplied by the Secretary of State.

2. The form must require:

- (a) The name of the committee;
- (b) The purpose for which it was organized;
- (c) The names, addresses and telephone numbers of its officers;
- (d) If the committee for political action is affiliated with any other organizations, the name, address and telephone number of each organization;
- (e) The name, address and telephone number of its registered agent; and
- (f) Any other information deemed necessary by the Secretary of State.

3. A committee for political action shall file with the Secretary of State an amended form for registration within 30 days after any change in the information contained in the form for registration.

4. The Secretary of State shall include on the Secretary of State's Internet website the information required pursuant to subsection 2.

5. *For purposes of the civil penalty that the Secretary of State may impose pursuant to NRS 294A.420 for violating the provisions of subsection 1, if a committee for political action fails to register with the Secretary of State pursuant to subsection 1, each time a committee for political action engages in any activity in this State constitutes a separate violation of subsection 1 for which the Secretary of State may impose a civil penalty.*

Sec. 50. NRS 294A.281 is hereby amended to read as follows:

294A.281 1. Each person or group of persons organized formally or informally ~~including a business entity,~~ who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, before engaging in any such advocacy in this State, shall file a statement of organization with the Secretary of State as provided in subsection 2.

2. Each statement of organization must include:

- (a) The name of the person ~~or~~ group of persons ~~;~~ ~~for business entity;~~
- (b) The purpose for which the person ~~or~~ group of persons ~~for business entity~~ is organized;
- (c) The names and addresses of any officers of the person ~~or~~ group of persons ~~;~~ ~~for business entity;~~
- (d) If the person ~~or~~ group of persons ~~for business entity~~ is affiliated with or is retained by any other person ~~or~~ group ~~for business entity~~ for the

purpose of advocating the passage or defeat of a constitutional amendment or statewide measure proposed by initiative or referendum, the name and address of each such other person ~~or group ; for business entity;~~ and

(e) The name, address and telephone number of the registered agent of the person ~~or group of persons . for business entity.~~

3. A person ~~or group of persons for business entity~~ which has filed a statement of organization pursuant to this section shall file an amended statement with the Secretary of State within 30 days of any changes to the information required pursuant to subsection 2.

Sec. 51. NRS 294A.282 is hereby amended to read as follows:

294A.282 Each person or group of persons organized formally or informally ~~including a business entity,~~ who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum shall appoint and keep within this State a registered agent, as provided in NRS 14.020, who must be a natural person who resides in this State.

Sec. 52. NRS 294A.283 is hereby amended to read as follows:

294A.283 1. Every person or group of persons organized formally or informally ~~including a business entity,~~ who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, including, without limitation, the initiation or circulation thereof, and who receives or expends money in an amount in excess of \$10,000 for such advocacy shall, not later than the dates listed in subsection 2, report:

(a) Each campaign contribution in excess of \$1,000 received during each period described in subsection 2;

(b) Contributions received during each period described in subsection 2 from a contributor which cumulatively exceed \$1,000;

(c) Each expenditure in excess of \$1,000 the person ~~or group of persons for business entity~~ makes during each period described in subsection 2; and

(d) The total amount of money the person ~~or group of persons for business entity~~ has at the beginning of each period described in subsection 2, accounting for all contributions received and expenditures made during each previous period.

2. Every person ~~or group of persons for business entity~~ required to report pursuant to subsection 1 shall file that report with the Secretary of State:

(a) For the period beginning on the first day a copy of the petition may be filed with the Secretary of State before it is circulated for signatures pursuant to Section 1 or Section 2 of Article 19 of the Nevada Constitution, as applicable, and ending on the following March 31, not later than April 15;

(b) For the period beginning on April 1 and ending on July 31, not later than August 15;

(c) For the period beginning on August 1 and ending on September 30, not later than October 15; and

(d) For the period beginning on October 1 and ending on December 31, not later than the following January 15.

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

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

5. Each report required pursuant to this section must:

(a) Be on the form designed and provided by the Secretary of State pursuant to NRS 294A.373; and

(b) Be signed by the person or a representative of the group of persons ~~for business entity~~ under penalty of perjury.

6. A person ~~or~~ **or** group of persons ~~for business entity~~ may mail or transmit each report to the Secretary of State by certified mail, regular mail, facsimile machine or electronic means or may deliver the report personally.

7. A report shall be deemed to be filed with the Secretary of State:

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

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

Sec. 53. NRS 294A.284 is hereby amended to read as follows:

294A.284 1. Each person or group of persons organized formally or informally ~~[including a business entity]~~ who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum that provides compensation to persons to circulate petitions shall report to the Secretary of State:

(a) The number of persons to whom such compensation is provided;

(b) The least amount of such compensation that is provided and the greatest amount of such compensation that is provided; and

(c) The total amount of compensation provided.

2. The Secretary of State shall make public any information received pursuant to this section.

Sec. 54. NRS 294A.286 is hereby amended to read as follows:

294A.286 1. ***Any candidate or public officer may establish a legal defense fund.*** A person who administers a legal defense fund shall:

(a) Within 5 days after the creation of the legal defense fund, notify the Secretary of State of the creation of the fund on a form provided by the Secretary of State; and

(b) For the same period covered by the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360, report any contribution received by or expenditure made from the legal defense fund.

2. The reports required by paragraph (b) of subsection 1 must be submitted on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the administrator of the legal defense fund under penalty of perjury.

3. The reports required by paragraph (b) of subsection 1 must be filed in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360.

4. *Notwithstanding the provisions of this section, a candidate or public officer may use campaign contributions to pay for any legal expenses that the candidate or public officer incurs in relation to a campaign or serving in public office without establishing a legal defense fund. Any such candidate or public officer shall report any expenditure of campaign contributions to pay for legal expenses in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360. A candidate or public officer shall not use campaign contributions to satisfy a civil or criminal penalty imposed by law.*

Sec. 55. NRS 294A.347 is hereby amended to read as follows:

294A.347 1. A statement which:

(a) Is published within 60 days before a general election, general city election or special election or 30 days before a primary election or primary city election;

(b) Expressly advocates the election or defeat of a clearly identified candidate for a state or local office; and

(c) Is published by a person who receives compensation from the candidate, an opponent of the candidate, or a person, party ~~or~~ committee ~~for business entity~~ required to report expenditures pursuant to NRS 294A.210,

➔ must contain a disclosure of the fact that the person receives compensation pursuant to paragraph (c) and the name of the person, party ~~or~~ committee ~~for business entity~~ providing that compensation.

2. A statement which:

(a) Is published by a candidate within 60 days before a general election, general city election or special election or 30 days before a primary election or primary city election; and

(b) Contains the name of the candidate,

➔ shall be deemed to comply with the provisions of this section.

3. As used in this section, "publish" means the act of:

(a) Printing, posting, broadcasting, mailing or otherwise disseminating; or

(b) Causing to be printed, posted, broadcasted, mailed or otherwise disseminated.

Sec. 56. NRS 294A.350 is hereby amended to read as follows:

294A.350 1. Every candidate for state, district, county, municipal or township office shall file the reports of campaign contributions and expenses required by NRS 294A.120, 294A.128, 294A.200 and 294A.360 and reports of contributions received by and expenditures made from a legal defense fund *or used to pay legal expenses* required by NRS 294A.286, even though the candidate:

- (a) Withdraws his or her candidacy;
- (b) Receives no campaign contributions;
- (c) Has no campaign expenses;
- (d) Is removed from the ballot by court order; or
- (e) Is the subject of a petition to recall and the special election is not held.

2. A candidate who withdraws his or her candidacy pursuant to NRS 293.202 may file simultaneously all the reports of campaign contributions and expenses required by NRS 294A.120, 294A.128, 294A.200 and 294A.360 and the report of contributions received by and expenditures made from a legal defense fund *or used to pay legal expenses* required by NRS 294A.286, so long as each report is filed on or before the last day for filing the respective report pursuant to NRS 294A.120, 294A.200 or 294A.360.

Sec. 57. (Deleted by amendment.)

Sec. 58. NRS 294A.365 is hereby amended to read as follows:

294A.365 1. Each report of expenditures required pursuant to NRS 294A.210, 294A.220, 294A.280 and 294A.283 must consist of a list of each expenditure in excess of \$100 or \$1,000, as is appropriate, that was made during the periods for reporting. Each report of expenses required pursuant to NRS 294A.125 and 294A.200 must consist of a list of each expense in excess of \$100 that was incurred during the periods for reporting. The list in each report must state the category and amount of the expense or expenditure and the date on which the expense was incurred or the expenditure was made.

2. The categories of expense or expenditure for use on the report of expenses or expenditures are:

- (a) Office expenses;
- (b) Expenses related to volunteers;
- (c) Expenses related to travel;
- (d) Expenses related to advertising;
- (e) Expenses related to paid staff;
- (f) Expenses related to consultants;
- (g) Expenses related to polling;
- (h) Expenses related to special events;

(i) *Expenses related to a legal defense fund;*

(j) Except as otherwise provided in NRS 294A.362, goods and services provided in kind for which money would otherwise have been paid;

(k) *Contributions made to another candidate, a nonprofit corporation that is registered or required to be registered pursuant to NRS 294A.225, a*

committee for political action that is registered or required to be registered pursuant to NRS 294A.230 or a committee for the recall of a public officer that is registered or required to be registered pursuant to NRS 294A.250; and

~~[(4)] (l)~~ Other miscellaneous expenses.

3. Each report of expenses or expenditures described in subsection 1 must list the disposition of any unspent campaign contributions using the categories set forth in subsection 2 of NRS 294A.160.

Sec. 59. NRS 294A.373 is hereby amended to read as follows:

294A.373 1. The Secretary of State shall design a single form to be used for all reports of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.283, 294A.360 and 294A.362 and reports of contributions received by and expenditures made from a legal defense fund *or used to pay legal expenses* that are required to be filed pursuant to NRS 294A.286.

2. The form designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. Upon request, the Secretary of State shall provide a copy of the form designed pursuant to this section to each person, committee, political party ~~[(1)]~~ *and* group ~~and business entity~~ that is required to file a report described in subsection 1.

4. The Secretary of State must obtain the advice and consent of the Legislative Commission before providing a copy of a form designed or revised by the Secretary of State pursuant to this section to a person, committee, political party ~~[(1)]~~ *or* group ~~for business entity~~ that is required to use the form.

Sec. 59.5. NRS 294A.380 is hereby amended to read as follows:

294A.380 1. The Secretary of State may adopt and promulgate regulations, prescribe forms in accordance with the provisions of this chapter and take such other actions as are necessary for the implementation and effective administration of the provisions of this chapter.

2. For the purposes of implementing and administering the provisions of this chapter: ~~regulating committees for political action;~~

(a) The Secretary of State shall ~~[(1)] in determining whether an entity or group is a committee for political action,~~ consider a group's or entity's division or separation into units, sections or smaller groups only if it appears that such division or separation was for a purpose other than for avoiding the reporting requirements ~~[(1)]~~ *or the limitations on contributions set forth in* this chapter.

(b) The Secretary of State shall ~~[(1)] in determining whether an entity or group is a committee for political action,~~ disregard any action taken by a group or entity that would otherwise constitute a committee for political action if it appears such action is taken for the purpose of avoiding the

reporting requirements ~~to~~ ***or the limitations on contributions set forth in*** this chapter.

Sec. 60. NRS 294A.382 is hereby amended to read as follows:

294A.382 The Secretary of State shall not request or require a candidate, person, group of persons, committee ~~or~~ ***or*** political party ~~for business entity~~ to list each of the expenditures or campaign expenses of \$100 or less on a form designed and provided pursuant to NRS 294A.373.

Sec. 61. NRS 294A.390 is hereby amended to read as follows:

294A.390 The officer from whom a candidate or entity requests a form for:

1. A declaration of candidacy;
2. An acceptance of candidacy;
3. The registration of a committee for political action pursuant to NRS 294A.230 ~~or~~ ***or*** a committee for the recall of a public officer pursuant to NRS 294A.250 ; ~~for a business entity that wishes to engage in certain political activity pursuant to NRS 294A.377;~~

4. The reporting of the creation of a legal defense fund pursuant to NRS 294A.286; or

5. The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.283 or 294A.360 and the reporting of contributions received by and expenditures made from a legal defense fund ***or used to pay legal expenses*** pursuant to NRS 294A.286,

↪ shall furnish the candidate with the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.283 or 294A.360 ***or section 37 of this act*** relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420, and an explanation of NRS 294A.286 and 294A.287 relating to the accepting or reporting of contributions received by and expenditures made from a legal defense fund ***or used to pay legal expenses*** and the penalties for a violation of those provisions as set forth in NRS 294A.287 and 294A.420, must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

Sec. 62. NRS 294A.400 is hereby amended to read as follows:

294A.400 The Secretary of State shall, within 30 days after receipt of the reports required by NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.283 and 294A.286, ***and section 37 of this act***, prepare and make available for public inspection a compilation of:

1. The total campaign contributions, the contributions which are in excess of \$100 and the total campaign expenses of each of the candidates from whom reports of those contributions and expenses are required.

2. The total amount of loans to a candidate guaranteed by a third party, the total amount of loans made to a candidate that have been forgiven and the total amount of written commitments for contributions received by a candidate.

3. The contributions made to a committee for the recall of a public officer in excess of \$100.

4. The expenditures exceeding \$100 made by a:

(a) Person on behalf of a candidate other than the person.
 (b) Group of persons ~~for business entity~~ advocating the election or defeat of a candidate.

(c) Committee for the recall of a public officer.

5. The contributions in excess of \$100 made to:

(a) A person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group.

(b) A committee for political action, political party ~~or~~ **or** committee sponsored by a political party ~~for business entity~~ which makes an expenditure on behalf of a candidate or group of candidates.

6. The contributions in excess of \$1,000 made to and the expenditures exceeding \$1,000 made by a:

(a) Person or group of persons organized formally or informally ~~including a business entity~~ **or** who advocates the passage or defeat of a question or group of questions on the ballot and who receives or expends money in an amount in excess of \$10,000 for such advocacy, except as otherwise provided in paragraph (b).

(b) Person or group of persons organized formally or informally ~~including a business entity~~ **or** who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, including, without limitation, the initiation or circulation thereof, and who receives or expends money in an amount in excess of \$10,000 for such advocacy.

7. The total contributions received by and expenditures made from a legal defense fund ~~or~~ **or used to pay legal expenses.**

Sec. 63. NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, ~~294A.227,~~ 294A.230, 294A.270, 294A.280, 294A.283, 294A.286 or 294A.360 **or section 37 of this act** has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may,

after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a person or entity that violates an applicable provision of ~~NRS 294A.112, 294A.120, 294A.128, 294A.130, 294A.140, 294A.150, 294A.160, 294A.200, 294A.210, 294A.220, 294A.227, 294A.230, 294A.270, 294A.280, 294A.283, 294A.286, 294A.300, 294A.310 or 294A.360~~ **this chapter** is subject to a civil penalty of not more than \$5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

(a) If the report is not more than 7 days late, \$25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, \$50 for each day the report is late.

(c) If the report is more than 15 days late, \$100 for each day the report is late.

↪ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his or her office or a candidate for such an office must not exceed a total of \$100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

Sec. 64. NRS 295.012 is hereby amended to read as follows:

295.012 A petition for initiative **or referendum** that proposes a ~~statute, an amendment to a statute or an amendment to the Constitution~~ **constitutional amendment or statewide measure** must be proposed by a number of registered voters from each petition district in the State that is at least equal to 10 percent of the voters who voted in that petition district at the last preceding general election.

Sec. 65. NRS 295.0575 is hereby amended to read as follows:

295.0575 A petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or referendum may consist of

more than one document. Each document of a petition must have attached to it when submitted an affidavit executed by the circulator thereof stating:

1. That the circulator personally circulated the document;
2. The number of signatures thereon;
3. That all the signatures were affixed in the circulator's presence; ~~and~~
4. That each signer had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded ~~and~~ ;

5. *The address and contact information of the circulator; and*

6. *That the circulator is 18 years of age or older.*

Sec. 65.5. NRS 281A.600 is hereby amended to read as follows:

281A.600 1. Except as otherwise provided in subsection 2, if a public officer who was appointed to the office for which the public officer is serving is entitled to receive annual compensation of \$6,000 or more for serving in that office ~~and~~ ***or if the public officer was appointed to the office of Legislator,*** the public officer shall file with the Commission a statement of financial disclosure, as follows:

(a) A public officer appointed to fill the unexpired term of an elected or appointed public officer shall file a statement of financial disclosure within 30 days after the public officer's appointment.

(b) Each public officer appointed to fill an office shall file a statement of financial disclosure on or before January 15 of ~~each~~ :

(1) Each year of the term, including the year ~~the term expires~~ in which the public officer leaves office; and

(2) The year immediately following the year in which the public officer leaves office, unless the public officer leaves office before January 15 in the prior year.

➤ The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. If a person is serving in a public office for which the person is required to file a statement pursuant to subsection 1, the person may use the statement the person files for that initial office to satisfy the requirements of subsection 1 for every other public office to which the person is appointed and in which the person is also serving.

3. A judicial officer who is appointed to fill the unexpired term of a predecessor or to fill a newly created judgeship shall file a statement of financial disclosure pursuant to the requirements of Canon 41 of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281A.620.

4. The Commission shall provide written notification to the Secretary of State of the public officers who failed to file the statements of financial disclosure required by subsection 1 or who failed to file those statements in a timely manner. The notice must be sent within 30 days after the deadlines set forth in subsection 1 and must include:

(a) The name of each public officer who failed to file a statement of financial disclosure within the period before the notice is sent;

(b) The name of each public officer who filed a statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent;

(c) For the first notice sent after the public officer filed a statement of financial disclosure, the name of each public officer who filed a statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent; and

(d) For each public officer listed in paragraph (c), the date on which the statement of financial disclosure was due and the date on which the public officer filed the statement.

5. In addition to the notice provided pursuant to subsection 4, the Commission shall notify the Secretary of State of each public officer who files a statement of financial disclosure more than 30 days after the deadlines set forth in subsection 1. The notice must include the information described in paragraphs (c) and (d) of subsection 4.

6. A statement of financial disclosure shall be deemed to be filed with the Commission:

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

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

Sec. 66. NRS 281A.610 is hereby amended to read as follows:

281A.610 1. Except as otherwise provided in subsection 2, each candidate for public office who will be entitled to receive annual compensation of \$6,000 or more for serving in the office that the candidate is seeking, *each candidate for the office of Legislator* and, except as otherwise provided in subsection 3, each public officer who was elected to the office for which the public officer is serving shall file with the Secretary of State a statement of financial disclosure, as follows:

(a) A candidate for nomination, election or reelection to public office shall file a statement of financial disclosure no later than the 10th day after the last day to qualify as a candidate for the office. The statement must disclose the required information for the full calendar year immediately preceding the date of filing and for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office. The filing of a statement of financial disclosure for a portion of a calendar year pursuant to this paragraph does not relieve the candidate of the requirement of filing a statement of financial disclosure for the full calendar year pursuant to paragraph (b) in the immediately succeeding year, if the candidate is elected to the office.

(b) Each public officer shall file a statement of financial disclosure on or before January 15 of ~~each~~ **year** :

(1) Each year of the term, including the year ~~the term expires~~ in which the public officer leaves office; and

(2) The year immediately following the year in which the public officer leaves office, unless the public officer leaves office before January 15 in the prior year.

➡ The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. Except as otherwise provided in this subsection, if a candidate for public office is serving in a public office for which the candidate is required to file a statement pursuant to paragraph (b) of subsection 1 or subsection 1 of NRS 281A.600, the candidate need not file the statement required by subsection 1 for the full calendar year for which the candidate previously filed a statement. The provisions of this subsection do not relieve the candidate of the requirement pursuant to paragraph (a) of subsection 1 to file a statement of financial disclosure for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office.

3. A person elected pursuant to NRS 548.285 to the office of supervisor of a conservation district is not required to file a statement of financial disclosure relative to that office pursuant to subsection 1.

4. A candidate for judicial office or a judicial officer shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281A.620.

5. A statement of financial disclosure shall be deemed to be filed with the Secretary of State:

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

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

6. The statement of financial disclosure filed pursuant to this section must be filed on the form prescribed by the Commission pursuant to NRS 281A.290.

7. The Secretary of State shall prescribe, by regulation, procedures for the submission of statements of financial disclosure filed pursuant to this section, maintain files of such statements and make the statements available for public inspection.

Sec. 67. Section 5.015 of the Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, as added by chapter 493, Statutes of Nevada 2009, at page 2937, is hereby amended to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk ~~not less than 5 days or more than 15 days before the day of the primary election held pursuant~~

~~to the provisions of NRS 293.175.] as provided by the election laws of~~
this State. The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.

2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.

Sec. 68. Section 5.015 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, as added by chapter 493, Statutes of Nevada 2009, at page 2938, is hereby amended to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk ~~not less than 5 days or more than 15 days before the day of the primary election held pursuant to the provisions of NRS 293.175.] as provided by the election laws of~~
this State. The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.

2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.

Sec. 69. NRS 294A.003 and 294A.227 are hereby repealed.

TEXT OF REPEALED SECTIONS

294A.003 "Business entity" defined. "Business entity" means any corporation, company or other form of business organization. The term does not include a business entity for which:

1. The owners, investors, officers, directors, members or other organizers of the entity are disclosed in any public record; or
2. The business purpose of the entity is disclosed in a public record that clearly identifies a specific business in a manner that is verifiable.

294A.227 Registration; publication of information relating to registration.

1. A business entity shall register with the Secretary of State by submitting the completed form described in subsection 2 before it engages in any of the following activities in this State:

- (a) Soliciting or receiving contributions from any other person, group or entity;
- (b) Making contributions to candidates or other persons; or
- (c) Making expenditures,

↪ designed to affect the outcome of any primary election, primary city election, general election, general city election, special election or question on the ballot.

2. The form must require:

- (a) The name of the business entity;
- (b) The purpose for which it was organized;
- (c) The names and addresses of each owner, investor, officer, director, member or other organizer of the entity;
- (d) If the business entity is affiliated with any other organization, the name, address and telephone number of each such organization;
- (e) The name, address and telephone number of its registered agent, if any;
- (f) A designation of the activities listed in subsection 1 in which it intends to engage; and
- (g) Any other information deemed necessary by the Secretary of State.

3. The Secretary of State shall, in a timely manner, include on the portion of the Secretary of State's Internet website that is devoted to information concerning elections and campaigns the information required pursuant to subsection 2.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Amendment No. 685 authorizes the Secretary of State to consider whether a group's activities were for the purpose of avoiding contribution limits as well as reporting requirements.

Amendment adopted.

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

Assembly Bill No. 136.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 693.

"SUMMARY—Revises provisions governing credits for offenders sentenced for certain crimes. (BDR 16-634)"

"AN ACT relating to offenders; revising provisions governing credits for offenders sentenced for certain crimes; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that certain credits to the sentence of an offender convicted of certain category C, D or E felonies must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and from the maximum term imposed by the sentence ~~if~~ **except in certain circumstances.** (NRS 209.4465) **This bill adds to the exceptions that an offender who has been convicted of being a habitual criminal or a habitual felon may not have credits applied to both the minimum and**

maximum term imposed by the sentence. This bill **further** provides that an offender convicted of ~~certain~~ a category B ~~felonies~~ **felony** also qualifies to have certain credits deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and from the maximum term imposed by the sentence. ~~[However, an offender who has been convicted of being a habitual criminal, a habitual felon or a habitually fraudulent felon does not qualify for such credits.]~~ **, except in certain circumstances.**

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

Section 1. NRS 209.4465 is hereby amended to read as follows:

209.4465 1. An offender who is sentenced to prison for a crime committed on or after July 17, 1997, who has no serious infraction of the regulations of the Department, the terms and conditions of his or her residential confinement or the laws of the State recorded against the offender, and who performs in a faithful, orderly and peaceable manner the duties assigned to the offender, must be allowed:

(a) For the period the offender is actually incarcerated pursuant to his or her sentence;

(b) For the period the offender is in residential confinement; and

(c) For the period the offender is in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888,

↪ a deduction of 20 days from his or her sentence for each month the offender serves.

2. In addition to the credits allowed pursuant to subsection 1, the Director may allow not more than 10 days of credit each month for an offender whose diligence in labor and study merits such credits. In addition to the credits allowed pursuant to this subsection, an offender is entitled to the following credits for educational achievement:

(a) For earning a general educational development certificate, 60 days.

(b) For earning a high school diploma, 90 days.

(c) For earning his or her first associate degree, 120 days.

3. The Director may, in his or her discretion, authorize an offender to receive a maximum of 90 days of credit for each additional degree of higher education earned by the offender.

4. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, program for reentry of offenders and parolees into the community, conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire 30 days of credit each month that is allowed pursuant to subsections 1 and 2.

5. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

6. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

7. Except as otherwise provided in subsection 8, credits earned pursuant to this section:

(a) Must be deducted from the maximum term imposed by the sentence; and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.

8. Credits earned pursuant to this section by an offender who has not been convicted of:

(a) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim;

(b) A sexual offense that is punishable as a felony;

(c) A violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 that is punishable as a felony; ~~for~~

(d) *Being a habitual criminal pursuant to NRS 207.010, a habitual felon pursuant to NRS 207.012 or a habitually fraudulent felon pursuant to NRS 207.014; or*

(e) ~~1A~~ Except as otherwise provided in subsection 9, a category A or B felony,

↪ apply to eligibility for parole and must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and must be deducted from the maximum term imposed by the sentence.

9. Credits earned by an offender who has been convicted of a category B felony apply to eligibility for parole, must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and must be deducted from the maximum term imposed by the sentence if the offender:

(a) Has not been convicted of an offense listed in paragraphs (a) to (d), inclusive, of subsection 8;

(b) Has not served three or more separate terms of imprisonment for three separate felony convictions in this State;

(c) Is not serving a sentence for which an additional penalty was imposed for the use of a firearm pursuant to NRS 193.165; and

(d) Is not serving a sentence for violating the provisions of NRS 202.360.

Sec. 2. For the purpose of calculating the credits earned by an offender pursuant to NRS 209.4465, the amendatory provisions of section 1 of this act must be applied:

1. Retroactively to January 1, 2005, to reduce the minimum term of imprisonment of an offender described in ~~subsection~~ **subsections 8 and 9** of NRS 209.4465, as amended by section 1 of this act, who was placed in the custody of the Department of Corrections before January 1, 2012, and who remains in such custody on January 1, 2012.

2. Retroactively to January 1, 2011, to reduce the maximum term of imprisonment of an offender who was placed on parole before January 1, 2012.

3. In the manner set forth in NRS 209.4465 for all offenders in the custody of the Department of Corrections commencing on January 1, 2012, and for all offenders who are on parole commencing on January 1, 2012.

Sec. 3. This act becomes effective on January 1, 2012.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

The amendment adds to the list of exceptions from which a category B felony offender may not apply certain credits toward parole. Specifically, the credits are not applied if the offender has served three or more separate terms of imprisonment for three separate felony convictions in Nevada, is serving a sentence for which an additional penalty was imposed for use of a firearm, and is serving a sentence for being a felon in possession of a firearm.

Amendment adopted.

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

Assembly Bill No. 242.

Bill read second time.

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

Amendment No. 745.

"SUMMARY—Requires ~~the quasi public organization that receives money from a state agency~~ **certain organizations** to make available certain information. (BDR 31-67)"

"AN ACT relating to state financial administration; requiring each ~~quasi public~~ **designated** organization that receives money from ~~a state agency~~ **the Department of Health and Human Services** to make available certain information ~~to the public and to make reports biannually to the Department; requiring the Department to submit those reports to the Director of the Legislative Counsel Bureau;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain governmental entities to report quarterly to the Interim Finance Committee regarding the taxes and fees that were legally due to be paid to the governmental entity, the taxes and fees that the governmental entity was actually able to collect, and the taxes and fees that the governmental entity failed to collect or otherwise did not collect. (Chapter 238, Statutes of Nevada 2009, pp. 970-71) This bill requires each ~~quasi public~~ **designated** organization that receives money from ~~a state agency~~ **the Department of Health and Human Services** in the form of a donation, gift, grant or other conveyance to: (1) make certain information concerning the organization available on an Internet website; and (2) **make certain reports to the Department every 6 months for the period**

commencing on July 1, 2011, and ending on June 30, 2013. This bill requires the Department to provide copies of ~~feertain~~ those reports to the Director of the Legislative Counsel Bureau. This bill defines the term ~~["quasi-public]~~ **"designated organization"** for the purposes of the bill to mean: (1) a nonprofit organization that qualifies for tax-exempt status under 26 U.S.C. § 501(c); or (2) any entity ~~that~~ **which receives money by way of a grant, contract or similar agreement for the purpose of providing to persons services that are within the purview of the Department, and which** is created by or pursuant to an interlocal agreement. **The provisions of this bill sunset on July 31, 2013.**

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

Section 1. Chapter 353 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. **1. If a ~~quasi-public]~~ designated organization receives money from ~~a state agency]~~ the Department in the form of a donation, gift, grant or other conveyance, the following information must be included on the Internet website of the ~~quasi-public]~~ designated organization or, if the organization does not have a website, on the website of the ~~state agency from which the organization received money in the form of a donation, gift, grant or other conveyance.]~~ Department:**

(a) The names and terms of the persons on the board of directors or other governing body of the ~~quasi-public]~~ designated organization;

(b) The most recent annual report of the ~~quasi-public]~~ designated organization; and

(c) The mission statement or other statement of purpose of the ~~quasi-public]~~ designated organization.

2. ~~[Except as otherwise provided in this subsection, if a quasi public organization is required by law to]~~ For a period of 2 years commencing on July 1, 2011, and ending on June 30, 2013, the Department shall require, as part of any grant, contract or similar agreement pursuant to which a designated organization provides to persons services that are within the purview of the Department, that the designated organization submit a report to ~~a state agency from which the organization receives money in the form of a donation, gift, grant or other conveyance, the organization]~~ the Department once every 6 months. Such reports must:

(a) Be submitted to the Department within 30 days after the end of each 6-month period; and

(b) At a minimum, contain the following information:

(1) The amount of money that the designated organization received from the Department during the immediately preceding 6-month period;

(2) The number of persons served pursuant to the grant, contract or similar agreement;

(3) A description of the services provided pursuant to the grant, contract or similar agreement; and

(4) Any other information deemed appropriate by the Department.

3. The Department shall ~~also~~ submit ~~a copy~~ copies of the ~~report~~ reports described in subsection 2, in electronic format, to the Director of the Legislative Counsel Bureau. ~~If the quasi-public organization prepares a summary annual report for submission to a state agency from which the organization receives money in the form of a donation, gift, grant or other conveyance, the organization may submit a copy of such summary annual report to the Director of the Legislative Counsel Bureau in lieu of submitting any other report that is more frequent or specific in nature.~~

~~3.1~~

4. As used in this section:

(a) ~~["Quasi-public"]~~ "Department" means the Department of Health and Human Services created by NRS 232.300.

(b) "Designated organization" means:

(1) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c); or

(2) Any other entity that ~~is~~ :

(I) Receives money by way of a grant, contract or similar agreement for the purpose of providing to persons services that are within the purview of the Department, including, without limitation, domestic violence prevention and assistance, and treatment for mental health issues and substance abuse; and

(II) Is created by or pursuant to an interlocal agreement.

~~[(b) "State agency" means an agency, bureau, board, commission, department, division or any other unit of the Executive Department of the State Government.]~~

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. This act becomes effective upon passage and approval ~~it~~ and expires by limitation on July 31, 2013.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 745 to Assembly Bill No. 242 narrows the scope of website posting and reporting requirements in the bill to only those designated organizations that receive money from the Nevada Department of Health and Human Services (DHHS) in the form of a donation, gift, grant, or other conveyance.

It provides that a designated organization that receives money from the Department must include on its Internet website or, if the organization does not have a website, on the website of DHHS: the names and terms of the persons on the board of directors or governing body of the

organization; the most recent annual report of the organization; and the mission statement or other statement of purpose of the organization.

It provides, for a period of two years, that DHHS require any designated organizations involved in grants or contracts related to the provision of services within the scope of DHHS to submit a report every six months to the Department. The report must indicate the amount of money received from the Department over the previous six months, the number of persons served under the grant or contract, a description of the services provided, and other information deemed appropriate by DHHS.

It requires the Department to submit a copy of these reports electronically to the Legislative Counsel Bureau and adds a sunset to the bill of July 31, 2013.

Amendment adopted.

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

Assembly Bill No. 277.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 677.

"SUMMARY—Provides for special license plates honoring female veterans. (BDR 43-810)"

"AN ACT relating to motor vehicles; requiring the Department of Motor Vehicles, with respect to special license plates for the support of outreach programs and services for veterans and their families, to make such plates available to female veterans with an optional image representative of female veterans; **providing for the issuance of special license plates inscribed with the words "DISABLED FEMALE VETERAN"**; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Director of the Department of Motor Vehicles to order the preparation of special license plates for the support of outreach programs and services for veterans and their families. These special license plates are available to veterans of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States, a reserve component thereof or the National Guard, or the spouse, parent or child of such a veteran. (NRS 482.3763) **Section 4** of this bill requires the Department to make the plates available: (1) to female veterans; and (2) with an optional image representative of female veterans. The fees for the initial issuance and renewal of the optional version of the special license plates for the support of outreach programs and services for veterans and their families are the same as for the regular version.

Under existing law, new special license plates authorized by an act of the Legislature typically are subject to all of the following: (1) approval or disapproval by the Commission on Special License Plates; (2) the limitation on the number of separate designs of special license plates that may be issued by the Department at any one time; and (3) the requirement that the Department receive at least 1,000 applications for the issuance of the plate within 2 years after the effective date of the act of the Legislature.

(NRS 482.367004, 482.367008, 482.36705) The optional special license plates for female veterans are exempt from all three of the preceding requirements because the plates are simply an optional version of existing special license plates for veterans.

Existing law entitles a veteran who has suffered a 100-percent service-connected disability and who receives compensation from the United States for the disability to receive special license plates inscribed with the words "DISABLED VETERAN" or "VETERAN WHO IS DISABLED." (NRS 482.377) Veterans with these license plates are entitled to certain privileges and exemptions related to parking. (NRS 482.377, 484B.463, 484B.467) Section 4.5 of this bill provides for the issuance of such plates inscribed with the words "DISABLED FEMALE VETERAN."

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. NRS 482.3763 is hereby amended to read as follows:

482.3763 1. The Director shall order the preparation of special license plates for the support of outreach programs and services for veterans and their families and establish procedures for the application for and issuance of the plates.

2. The Department shall, upon application therefor and payment of the prescribed fees, issue special license plates for the support of outreach programs and services for veterans and their families to:

(a) A veteran of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States, a reserve component thereof or the National Guard; ~~or~~

(b) *A female veteran; or*

(c) The spouse, parent or child of a person described in paragraph (a) ~~or~~ *or (b).*

↪ The plates must be inscribed with the word "VETERAN" and with the seal of the branch of the Armed Forces of the United States, ~~or~~ the seal of the National Guard ~~or~~ *or an image representative of the female veterans*, as applicable, requested by the applicant. A person may request that personalized prestige license plates issued pursuant to NRS 482.3667 be combined with special license plates for the support of outreach programs and services for veterans and their families if that person pays the fees for the personalized prestige license plates in addition to the fees for the special license plates for the support of outreach programs and services for veterans and their families pursuant to subsection 4.

3. If, during a registration year, the holder of special plates issued pursuant to this section disposes of the vehicle to which the plates are affixed, the holder shall:

(a) Retain the plates and affix them to another vehicle which meets the requirements of this section if the holder pays the fee for the transfer of the registration and any registration fee or governmental services tax due pursuant to NRS 482.399; or

(b) Within 30 days after removing the plates from the vehicle, return them to the Department.

4. In addition to all other applicable registration and license fees and governmental services taxes, and to the special fee imposed pursuant to NRS 482.3764 for the support of outreach programs and services for veterans and their families, the fee for:

(a) The initial issuance of the special license plates is \$35.

(b) The annual renewal sticker is \$10.

5. If the special plates issued pursuant to this section are lost, stolen or mutilated, the owner of the vehicle may secure a set of replacement license plates from the Department for a fee of \$10.

Sec. 4.5. NRS 482.377 is hereby amended to read as follows:

482.377 1. A veteran of the Armed Forces of the United States who, as a result of his or her service:

(a) Has suffered a 100-percent service-connected disability and who receives compensation from the United States for the disability is entitled to specially designed license plates inscribed with the words "DISABLED ~~VETERAN~~" **VETERAN," "DISABLED FEMALE VETERAN"** or "VETERAN WHO IS DISABLED," at the option of the veteran, and three or four consecutive numbers.

(b) Has been captured and held prisoner by a military force of a foreign nation is entitled to specially designed license plates inscribed with the words "EX PRISONER OF WAR" and three or four consecutive numbers.

2. Each person who qualifies for special license plates pursuant to this section may apply for not more than two sets of plates. If the person applies for a second set of plates for an additional vehicle, the second set of plates must have a different number than the first set of plates issued to the same applicant. Special license plates issued pursuant to this section may be used only on a private passenger vehicle, a noncommercial truck or a motor home.

3. The Department shall issue specially designed license plates for persons qualified pursuant to this section who submit an application on a form prescribed by the Department and evidence of disability or former imprisonment required by the Department.

4. A vehicle on which license plates issued by the Department pursuant to this section are displayed is exempt from the payment of any parking fees, including those collected through parking meters, charged by the State or any political subdivision or other public body within the State, other than the United States.

5. If, during a registration year, the holder of a set of special license plates issued pursuant to this section disposes of the vehicle to which the plates are affixed, the holder shall:

(a) Retain the plates and affix them to another vehicle which meets the requirements of this section and report the change to the Department in accordance with the procedure set forth for other transfers; or

(b) Within 30 days after removing the plates from the vehicle, return them to the Department.

Sec. 5. The Nevada Veterans' Services Commission, created by NRS 417.150, shall provide an image representative of female veterans to the Department of Motor Vehicles for the purposes of NRS 482.3763, as amended by section 4 of this act.

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

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

Amendment No. 677 to Assembly Bill No. 277 provides that a female veteran who has suffered a 100 percent service-connected disability and who receives compensation from the United States for that disability may be issued a special "Disabled Female Veteran" license plate from the Department of Motor Vehicles. A holder of this plate would be entitled to all the same benefits as a holder of a "Disabled Veteran" plate, including the right to park in a parking space designated for persons who are handicapped.

Amendment adopted.

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

Assembly Bill No. 294.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 695.

"SUMMARY—Revises various provisions ~~governing mobile~~ **relating to** gaming. (BDR 41-1042)"

"AN ACT relating to gaming; ~~clarifying that for purposes of regulation under the Nevada Gaming Control Act, the term "slot machine" does not include any item used for mobile gaming;~~ **revising certain definitions relating to gaming for the purposes of the Nevada Gaming Control Act; removing the authority of the Nevada Gaming Commission to regulate certain independent contractors; making it unlawful to distribute gaming devices, systems or related equipment under certain circumstances;** revising provisions relating to the location of a computer system associated with mobile gaming; **providing a penalty;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Section 2 of this bill clarifies that for purposes of regulation under the Nevada Gaming Control Act, the term "slot machine" does not include any item used for mobile gaming.~~ **Existing law provides that mobile gaming may only be conducted in public areas of an establishment which holds a nonrestricted gaming license. (NRS 463.0176) Section 3.6 of this bill authorizes mobile gaming to be conducted in any area of such an establishment.**

Section 3.8 of this bill removes the authority of the Nevada Gaming Commission to regulate independent contractors which manufacture certain property related to gaming. Section 3.8 also makes it unlawful to knowingly distribute any gaming device, system or related equipment from Nevada to any other jurisdiction where the use of any such device, system or related equipment is illegal.

Section 4 of this bill clarifies that a computer system associated with mobile gaming may be located outside a licensed gaming establishment but must be located within this State.

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. 3.2. NRS 463.0155 is hereby amended to read as follows:

463.0155 "Gaming device" means any object used remotely or directly in connection with gaming or any game which affects the result of a wager by determining win or loss and which does not otherwise constitute associated equipment. The term includes, without limitation:

1. A slot machine.
2. A collection of two or more of the following components:
 - (a) An assembled electronic circuit which cannot be reasonably demonstrated to have any use other than in a slot machine;
 - (b) A cabinet with electrical wiring and provisions for mounting a coin, token or currency acceptor and provisions for mounting a dispenser of coins, tokens or anything of value;
 - (c) ~~A storage medium containing a control program;~~
 - ~~(d)~~ **(d)** An assembled mechanical or electromechanical display unit intended for use in gambling; or
 - ~~(e)~~ **(d)** An assembled mechanical or electromechanical unit which cannot be demonstrated to have any use other than in a slot machine.
3. Any object which may be connected to or used with a slot machine to alter the normal criteria of random selection or affect the outcome of a game.
4. A system for the accounting or management of any game in which the result of the wager is determined electronically by using any combination of hardware or software for computers.
5. A control program.
6. Any combination of one of the components set forth in paragraphs (a) to ~~(e)~~ **(d)**, inclusive, of subsection 2 and any other component which the Commission determines by regulation to be a machine used directly or remotely in connection with gaming or any game which affects the results of a wager by determining a win or loss.
7. Any object that has been determined to be a gaming device pursuant to regulations adopted by the Commission.

↪ As used in this section, "control program" means any software, source language or executable code which affects the result of a wager by determining win or loss as determined pursuant to regulations adopted by the Commission.

Sec. 3.4. NRS 463.01715 is hereby amended to read as follows:

463.01715 1. "Manufacture" means:

(a) To manufacture, produce, program, design, control the design of ~~to~~ ~~maintain a copyright over~~ or make modifications to a gaming device, cashless wagering system, mobile gaming system or interactive gaming system ~~to~~ **for use or play in Nevada;**

(b) To direct, control or assume responsibility for the methods and processes used to design, develop, program, assemble, produce, fabricate, compose and combine the components and other tangible objects of any gaming device, cashless wagering system, mobile gaming system or interactive gaming system ~~to~~ **for use or play in Nevada;** or

(c) To assemble, or control the assembly of, a gaming device, cashless wagering system, mobile gaming system or interactive gaming system ~~to~~ **for use or play in Nevada.**

2. As used in this section ~~to~~ ~~"assume"~~ :

(a) "Assume" responsibility means to acquire :

(1) Acquire complete control over, or ownership of, the applicable gaming device, cashless wagering system, mobile gaming system or interactive gaming system ~~to~~ **; and**

(2) Accept continuing legal responsibility for the gaming device, cashless wagering system, mobile gaming system or interactive gaming system, including, without limitation, any form of manufacture performed by an affiliate or independent contractor.

(b) "Independent contractor" means, with respect to a manufacturer, any person who:

(1) Is not an employee of the manufacturer; and

(2) Pursuant to an agreement with the manufacturer, designs, develops, programs, produces or composes a control program used in the manufacture of a gaming device. As used in this subparagraph, "control program" has the meaning ascribed to it in NRS 463.0155.

Sec. 3.6. NRS 463.0176 is hereby amended to read as follows:

463.0176 "Mobile gaming" means the conduct of gambling games through communications devices operated solely in ~~public areas of~~ an establishment which holds a nonrestricted gaming license and which operates at least 100 slot machines and at least one other game by the use of communications technology that allows a person to transmit information to a computer to assist in the placing of a bet or wager and corresponding information related to the display of the game, game outcomes or other similar information. For the purposes of this section ~~to~~ :

~~1. "Communications"~~ **"communications" technology** means any method used and the components employed by an establishment to facilitate the

transmission of information, including, without limitation, transmission and reception by systems based on wireless network, wireless fidelity, wire, cable, radio, microwave, light, optics or computer data networks. The term does not include the Internet.

~~12. "Public areas" does not include rooms available for sleeping or living accommodations.~~

Sec. 3.8. NRS 463.650 is hereby amended to read as follows:

463.650 1. Except as otherwise provided in subsections 2 to 5, inclusive, it is unlawful for any person, either as owner, lessee or employee, whether for hire or not, to operate, carry on, conduct or maintain any form of manufacture, selling or distribution of any gaming device, cashless wagering system, mobile gaming system or interactive gaming system for use or play in Nevada ~~for for distribution outside of Nevada,~~ without first procuring and maintaining all required federal, state, county and municipal licenses.

2. A lessor who specifically acquires equipment for a capital lease is not required to be licensed under this section or NRS 463.660.

3. The holder of a state gaming license or the holding company of a corporation, partnership, limited partnership, limited-liability company or other business organization holding a license may, within 2 years after cessation of business or upon specific approval by the Board, dispose of by sale in a manner approved by the Board, any or all of its gaming devices, including slot machines, mobile gaming systems and cashless wagering systems, without a distributor's license. In cases of bankruptcy of a state gaming licensee or foreclosure of a lien by a bank or other person holding a security interest for which gaming devices are security in whole or in part for the lien, the Board may authorize the disposition of the gaming devices without requiring a distributor's license.

4. The Commission may, by regulation, authorize a person who owns:

- (a) Gaming devices for home use in accordance with NRS 463.160; or
- (b) Antique gaming devices,

➡ to sell such devices without procuring a license therefor to residents of jurisdictions wherein ownership of such devices is legal.

5. Upon approval by the Board, a gaming device owned by:

- (a) A law enforcement agency;
- (b) A court of law; or
- (c) A gaming device repair school licensed by the Commission on Postsecondary Education,

➡ may be disposed of by sale, in a manner approved by the Board, without a distributor's license. An application for approval must be submitted to the Board in the manner prescribed by the Chair.

6. Any person who the Commission determines is a suitable person to receive a license under the provisions of this section and NRS 463.660 may be issued a manufacturer's or distributor's license. The burden of proving his or her qualification to receive or hold a license under this section and NRS 463.660 is at all times on the applicant or licensee.

7. Every person who must be licensed pursuant to this section is subject to the provisions of NRS 463.482 to 463.645, inclusive, unless exempted from those provisions by the Commission.

8. The Commission may exempt, for any purpose, a manufacturer, seller or distributor from the provisions of NRS 463.482 to 463.645, inclusive, if the Commission determines that the exemption is consistent with the purposes of this chapter.

9. ~~The Commission may provide by regulation for:~~
~~(a) The filing by a manufacturer of reports and information regarding:~~
~~(1) Any independent contractor; and~~
~~(2) The business arrangements between the manufacturer and an independent contractor.~~
~~(b) Registration of independent contractors.~~
~~(c) Procedures pursuant to which an independent contractor may be required to file an application for a finding of suitability.~~
~~(d) Such other regulatory oversight of independent contractors as the Commission determines is necessary and appropriate.~~ Any person conducting business in Nevada who is not required to be licensed as a manufacturer, seller or distributor pursuant to subsection 1, but who otherwise must register with the Attorney General of the United States pursuant to Title 15 of U.S.C., must submit to the Board a copy of such registration within 10 days after submission to the Attorney General of the United States.

10. It is unlawful for any person, either as owner, lessee or employee, whether for hire or not, to knowingly distribute any gaming device, cashless wagering system, mobile gaming system, interactive gaming system or associated equipment from Nevada to any jurisdiction where the possession, ownership or use of any such device, system or equipment is illegal.

11. As used in this section:

(a) "Antique gaming device" means a gaming device that was manufactured before 1961.

(b) "Holding company" has the meaning ascribed to it in NRS 463.485.

~~(c) "Independent contractor" means, with respect to a manufacturer, any person who:~~

~~(1) Is not an employee of the manufacturer; and~~
~~(2) Pursuant to an agreement with the manufacturer, designs, develops, programs, produces or composes a control program used in the manufacture of a gaming device. As used in this subparagraph, "control program" has the meaning ascribed to it in NRS 463.0155.~~

Sec. 4. NRS 463.730 is hereby amended to read as follows:

463.730 1. Except as otherwise provided in subsection 2, the Commission may, with the advice and assistance of the Board, adopt regulations governing the operation of mobile gaming and the licensing of:

(a) An operator of a mobile gaming system;

- (b) A manufacturer, seller or distributor of a mobile gaming system; and
- (c) A manufacturer of equipment associated with mobile gaming.

2. The Commission may not adopt regulations pursuant to this section until the Commission first determines that:

(a) Mobile gaming systems are secure and reliable, and provide reasonable assurance that players will be of lawful age and communicating only from areas of licensed gaming establishments that have been approved by the Commission for that purpose; and

(b) Mobile gaming can be operated in a manner which complies with all applicable laws.

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

(a) Provide that gross revenue received by a licensed gaming establishment or the operator or the manufacturer of a mobile gaming system from the operation of mobile gaming is subject to the same license fee provisions of NRS 463.370 as the other games and gaming devices operated at the licensed gaming establishment.

(b) Provide that a mobile communications device which displays information relating to the game to a participant in the game as part of a mobile gaming system is subject to the same fees and taxes applicable to slot machines as set forth in NRS 463.375 and 463.385.

(c) Set forth standards for the ~~location and~~ security of the computer system ***and its location, which may be outside a licensed gaming establishment but must be within this State,*** and for approval of hardware and software used in connection with mobile gaming.

(d) Define "mobile gaming system," "operator of a mobile gaming system" ~~and~~ ***"and"*** "equipment associated with mobile gaming" ~~and "public area"~~ as the terms are used in this chapter.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

The amendment revises certain definitions, particularly by eliminating "public area" from the definition of "mobile gaming."

The amendment also adds several new sections to the bill to eliminate a storage medium containing a control program from the definition of "gaming device."

It clarifies that "manufacture" includes gaming systems for play in Nevada.

It specifies that the term "assume responsibility" means to accept continuing legal responsibility for gaming devices and systems.

The amendment removes authority of the Nevada Gaming Commission to regulate independent contractors that manufacture certain property related to gaming; and it makes it unlawful to distribute gaming devices, systems, or related equipment from Nevada to another jurisdiction where such devices and systems are illegal.

Amendment adopted.

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

Assembly Bill No. 337.

Bill read second time.

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

Amendment No. 689.

"SUMMARY—Revises provisions governing campaign practices. (BDR 24-721)"

"AN ACT relating to campaign practices; requiring a notice of an alleged violation of provisions governing campaign practices to include certain information; requiring the Secretary of State to provide a copy of the notice and any accompanying information to the person alleged in the notice to have committed the violation; authorizing the person to respond to such a notice; authorizing the Secretary of State to conduct an investigation based on such a notice in certain circumstances; authorizing the Secretary of State or a designated officer or employee of the Secretary of State to subpoena witnesses and require the production of documents or records by subpoena when conducting an investigation based on such a notice in certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law confers authority upon the Secretary of State to conduct investigations concerning alleged violations of chapter 294A of NRS governing campaign practices. Existing law also authorizes a person who believes that any provision of that chapter has been violated to notify the Secretary of State in writing. The notice must be signed by the person and include any information in support of the alleged violation. (NRS 294A.410) This bill specifies the information that must be included in the notice and requires the Secretary of State to provide a copy of the notice and any accompanying information to the person, if any, alleged in the notice to have committed the violation. If, based on such a notice, the Secretary of State determines that reasonable suspicion exists that a violation has occurred, the Secretary of State is authorized to investigate the allegation. This bill further provides that, if the notice is received within 180 days after the general election, general city election or special election for the office or ballot question to which the notice pertains, the Secretary of State is authorized, when conducting an investigation based on the notice, to subpoena witnesses and require the production by subpoena of any books, papers, correspondence, memoranda, agreements or other documents or records in the possession of ~~the~~ any person: (1) alleged in the notice to have committed the violation ~~that;~~ or (2) who the Secretary of State or a designated officer or employee of the Secretary of State has reasonable cause to believe produced or disseminated the materials that are the subject of the notice, if the Secretary of State or a designated officer or employee of the Secretary of State determines that the documents or records are relevant or material to the investigation. Finally, this bill authorizes the Secretary of State or a designated officer or employee of the

Secretary of State to apply to a court for an order compelling compliance if a person fails to testify or produce the required documents or records.

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

Section 1. NRS 294A.410 is hereby amended to read as follows:

294A.410 1. If it appears that the provisions of this chapter have been violated, the Secretary of State may:

(a) Conduct an investigation concerning the alleged violation and cause the appropriate proceedings to be instituted and prosecuted in the First Judicial District Court; or

(b) Refer the alleged violation to the Attorney General. The Attorney General shall investigate the alleged violation and institute and prosecute the appropriate proceedings in the First Judicial District Court without delay.

2. A person who believes that any provision of this chapter has been violated may notify the Secretary of State, in writing, of the alleged violation. The notice must be signed by the person alleging the violation and include ~~any~~ :

(a) *The full name and address of the person alleging the violation;*

(b) *A clear and concise statement of facts sufficient to establish that the alleged violation occurred;*

(c) *Any evidence substantiating the alleged violation;*

(d) *A certification by the person alleging the violation that the facts alleged in the notice are true to the best knowledge and belief of that person; and*

(e) *Any other information in support of the alleged violation.*

3. *As soon as practicable after receiving a notice of an alleged violation pursuant to subsection 2, the Secretary of State shall provide a copy of the notice and any accompanying information to the person, if any, alleged in the notice to have committed the violation. Any response submitted to the notice must be accompanied by a short statement of the grounds, if any, for objecting to the alleged violation and include any evidence substantiating the objection.*

4. *If the Secretary of State determines, based on a notice of an alleged violation received pursuant to subsection 2, that reasonable suspicion exists that a violation of this chapter has occurred, the Secretary of State may conduct an investigation of the alleged violation.*

5. *If a notice of an alleged violation is received pursuant to subsection 2 not later than 180 days after the general election, general city election or special election for the office or ballot question to which the notice pertains, the Secretary of State, when conducting an investigation of the alleged violation pursuant to subsection 4, may subpoena witnesses and require the production by subpoena of any books, papers, correspondence, memoranda, agreements or other documents or records ~~in the possession of the person alleged in the notice to have committed the violation~~ that the Secretary of State or a designated officer or employee of the Secretary of*

State determines are relevant or material to the investigation ~~for~~ and are in the possession of:

(a) Any person alleged in the notice to have committed the violation; or

(b) If the notice does not include the name of a person alleged to have committed the violation, any person who the Secretary of State or a designated officer or employee of the Secretary of State has reasonable cause to believe produced or disseminated the materials that are the subject of the notice.

6. If a person fails to testify or produce any documents or records in accordance with a subpoena issued pursuant to subsection 5, the Secretary of State or designated officer or employee may apply to the court for an order compelling compliance. A request for an order of compliance may be addressed to:

(a) The district court in and for the county where service may be obtained on the person refusing to testify or produce the documents or records, if the person is subject to service of process in this State; or

(b) A court of another state having jurisdiction over the person refusing to testify or produce the documents or records, if the person is not subject to service of process in this State.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Amendment No. 689 provides that the Secretary of State may also subpoena any person who participated in the production or dissemination of materials that are the subject of the notice of the alleged violation.

Amendment adopted.

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

Assembly Bill No. 379.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 635.

"SUMMARY—Establishes the crime of stolen valor. (BDR 15-1005)"

"AN ACT relating to crimes; establishing the crime of stolen valor; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The federal Stolen Valor Act of 2005 prohibits a person from falsely representing himself or herself, verbally or in writing, to have been awarded certain military decorations or awards. A person who violates this provision may be fined, imprisoned for not more than 6 months or both fined and imprisoned. (18 U.S.C. § 704(b)) The United States Court of Appeals for the Ninth Circuit recently held that the Stolen Valor Act is facially invalid pursuant to the First Amendment to the Constitution of the United States and is therefore unconstitutional. The Ninth Circuit Court found that the Act as currently drafted restricts free speech rights, but the Court suggested that the

statute could be modified into a constitutional anti-fraud statute. (*United States v. Alvarez*, 617 F.3d 1198, 1212, 1217 (9th Cir. 2010)) The Court noted that to prove that a person is liable for fraud, it must be shown that the person knowingly made a false representation of fact to intentionally mislead another person and successfully misled the other person through such false representation. (*United States v. Alvarez*, 617 F.3d 1198, 1211 (9th Cir. 2010) (citing *Ill. ex rel. Madigan v. Telemarketing Assocs., Inc.*, 538 U.S. 600, 620 (2003)))

Existing Nevada law prohibits a person from willfully wearing the badge, button, insignia or rosette of any military order or of any secret order or society, or from using any such item to obtain aid, assistance or any other benefit or advantage, if the person is not entitled to wear or use any such items. (NRS 205.410) This bill repeals existing Nevada law and provides that a person commits the crime of stolen valor if the person knowingly, with the intent to mislead or defraud and with the intent to obtain some benefit or something of monetary value, misleads or defrauds another person by ~~making any~~ committing various acts concerning the false representation of ~~this or her~~ himself or herself with relation to military service ~~and obtains something of value. If the amount of the loss caused by the violation:~~ and ~~(1) is less than \$2,500, the person who committed the violation is guilty of a gross misdemeanor; and (2) is \$2,500 or more, the person who committed the violation is guilty of a category E felony.~~

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

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

1. ~~A person [is guilty of the crime of stolen valor if the person]~~ shall not knowingly, with the intent to mislead or defraud:

(a) ~~[Makes]~~ Make any false representation of military service, including, without limitation, falsely representing his or her current or former military status, claiming that he or she served in the Armed Forces of the United States, a reserve component thereof or the National Guard, or that he or she served in a combat zone;

(b) ~~[Makes]~~ Make any such false representation with the intent to obtain employment, be elected or appointed to public office or obtain something of monetary value; and

(c) ~~[Misleads]~~ Mislead or [defrauds] defraud another person through such false representation and [obtains] obtain employment, be elected or appointed to public office or obtain something of monetary value.

2. ~~[If the amount of the loss caused by a violation of subsection 1:~~

~~(a) Is less than \$2,500, the person who committed the violation]~~

A person shall not knowingly, with the intent to mislead or defraud:

(a) Falsely represent himself or herself by wearing any military decoration or medal authorized by Congress for the Armed Forces of the United States, any service medal or badge awarded to members of such

forces, any ribbon, button or rosette of any such badge, decoration or medal, or any colorable imitation of such items;

(b) Make such false representation with the intent to obtain something of monetary value; and

(c) Mislead or defraud another person through such false representation and obtain something of monetary value.

3. A person shall not knowingly, with the intent to mislead or defraud:

(a) Falsely represent himself or herself, verbally or in writing, to have been awarded any military decoration or medal authorized by Congress for the Armed Forces of the United States, any service medal or badge awarded to members of such forces, any ribbon, button or rosette of any such badge, decoration or medal, or any colorable imitation of such items;

(b) Make such false representation with the intent to obtain something of monetary value; and

(c) Mislead or defraud another person through such false representation and obtain something of monetary value.

4. A person shall not knowingly, with the intent to mislead or defraud:

(a) Falsely claim to be or to have been a member of any elite United States Special Operations Command (USSOCOM) of the Armed Forces of the United States, any of its component units or the predecessors of any such units verbally, in writing or by wearing or displaying the distinctive emblem, badge or pin thereof;

(b) Make such false claims with the intent to obtain something of monetary value; and

(c) Mislead or defraud another person through such false claims and obtain something of monetary value.

5. A person shall not knowingly, with the intent to mislead or defraud:

(a) Forge, counterfeit or falsely alter any military document of any military service of the United States, including, without limitation, a certificate of discharge or a military identification card or badge;

(b) Use for any purpose, unlawfully possess, display or exhibit any such false document with the intent to obtain something of monetary value; and

(c) Mislead or defraud another person through the use of any such false document and obtain something of monetary value.

6. A person who violates any provision of this section is guilty of the crime of stolen valor. A person who violates:

(a) Subsection 1 is guilty of a misdemeanor.

(b) Subsection 2, except as otherwise provided in subsection 7 or 8, is guilty of a misdemeanor.

(c) Subsection 3, except as otherwise provided in subsection 7 or 8, is guilty of a misdemeanor.

(d) Subsection 4 is guilty of a misdemeanor.

(e) Subsection 5 is guilty of a gross misdemeanor.

7. A person who violates subsection 2 or 3 by wearing or falsely representing himself or herself to have been awarded a Distinguished

Service Cross, Navy Cross, Air Force Cross, Silver Star or Purple Heart, or any replacement or duplicate medal for any such medal as authorized by law, is guilty of a gross misdemeanor.

~~*[(b) Is \$2,500 or more, the person who committed the violation]*~~

8. A person who violates subsection 2 or 3 by wearing or falsely representing himself or herself to have been awarded a Medal of Honor is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 2. NRS 205.410 is hereby repealed.

TEXT OF REPEALED SECTION

205.410 Improper use of insignia.

Every person who shall willfully wear the badge, button, insignie or rosette of any military order or of any secret order or society, or any similitude thereof; or who shall use any such badge, button, insignie or rosette to obtain aid or assistance, or any other benefit or advantage, unless the person shall be entitled to so wear or use the same under the constitution, bylaws, rules and regulations of such order or society, shall be fined not more than \$500.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

The amendment returns the sponsors' bill to the original bill that was introduced in the other house adding the amendment we proposed in this house, which is adding the word "monetary" to "anything of value." Therefore, with the amended language, it would be "anything of monetary value" added to the restored original bill.

Amendment adopted.

The following amendment was proposed by Senator Halseth:

Amendment No. 656.

"SUMMARY—Establishes the crime of stolen valor. (BDR 15-1005)"

"AN ACT relating to crimes; establishing the crime of stolen valor; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The federal Stolen Valor Act of 2005 prohibits a person from falsely representing himself or herself, verbally or in writing, to have been awarded certain military decorations or awards. A person who violates this provision may be fined, imprisoned for not more than 6 months or both fined and imprisoned. (18 U.S.C. § 704(b)) The United States Court of Appeals for the Ninth Circuit recently held that the Stolen Valor Act is facially invalid pursuant to the First Amendment to the Constitution of the United States and is therefore unconstitutional. The Ninth Circuit Court found that the Act as currently drafted restricts free speech rights, but the Court suggested that the statute could be modified into a constitutional anti-fraud statute. (*United States v. Alvarez*, 617 F.3d 1198, 1212, 1217 (9th Cir. 2010)) The Court noted that to prove that a person is liable for fraud, it must be shown that the person knowingly made a false representation of fact to intentionally mislead

another person and successfully misled the other person through such false representation. (*United States v. Alvarez*, 617 F.3d 1198, 1211 (9th Cir. 2010) (citing *Ill. ex rel. Madigan v. Telemarketing Assocs., Inc.*, 538 U.S. 600, 620 (2003)))

Existing Nevada law prohibits a person from willfully wearing the badge, button, insignie or rosette of any military order or of any secret order or society, or from using any such item to obtain aid, assistance or any other benefit or advantage, if the person is not entitled to wear or use any such items. (NRS 205.410) This bill repeals existing Nevada law and provides that a person commits the crime of stolen valor if the person knowingly, with the intent to mislead or defraud and with the intent to obtain something of value, misleads or defrauds another person by making any false representation of his or her military service and obtains something of value. If the amount of the loss caused by the violation: (1) is less than \$2,500, the person who committed the violation is guilty of a gross misdemeanor; and (2) is \$2,500 or more, the person who committed the violation is guilty of a category E felony.

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

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

1. *A person is guilty of the crime of stolen valor if the person knowingly, with the intent to mislead or defraud:*

(a) *Makes any false representation of military service, including, without limitation, falsely representing his or her current or former military status, claiming that he or she served in the Armed Forces of the United States, a reserve component thereof or the National Guard, or that he or she served in a combat zone;*

(b) *Makes any such false representation with the intent to obtain something of value; and*

(c) *Misleads or defrauds another person through such false representation and obtains something of value.*

2. *If the amount of the loss caused by a violation of subsection 1:*

(a) *Is less than \$2,500, the person who committed the violation is guilty of a gross misdemeanor.*

(b) *Is \$2,500 or more, the person who committed the violation is guilty of a category E felony and shall be punished as provided in NRS 193.130.*

Sec. 2. NRS 205.410 is hereby repealed.

TEXT OF REPEALED SECTION

205.410 Improper use of insignia.

Every person who shall willfully wear the badge, button, insignie or rosette of any military order or of any secret order or society, or any similitude thereof; or who shall use any such badge, button, insignie or rosette to obtain aid or assistance, or any other benefit or advantage, unless the person shall be

entitled to so wear or use the same under the constitution, bylaws, rules and regulations of such order or society, shall be fined not more than \$500.

Senator Halseth moved the adoption of the amendment.

Remarks by Senator Halseth.

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

Thank you, Mr. President. This amendment simply adds myself to Assembly Bill No. 379 as a joint sponsor.

Amendments adopted.

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

Assembly Bill No. 388.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 696.

"SUMMARY—Revises provisions relating to real property. (BDR 9-568)"

"AN ACT relating to real property; revising provisions governing the exercise of the power of sale under a deed of trust concerning owner-occupied real property; ~~providing civil remedies for failure to comply with certain provisions governing the exercise of the power of sale under a deed of trust concerning owner-occupied real property; providing civil penalties;~~ 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) ~~[Sections 4-22 of this bill establish additional restrictions on the trustee's power of sale with respect to owner-occupied housing which are based on Senate Bill No. 729 of the current session of the California Legislature, as amended. Section 23 of this bill provides that these additional restrictions apply only to a notice of default and election to sell which is recorded on or after July 1, 2011.~~

~~—Section 13 prohibits the recording of a notice of default and election to sell unless reasonable and good faith efforts have been made to evaluate the borrower for all available alternatives to the exercise of the trustee's power of sale. Section 14 prohibits the recording of a notice of default and election to sell until the trustee, beneficiary or authorized agent complies with certain requirements regarding contact with, or attempts to contact, the borrower. Under section 15, if an eligible borrower requests, either orally or in writing, a loan modification, a notice of default and election to sell may not be recorded unless the borrower's application has been reviewed in good faith and a decision has been rendered on that application. Sections 17 and 19 require a declaration of compliance to be recorded with the notice of default and election to sell and section 17 provides a form for that declaration.~~

~~Section 18: (1) authorizes a borrower to bring a civil action to enjoin a trustee's sale, to void a trustee's sale and to recover a specified amount of damages and reasonable attorney's fee and costs under certain circumstances; (2) authorizes the Attorney General to obtain civil penalties for violations of the provisions of this bill; and (3) provides that a violation of the provisions of this bill by a person which is licensed in this State is deemed to be a violation of the law governing that license.~~

~~—Additionally, section 19: (1) requires a life of loan accounting containing certain information to be included with the copy of the notice of default and election to sell which is mailed to the borrower; and (2) prohibits the recording of a notice of sale if the borrower has entered into a contract to sell the property which has been approved by the lender or the borrower has requested approval of such a contract but the lender has not yet approved or disapproved the sale.~~

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 the 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 20.7 of this bill requires the notice of default and election to sell which 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 20.3 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. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. ~~{Chapter 107 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 18, inclusive, of this act.}~~ (Deleted by amendment.)

Sec. 5. ~~{As used in sections 5 to 18, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 to 11, inclusive, of this act have the meanings ascribed to them in those sections.}~~ (Deleted by amendment.)

Sec. 6. ~~{“Authorized agent” means an agent designated by a trustee or beneficiary to act on behalf of the trustee or beneficiary.}~~ (Deleted by amendment.)

Sec. 7. ~~{“Beneficiary” means the beneficiary of a deed of trust which concerns owner occupied housing.}~~ (Deleted by amendment.)

Sec. 8. ~~{“Borrower” means the grantor of a deed of trust which concerns owner occupied housing or the person who holds the title of record.}~~ (Deleted by amendment.)

Sec. 9. ~~{“Mortgage servicer” means a person responsible for the day to day management of a mortgage loan account, including, without limitation, collecting and crediting periodic loan payments, handling any escrow account or enforcing mortgage loan terms either as the holder of the loan note or on behalf of the holder of the loan note.}~~ (Deleted by amendment.)

Sec. 10. ~~{“Owner occupied housing” has the meaning ascribed to it in NRS 107.086.}~~ (Deleted by amendment.)

Sec. 11. ~~{“Trustee” means the trustee under a deed of trust which concerns owner occupied housing.}~~ (Deleted by amendment.)

Sec. 12. ~~{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 sections 5 to 18, inclusive, of this act.~~

~~—2. The provisions of sections 5 to 18, inclusive, of this act apply only to a deed of trust under a trust agreement which concerns owner occupied housing.}~~ (Deleted by amendment.)

Sec. 13. ~~{1. A trustee, beneficiary or authorized agent shall not record a notice of default and election to sell pursuant to subsection 3 of NRS 107.080 unless the trustee, beneficiary or authorized agent makes reasonable and good faith efforts to evaluate the borrower for all available loss mitigation options to avoid foreclosure.~~

~~—2. This section must not be construed to require a trustee, beneficiary or authorized agent to act in a manner inconsistent with the terms of any applicable contract for the servicing of the loan at issue.}~~ (Deleted by amendment.)

Sec. 14. ~~{1. Except as otherwise provided in this section, a trustee, beneficiary or authorized agent shall not record a notice of default and election to sell pursuant to subsection 3 of NRS 107.080 until:~~

~~— (a) Thirty days after initial contact is made with the borrower as required by subsection 2 or 30 days after satisfying the requirements of subsection 5; and~~

~~— (b) If applicable, the requirements of section 15 of this act have been satisfied.~~

~~— 2. Except as otherwise provided in subsection 6, a beneficiary or its authorized agent shall contact the borrower in person or by telephone to assess the borrower's financial situation and to explore options to avoid the exercise of the trustee's power of sale pursuant to NRS 107.080. During the initial contact, the beneficiary or its authorized agent shall advise the borrower that he or she has the right to request a subsequent meeting and, if requested, the beneficiary or its authorized agent shall schedule the meeting to occur within 14 days. The assessment of the borrower's financial situation and the discussion of the options to avoid the exercise of the trustee's power of sale may occur during the initial contact or at the subsequent meeting scheduled for that purpose. In either case, the beneficiary or its authorized agent shall provide to the borrower the toll-free telephone number made available by the United States Department of Housing and Urban Development to find a housing counseling agency certified by that Department and, if the borrower may be eligible for a loan modification, a deadline for the borrower to submit an initial application for a loan modification which must not be earlier than 15 days after the initial contact.~~

~~— 3. The loss mitigation personnel of the beneficiary or its authorized agent may participate by telephone during any contact required by this section.~~

~~— 4. A borrower may designate, in writing, a housing counseling agency certified by the United States Department of Housing and Urban Development, an attorney or any other advisor to discuss with the beneficiary or its authorized agent, on the borrower's behalf, the borrower's financial situation and options for the borrower to avoid the exercise of the trustee's power of sale. Contact with a person or agency designated by a borrower pursuant to this subsection satisfies the requirements of subsection 2. A loan modification or workout plan offered to a person or agency designated by a borrower pursuant to this subsection is subject to approval by the borrower.~~

~~— 5. Subject to the requirements of section 15 of this act and except as otherwise provided in subsection 6, even if the beneficiary or its authorized agent has not contacted the borrower as required by subsection 2, a notice of default may be recorded pursuant to subsection 3 of NRS 107.080 if the beneficiary or its authorized agent has taken all the following actions:~~

~~— (a) The beneficiary or its authorized agent has mailed by registered or certified mail, return receipt requested and with postage prepaid, to the borrower a letter which includes:~~

~~(1) The toll free telephone number made available by the United States Department of Housing and Urban Development to find a housing counseling agency certified by that Department; and~~

~~(2) If the borrower may be eligible for a loan modification, a deadline for the submission of an initial application for a loan modification which must not be earlier than 15 days after the date of the letter mailed pursuant to this paragraph or 15 days after the date on which the beneficiary or its authorized agent made initial contact with the borrower pursuant to subsection 2, whichever is earlier.~~

~~(b) After mailing the letter required by paragraph (a), the beneficiary or its authorized agent has attempted to contact the borrower by telephone at least 3 times at different hours and on different days. Telephone calls made pursuant to this paragraph must be made to the primary telephone number of the borrower which is on file with the beneficiary. The beneficiary or its authorized agent satisfies the requirements of this paragraph if it determines, after attempting contact pursuant to this paragraph, that the primary telephone number of the borrower on file and any secondary telephone numbers on file have been disconnected.~~

~~(c) If the borrower does not respond within 2 weeks after the beneficiary or its authorized agent has satisfied the requirements of paragraph (b), the beneficiary or its authorized agent has mailed to the borrower, by registered or certified mail, return receipt requested and with postage prepaid, a letter which includes the information required by paragraph (a).~~

~~(d) The beneficiary or its authorized agent provides a means for the borrower to contact the beneficiary or its authorized agent in a timely manner, including, without limitation, a toll free telephone number that will provide access to a live representative during business hours.~~

~~(e) The beneficiary or its authorized agent posts a prominent link on its Internet website, if any, to the following information:~~

~~(1) Options that may be available to borrowers who are unable to afford their mortgage payments and who wish to avoid the exercise of the trustee's power of sale, and instructions to such borrowers advising them on steps to take to explore those options.~~

~~(2) A list of financial documents the borrower should collect and be prepared to present to the beneficiary or its authorized agent when discussing options for avoiding the exercise of the trustee's power of sale.~~

~~(3) A toll free telephone number for borrowers who wish to discuss with the beneficiary or its authorized agent options for avoiding the exercise of the trustee's power of sale.~~

~~(4) The toll free telephone number made available by the United States Department of Housing and Urban Development to find a housing counseling agency certified by that Department.~~

~~6. The requirements of subsections 1, 2 and 5 do not apply if the borrower:~~

~~— (a) Has surrendered the property as evidenced by either a letter confirming the surrender or delivery of the keys to the property to the trustee, beneficiary or authorized agent;~~

~~— (b) Has contracted with a person whose primary business is advising persons who have decided to leave their homes on how to extend the foreclosure process and avoid their contractual obligations to beneficiaries;~~
~~or~~

~~— (c) Has filed a petition pursuant to Title 11 of the United States Code and the bankruptcy court has not entered an order closing or dismissing the petition or granting relief from a stay of the trustee's sale.] **(Deleted by amendment.)**~~

Sec. 15. ~~1. Except as otherwise provided in this section, if an eligible borrower requests an application for a loan modification, either orally or in writing, not later than 90 days after the date on which the obligation became delinquent or not later than 45 days after the beneficiary or its authorized agent makes initial contact with the borrower pursuant to section 14 of this act, whichever is later, the trustee, beneficiary or authorized agent shall not record a notice of default and election to sell pursuant to subsection 3 of NRS 107.080 unless and until it has, in good faith, reviewed the application, rendered a decision on the application and sent the borrower a denial explanation letter as required by section 16 of this act.~~

~~2. If a borrower requests a loan modification, either orally or in writing, by the deadline described in subsection 1, but does not initially submit all the documentation or information the beneficiary or its authorized agent requires to consider the borrower for a loan modification, the beneficiary or its authorized agent shall provide the borrower with a written notice that:~~

~~— (a) Lists any supplemental documentation or information required; and~~

~~— (b) Includes the deadline for providing that documentation or information, which must not be earlier than 30 calendar days from the date on which the borrower receives the notice.~~

~~3. Except as otherwise provided in this subsection, if a borrower requests a loan modification, either orally or in writing, within 15 days after receiving a copy of the notice of default and election to sell as required by subsection 3 of NRS 107.080 and submits a completed application for a loan modification within 15 days after receiving application instructions from the mortgage servicer or any other application deadline communicated in writing by the mortgage servicer, whichever is later, the trustee, beneficiary or authorized agent shall not record a notice of sale pursuant to subsection 5 of NRS 107.080 until at least 10 business days after it has, in good faith, reviewed the application, rendered a decision on the application and sent the borrower a denial explanation letter in accordance with section 16 of this act. This subsection does not apply if a borrower applied for a loan modification before the notice of default and election to sell was recorded pursuant to subsection 3 of NRS 107.080 and the trustee, beneficiary or authorized agent satisfied the requirements of sections 16 and 17 of this act.~~

~~4. If the mortgage servicer has signed a Making Home Affordable Servicer Participation Agreement with the Federal National Mortgage Association or is otherwise required to review the borrower's loan under the guidelines of the federal Making Home Affordable Modification Program, compliance with applicable rules of that program regarding deadlines and timeframes for the borrower to submit and complete an application for a loan modification satisfy the requirements of this section while that program remains in effect.~~

~~5. The provisions of this section must not be construed:~~

~~(a) To require a mortgage servicer to perform services in a manner inconsistent with the terms of any applicable contract for the servicing of the loan at issue;~~

~~(b) To diminish in any way the obligations of a trustee, beneficiary or authorized agent that has signed a Making Home Affordable Servicer Participation Agreement with the Federal National Mortgage Association or is otherwise required to review a loan under the guidelines of the federal Making Home Affordable Modification Program;~~

~~6. The requirements of this section do not apply if:~~

~~(a) The borrower has surrendered the property as evidenced by either a letter confirming the surrender or delivery of the keys to the property to the trustee, beneficiary or authorized agent; or~~

~~(b) The beneficiary or its authorized agent does not offer any loan modifications.~~ **(Deleted by amendment.)**

Sec. 16. 11. ~~If a borrower who requests a loan modification, either orally or in writing, is denied either a permanent loan modification or a trial period plan through the federal Making Home Affordable Modification Program, the beneficiary or its authorized agent shall mail to the borrower by certified mail, not later than 10 business days following the denial, a denial explanation letter that states the reason or reasons for the denial.~~

~~2. If an application for a loan modification is denied because the borrower failed to provide all required documents or information by the applicable deadline set forth in subsection 2 of section 15 of this act, the denial explanation letter mailed pursuant to subsection 1 must:~~

~~(a) Indicate the deadline for the submission of the documents or information;~~

~~(b) List the documents or information that were not provided; and~~

~~(c) State that the application for a loan modification was denied for that reason.~~

~~3. If the borrower submits all required written application materials for a loan modification by the applicable deadline as set forth in subsection 2 or 3 of section 15 of this act and the application is denied, the denial explanation letter must include:~~

~~(a) The date on which the beneficiary or its authorized agent received the final materials required to complete its review of the borrower's application for a loan modification.~~

~~—(b) The date on which the beneficiary or its authorized agent made the decision to deny the borrower's application for a loan modification;~~

~~—(c) If the beneficiary or its authorized agent was required to consider the borrower for a loan modification under the guidelines of the federal Making Home Affordable Modification Program, the information required to be provided in the borrower notice described in the most current version of the Making Home Affordable Program Handbook for Servicers of Non GSE Mortgages and any subsequent amendments thereto;~~

~~—(d) The reason or reasons the borrower did not qualify for a loan modification, including, as applicable:~~

~~—(1) If the denial is based on any investor guideline or restriction on loan modifications, a description of the guideline or restriction that resulted in the denial with a copy of the applicable provision in the pooling and servicing agreement or other controlling document evidencing that guideline or restriction;~~

~~—(2) If the denial is based on the borrower's income or expenses, the income and expense figures used to determine the borrower's qualification for a loan modification, including, without limitation, the borrower's gross and net monthly income, property taxes and hazard insurance premiums;~~

~~—(3) If the denial is based on a determination that the net present value of the income stream expected from the modified loan is not greater than the net present value of the income stream that is expected from the loan without modification, all the inputs, assumptions and calculations used to make that determination; and~~

~~—(4) If applicable, a finding that the borrower was previously offered a loan modification but failed to successfully make payments under the terms of the loan modification;~~

~~—(e) The name and contact information of the holder of the note for the borrower's loan;~~

~~—(f) A description of alternatives to avoid the exercise of the trustee's sale other than a loan modification for which the borrower may be eligible, if any, including, without limitation, other loan modification programs, a short sale, a deed in lieu of a trustee's sale or a forbearance, and a list of the steps the borrower must take to be considered for those options. If the borrower has already been approved for another alternative to the exercise of the trustee's sale, information necessary to participate in or complete the alternative should be included.~~

~~—(g) Contact information which the borrower may use to reach the beneficiary or its authorized agent to discuss the reasons for the denial of the loan modification.~~

~~—4. If a borrower is denied a loan modification and the beneficiary or its authorized agent sends a denial explanation letter pursuant to this section, the trustee, beneficiary or authorized agent may record a notice of default and election to sell pursuant to subsection 3 of NRS 107.080 even if the~~

~~borrower initiates a dispute relating to the denial and the dispute has not yet been resolved.] (Deleted by amendment.)~~

Sec. 17. ~~1. After satisfying the requirements of sections 15 and 16 of this act, as applicable, a mortgage servicer shall take the following action to initiate the process of exercising the trustee's power of sale pursuant to NRS 107.080:~~

~~(a) Compile in one place a record demonstrating that the initial contact required by subsection 2 of section 14 of this act has occurred or the requirements of subsection 5 of section 14 of this act have been satisfied. The record must:~~

~~(1) Include the dates and times of, and addresses and telephone numbers used for, the contact or attempted contacts with the borrower, as well as a record of the good faith efforts undertaken pursuant to sections 13 and 15 of this act; and~~

~~(2) After the recording of a notice of default and election to sell pursuant to subsection 3 of NRS 107.080, be made available to the borrower within 10 business days after a written request for the record by the borrower; and~~

~~(b) Transmit to the trustee or its authorized agent a declaration of compliance that is signed on behalf of the mortgage servicer by a natural person having personal knowledge of the facts stated in the declaration, or by a natural person with authority to bind the mortgage servicer, who certifies that the declaration is based on records which were made in the regular course of business at or near the time of the events recorded. The declaration of compliance must be included as part of, or attached to, every notice of default and election to sell which is recorded pursuant to subsection 3 of NRS 107.080. A notice of default and election to sell which does not include the declaration of compliance described in this paragraph is void.~~

~~2. The declaration of compliance described in paragraph (b) of subsection 1 must be in substantially the following form:~~

~~DECLARATION OF COMPLIANCE~~

~~I. BORROWER CONTACT~~

~~A. () This loan is not subject to section 14 of this act pursuant to subsection 6 of section 14 of this act.~~

~~If item (I)(A) is checked, no further information regarding borrower contact is required. If item (I)(A) is not checked, complete item (I)(B):~~

~~B. () This loan is subject to section 14 of this act, and the beneficiary or authorized agent has complied with the requirements of section 14 of this act by satisfying the applicable contact or due diligence requirements described in subsection 2 or 3 of section 14 of this act. If checked, insert the date that the applicable borrower contact requirements were completed here:~~

~~II. FORECLOSURE AVOIDANCE REVIEW~~

~~A. () This loan is not subject to section 15 of this act pursuant to (check all that apply):~~

~~() Paragraph (a) of subsection 6 of section 15 of this act.~~

~~() Paragraph (b) of subsection 6 of section 15 of this act.~~

~~() Section 12 of this act.~~

~~If item (II)(A) is checked, no further information regarding borrower solicitation efforts is required. If item (II)(A) is not checked, complete item (II)(B).~~

~~B. () This loan is subject to section 15 of this act (check only one):~~

~~() The borrower was evaluated for a loan modification, was not approved, and the beneficiary or authorized agent sent the borrower a denial explanation letter in compliance with the requirements of subsection 3 of section 16 of this act.~~

~~() The borrower did not submit all required written application materials by the applicable deadline, and the beneficiary or authorized agent sent the borrower a denial explanation letter in compliance with the requirements of subsection 2 of section 16 of this act.~~

~~() The borrower did not initiate an application for a loan modification by the applicable deadline.~~

~~() The borrower was offered a HAMP trial period plan, but did not accept the trial period plan or did not complete the plan.~~

~~() The borrower was offered a permanent loan modification, but the borrower did not accept the modification offered.~~

~~() The borrower was offered and accepted a permanent loan modification, but did not comply with the terms of the modification.~~

~~() The borrower communicated to the beneficiary or authorized agent that he or she does not intend to apply for loan modification.~~

~~III. PROOF OF OWNERSHIP~~

~~() Attached is a copy of the note and all assignments and endorsements of the note, along with a declaration attesting to the existence and possession of the original note as well as all the assignments and endorsements, and certifying ownership of the mortgage and the right to foreclose.~~

~~() The trustee, beneficiary or any of their authorized agents are not reasonably able to obtain possession of the note and/or all assignments and endorsements thereof. Attached is a declaration of lost note that complies with the requirements of paragraph (b) of subsection 3 of NRS 107.080. (Deleted by amendment.)~~

Sec. 18. ~~11. If the trustee, beneficiary or authorized agent records a notice of sale pursuant to subsection 5 of NRS 107.080:~~

~~(a) Without completing an evaluation of a timely completed application for a loan modification;~~

~~(b) Before the borrower's deadline for requesting and applying for a loan modification; or~~

~~(c) Without sending a denial explanation letter that materially complies with section 16 of this act;~~

~~the borrower may seek an order in any court having jurisdiction to enjoin the exercise of the trustee's power of sale with respect to the property until any of these requirements not previously satisfied are satisfied.~~

~~2. If:~~

~~(a) The trustee, beneficiary or authorized agent records a notice of default and election to sell pursuant to subsection 3 of NRS 107.080;~~

~~(1) Without completing its evaluation of the borrower's timely completed application for a loan modification;~~

~~(2) Before the borrower's deadline for requesting and applying for a loan modification; or~~

~~(3) Without sending a denial explanation letter that materially complies with section 16 of this act;~~

~~(b) The trustee, beneficiary or authorized agent causes the property at issue to be sold at a trustee's sale pursuant to NRS 107.080; and~~

~~(c) The property at issue is sold to a bona fide purchaser at a trustee's sale pursuant to NRS 107.080;~~

~~the borrower may recover in a civil action which must be commenced within 1 year following the trustee's sale the greater of treble actual damages or statutory damages in the amount of \$15,000, plus reasonable attorney's fees and costs.~~

~~3. If:~~

~~(a) The trustee, beneficiary or authorized agent records a notice of default and election to sell pursuant to subsection 3 of NRS 107.080;~~

~~(1) Without completing its evaluation of the borrower's timely completed application for a loan modification;~~

~~(2) Before the borrower's deadline for requesting and applying for a loan modification; or~~

~~(3) Without sending a denial explanation letter that materially complies with section 16 of this act;~~

~~(b) The trustee, beneficiary or authorized agent causes the property at issue to be sold at a trustee's sale pursuant to NRS 107.080; and~~

~~(c) Before commencement of an action pursuant to this subsection, the property at issue is sold by the trustee, beneficiary or authorized agent to a bona fide purchaser after a trustee's sale at which the trustee, beneficiary or authorized agent acquired title to the property;~~

~~the borrower may recover in a civil action which must be commenced within 1 year following the trustee's sale the greater of treble actual damages or statutory damages in the amount of \$15,000, plus reasonable attorney's fees and costs. If the trustee, beneficiary or authorized agent had actual notice of the borrower's claim under this subsection before selling the property to a bona fide purchaser, the borrower is entitled to recover statutory damages in the amount of \$20,000 in addition to other damages recoverable under this subsection.~~

~~4. If the trustee, beneficiary or authorized agent:~~

~~— (a) Records a notice of default and election to sell pursuant to subsection 3 of NRS 107.080;~~

~~— (1) Without completing its evaluation of the borrower's timely completed application for a loan modification;~~

~~— (2) Before the borrower's deadline for requesting and applying for a loan modification; or~~

~~— (3) Without sending a denial explanation letter that materially complies with section 16 of this act;~~

~~— (b) Causes the property at issue to be sold at a trustee's sale pursuant to NRS 107.080; and~~

~~— (c) Acquired title to the property at the trustee's sale but has not sold the property to a bona fide purchaser;~~

~~— the borrower may, within 1 year following the trustee's sale, bring an action to void the trustee's sale, to enjoin the recording of any further notice of sale until at least 30 days after any requirement of sections 5 to 18, inclusive, of this act not previously satisfied is satisfied and for reasonable attorney's fees and costs.~~

~~— 5. If the mortgage servicer fails to cause the declaration of compliance required by section 17 of this act to be included with, or attached to, a notice of default and election to sell which is recorded pursuant to subsection 3 of NRS 107.080, the borrower may recover from the mortgage servicer statutory damages of not less than \$1,500 but not more than \$10,000, plus reasonable attorney's fees and costs. If the mortgage servicer records, or causes to be recorded, a materially false declaration of compliance, a borrower may recover from the mortgage servicer statutory damages of not less than \$10,000 but not more than \$25,000, plus attorney's fees and costs. For the purposes of this subsection, the declaration of compliance is not false if it lists any incorrect dates for the date that the requirements described in the declaration were completed, unless the mortgage servicer knowingly included the wrong date on the declaration.~~

~~— 6. A beneficiary or mortgage servicer is not civilly liable under subsections 2, 3 and 4 if, before commencement of an action by the borrower and not later than 180 days after the date of the trustee's sale pursuant to NRS 107.080:~~

~~— (a) The trustee, beneficiary or authorized agent:~~

~~— (1) Voluntarily rescinds the trustee's sale before filing an unlawful detainer action against the borrower;~~

~~— (2) Provides a written notice of that rescission to the borrower not later than 3 days after the rescission;~~

~~— (3) Lists in the notice the steps the beneficiary or mortgage servicer will take before recording any further notice of sale;~~

~~— (4) Materially complies with any requirements of sections 5 to 18, inclusive, of this act that were not previously satisfied not later than 30 days before recording any further notice of sale; and~~

~~(5) Sends the borrower a written communication stating that the beneficiary or mortgage servicer will not file an unlawful detainer action against the borrower before completing the steps set forth in the letter; or~~

~~(b) The trustee, beneficiary or authorized agent refrains from filing an unlawful detainer action against the borrower until at least 30 days after the beneficiary or mortgage servicer;~~

~~(1) Materially complies with all the applicable requirements of sections 5 to 18, inclusive, of this act that were not previously satisfied and sends the borrower a written communication informing the borrower of the actions taken and the outcome of those actions, including, without limitation, any reason for the denial of a loan modification, if applicable; and~~

~~(2) Sends the borrower a written communication stating the steps that were taken and the outcome, including, without limitation, any reason for the denial of a loan modification, if applicable. If the beneficiary or mortgage servicer determines that the borrower qualifies for a loan modification, it shall rescind the trustee's sale and offer the borrower the loan modification.~~

~~7. A borrower shall not have any cause of action under this section for any failure or error that is technical or de minimis in nature.~~

~~8. A mortgage servicer, trustee, beneficiary or authorized agent who violates a provision of sections 5 to 18, inclusive, of this act is liable, in addition to any other penalty or remedy that may be provided by law, to a civil penalty of not more than \$10,000 for each violation and not more than \$25,000 for each violation involving the recording of a false or fraudulent declaration of compliance pursuant to section 17 of this act, which may be recovered by civil action on complaint of the Attorney General. All money collected as civil penalties pursuant to this section must be deposited in the State General Fund.~~

~~9. A trustee, beneficiary or authorized agent who is licensed by this State and who violates any provision of sections 5 to 18, inclusive, of this act shall be deemed to have violated the law governing that person's license and is subject to enforcement action by the licensing agency.~~ (Deleted by amendment.)

Sec. 19. ~~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 sections 5 to 18, inclusive, 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 reoordation 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 owner occupied housing as defined in NRS 107.086, include, or have attached to it, the declaration of compliance required by section 16 of this act and proof of ownership of the note secured by the deed of trust. Proof of ownership of the note must include a copy of the note secured by the deed of trust, evidence of all assignments and endorsements of~~

~~the deed of trust and the note secured by the deed of trust and a declaration which attests to the existence and possession of the note secured by the deed of trust and to all assignments and endorsements of that note and certifies ownership of the deed of trust and the right to exercise the trustee's power of sale. If this proof cannot be located, the trustee, beneficiary or authorized agent shall include with, or attach to, the notice of default and election to sell a declaration signed either by a natural person having personal knowledge of the facts stated within, or by a natural person with authority to bind the trustee, beneficiary or authorized agent, who certifies that the declaration is based upon records that were made in the regular course of business at or near the time of the events recorded, including the following:~~

~~— (1) Facts sufficient to show that the trustee, beneficiary or authorized agent has the right to enforce the note secured by the deed of trust;~~

~~— (2) A statement that the person cannot reasonably obtain possession of the note and a description of the reasonable efforts made to obtain the note; and~~

~~— (3) A description of the terms of the note and any riders attached thereto, including, without limitation:~~

~~— (I) The date on which the note was executed;~~

~~— (II) The parties to the note;~~

~~— (III) The principal amount of the loan;~~

~~— (IV) The amortization period of the loan;~~

~~— (V) The initial interest rate of the loan and, if applicable, the initial date and the frequency of any adjustments to the interest rate, and the index and margin used to calculate the interest rate at the time of any scheduled adjustment; and~~

~~— (VI) The expiration date of any interest only period, if applicable;~~

~~— This paragraph must not be construed in derogation of the parties' rights established under NRS 104.3309 or any similar right established under the law of this State.~~

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

~~— 4. If the property is owner occupied housing as defined in NRS 107.086, the copy of the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record pursuant to subsection 3 must include:~~

~~— (a) An accounting of all payments made on the obligation secured by the deed of trust from the close of escrow to the date on which the notice of default and election to sell is recorded pursuant to subsection 3 in the form of a spreadsheet showing all account activity;~~

~~— (b) An itemization and description of all late fees, late charges, appraisal fees, property inspection fees, forced placed insurance charges, legal fees and recoverable advances charged on the obligation secured by the deed of trust and an explanation of the reason for such charges;~~

~~—(c) A copy of all interest rate adjustment notices and the two most recent escrow analysis notices sent to the grantor or the person who holds the title of record; and~~

~~—(d) A breakdown of the current escrow charges which indicates how the charges are calculated and the reason for any increase in the charges within the preceding 24 months, and any shortage or surplus in the escrow account in the past three years.~~

~~—5. 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.~~

~~—A notice of sale may not be recorded pursuant to this subsection if the grantor or the person who holds the title of record has entered into a contract to sell the property and the beneficiary of the deed of trust has approved the sale or the grantor or the person who holds the title of record has requested the beneficiary's approval of the sale but the beneficiary has not yet approved or disapproved the sale.~~

~~—[5.] 6. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and any successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:~~

~~—(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section or any applicable provision of NRS 107.086 and 107.087 [;] and sections 5 to 18, inclusive, of this act;~~

~~—(b) Except as otherwise provided in subsection [6.] 7, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and~~

~~—(e) 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.] 7. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection [4] 5 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] 6 within 120 days after the date on which the person received actual notice of the sale.~~

~~—[7.] 8. 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.] 9. 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.] 10. If the successful bidder fails to record the trustee's deed upon sale pursuant to paragraph (b) of subsection [8] 9, 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] 9 and for reasonable attorney's fees and the costs of bringing the action.~~

~~—[10.] 11. 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.] 12. The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection [10.~~

~~— 12.] 11.~~

~~— 13. As used in this section, "residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this subsection, "single family residence":~~

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

~~— (b) Does not include any time share or other property regulated under chapter 119A of NRS.] (Deleted by amendment.)~~

~~Sec. 20. [NRS 107.084 is hereby amended to read as follows:~~

~~— 107.084 It is unlawful for a person to willfully remove or deface a notice posted pursuant to subsection [4] 5 of NRS 107.080, if done before the sale or, if the default is satisfied before the sale, before the satisfaction of the default. In addition to any other penalty, any person who violates this section is liable in the amount of \$500 to any person aggrieved by the removal or defacing of the notice.] (Deleted by amendment.)~~

Sec. 20.3. 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),]~~ **15 U.S.C. § 1602(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. 20.7. NRS 107.086 is hereby amended to read as follows:

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

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. 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) "Mediation Administrator" means the entity so designated pursuant to subsection 8.

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

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

Sec. 21. ~~NRS 107.087 is hereby amended to read as follows:~~

~~107.087 1. In addition to the requirements of NRS 107.080, if the sale of property is a residential foreclosure, a copy of the notice of default and election to sell and the notice of sale must:~~

~~(a) Be posted in a conspicuous place on the property not later than 3 business days after the notice of default and election to sell or the notice of sale is recorded pursuant to NRS 107.080; and~~

~~(b) Include, without limitation:~~

~~(1) The physical address of the property; and~~

~~(2) The contact information of the trustee or the person conducting the foreclosure who is authorized to provide information relating to the foreclosure status of the property.~~

~~2. In addition to the requirements of NRS 107.084, the notices must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.~~

~~3. A separate notice must be posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the grantor or the grantor's successor in interest, in actual occupation of the premises not later than 3 business days after the notice of the sale is given pursuant to subsection [4] 5 of NRS 107.080. The separate notice must be in substantially the following form:~~

~~NOTICE TO TENANTS OF THE PROPERTY~~

~~Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.~~

~~You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.~~

~~Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.~~

~~After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.~~

~~Under the Nevada Revised Statutes eviction proceedings may begin against you after you have been given a notice to quit.~~

~~If the property is sold and you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.~~

~~If the property is sold and you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.~~

~~Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:~~

~~—(1) Delivering a copy to you personally in the presence of a witness;~~

~~—(2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business; or~~

~~—(3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property, delivering a copy to a person residing there, if a person can be found, and mailing a copy to you at the place where the leased property is.~~

~~If the property is sold and a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.~~

~~Under the Justice Court Rules of Civil Procedure:~~

~~—(1) You will be given at least 10 days to answer a summons and complaint;~~

~~—(2) If you do not file an answer, an order evicting you by default may be obtained against you;~~

~~—(3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and~~

~~—(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.~~

~~4. As used in this section, "residential foreclosure" has the meaning ascribed to it in NRS 107.080.] (Deleted by amendment.)~~

~~Sec. 22. [NRS 459.646 is hereby amended to read as follows:~~

~~459.646 1. A person who, without participating in the management of a parcel of real property, holds or is the beneficiary of evidence of title to the property primarily to protect a security interest in the property is not a responsible party with respect to a release of a hazardous substance on the property if:~~

~~—(a) The owner of the property is relieved from liability under NRS 459.610 to 459.658, inclusive, with respect to the release;~~

~~—(b) The owner or holder of evidence of title did not cause the release; and~~

~~—(c) The owner or holder of evidence of title does not participate actively in decisions concerning hazardous substances on the property.~~

~~2. A lender to a prospective purchaser who has filed an application to participate in the program pursuant to NRS 459.634 or a lender who forecloses his or her security interest in property pursuant to NRS 40.430 to 40.450, inclusive, or 107.080 to 107.110, inclusive, and sections 5 to 18, inclusive, of this act and within a reasonable period after the foreclosure, not to exceed 2 years, sells, transfers or conveys the property to a prospective~~

~~purchaser who has filed an application to participate in the program pursuant to NRS 459.634 is not a responsible party solely as a result of:~~

~~(a) Foreclosing a security interest in the property; or~~

~~(b) Making a loan to the prospective purchaser if the loan:~~

~~(1) Is to be used for acquiring property or removing or remediating hazardous substances on property; and~~

~~(2) Is secured by the property that is to be acquired or on which is located the hazardous substances that are to be removed or remediated.~~

(Deleted by amendment.)

Sec. 23. The amendatory provisions of ~~sections 4 to 22, inclusive, of~~ this act apply only with respect to trust agreements ~~[which concern owner-occupied housing, as defined in NRS 107.086,]~~ for which a notice of default is recorded on or after July 1, 2011.

Sec. 24. This act becomes effective on July 1, 2011.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

The amendment deletes the notice provisions of the bill and replaces it with specific revisions relating to the notice that is sent to homeowners, including a statement that the grantor has a right to seek foreclosure mediation; and appropriate contact information for the Foreclosure Mediation Program and the Division of Mortgage Lending in the Department of Business and Industry.

The intent is to continue the Foreclosure Mediation Program as approved by the 75th Legislature in 2009, while improving notification requirements and assistance to the homeowner facing foreclosure.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bill No. 78 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 60.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 832.

"SUMMARY—Revises provisions relating to the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans. (BDR 58-410)"

"AN ACT relating to energy; revising certain provisions governing the administration of the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans; authorizing the Director of the Office of Energy to **enter into agreements and cooperate with third parties for certain purposes; authorizing the Director to** make loans from the Fund to qualified applicants for the construction of an energy efficiency project or an

energy conservation project, the construction, expansion or operation of a renewable energy system or the manufacturing of components of a renewable energy system; authorizing the Director to use the interest earned from money in loans from the Fund and interest earned on loans made from the Fund to defray certain costs and expenses; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans and authorizes the Director of the Office of Energy to make loans from the Fund for the construction of certain renewable energy projects. (NRS 701.545-701.595) Section 7 of this bill authorizes the Director to enter into agreements or cooperate with third parties to provide for enhanced leveraging, additional financing mechanisms or certain programs for the purpose of expanding the scope of financial assistance available from the Fund. Section 8 of this bill expands the scope of financial assistance available from the Fund to include loans to qualified applicants for the construction of energy conservation projects, the construction of energy efficiency projects and the manufacturing of components of a renewable energy system, in addition to loans that are currently available to owners or operators of renewable energy systems for the construction of renewable energy projects. Section 8 additionally ~~excludes from participation in the loan program applicants who have~~ requires the Director, before approving an applicant for financial assistance from the Fund, to consider any other funding sources available to the applicant if the applicant received money for the energy efficiency or energy conservation project from another governmental entity and further authorizes the Director to use the interest earned from money in the Fund and interest earned on loans made from the Fund to defray certain costs and expenses. Section 4 of this bill expands the scope of financial assistance available from the Fund to include loans to qualified governmental entities and other applicants for the construction, expansion or operation of renewable energy systems or for the manufacturing of components of a renewable energy system.

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

Section 1. Chapter 701 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *"Energy conservation project" means a project designed, intended or used to improve energy conservation or to reduce the wasteful, inefficient, unnecessary or uneconomical use of energy.*

Sec. 3. *"Energy efficiency project" means a project designed, intended or used to improve energy efficiency or to reduce the consumption of energy that is necessary to provide a certain product, function or service.*

Sec. 4. *"Qualified applicant" means a person or governmental entity engaged in:*

1. *The construction or operation of an energy conservation project;*
2. *The construction or operation of an energy efficiency project;*
3. *The construction, expansion or operation of a renewable energy system; or*
4. *The manufacturing of components of a renewable energy system.*

Sec. 5. NRS 701.545 is hereby amended to read as follows:

701.545 As used in NRS 701.545 to 701.595, inclusive, **and sections 2, 3 and 4 of this act**, the words and terms defined in NRS 701.550 to 701.570, inclusive, **and sections 2, 3 and 4 of this act** have the meanings ascribed to them in those sections.

Sec. 6. NRS 701.580 is hereby amended to read as follows:

701.580 1. The interest and income earned on money in the Fund and the Account for Set-Aside Programs must be credited to the Fund and the Account for Set-Aside Programs, respectively.

2. All payments of principal and interest on all loans made to a ~~renewable energy system~~ **qualified applicant** and all proceeds from the sale, refunding or prepayment of obligations of a ~~renewable energy system~~ **qualified applicant** acquired or loans made in carrying out the purposes of the Fund must be deposited in the State Treasury for credit to the Fund.

3. The Director may accept gifts, contributions, grants and bequests of money from any public or private source. The money so accepted must be deposited in the State Treasury for credit to the Fund, or the Account for Set-Aside Programs, and can be used to provide money from the State to match the federal grant, as required by the American Recovery and Reinvestment Act.

4. Only federal money deposited in a separate subaccount of the Fund, including repayments of principal and interest on loans made solely from federal money, and interest and income earned on federal money in the Fund, may be used to benefit ~~renewable energy systems not governmentally owned~~ **a qualified applicant who is not a governmental entity.**

Sec. 7. NRS 701.585 is hereby amended to read as follows:

701.585 1. The Director shall:

(a) Use the money in the Fund and the Account for Set-Aside Programs for the purposes set forth in the American Recovery and Reinvestment Act.

(b) Determine whether ~~renewable energy systems which receive~~ **a qualified applicant who receives** money or other assistance from the Fund or the Account for Set-Aside Programs ~~comply~~ **complies** with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

2. The Director may:

(a) Prepare and enter into required agreements with the Federal Government for the acceptance of grants of money for the Fund and the Account for Set-Aside Programs.

(b) Bind the Office of Energy to terms of the required agreements.

(c) Accept grants made pursuant to the American Recovery and Reinvestment Act.

(d) Manage the Fund and the Account for Set-Aside Programs in accordance with the requirements and objectives of the American Recovery and Reinvestment Act.

(e) Provide services relating to management and administration of the Fund and the Account for Set-Aside Programs, including the preparation of any agreement, plan or report.

(f) Perform, or cause to be performed by agencies or organizations through interagency agreement, contract or memorandum of understanding, set-aside programs pursuant to the American Recovery and Reinvestment Act.

(g) Enter into agreements or cooperate with third parties to provide for enhanced leveraging of money in the Fund, additional financing mechanisms or any other program or combination of programs for the purpose of expanding the scope of financial assistance available from the Fund.

3. The Director shall not commit any money in the Fund for expenditure for the purposes set forth in NRS 701.590 without obtaining the prior approval of the Legislature or the Interim Finance Committee if the Legislature is not in session.

Sec. 8. NRS 701.590 is hereby amended to read as follows:

701.590 1. Except as otherwise provided in **subsection 6 and** NRS 701.580, money in the Fund, including repayments of principal and interest on loans, and interest and income earned on money in the Fund, may be used only to make loans at a rate of not more than 3 percent to ~~renewable energy systems~~ **a qualified applicant for the** :

(a) The construction of an energy conservation project;

(b) The construction of an energy efficiency project;

(c) The construction or expansion of a renewable energy ~~projects~~ system; or

(d) The manufacturing of components of a renewable energy system.

2. Money in the Account for Set-Aside Programs may be used only to fund set-aside programs authorized by the American Recovery and Reinvestment Act. Money in the Account for Set-Aside Programs may be transferred to the Fund pursuant to the American Recovery and Reinvestment Act.

3. A ~~renewable energy system which~~ **qualified applicant who** requests a loan or other financial assistance must demonstrate that ~~it~~ **the qualified applicant** has:

(a) Complied with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto; or

(b) Agreed to take actions that are needed to ensure that ~~it~~ **the qualified applicant** has the capability to comply with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

4. Money from the Fund may not be given to **a qualified applicant for the expansion** of an existing renewable energy system unless ~~it~~ **the**

qualified applicant has the technical, managerial and financial capability to ensure compliance with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto. ~~{A new renewable energy system, to}~~
 To receive such funding ~~{}~~ ***for the construction of a new renewable energy system, a qualified applicant*** must demonstrate that ~~{it}~~ ***the qualified applicant*** has the technical, managerial and financial capability to ensure compliance with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

5. ~~*The Director shall not loan any money from the Fund to any,*~~ ***before approving an applicant for financial assistance from the Fund, consider whether the applicant ~~has~~ has received or is eligible to receive from any other governmental entity any money or other financial incentive, including, without limitation, any grant, loan, tax credit or abatement of any tax for the purpose of financing in whole or in part the energy efficiency or energy conservation project of the applicant.***

6. ***The Director may use the interest earned on money in the Fund and the interest earned on loans made from the Fund to defray, in whole or in part, the costs and expenses of administering the Fund and to carry out the purposes of NRS 701.545 to 701.595, inclusive, and sections 2, 3 and 4 of this act.***

7. ***The Director shall give preference to qualified applicants seeking funding or assistance from the Fund for larger energy conservation projects, energy efficiency projects or renewable energy systems. The Director shall, by regulation, define "larger energy conservation projects, energy efficiency projects or renewable energy systems" for purposes of this section.***

Sec. 9. NRS 701.595 is hereby amended to read as follows:

701.595 The Director may adopt such regulations as are necessary to carry out the provisions of NRS 701.545 to 701.595, inclusive ~~{}~~ ***and sections 2, 3 and 4 of this act.***

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

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

The amendment includes the requirement that the Director can enter into agreements or cooperate with third parties to provide for enhanced leveraging of money into the Renewable Energy Fund.

Amendment adopted.

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

Assembly Bill No. 117.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 831.

"SUMMARY—~~[Revises]~~ Temporarily revises provisions governing the required minimum number of school days in public schools. (BDR 34-91)"

"AN ACT relating to education; authorizing the board of trustees of a school district and the governing body of a charter school to request , for the 2011-2013 biennium, a waiver from the required minimum number of school days in a school year during an economic hardship; setting forth certain provisions governing a furlough program of employees of school districts and charter schools as the program relates to the Public Employees' Retirement System; expiring the provisions of this act; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, each school district is required to schedule and provide annually a minimum of 180 days of school in the schools of the school district and a charter school is required to schedule and provide at least as many days of instruction as are required of other public schools in the school district in which the charter school is located. (NRS 386.550, 388.090) ~~[Section 2]~~ For the 2011-2013 biennium, section 6.5 of this bill authorizes the board of trustees of a school district and the governing body of a charter school to request a waiver of not more than ~~10 school~~ 5 noninstructional days from the required minimum number of school days for a school year in that biennium during an economic hardship to avoid the layoff of teachers and other educational personnel employed by the school district or charter school. A request for a waiver must be reviewed by the Superintendent of Public Instruction and, if approved, transmitted to the Interim Finance Committee, which makes the final determination of whether to grant a waiver. For purposes of requesting a waiver from the required minimum school days, the circumstances in which an economic hardship exists for a school district or charter school are identical to the circumstances in which an economic hardship exists under existing law for a school district or charter school to request a waiver from the required minimum expenditures for textbooks, instructional supplies, instructional software and instructional hardware. (NRS 387.2065)

The 2009 Session of the Legislature enacted provisions requiring furlough leave of certain state employees and set forth provisions relating to the furlough program and the manner in which the program is carried out as it relates to the Public Employees' Retirement System. (Chapter 391, Statutes of Nevada 2009, p. 2160) **Section 7** of this bill sets forth the intent of the Legislature in the establishment of a program certified by the board of trustees of a school district or the governing body of a charter school whereby employees of school districts and charter schools who are members of the Public Employees' Retirement System and who take furlough leave due to extreme fiscal need be held harmless in the accumulation of retirement service credit and reported salary. **Section 7** further sets forth provisions concerning the furlough leave as it relates to the Public Employees'

Retirement System in a manner similar to the furlough program of state employees.

Section 8 of this bill expires the provisions of this bill on June 30, 2013.

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. 6.5. 1. Notwithstanding the provisions of NRS 386.550, 388.090, 388.537 and 388.842, for the 2011-2013 biennium the board of trustees of a school district or the governing body of a charter school that experiences an economic hardship may submit a written request to the Superintendent of Public Instruction on a form prescribed by the Department of Education for a waiver of not more than 5 noninstructional days of the required minimum number of school days in a school year to avoid, during the economic hardship, the layoff of teachers and other educational personnel employed by the school district or charter school.

2. Upon receipt of a written request pursuant to subsection 1, the Superintendent of Public Instruction shall consider the request and determine whether an economic hardship exists for the school district or charter school and whether a waiver of the required number of school days is necessary to avoid, during the economic hardship, the layoff of teachers and other educational personnel employed by the school district or charter school. The Superintendent of Public Instruction may request additional information from the applicant in making the determination. If the Superintendent of Public Instruction determines that an economic hardship exists for the applicant and that a waiver of the required minimum number of school days is necessary to avoid, during the economic hardship, the layoff of teachers and other educational personnel employed by the applicant, the Superintendent shall forward the written request to the Interim Finance Committee, including the basis for the Superintendent's determination and any recommendations for the number of school days that may be waived, which must not exceed 5 noninstructional days.

3. Upon receipt of a written request from the Superintendent of Public Instruction pursuant to subsection 2, the Interim Finance Committee shall consider the request and determine whether an economic hardship exists for the school district or charter school and whether a waiver of the required minimum number of school days is necessary to avoid, during the economic hardship, the layoff of teachers and other educational personnel employed by the school district or

charter school. The Interim Finance Committee may request additional information from the applicant in making the determination. If the Interim Finance Committee grants a waiver, the Committee shall by resolution set forth:

(a) The grounds for its determination; and
(b) The number of school days that may be waived for the school year by the school district or charter school, which must not exceed 5 noninstructional days.4. For the purposes of this section, an economic hardship exists for a school district or charter school if:

(a) Projections of revenue do not meet or exceed the revenue anticipated at the time the basic support guarantees are established for the fiscal year pursuant to NRS 387.122; or

(b) The school district or charter school incurs unforeseen expenses, including, without limitation, expenses related to a natural disaster.

5. A waiver granted pursuant to this section does not affect any right or remedy available pursuant to the provisions of chapter 288 of NRS, any obligation of the board of trustees of a school district or the governing body of a charter school pursuant to chapter 288 of NRS or any contract negotiated by the board of trustees of a school district or the governing body of a charter school pursuant to chapter 288 of NRS.

Sec. 7. 1. It is the intent of the Legislature that if the board of trustees of a school district or the governing body of a charter school certifies a furlough program whereby employees of the school district or charter school who are members of the Public Employees' Retirement System and who take furlough leave pursuant to the program due to extreme fiscal need be held harmless in the accumulation of retirement service credit and reported salary pursuant to chapter 286 of NRS.

2. If the board of trustees of a school district or the governing body of a charter school certifies a furlough program, the program must require that any furlough time taken by the employees of the school district or charter school:

(a) Be noninstructional days or minutes, as applicable; and
(b) Not exceed the number of professional development days or minutes and other noninstructional days or minutes which provide time for teachers before and after the school year and which the school district or charter school used for the 2010-2011 school year.

~~12-1~~ 3. Except as otherwise required as a result of NRS 286.537 and notwithstanding the provisions of NRS 286.481, if an employee of a school district or charter school who participates in the Public Employees' Retirement System is required to take furlough leave pursuant to a furlough program certified by the board of trustees of the school district or the governing body of the charter school, the employee is entitled to receive full service credit for the time taken as furlough leave in the same manner as service credit is computed pursuant to NRS 286.501 if:

(a) The employee does not take more than **the equivalent of** 96 hours of furlough leave in a school year; and

(b) The board of trustees of the school district or the governing body of the charter school certifies to the Public Employees' Retirement System that the school district or charter school is participating in a furlough program and that the furlough leave which is reported for the employee is taken in accordance with the requirements of that program.

~~13-1~~ **4.** In any month in which ~~he day of~~ furlough leave is taken, an employee is entitled to receive full-time service credit in the same manner as service credit is computed pursuant to NRS 286.501 for the furlough leave in accordance with the normal workday for the employee. An employee who is less than full-time is entitled to service credit in the same manner as service credit is computed pursuant to NRS 286.501 and in the same manner and to the same extent as though the employee had worked the ~~hours~~ **time** taken as furlough leave.

~~14-1~~ **5.** When a member is on furlough leave pursuant to this section as certified by the board of trustees of the school district or the governing body of the charter school, the board of trustees or the governing body must:

(a) Include all information required by the Public Employees' Retirement System on the board of trustees' or governing body's regular monthly retirement report as provided in NRS 286.460; and

(b) Pay all required employer and employee contributions to the Public Employees' Retirement System based on the compensation that would have been paid to the member but for the member's participation in the program. The board of trustees of the school district and the governing body of the charter school may recover from the employee the amount of the employee contributions set forth in NRS 286.410.

~~15-1~~ **6.** Except as otherwise required by this section, the terms and conditions of any furlough program certified by the board of trustees of the school district or the governing body of a charter school must be negotiated pursuant to chapter 288 of NRS.

~~16-1~~ **7.** Service credit under a furlough program certified by the board of trustees of a school district or the governing body of a charter school must be computed according to the school year.

~~17-1~~ **8.** As used in this section, "member" has the meaning ascribed to it in NRS 286.050.

Sec. 7.5. The provisions of this act apply to the 2011-2012 school year and the 2012-2013 school year.

Sec. 8. ~~1. This section and sections 1 to 6, inclusive, of this act become effective on July 1, 2011.~~

~~2. Section 7 of this act.~~ This act becomes effective ~~on July 1, 2011,~~ upon passage and approval and expires by limitation on June 30, 2013.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

This is an important amendment that changes the policy approved by the Assembly which creates a process for a school district or charter school to apply for a waiver from the required 180 minimum number of school days, during times of economic hardship. The legislation allows for a waiver of no more than five non-instructional days or minutes, and requires any furlough time negotiated by the school district or charter school be taken from the number of non-instructional days or minutes as established during the current school year, including the equivalent of not more than five professional development days, or other non-instructional days outside the 180-day minimum requirement. The amendment ensures that if there are furloughs taken that they are taken on non-instructional days, and not on days that would take away from student learning.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bills Nos. 199, 240, 265, 273, 301, 360, 376, 413, 504, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 205.

The following Assembly amendment was read:

Amendment No. 653.

"SUMMARY—Requires national certification for a registered nurse to receive a certificate of recognition as an advanced practitioner of nursing. (BDR 54-84)"

"AN ACT relating to nursing; requiring national certification for a registered nurse to receive a certificate of recognition as an advanced practitioner of nursing; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State Board of Nursing is authorized to grant a certificate of recognition as an advanced practitioner of nursing to a registered nurse who meets certain requirements. (NRS 632.237) This bill adds the requirement that to obtain a certificate of recognition as an advanced practitioner of nursing in Nevada the registered nurse must be certified as an advanced practitioner of nursing by a nationally recognized certification agency effective July 1, 2014. **However, an advanced practitioner of nursing who receives a certificate of recognition before that date is exempt from that requirement.**

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

Section 1. NRS 632.237 is hereby amended to read as follows:

632.237 1. The Board may grant a certificate of recognition as an advanced practitioner of nursing to a registered nurse who ~~has~~ :

(a) *Has* completed an educational program designed to prepare a registered nurse to:

- ~~1(a)~~ (1) Perform designated acts of medical diagnosis;
- ~~1(b)~~ (2) Prescribe therapeutic or corrective measures; and
- ~~1(c)~~ (3) Prescribe controlled substances, poisons, dangerous drugs and devices;

~~1(d)~~ (b) ~~Submits~~ Except as otherwise provided in subsection 4, submits proof that he or she is certified as an advanced practitioner of nursing by the American Board of Nursing Specialties, the National Commission for Certifying Agencies of the Institute for Credentialing Excellence, or their successor organizations, or any other nationally recognized certification agency approved by the Board; and who meets the

(c) *Meets any* other requirements established by the Board for such certification.

2. An advanced practitioner of nursing may:

- (a) Engage in selected medical diagnosis and treatment; and
- (b) If authorized pursuant to NRS 639.2351, prescribe controlled substances, poisons, dangerous drugs and devices,
 - ↪ pursuant to a protocol approved by a collaborating physician. A protocol must not include and an advanced practitioner of nursing shall not engage in any diagnosis, treatment or other conduct which the advanced practitioner of nursing is not qualified to perform.

3. The Board shall adopt regulations:

- (a) Specifying ~~the~~ *any additional* training, education and experience necessary for certification as an advanced practitioner of nursing.
- (b) Delineating the authorized scope of practice of an advanced practitioner of nursing.
- (c) Establishing the procedure for application for certification as an advanced practitioner of nursing.

4. The provisions of paragraph (b) of subsection 1 do not apply to an advanced practitioner of nursing who obtains a certificate of recognition before July 1, 2014.

Sec. 2. This act becomes effective on July 1, 2014.

Senator Schneider moved that the Senate concur in the Assembly amendment to Senate Bill No. 205.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 210.

The following Assembly amendment was read:

Amendment No. 702.

"SUMMARY—Revises provisions governing the regulation of certain food processing establishments. (BDR 40-564)"

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

Legislative Counsel's Digest:

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

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

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

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

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

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

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

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

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

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

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

~~— (3) Other appropriate means.~~

~~— 2.4~~ Except as otherwise provided in this subsection, whenever the health authority determines there are reasonable grounds to suspect that the food processed or otherwise prepared by a food processing establishment may constitute a substantial health hazard, the health authority may require that the food processing establishment have its food tested for the presence of ~~any~~ contaminants ~~that~~ typically associated with the suspected health hazard. When carrying out the provisions of this subsection, the health authority shall comply with the Federal Food Safety Modernization Act, 21 U.S.C. 2201, et seq., and any regulations adopted pursuant thereto. The provisions of this subsection do not apply to the extent that a food processing establishment is under investigation for the same purpose pursuant to federal law.

~~2.3~~ 2. If the health authority requires pursuant to subsection ~~2.2~~ 1 that the food processed or otherwise prepared by a food processing establishment be tested:

(a) The food processing establishment:

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

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

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

~~4.4~~ 3. Records of the results of any tests conducted pursuant to this section must be retained by the food processing establishment to which the tests pertain for a period of not less than 2 years. The food processing establishment shall, upon request, make those records available to the health authority for its review.

~~5.7~~ 4. If testing required pursuant to subsection ~~2.2~~ 1 indicates that the food processed or otherwise prepared by a food processing establishment is contaminated, the person or entity that conducted the testing shall, within 24 hours after obtaining the test results, report those test results to the health authority.

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

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

~~(1) Vitamins;~~

~~(2) Food supplements;~~

~~(3) Food additives;~~

~~(4) Spices;~~

~~(5) Tea;~~

~~(6) Coffee;~~

~~(7) Salsa;~~

~~(8) Jelly or jam; or~~

- ~~(9) Condiments.~~
- ~~(b) "Substantial health hazard" includes, without limitation:~~
- ~~(1) Food from an unapproved or unknown source.~~
- ~~(2) Food that is adulterated, labeled improperly, misbranded, contaminated, showing evidence of temperature abuse or otherwise unfit for human consumption.~~
- ~~(3) Food held or kept under any condition that supports the rapid growth of bacteria, unless time is used properly as a public health control.~~
- ~~(4) Food that is or was handled by a person who:~~
- ~~(I) Is infected with a communicable disease; or~~
- ~~(II) Is not practicing strict standards of cleanliness or personal hygiene.~~
- ~~(5) Food that has come into contact with equipment, utensils or working surfaces which are not cleaned and sanitized effectively.~~
- ~~(6) Food prepared in an area where sewage or liquid waste is not disposed of in an approved and sanitary manner.~~
- ~~(7) Food prepared in an area where contamination may result from insects, rodents or other animals.~~
- ~~(8) Food prepared in an area where contamination may result from toxic materials which are stored or used improperly.~~
- ~~(c) "Wholesale food" means food that is processed or otherwise prepared at a food processing establishment and is:~~
- ~~(1) Used subsequently at another food processing establishment; or~~
- ~~(2) Served to the public at a food establishment.~~

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

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

Senator Copenig moved that the Senate concur in the Assembly amendment to Senate Bill No. 210.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 246.

The following Assembly amendment was read:

Amendment No. 703.

"SUMMARY—~~Makes various changes concerning required training for employees who administer medication to a child at~~ **Requires** certain entities that have custody of ~~the~~ **a** child pursuant to the order of a court ~~to~~ **to adopt a policy concerning the administration and management of medication.**
(BDR 40-796)"

"AN ACT relating to protection of children; requiring ~~the Administrator of the Health Division of the Department of Health and Human Services to approve or provide, to the extent possible, for training programs~~ **certain entities that have custody of children pursuant to the order of a court to adopt a policy** concerning the administration and management of medication

~~;~~ ~~for employees of certain entities that have custody of children pursuant to the order of a court;~~ requiring ~~for certain~~ **such entities to ensure that** employees ~~for certain entities that have custody of such children successfully to complete a training program before administering~~ **who will administer** medication to a child ~~;~~ **receive a copy of and understand the policy; providing a penalty;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain employees of certain entities that have custody of children pursuant to the order of a court to receive training on a variety of topics, including the administration of medication to children. (NRS 62B.250, 63.190, 424.0365, 432A.177, 433B.175, 449.037) ~~Section 1 of this bill requires the Administrator of the Health Division of the Department of Health and Human Services, to the extent possible, to ensure that adequate training is available in this State to provide necessary instruction concerning the administration and management of medication to employees of public and private entities that have custody of children pursuant to the order of a court. In addition, the Administrator is required to maintain a list of approved training programs and make the list available on the Internet website of the Department.~~ **Section 2** of this bill requires ~~for certain employees of~~ a medical facility that accepts custody of children pursuant to the order of a court ~~successfully to complete a training program that has been approved by the Administrator before the employee may be allowed to administer~~ **to adopt a policy concerning the administration and management of medication and to ensure that each employee of the medical facility who will administer** medication to a child in the facility ~~;~~ **receives a copy of and understands the policy.** ~~Sections 8-12~~ **8.5-12.5** of this bill impose the same requirement ~~concerning the completion of a training program~~ on: ~~for an employee of~~ (1) a public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children; (2) a state facility for the detention or commitment of children; (3) a specialized foster home or a group foster home; (4) a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court; and (5) a treatment facility and any other facility of the Division of Child and Family Services of the Department of Health and Human Services into which a child may be committed by a court order.

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

Section 1. ~~Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The Administrator shall, to the extent possible, ensure that adequate training concerning the administration and management of medication is available to employees of a governmental facility for children, a private facility for children, a group foster home or a specialized foster home that~~

~~has custody of children pursuant to the order of a court. Such training must include, without limitation, instruction concerning the manner in which to:~~

- ~~(a) Document the orders of the treating physician;~~
- ~~(b) Administer medication to a child;~~
- ~~(c) Store, handle and dispose of medication;~~
- ~~(d) Document the administration of medication and any errors in the administration of medication;~~
- ~~(e) Minimize errors in the administration of medication; and~~
- ~~(f) Address errors in the administration of medication.~~

~~2. To ensure that adequate training is available pursuant to subsection 1, the Administrator may:~~

- ~~(a) Approve training programs offered by public or private entities that have the appropriate expertise to provide such training; and~~
- ~~(b) To the extent that money is available for that purpose, provide for training programs through the Health Division.~~

~~3. The Administrator shall maintain a list of programs that are approved to provide the training described in subsection 1 and shall cause the list to be placed on the Internet website maintained by the Department.~~

~~4. The Administrator is not required to comply with the provisions of chapter 233B of NRS to approve or provide for training programs pursuant to this section.~~

~~5. As used in this section:~~

- ~~(a) "Governmental facility for children" has the meaning ascribed to it in NRS 218G.520;~~
- ~~(b) "Group foster home" has the meaning ascribed to it in NRS 424.015;~~
- ~~(c) "Private facility for children" has the meaning ascribed to it in NRS 218G.535;~~
- ~~(d) "Specialized foster home" has the meaning ascribed to it in NRS 424.018.~~ **(Deleted by amendment.)**

Sec. 2. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a medical facility that has custody of ~~children~~ a child pursuant to the order of a court shall adopt a policy concerning the manner in which to:

- (a) Document the orders of the treating physician of a child;**
- (b) Administer medication to a child;**
- (c) Store, handle and dispose of medication;**
- (d) Document the administration of medication and any errors in the administration of medication;**
- (e) Minimize errors in the administration of medication; and**
- (f) Address errors in the administration of medication.**

2. Such a medical facility shall ensure that each employee of the medical facility who will administer medication to such ~~children receives~~ training at least annually in the administration and management of

~~medication through a program approved or provided by the Administrator of the Health Division pursuant to section 1 of this act.~~

~~2. The medical facility shall not allow an employee to administer medication to a child in its custody pursuant to the order of a court unless the employee has successfully completed such training.~~

~~3. The provisions of this section do not apply to an employee of:~~

~~(a) A residential facility for groups who is required to complete the training and examination set forth in subsection 6 of NRS 449.037.~~

~~(b) A medical facility who has a license or certificate issued pursuant to chapter 630, 632 or 633 of NRS.]~~ **a child receives a copy of and understands the policy adopted pursuant to subsection 1.**

Sec. 3. NRS 449.070 is hereby amended to read as follows:

449.070 The provisions of NRS 449.001 to 449.240, inclusive, **and section 2 of this act** do not apply to:

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

2. Foster homes as defined in NRS 424.014.

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

Sec. 4. NRS 449.160 is hereby amended to read as follows:

449.160 1. The Health Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.001 to 449.240, inclusive, **and section 2 of this act** upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.001 to 449.245, inclusive, **and section 2 of this act**, or of any other law of this State or of the standards, rules and regulations adopted thereunder.

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

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

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

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

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

2. In addition to the provisions of subsection 1, the Health Division may revoke a license to operate a facility for the dependent if, with respect to that

facility, the licensee that operates the facility, or an agent or employee of the licensee:

- (a) Is convicted of violating any of the provisions of NRS 202.470;
- (b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or
- (c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

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

- (a) A summary of a complaint against the facility if the investigation of the complaint by the Health Division either substantiates the complaint or is inconclusive;
- (b) A report of any investigation conducted with respect to the complaint; and
- (c) A report of any disciplinary action taken against the facility.

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

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

- (a) Any complaints included in the log maintained by the Health Division pursuant to subsection 3; and
- (b) Any disciplinary actions taken by the Health Division pursuant to subsection 2.

Sec. 5. NRS 449.163 is hereby amended to read as follows:

449.163 1. If a medical facility or facility for the dependent violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, **and section 2 of this act**, or any condition, standard or regulation adopted by the Board, the Health Division, in accordance with the regulations adopted pursuant to NRS 449.165, may:

- (a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;
- (b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;
- (c) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and
- (d) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:

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

(2) Improvements are made to correct the violation.

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

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

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

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

4. The Health Division may require any facility that violates any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, **and section 2 of this act**, or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.

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

Sec. 6. NRS 449.220 is hereby amended to read as follows:

449.220 1. The Health Division may bring an action in the name of the State to enjoin any person, state or local government unit or agency thereof from operating or maintaining any facility within the meaning of NRS 449.001 to 449.240, inclusive ~~+-~~, **and section 2 of this act**:

(a) Without first obtaining a license therefor; or

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

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

Sec. 7. NRS 449.240 is hereby amended to read as follows:

449.240 The district attorney of the county in which the facility is located shall, upon application by the Health Division, institute and conduct the prosecution of any action for violation of any provisions of NRS 449.001 to 449.245, inclusive ~~+-~~, **and section 2 of this act**.

Sec. 8. ~~NRS 62B.250 is hereby amended to read as follows:~~

~~62B.250 1. A public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, shall ensure that each employee who comes into direct contact with children who are in custody receives training within 30 days~~

~~after employment and annually thereafter. Such training must include, without limitation, instruction concerning:~~

- ~~— (a) Controlling the behavior of children;~~
- ~~— (b) Policies and procedures concerning the use of force and restraint on children;~~
- ~~— (c) The rights of children in the institution or agency;~~
- ~~— (d) Suicide awareness and prevention;~~
- ~~— (e) The administration of medication to children;~~
- ~~— (f) Applicable state and federal constitutional and statutory rights of children in the institution or agency;~~
- ~~— (g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the institution or agency; and~~
- ~~— (h) Such other matters as required by the Division of Child and Family Services.~~

~~2. The training received pursuant to paragraph (c) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department of Health and Human Services pursuant to section 1 of this act. A public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, shall not allow an employee to administer medication to a child in its custody unless the employee has successfully completed such training.~~

~~3. The Division of Child and Family Services shall adopt regulations necessary to carry out the provisions of this section.] (Deleted by amendment.)~~

Sec. 8.5. Chapter 62B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, shall adopt a policy concerning the manner in which to:

- (a) Document the orders of the treating physician of a child;
- (b) Administer medication to a child;
- (c) Store, handle and dispose of medication;
- (d) Document the administration of medication and any errors in the administration of medication;
- (e) Minimize errors in the administration of medication; and
- (f) Address errors in the administration of medication.

2. Such an institution or agency shall ensure that each employee of the institution or agency who will administer medication to a child at the institution or agency receives a copy of and understands the policy adopted pursuant to subsection 1.

Sec. 9. ~~NRS 63.190 is hereby amended to read as follows:~~

~~63.190 1. The superintendent of a facility shall ensure that each employee who comes into direct contact with children in the facility receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:~~

- ~~(a) Controlling the behavior of children;~~
- ~~(b) Policies and procedures concerning the use of force and restraint on children;~~
- ~~(c) The rights of children in the facility;~~
- ~~(d) Suicide awareness and prevention;~~
- ~~(e) The administration of medication to children;~~
- ~~(f) Applicable state and federal constitutional and statutory rights of children in the home;~~
- ~~(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility; and~~
- ~~(h) Such other matters as required by the Administrator of the Division of Child and Family Services.~~

~~2. The training received pursuant to paragraph (e) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department of Health and Human Services pursuant to section 1 of this act. The superintendent of a facility shall not allow an employee to administer medication to a child in its custody unless the employee has successfully completed such training.~~

~~3. The Administrator of the Division of Child and Family Services shall provide direction to the superintendent of each facility concerning the manner in which to carry out the provisions of this section.] (Deleted by amendment.)~~

Sec. 9.5. Chapter 63 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The superintendent of a facility shall adopt a policy concerning the manner in which to:

- (a) Document the orders of the treating physician of a child;
- (b) Administer medication to a child;
- (c) Store, handle and dispose of medication;
- (d) Document the administration of medication and any errors in the administration of medication;
- (e) Minimize errors in the administration of medication; and
- (f) Address errors in the administration of medication.

2. The superintendent shall ensure that each employee of the facility who will administer medication to a child at the facility receives a copy of and understands the policy adopted pursuant to subsection 1.

Sec. 10. [NRS 424.0365 is hereby amended to read as follows:

~~424.0365 1. A licensee that operates a specialized foster home or a group foster home shall ensure that each employee who comes into direct contact with children in the home receives training within 30 days after~~

~~employment and annually thereafter. Such training must include, without limitation, instruction concerning:~~

- ~~— (a) Controlling the behavior of children;~~
- ~~— (b) Policies and procedures concerning the use of force and restraint on children;~~
- ~~— (c) The rights of children in the home;~~
- ~~— (d) Suicide awareness and prevention;~~
- ~~— (e) The administration of medication to children;~~
- ~~— (f) Applicable state and federal constitutional and statutory rights of children in the home;~~
- ~~— (g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the home; and~~
- ~~— (h) Such other matters as required by the licensing authority or pursuant to regulations of the Division.~~

~~2. The training received pursuant to paragraph (e) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department of Health and Human Services pursuant to section 1 of this act. A licensee that operates a specialized foster home or a group foster home shall not allow an employee to administer medication to a child in such a home unless the employee has successfully completed such training.~~

~~3. The Division shall adopt regulations necessary to carry out the provisions of this section.~~ **(Deleted by amendment.)**

Sec. 10.5. Chapter 424 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A licensee that operates a specialized foster home or a group foster home shall adopt a policy concerning the manner in which to:

- (a) Document the orders of the treating physician of a child;**
- (b) Administer medication to a child;**
- (c) Store, handle and dispose of medication;**
- (d) Document the administration of medication and any errors in the administration of medication;**
- (e) Minimize errors in the administration of medication; and**
- (f) Address errors in the administration of medication.**

2. The licensee shall ensure that each employee of the specialized foster home or group foster home who will administer medication to a child at the specialized foster home or group foster home receives a copy of and understands the policy adopted pursuant to subsection 1.

Sec. 10.7. NRS 424.090 is hereby amended to read as follows:

424.090 The provisions of NRS 424.020 to 424.090, inclusive, **and section 10.5 of this act,** do not apply to homes in which:

1. Care is provided only for a neighbor's or friend's child on an irregular or occasional basis for a brief period, not to exceed 90 days.
2. Care is provided by the legal guardian.

3. Care is provided for an exchange student.

4. Care is provided to enable a child to take advantage of educational facilities that are not available in his or her home community.

5. Any child or children are received, cared for and maintained pending completion of proceedings for adoption of such child or children, except as otherwise provided in regulations adopted by the Division.

6. Except as otherwise provided in regulations adopted by the Division, care is voluntarily provided to a minor child who is:

- (a) Related to the caregiver by blood, adoption or marriage; and
- (b) Not in the custody of an agency which provides child welfare services.

7. Care is provided to a minor child who is in the custody of an agency which provides child welfare services pursuant to chapter 432B of NRS if:

(a) The caregiver is related to the child within the fifth degree of consanguinity; and

(b) The caregiver is not licensed pursuant to the provisions of NRS 424.020 to 424.090, inclusive, ~~1,~~ **and section 10.5 of this act.**

Sec. 11. ~~NRS 432A.177 is hereby amended to read as follows:~~

~~432A.177 1. A licensee that operates a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court, including, without limitation, an emergency shelter, shall ensure that each employee who comes into direct contact with children in the facility receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:~~

- ~~(a) Controlling the behavior of children;~~
- ~~(b) Policies and procedures concerning the use of force and restraint on children;~~
- ~~(c) The rights of children in the facility;~~
- ~~(d) Suicide awareness and prevention;~~
- ~~(e) The administration of medication to children;~~
- ~~(f) Applicable state and federal constitutional and statutory rights of children in the facility;~~
- ~~(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility; and~~
- ~~(h) Such other matters as required by the Board.~~

~~2. The training received pursuant to paragraph (e) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department pursuant to section 1 of this act. A licensee that operates a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court, including, without limitation, an emergency shelter, shall not allow an employee to administer medication to a child in the child care facility unless the employee has successfully completed such training.~~

~~3. The Board shall adopt regulations necessary to carry out the provisions of this section.~~ (Deleted by amendment.)

Sec. 11.5. Chapter 432A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A licensee that operates a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court, including, without limitation, an emergency shelter, shall adopt a policy concerning the manner in which to:

- (a) Document the orders of the treating physician of a child;
- (b) Administer medication to a child;
- (c) Store, handle and dispose of medication;
- (d) Document the administration of medication and any errors in the administration of medication;
- (e) Minimize errors in the administration of medication; and
- (f) Address errors in the administration of medication.

2. The licensee shall ensure that each employee of the child care facility who will administer medication to a child at the child care facility receives a copy of and understands the policy adopted pursuant to subsection 1.

Sec. 11.7. NRS 432A.220 is hereby amended to read as follows:

432A.220 Any person who operates a child care facility without a license issued pursuant to NRS 432A.131 to 432A.220, inclusive, and section 11.5 of this act is guilty of a misdemeanor.

Sec. 12. NRS 433B.175 is hereby amended to read as follows:

~~433B.175 1. The Administrator shall ensure that each employee who comes into direct contact with children at any treatment facility and any other division facility into which a child may be committed by a court order receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:~~

- ~~(a) Controlling the behavior of children;~~
- ~~(b) Policies and procedures concerning the use of force and restraint on children;~~
- ~~(c) The rights of children in the facility;~~
- ~~(d) Suicide awareness and prevention;~~
- ~~(e) The administration of medication to children;~~
- ~~(f) Applicable state and federal constitutional and statutory rights of children in the facility;~~
- ~~(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility; and~~
- ~~(h) Such other matters as required by the Board.~~

~~2. The training received pursuant to paragraph (c) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department pursuant to section 1 of this act. The Administrator of the Division of Child and Family Services shall not allow~~

~~an employee to administer medication to a child at any treatment facility and any other division facility into which a child may be committed by a court order unless the employee has successfully completed such training.~~

~~3. The Division shall adopt regulations necessary to carry out the provisions of this section.~~ (Deleted by amendment.)

Sec. 12.5. Chapter 433B of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Administrator shall adopt a policy for each treatment facility and any other division facility into which a child may be committed by a court order concerning the manner in which to:

- (a) Document the orders of the treating physician of a child;**
- (b) Administer medication to a child;**
- (c) Store, handle and dispose of medication;**
- (d) Document the administration of medication and any errors in the administration of medication;**
- (e) Minimize errors in the administration of medication; and**
- (f) Address errors in the administration of medication.**

2. The Administrator shall ensure that each employee who comes into direct contact with a child at any treatment facility and any other division facility into which a child may be committed by a court order and who will administer medication to a child receives a copy of and understands the policy adopted pursuant to subsection 1.

Sec. 13. NRS 654.190 is hereby amended to read as follows:

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

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

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

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

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.001 to 449.240, inclusive, **and section 2 of this act**, as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

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

(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the nursing facility administrator or

administrator of a residential facility for groups and the patient or resident for the financial or other gain of the licensee.

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

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

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

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

~~Sec. 14. 1. An employee of a governmental facility for children, a group foster home, a private facility for children or a specialized foster home that has custody of a child pursuant to the order of a court who has not successfully completed training in the administration and management of medication through a program that has been approved by the Administrator of the Health Division of the Department of Health and Human Services as required pursuant to sections 2 and 8 to 12, inclusive, of this act, as applicable, on January 1, 2012, may continue to administer medication to a child in the custody of the facility or home if the person is authorized to do so on January 1, 2012, but must complete such training on or before March 31, 2012.~~

~~2. As used in this section:~~

~~(a) "Governmental facility for children" has the meaning ascribed to it in NRS 218G.520.~~

~~(b) "Group foster home" has the meaning ascribed to it in NRS 424.015.~~

~~(c) "Private facility for children" has the meaning ascribed to it in NRS 218G.535.~~

~~(d) "Specialized foster home" has the meaning ascribed to it in NRS 424.018.~~ **(Deleted by amendment.)**

~~Sec. 15. This act becomes effective upon passage and approval for the purpose of taking such actions as are necessary to ensure that adequate training programs concerning the administration and management of medication are available in this State and for performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and, on January 1, 2012, for all other purposes.~~

Senator Copenig moved that the Senate concur in the Assembly amendment to Senate Bill No. 246.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 300.

The following Assembly amendment was read:

Amendment No. 712.

"SUMMARY—Revises provisions governing certain billing and related practices of hospitals. (BDR 40-797)"

"AN ACT relating to medical facilities; revising provisions governing billing and related practices of certain larger hospitals; revising requirements relating to notices of billing practices which must be provided to patients of certain hospitals; providing administrative penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires major hospitals with 200 or more beds to reduce by at least 30 percent the total billed charges for hospital services provided to inpatients who: (1) do not have insurance; (2) are not eligible for a government program which provides medical assistance; and (3) make arrangements to pay the hospital bill. (NRS 439B.260) **Section 2** of this bill specifies that the reduction in total billed charges applies only to inpatients who do not have health insurance and specifically excludes policies of insurance such as casualty and property insurance for purposes of determining whether an inpatient has insurance. Existing law requires major hospitals to give patients, upon discharge, notice of the provisions concerning the reduction of billed charges. (NRS 449.730) **Section 2** additionally requires major hospitals to include such a notice on or with the first statement of the hospital bill provided to each patient. Existing law prescribes civil and administrative penalties which are applicable to a violation of the provisions of **section 2**. (NRS 439B.500)

Section 3 of this bill prohibits a hospital from collecting any amount owed to the hospital for hospital care from the proceeds or potential proceeds of a civil action or from an insurer other than a health insurer if the patient was covered by health insurance ++ and the hospital has a contractual agreement with the insurer of the patient.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 439B.260 is hereby amended to read as follows:

439B.260 1. A major hospital shall reduce or discount the total billed charge by at least 30 percent for hospital services provided to an inpatient who:

(a) Has no ***policy of health*** insurance or other contractual ~~provision for the payment of the charge by~~ ***agreement with*** a third party ~~that provides health coverage for the charge;~~

(b) Is not eligible for coverage by a state or federal program of public assistance that would provide for the payment of the charge; and

(c) Makes reasonable arrangements within 30 days after ~~discharge~~ ***the date that notice was sent pursuant to subsection 2*** to pay the hospital bill.

2. ***A major hospital shall include on or with the first statement of the hospital bill provided to the patient after his or her discharge a notice of the reduction or discount available pursuant to this section, including, without limitation, notice of the criteria a patient must satisfy to qualify for a reduction or discount.***

3. A major hospital or patient who disputes the reasonableness of arrangements made pursuant to paragraph (c) of subsection 1 may submit the dispute to the Bureau for Hospital Patients for resolution as provided in NRS 223.575.

~~4.~~ 4. A major hospital shall reduce or discount the total billed charge of its outpatient pharmacy by at least 30 percent to a patient who is eligible for Medicare.

5. ***As used in this section, "third party" means:***

(a) ***An insurer, as that term is defined in NRS 679B.540;***

(b) ***A health benefit plan, as that term is defined in NRS 689A.540, for employees which provides coverage for services and care at a hospital;***

(c) ***A participating public agency, as that term is defined in NRS 287.04052, and any other local governmental agency of the State of Nevada which provides a system of health insurance for the benefit of its officers and employees, and the dependents of officers and employees, pursuant to chapter 287 of NRS; or***

(d) ***Any other insurer or organization providing health coverage or benefits in accordance with state or federal law.***

↪ The term does not include an insurer that provides coverage under a policy of casualty or property insurance.

Sec. 3. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ***Except as otherwise provided in subsection 2, if a hospital provides hospital care to a person who has a policy of health insurance issued by a third party that provides health coverage for care provided at that hospital ~~and~~ and the hospital has a contractual agreement with the third party, the hospital shall proceed with any efforts to collect on any amount owed to the hospital for the hospital care in accordance with the provisions of NRS 449.757 and shall not collect or attempt to collect that amount from:***

(a) ***Any proceeds or potential proceeds of a civil action brought by or on behalf of the patient, including, without limitation, any amount awarded for medical expenses; or***

(b) An insurer other than a health insurer, including, without limitation, an insurer that provides coverage under a policy of casualty or property insurance.

2. This section does not apply to:

(a) Amounts owed to the hospital under the policy of health insurance that are not collectible; or

(b) Medicaid, the Children's Health Insurance Program or any other public program which may pay all or part of the bill.

3. This section does not limit any rights of a patient to contest an attempt to collect an amount owed to a hospital, including, without limitation, contesting a lien obtained by a hospital.

4. As used in this section, "third party" has the meaning ascribed to it in NRS 439B.260.

Sec. 4. NRS 449.751 is hereby amended to read as follows:

449.751 As used in NRS 449.751 to 449.759, inclusive, **and section 3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 449.753 and 449.755 have the meanings ascribed to them in those sections.

Sec. 5. NRS 449.757 is hereby amended to read as follows:

449.757 1. When a person receives hospital care, the hospital must not proceed with any efforts to collect on any amount owed to the hospital for the hospital care from the responsible party, other than for any copayment or deductible, if the responsible party has health insurance or may be eligible for Medicaid, the Children's Health Insurance Program or any other public program which may pay all or part of the bill, until the hospital has submitted a bill to the **health** insurance company or public program and the **health** insurance company or public program has made a determination concerning payment of the claim.

2. Collection efforts may begin and interest may begin to accrue on any amount owed to the hospital for hospital care which remains unpaid by the responsible party not sooner than 30 days after the responsible party is sent a bill by mail stating the amount that he or she is responsible to pay which has been established after receiving a determination concerning payment of the claim by any insurer or public program and after applying any discounts. Interest must accrue at a rate which does not exceed the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date on which the payment becomes due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the payment is satisfied.

3. Except for the interest authorized pursuant to subsection 2 and any court costs and attorney's fees awarded by a court, no other fees may be charged concerning the amount that remains unpaid, including, without limitation, collection fees, other attorney's fees or any other fees or costs.

Senator Copenig moved that the Senate concur in the Assembly amendment to Senate Bill No. 300.

Motion carried on a division of the house.

Bill ordered enrolled.

RECEDE FROM SENATE AMENDMENTS

Senator Schneider moved that the Senate do not recede from its action on Assembly Bill No. 20, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Schneider, Breeden and Roberson as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 20.

RECEDE FROM SENATE AMENDMENTS

Senator Denis moved that the Senate do not recede from its action on Assembly Bill No. 39, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Wiener, Kihuen and Cegavske as a Conference Committee to meet with a like committee of the Assembly for the further consideration Assembly Bill No. 39.

RECEDE FROM SENATE AMENDMENTS

Senator Denis moved that the Senate do not recede from its action on Assembly Bill No. 40, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Kihuen, Wiener and Gustavson as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 40.

RECEDE FROM SENATE AMENDMENTS

Senator Denis moved that the Senate do not recede from its action on Assembly Bill No. 498, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Denis, Leslie and Cegavske as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 498.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Breeden, Copening and Hardy as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 193.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 37, 97, 152, 182, 190, 201, 226, 234, 237, 273, 277, 317, 358, 420, 444, 450, 481; Senate Concurrent Resolution No. 13; Assembly Bills Nos. 98, 132, 160, 456.

REMARKS FROM THE FLOOR

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

Louis J. Capurro, Jr. 92, the grandson of Italian immigrants Pasquale Capurro and Luigia Battaglia Capurro; Pietro Bartolino and Teresa Procarione Bartolino, died Saturday evening peacefully at the home ranch where he had lived all of his life. He was born June 27, 1918 to Louis J. Capurro, Sr. and Isabella Bartolino Capurro.

He attended the original Huffaker Elementary School, many days riding his horse; attended B.D. Billingshurst Middle School from 1929-1932; Reno High School from 1932-1935 and received his BA in business from the University of Nevada in 1939, the year he started his first insurance business.

In 1940, he married Genevieve Dondero. They enjoyed 55 years together until her death in 1995.

Louis was very active in the business community and held various public service assignments throughout his life. He was elected President of the 20-30 Club in 1942; he served a decade in the Assembly of the Nevada State Legislature, first elected in 1943 when he was 25 years old and sent back by the voters for four additional sessions where later, his son Randy, also served in the lower house. In 1949, county boards of adjustments were created by the State lawmakers as non-salaried volunteer positions. In July 1949, Louis became a charter member of the Washoe County Board of Adjustment, appointed by the Washoe County Commission. He was chairman of this board several times, once for a 10-year period. He served a numbing 37 years, retiring from that position in 1986 after attending approximately 500 monthly meetings and special sessions. He always knew what was happening in the Reno-Sparks area.

Also an avid hunter, Louis was a Triple Champion in various shooting competitions in 1949, including the Nevada State Championship; the Reno Great Pacific Open 410 ga. Class C and the All Bore 5-Man Team Class B. His very active membership in the Honey Lake Ranch gave him many years of great duck, goose and pheasant hunting.

From 1949-1964 his insurance company became the Capurro-McKenna Insurance Company. and from 1964-1986, with his son Randy and Richard Voss, it was known as Capurro-Voss Insurance Company. Then, in 1986, the business was sold to and he continued to work for Fred S. James (Sedgewick James) Insurance Company.

He was associated with the Nevada Star Grange Organization in earlier years. He was a member of the Prospector's Club in Reno and enjoyed many pleasant occasions there. His association with the beloved ROMEO'S (Retired Old Men Eating Out), since 1984, was the highlight of his week, sharing the kind of perspective that shows the value of enduring

friendship. No group of men could ever show more humor, stories, frank observations of life and genuine love for each other.

Louis' vision was made real in 1964-1965 with the organizing and opening of Pioneer Citizen's Bank of Nevada. He and four other descendants of pioneer Nevada families; Paul Laiolo, Royal Stewart, Harold Cafferata and Ben Caramella were at the helm. Louis served as the first Chairman of the Board. In 1999, Pioneer Citizens Bank was sold to Zions Bank and is locally known as Nevada State Bank of Nevada.

Louis was also very active in the Reno Benevolent and Protective Order of Elks (BPOE). He served as the Exalted Ruler in 1965-1966. In 1967, he was the District Deputy Exalted Ruler for the Northern Nevada District of BPOE. In 1977-1978, he was elected the Nevada State Elks Association's President. In 1984-1985, he was the Grand Lodge Committee Designate. He also held the title of Past Grand Loyal Knight.

In 1998, he received the Distinguished Nevadan Degree from the University of Nevada.

Through all of this, Louis never lost sight of his family. All of us knew we were the most important part of his life and he was sought after for his knowledge, wisdom and love by each of us, including his loving companion, Florence Rose.

Preceding Louis in death besides his wife, Genevieve, were grandchild, Lorin Louis Capurro and great grandchild Lisa Jean Capurro. Surviving are his three children: Allen Capurro (Carol), Randall Capurro (Annette) and Corinne Capurro Guio (Bill). Eight Grandchildren: Steven Allen Capurro; Clinton Dale Capurro (Michelle); Suzanne Marie Capurro Murphy (Brian); Gina Louise Capurro Gardner (Ken); Anthony Randall Capurro (Julie); Christopher Capurro (Chrissy); Heather Lynn Guio Parks (Steve) and Thomas Victor Guio. Thirteen great grandchildren including: Renee, Ashley, Kylee, Conner, Electra and Angele Capurro; Morgan, Madison and Chandler Murphy; Lucas, Addison and Mallory Gardner; and Mia Parks.

Services were scheduled on Thursday, Feb. 3 at 5:00 p.m. Viewing at Walton's 2nd St. Chapel followed by 7:00 p.m. Rosary on Friday, Feb 4 at 10:00 a.m., funeral Mass was at St. Theresa's Little Flower Catholic Church.

In lieu of flowers, gifts may be made in Louie's memory to the University of Nevada Reno Foundation/Capurro Family Endowment, sent to University of Nevada, Reno Foundation, Mail Stop 0162, Reno, NV 89507.

Senator Horsford moved that the Senate adjourn until Monday, May 30, 2011, at 11 a.m. and that it do so in memory of Louis J. Capurro.

Motion carried.

Senate adjourned at 9:22 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate