THE SIXTY-SIXTH DAY

CARSON CITY (Wednesday), April 10, 2013

Senate called to order at 11:37 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend William J. M. Kenny.

Let us pray.

Kind and loving God, we adore You and give You praise for all that You have created in this magnificent world. Here in our own State of Nevada, we marvel at the work of Your hands: the majestic mountains, the lakes and rivers, the lush forests and the expansive deserts. Make us ever mindful to take care of our natural resources so generations to come might enjoy them and likewise take delight in their beauty.

We express our thanks for all the blessings You have bestowed on us who are assembled here this morning: the women and men who have been elected to the Nevada Senate to represent their constituencies and all others in attendance. We have been blessed in so many ways with family, relatives and friends; we have food, shelter, clothing and so much more. We are grateful for this new April day here in Nevada—for the sun, the blue sky and the mild weather.

Finally, loving God, we ask that You give us wisdom to carry out the work which we have been elected to do; for Your honor, for Your glory and for the good of all the citizens of Nevada. Help us to study, deliberate and make just decisions about the matters that come before us today.

We make our prayer, putting all our trust in You, our loving, merciful and gracious God.

AMEN.

Pledge of Allegiance to the Flag by Reagan Jane Stephens.

The President announced that under previous order, the reading of the Journal is waived for the remainder of the 77th Legislative Session and the President and Secretary are authorized to make any necessary corrections and additions.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Senate Bills Nos. 288, 310, 497, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce, Labor and Energy, to which were referred Senate Bills Nos. 155, 316, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chair*

Mr. President:

Your Committee on Finance, to which were referred Senate Bills Nos. 185, 477, 489, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DEBBIE SMITH, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 66, 90, 364, 404, 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 Health and Human Services, to which was referred Senate Bill No. 452, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JUSTIN C. JONES, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Senate Bill No. 113, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TICK SEGERBLOM, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Joint Resolution No. 8, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

PAT SPEARMAN, *Chair*

Mr. President:

Your Committee on Natural Resources, to which were referred Senate Bills Nos. 464, 468, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

AARON D. FORD, *Chair*

Mr. President:

Your Committee on Revenue and Economic Development, to which were referred Senate Bills Nos. 238, 509, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

RUBEN J. KIHUEN, *Chair*

Mr. President:

Your Committee on Transportation, to which were referred Senate Bills Nos. 19, 109, 244, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK A. MANENDO, *Chair*

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 9, 2013

Pursuant to paragraph (a) of Subsection 4 of Joint Standing Rule No. 14.6, the following measure is not subject to the provisions of Subsections 1 and 2 of Joint Standing Rule No. 14, Joint Standing Rule No. 14.1, Subsection 1 of Joint Standing Rule No. 14.2 and Joint Standing Rule No. 14.3: Senate Bill No. 203.

Also, pursuant to paragraph (a) of Subsection 4 of Joint Standing Rule No. 14.6, the following measures are not subject to the provisions of Subsections 1 and 2 of Joint Standing Rule No. 14, Joint Standing Rule No. 14.1, Subsection 1 of Joint Standing Rule No. 14.2 and Joint Standing Rule No. 14.3: Senate Bills Nos. 451, 500, 512; Senate Joint Resolution No. 8.

Also, pursuant to paragraph (a) of Subsection 4 of Joint Standing Rule No. 14.6, Senate Bill No. 499 is not subject to the provisions of Subsections 1 and 2 of Joint Standing Rule No. 14, Joint Standing Rule No. 14.1, Joint Standing Rule No. 14.2 and Joint Standing Rule No. 14.3.

Also, pursuant to paragraph (a) of Subsection 4 of Joint Standing Rule No. 14.6, the following measures are not subject to the provisions of Subsections 1 and 2 of Joint Standing Rule No. 14, Joint Standing Rule No. 14.1, Subsection 1 of Joint Standing Rule No. 14.2 and Joint Standing Rule No. 14.3: Assembly Bills Nos. 118, 150, 190, 191, 301, 314, 361, 412, 444, 446.

RICHARD S. COMBS
Director

April 9, 2013

The Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the eligibility for exemption of: Assembly Bills Nos. 38, 78, 153, 202, 220, 238, 241, 270, 272, 275, 278, 279, 293, 296, 303, 307, 323, 345, 365, 388, 390, 402, 404, 453; Assembly Joint Resolution No. 8.

CINDY JONES
Fiscal Analysis Division

April 10, 2013

The Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the exemption of: Assembly Bills Nos. 476, 480, 489.

Also, the Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the eligibility for exemption of: Assembly Bill No. 426.

CINDY JONES
Fiscal Analysis Division

SECOND READING AND AMENDMENT

Senate Bill No. 4.

Bill read second time.

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

Amendment No. 60.

"SUMMARY—Revises provisions governing the testing of a person or decedent who may have exposed certain public employers, employees or volunteers to a contagious disease. (BDR 40-265)"

"AN ACT relating to contagious diseases; revising provisions governing the testing of a person who may have exposed certain public employers, employees or volunteers to a contagious disease; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, if the duties of a law enforcement officer, correctional officer, emergency medical attendant, firefighter, county coroner or medical examiner or any of their employees, any other person who is employed by an agency of criminal justice or any other public employee may require him or her to come into contact with human blood or bodily fluids and if he or she may have been exposed to a contagious disease while performing those duties, the employee or his or her employer may petition a court to have the person or decedent who may have exposed the employee or his or her employer to a contagious disease tested for exposure to the human immunodeficiency virus, the hepatitis B surface antigen, hepatitis C and tuberculosis. Upon a finding by a court that there is probable cause to believe that a possible transfer of blood or other bodily fluids to the petitioner or the person on whose behalf the petition was filed occurred, the court is required to order testing of the blood of the person or decedent who possibly exposed to a contagious disease the petitioner or the person on whose behalf the petition was filed. (NRS 441A.195)

Section 1 of this bill allows any such employee or a volunteer for a public agency, who comes in contact with human blood or bodily fluids in the course of his or her official duties, or his or her employer or the public

agency for which he or she volunteers, to seek a test of the person or decedent who possibly exposed the public employee or volunteer to a contagious disease. ~~[Section 1 also provides that an employee or his or her employer, or a volunteer or the public agency for which he or she volunteers who seeks a court order for such a test may either petition a court or give an oral statement under oath to a court, in a manner similar to the procedure for obtaining a search warrant. The oral statement may be made in any court with jurisdiction over the location where the possible exposure to a contagious disease occurred and must be: (1) made under oath; (2) recorded in the presence of the judge or justice of the peace or in the immediate vicinity of the judge or justice of the peace by a certified court reporter or by electronic means; (3) transcribed by the certified court reporter, if applicable; (4) certified by the judge or justice of the peace; and (5) filed with the clerk of the court.]~~ Section 1 ~~[also]~~ allows a judge or a justice of the peace hearing the petition ~~[or oral statement,]~~ upon a determination of probable cause and the ordering of a test, to ~~[orally]~~ authorize certain persons acting on behalf of the employer or public agency to sign the name of the judge or justice of the peace on a duplicate order. Such an order is to be deemed an order of the court but must be returned to the judge or justice of the peace for endorsement. Failure by the judge or justice of the peace to endorse the order does not in and of itself invalidate the order. Section 1 also: (1) requires any records concerning such a petition or proceeding on such a petition to be sealed and kept confidential; and (2) authorizes a court to establish rules to allow a judge or justice of the peace to conduct a hearing or issue an order by electronic or telephonic means. Sections 2 and 3 of this bill authorize justice courts and municipal courts to ~~[take oral statements seeking such orders for testing and to]~~ issue such orders.

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

Section 1. NRS 441A.195 is hereby amended to read as follows:

441A.195 1. A law enforcement officer, correctional officer, emergency medical attendant, firefighter, county coroner or medical examiner or any of their employees ~~[,]~~ *or volunteers,* any other person who is employed by *or is a volunteer for* an agency of criminal justice or any other public employee ~~[whose duties may require him or her to come]~~ *or volunteer for a public agency who, in the course of his or her official duties, comes* into contact with human blood or bodily fluids, ~~[who may have been exposed to a contagious disease while performing his or her official duties,]~~ or the employer of such a person ~~[,]~~ *or the public agency for which the person volunteers,* may petition a court for an ~~*[seek a court]*~~ order requiring the testing of a person or decedent for exposure to the human immunodeficiency virus, the hepatitis B surface antigen, hepatitis C and tuberculosis if the person or decedent may have exposed the officer, *emergency* medical attendant, firefighter, county coroner or medical examiner or their employee ~~[,]~~ *or volunteer,* other person employed by *or volunteering for* an agency of

criminal justice or other public employee [~~whose duties may require him or her to come into contact with human blood or bodily fluids~~] *or volunteer for a public agency* to a contagious disease. [~~*The officer, emergency medical attendant, firefighter, county coroner or medical examiner or their employee or volunteer, other person employed by or volunteering for an agency of criminal justice or other public employee or volunteer for a public agency or his or her employer, or the public agency for which the person volunteers, may petition a court for such an order or may make an oral statement pursuant to subsection 2 seeking such an order.*~~]

2. ~~*[In lieu of a person filing a petition pursuant to subsection 1, any court with jurisdiction over the location where the possible exposure to a contagious disease occurred may take an oral statement from a person or his or her employer or the public agency for which the person volunteers, seeking an order to have a person tested pursuant to subsection 1. The statement must be:*~~

~~*(a) Made under oath;*~~

~~*(b) Recorded in the presence of the judge or justice of the peace or in the immediate vicinity of the judge or justice of the peace by a certified court reporter or by electronic means;*~~

~~*(c) Transcribed by a certified court reporter if a certified court reporter recorded it;*~~

~~*(d) Certified by the judge or justice of the peace; and*~~

~~*(e) Filed with the clerk of the court.*~~

~~*3.]*~~ When possible, before filing a petition pursuant to subsection 1, ~~*[for making an oral statement to a court pursuant to subsection 2,]*~~ the person , [~~or~~] employer *or public agency for which the person volunteers, and who is* petitioning ~~*[for making an oral statement]*~~ shall submit information concerning the possible exposure to a contagious disease to the designated health care officer for the employer *or public agency* or, if there is no designated health care officer, the person designated by the employer *or public agency* to document and verify possible exposure to contagious diseases, for verification that there was substantial exposure. Each designated health care officer or person designated by an employer *or public agency* to document and verify possible exposure to contagious diseases shall establish guidelines based on current scientific information to determine substantial exposure.

3. ~~*[4.]*~~ A court shall promptly hear a petition filed pursuant to subsection 1 ~~*[for an oral statement made pursuant to subsection 2]*~~ and determine whether there is probable cause to believe that a possible transfer of blood or other bodily fluids occurred between the person who filed the petition ~~*[for made the oral statement]*~~ or on whose behalf the petition was filed ~~*[for the oral statement was made]*~~ and the person or decedent who possibly exposed him or her to a contagious disease. If the court determines that probable cause exists to believe that a possible transfer of blood or other bodily fluids occurred, the court shall:

(a) Order the person who possibly exposed the petitioner, or ~~[the person who made the oral statement, or]~~ the person on whose behalf the petition was filed, ~~[or the oral statement was made,]~~ to a contagious disease to submit two specimens of blood to a local hospital or medical laboratory for testing for exposure to the human immunodeficiency virus, the hepatitis B surface antigen, hepatitis C and tuberculosis; or

(b) Order that two specimens of blood be drawn from the decedent who possibly exposed the petitioner, or ~~[the person who made the oral statement, or]~~ the person on whose behalf the petition was filed, ~~[or the oral statement was made,]~~ to a contagious disease and be submitted to a local hospital or medical laboratory for testing for exposure to the human immunodeficiency virus, the hepatitis B surface antigen, hepatitis C and tuberculosis.

➥ The local hospital or medical laboratory shall perform the test in accordance with generally accepted medical practices and shall disclose the results of the test in the manner set forth in NRS 629.069.

4. ~~[5.]~~ *If a judge or a justice of the peace enters an order pursuant to this section, the judge or justice of the peace may ~~[orally]~~ authorize the designated health care officer or the person designated by the employer or public agency to document and verify possible exposure to a contagious disease to sign the name of the judge or justice of the peace on a duplicate order. Such a duplicate order shall be deemed to be an order of the court. As soon as practicable after the duplicate order is signed, the duplicate order must be returned to the judge or justice of the peace who authorized the signing of it and must indicate on its face the judge or justice of the peace to whom it is to be returned. The judge or justice of the peace, upon receiving the returned order, shall endorse the order with his or her name and enter the date on which the order was returned. Any failure of the judge or justice of the peace to make such an endorsement and entry does not in and of itself invalidate the order.*

5. Except as otherwise provided in NRS 629.069, all records submitted to the court in connection with a petition filed pursuant to this section and any proceedings concerning the petition are confidential and the judge or justice of the peace shall order the records and any record of the proceedings to be sealed and to be opened for inspection only upon an order of the court for good cause shown.

6. A court may establish rules to allow a judge or justice of the peace to conduct a hearing or issue an order pursuant to this section by electronic or telephonic means.

7. The employer of a person *or the public agency for which the person volunteers,* who files a petition or ~~[makes an oral statement or]~~ on whose behalf a petition is filed ~~[or an oral statement is made]~~ pursuant to this section or the insurer of the employer *or public agency,* shall pay the cost of performing the test pursuant to subsection 3. ~~[4.]~~

~~[5.]~~ ~~[7.]~~ *8.* As used in this section:

(a) "Agency of criminal justice" has the meaning ascribed to it in NRS 179A.030.

(b) "Emergency medical attendant" means a person licensed as an attendant or certified as an emergency medical technician, intermediate emergency medical technician or advanced emergency medical technician pursuant to chapter 450B of NRS.

Sec. 2. NRS 4.370 is hereby amended to read as follows:

4.370 1. Except as otherwise provided in subsection 2, justice courts have jurisdiction of the following civil actions and proceedings and no others except as otherwise provided by specific statute:

(a) In actions arising on contract for the recovery of money only, if the sum claimed, exclusive of interest, does not exceed $10,000.

(b) In actions for damages for injury to the person, or for taking, detaining or injuring personal property, or for injury to real property where no issue is raised by the verified answer of the defendant involving the title to or boundaries of the real property, if the damage claimed does not exceed $10,000.

(c) Except as otherwise provided in paragraph (l), in actions for a fine, penalty or forfeiture not exceeding $10,000, given by statute or the ordinance of a county, city or town, where no issue is raised by the answer involving the legality of any tax, impost, assessment, toll or municipal fine.

(d) In actions upon bonds or undertakings conditioned for the payment of money, if the sum claimed does not exceed $10,000, though the penalty may exceed that sum. Bail bonds and other undertakings posted in criminal matters may be forfeited regardless of amount.

(e) In actions to recover the possession of personal property, if the value of the property does not exceed $10,000.

(f) To take and enter judgment on the confession of a defendant, when the amount confessed, exclusive of interest, does not exceed $10,000.

(g) Of actions for the possession of lands and tenements where the relation of landlord and tenant exists, when damages claimed do not exceed $10,000 or when no damages are claimed.

(h) Of actions when the possession of lands and tenements has been unlawfully or fraudulently obtained or withheld, when damages claimed do not exceed $10,000 or when no damages are claimed.

(i) Of suits for the collection of taxes, where the amount of the tax sued for does not exceed $10,000.

(j) Of actions for the enforcement of mechanics' liens, where the amount of the lien sought to be enforced, exclusive of interest, does not exceed $10,000.

(k) Of actions for the enforcement of liens of owners of facilities for storage, where the amount of the lien sought to be enforced, exclusive of interest, does not exceed $10,000.

(l) In actions for a fine imposed for a violation of NRS 484D.680.

(m) Except as otherwise provided in this paragraph, in any action for the issuance of a temporary or extended order for protection against domestic violence. A justice court does not have jurisdiction in an action for the issuance of a temporary or extended order for protection against domestic violence:

(1) In a county whose population is 100,000 or more and less than 700,000;

(2) In any township whose population is 100,000 or more located within a county whose population is 700,000 or more; or

(3) If a district court issues a written order to the justice court requiring that further proceedings relating to the action for the issuance of the order for protection be conducted before the district court.

(n) In an action for the issuance of a temporary or extended order for protection against harassment in the workplace pursuant to NRS 33.200 to 33.360, inclusive.

(o) In small claims actions under the provisions of chapter 73 of NRS.

(p) In actions to contest the validity of liens on mobile homes or manufactured homes.

(q) In any action pursuant to NRS 200.591 for the issuance of a protective order against a person alleged to be committing the crime of stalking, aggravated stalking or harassment.

(r) In any action pursuant to NRS 200.378 for the issuance of a protective order against a person alleged to have committed the crime of sexual assault.

(s) In actions transferred from the district court pursuant to NRS 3.221.

(t) In any action for the issuance of a temporary or extended order pursuant to NRS 33.400.

(u) In any action seeking an order pursuant to ~~[subsection 2 of]~~ NRS 441A.195.

2. The jurisdiction conferred by this section does not extend to civil actions, other than for forcible entry or detainer, in which the title of real property or mining claims or questions affecting the boundaries of land are involved.

3. Justice courts have jurisdiction of all misdemeanors and no other criminal offenses except as otherwise provided by specific statute. Upon approval of the district court, a justice court may transfer original jurisdiction of a misdemeanor to the district court for the purpose of assigning an offender to a program established pursuant to NRS 176A.250 or 176A.280.

4. Except as otherwise provided in subsections 5 and 6, in criminal cases the jurisdiction of justices of the peace extends to the limits of their respective counties.

5. In the case of any arrest made by a member of the Nevada Highway Patrol, the jurisdiction of the justices of the peace extends to the limits of their respective counties and to the limits of all counties which have common boundaries with their respective counties.

6. Each justice court has jurisdiction of any violation of a regulation governing vehicular traffic on an airport within the township in which the court is established.

Sec. 3. NRS 5.050 is hereby amended to read as follows:

5.050 1. Municipal courts have jurisdiction of civil actions or proceedings:

(a) For the violation of any ordinance of their respective cities.

(b) To prevent or abate a nuisance within the limits of their respective cities.

2. The municipal courts have jurisdiction of all misdemeanors committed in violation of the ordinances of their respective cities. Upon approval of the district court, a municipal court may transfer original jurisdiction of a misdemeanor to the district court for the purpose of assigning an offender to a program established pursuant to NRS 176A.250 or 176A.280.

3. The municipal courts have jurisdiction of:

(a) Any action for the collection of taxes or assessments levied for city purposes, when the principal sum thereof does not exceed $2,500.

(b) Actions to foreclose liens in the name of the city for the nonpayment of those taxes or assessments when the principal sum claimed does not exceed $2,500.

(c) Actions for the breach of any bond given by any officer or person to or for the use or benefit of the city, and of any action for damages to which the city is a party, and upon all forfeited recognizances given to or for the use or benefit of the city, and upon all bonds given on appeals from the municipal court in any of the cases named in this section, when the principal sum claimed does not exceed $2,500.

(d) Actions for the recovery of personal property belonging to the city, when the value thereof does not exceed $2,500.

(e) Actions by the city for the collection of any damages, debts or other obligations when the amount claimed, exclusive of costs or attorney's fees, or both if allowed, does not exceed $2,500.

(f) Actions seeking an order pursuant to ~~[subsection 2 of]~~ NRS 441A.195.

4. Nothing contained in subsection 3 gives the municipal court jurisdiction to determine any such cause when it appears from the pleadings that the validity of any tax, assessment or levy, or title to real property, is necessarily an issue in the cause, in which case the court shall certify the cause to the district court in like manner and with the same effect as provided by law for certification of causes by justice courts.

Sec. 4. NRS 629.069 is hereby amended to read as follows:

629.069 1. A provider of health care shall disclose the results of all tests performed pursuant to NRS 441A.195 to:

(a) The person who was tested and, upon request, a member of the family of a decedent who was tested;

(b) The law enforcement officer, correctional officer, emergency medical attendant, firefighter, county coroner or medical examiner or their employee

~~[,]~~ *or volunteer,* other person who is employed by *or volunteers for* an agency of criminal justice or other public employee ~~[whose duties may require him or her to come into contact with human blood or bodily fluids]~~ *or volunteer of a public agency* who filed the petition ~~*[or made an oral statement,]*~~ or on whose behalf the petition was filed ~~*[or an oral statement was made,]*~~ pursuant to NRS 441A.195;

(c) The designated health care officer for the employer of the person *or the public agency for which the person volunteers, as* described in paragraph (b) or, if there is no designated health care officer, the person designated by the employer *or public agency* to document and verify possible exposure to contagious diseases;

(d) If the person who was tested is incarcerated or detained, the person in charge of the facility in which the person is incarcerated or detained and the chief medical officer of the facility in which the person is incarcerated or detained, if any; and

(e) A designated investigator or member of the State Board of Osteopathic Medicine during any period in which the Board is investigating the holder of a license pursuant to chapter 633 of NRS.

2. A provider of health care and an agent or employee of a provider of health care are immune from civil liability for a disclosure made in accordance with the provisions of this section.

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

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 60 to Senate Bill No. 4 removes the provisions related to seeking a court order by giving an oral statement and the process for transmitting that order to the judge or justice of the peace; authorizes a court to establish rules to allow a judge or a justice of the peace to conduct a hearing or issue an order by electronic or telephonic means; and requires any records concerning the petition for testing or proceedings on such a petition to be sealed and kept confidential.

Thank you. I urge this Body's adoption.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 7.

Bill read second time.

The following amendment was proposed by the Committee on Revenue and Economic Development.

Amendment No. 35.

"SUMMARY—Requires the Executive Director of the Department of Taxation to publish and periodically revise technical bulletins. (BDR 32-299)"

"AN ACT relating to taxation; requiring the Executive Director of the Department of Taxation to publish and periodically revise technical bulletins setting forth information relating to the taxes administered by the Department ~~[;]~~ and certain written opinions received from the Attorney General;

exempting such technical bulletins from the Nevada Administrative Procedure Act; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 1 of this bill requires the Executive Director of the Department of Taxation to prepare, publish and periodically revise technical bulletins that provide information to the public about issues relating to those taxes and any other tax specified by the Executive Director.]~~ Existing law creates the Department of Taxation and authorizes the Department to exercise general supervision and control over the revenue system of this State. The Executive Director of the Department is its Chief Administrative Officer. (NRS 360.120, 360.200) Existing law also requires the Attorney General, when requested by the head of any state department, agency, board or commission, to give his or her written opinion on any question of law relating to the respective office, department, agency, board or commission. (NRS 228.150) Section 1 of this bill requires the Executive Director to prepare, publish and periodically revise technical bulletins to educate the public on: (1) issues relating to businesses and taxes administered by the Department; and (2) written opinions that the Executive Director receives from the Attorney General. Section 2 of this bill exempts such technical bulletins from the provisions of the Nevada Administrative Procedure Act governing administrative regulations so that the technical bulletins can be approved and posted without being drafted, reviewed and adopted in the manner required for administrative regulations.

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

Section 1. Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Executive Director shall prepare or cause to be prepared technical bulletins to educate the public on ~~[issues]~~ :

(a) Issues related to their businesses and the taxes administered by the Department ~~[.]~~ ; and

(b) Written opinions that the Executive Director receives from the Attorney General pursuant to NRS 228.150.

2. The technical bulletins must be written in simple nontechnical language and may include:

(a) Information and guidance concerning specific issues or topics;

(b) Examples for clarification purposes; and

(c) Any other information determined by the Executive Director or Nevada Tax Commission to be beneficial to the public.

~~[2.]~~ 3. A technical bulletin must not include advice on a specific fact situation but may include information that is applicable to a specific industry or type of business.

~~[3.]~~ 4. The technical bulletins must be published and revised as needed. Each bulletin and revised bulletin must be published and posted on an

Internet website maintained by the Department and made available upon request at the offices of the Department.

~~[4.]~~ *5. Any technical bulletin published or revised pursuant to this section is intended for informational purposes only.*

~~[5.]~~ *6. The Executive Director shall submit each proposed technical bulletin and any revisions to a bulletin to the Nevada Tax Commission for approval before publishing the bulletin or revised bulletin.*

Sec. 2. NRS 233B.038 is hereby amended to read as follows:

233B.038 1. "Regulation" means:

(a) An agency rule, standard, directive or statement of general applicability which effectuates or interprets law or policy, or describes the organization, procedure or practice requirements of any agency;

(b) A proposed regulation;

(c) The amendment or repeal of a prior regulation; and

(d) The general application by an agency of a written policy, interpretation, process or procedure to determine whether a person is in compliance with a federal or state statute or regulation in order to assess a fine, monetary penalty or monetary interest.

2. The term does not include:

(a) A statement concerning only the internal management of an agency and not affecting private rights or procedures available to the public;

(b) A declaratory ruling;

(c) An intraagency memorandum;

(d) A manual of internal policies and procedures or audit procedures of an agency which is used solely to train or provide guidance to employees of the agency and which is not used as authority in a contested case to determine whether a person is in compliance with a federal or state statute or regulation;

(e) An agency decision or finding in a contested case;

(f) An advisory opinion issued by an agency that is not of general applicability;

(g) A published opinion of the Attorney General;

(h) An interpretation of an agency that has statutory authority to issue interpretations;

(i) Letters of approval, concurrence or disapproval issued in relation to a permit for a specific project or activity;

(j) A contract or agreement into which an agency has entered;

(k) The provisions of a federal law, regulation or guideline;

(l) An emergency action taken by an agency that is necessary to protect public health and safety;

(m) The application by an agency of a policy, interpretation, process or procedure to a person who has sufficient prior actual notice of the policy, interpretation, process or procedure to determine whether the person is in compliance with a federal or state statute or regulation in order to assess a fine, monetary penalty or monetary interest;

(n) A regulation concerning the use of public roads or facilities which is indicated to the public by means of signs, signals and other traffic-control devices that conform with the manual and specifications for a uniform system of official traffic-control devices adopted pursuant to NRS 484A.430; ~~[or]~~

(o) The classification of wildlife or the designation of seasons for hunting, fishing or trapping by regulation of the Board of Wildlife Commissioners pursuant to the provisions of title 45 of NRS ~~[.]~~ *; or*

(p) A technical bulletin prepared pursuant to section 1 of this act.

Sec. 3. This act becomes effective upon passage and approval.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 35 to Senate Bill No. 7 specifies that a technical bulletin pursuant to this bill must be published for any written opinions the Department of Taxation receives from the Attorney General. Under current law, the prohibitions of Section 150 of Chapter 228 of *Nevada Revised Statutes* govern the Attorney General and require written opinions to be provided to any Executive Branch agency upon request.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 22.

Bill read second time.

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

Amendment No. 17.

"SUMMARY—Makes various changes relating to the Office of the Attorney General. (BDR 18-213)"

"AN ACT relating to the Office of the Attorney General; requiring the Office of the Attorney General to be provided with a copy of certain court rulings and to provide an index of those rulings to the Legislative Counsel biennially; ~~[authorizing]~~ requiring the Office of the Attorney General and certain other governmental entities to enter into a cooperative agreement with the Office of the State Controller for the collection of certain restitution ~~[owed to the Attorney General;]~~ related to the expenses of extradition; authorizing the establishment of a program to prevent certain criminal offenders and persons charged with a crime from obtaining or using a United States passport; ~~[requiring prosecuting attorneys to provide to the Office of the Attorney General copies of judgments of conviction for abuse, neglect, exploitation or isolation of an older person or a vulnerable person;]~~ clarifying the term "state agency" as it relates to agencies required to deposit money in the Fund for Insurance Premiums; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a court, in certain circumstances, to order a person who was extradited to this State to make restitution for the expenses incurred by the Attorney General or any other governmental entity in returning the

person to this State. (NRS 179.225) Section 8 of this bill provides that ~~[if a court orders a person to make such restitution, the district attorney is required to provide the Office of the Attorney General with a copy of the order within 30 days after the entry of the order. Section 3 of this bill authorizes]~~ the Office of the Attorney General ~~[to]~~ and any other governmental entity to which such restitution is owed must enter into a cooperative agreement with the Office of the State Controller under which the Office of the State Controller ~~[for the collection of]~~ will act as the collection agent for any such restitution. ~~[owed to the Attorney General.~~

~~Existing law prohibits a person from abusing, neglecting, exploiting or isolating an older person or a vulnerable person, or from conspiring with another person to commit abuse, exploitation or isolation of an older person or a vulnerable person. (NRS 200.5099, 200.50995) Section 9 of this bill provides that if a person is found guilty of any such act, the prosecuting attorney is required to provide a copy of the judgment of conviction to the Office of the Attorney General within 30 days after the entry of the judgment.]~~

Existing law requires each state agency to deposit certain amounts of money into the Fund for Insurance Premiums, which is maintained in part for use by the Attorney General. (NRS 331.187) Section 14 of this bill clarifies that a part-time or full-time board, commission or similar body of the State which is created by law is required to make such a deposit.

Section 4 of this bill authorizes the Office of the Extradition Coordinator within the Office of the Attorney General to establish a program that assists prosecuting attorneys and law enforcement officers in this State in coordinating with the United States Department of State to prevent criminal offenders and certain persons charged with a crime from obtaining or using a United States passport. Section 4 also authorizes the Attorney General to adopt regulations relating to such a program.

Section 5 of this bill provides that if the Nevada Supreme Court holds that a provision of the Nevada Constitution or the Nevada Revised Statutes violates a provision of the Nevada Constitution or the United States Constitution, the ~~[reporters of decisions]~~ prevailing party in the proceeding must provide a copy of the ruling to the Office of the Attorney General. Sections 6 and 7 of this bill apply this requirement to the ~~[clerks of the district courts and justice courts, respectively, if]~~ prevailing party in a proceeding in which a district court or justice court holds that any such provision is unconstitutional. Section 2 of this bill requires the Office of the Attorney General to provide to the Legislative Counsel an index of all rulings it receives pursuant to sections 5-7 on or before September 1 of each even numbered year.

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

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

Sec. 2. *On or before September 1 of each even-numbered year, the Office of the Attorney General shall provide to the Legislative Counsel an index of all court rulings it has received pursuant to sections 5, 6 and 7 of this act during the immediately preceding 2-year period.*

Sec. 3. ~~*[The Office of the Attorney General may enter into a cooperative agreement with the Office of the State Controller pursuant to NRS 353.650 for the collection of any restitution for expenses related to extradition that a court orders a person to make to the Attorney General pursuant to NRS 179.225.]*~~ (Deleted by amendment.)

Sec. 4. *1. The Office of the Extradition Coordinator within the Office of the Attorney General may establish a program that assists prosecuting attorneys and law enforcement officers in this State in coordinating with the United States Department of State to prevent criminal offenders or persons charged with a crime who are subject to court-ordered restrictions on international travel from obtaining or using a United States passport.*

2. The Attorney General may adopt regulations to carry out the provisions of this section.

Sec. 5. Chapter 2 of NRS is hereby amended by adding thereto a new section to read as follows:

If the Supreme Court holds that a provision of the Nevada Constitution or the Nevada Revised Statutes violates a provision of the Nevada Constitution or the United States Constitution, the ~~*[reporters of decisions]*~~ *prevailing party in the proceeding shall provide a copy of the ruling to the Office of the Attorney General.*

Sec. 6. Chapter 3 of NRS is hereby amended by adding thereto a new section to read as follows:

If a district court holds that a provision of the Nevada Constitution or the Nevada Revised Statutes violates a provision of the Nevada Constitution or the United States Constitution, the ~~*[clerk of the court]*~~ *prevailing party in the proceeding shall provide a copy of the ruling to the Office of the Attorney General.*

Sec. 7. Chapter 4 of NRS is hereby amended by adding thereto a new section to read as follows:

If a justice court holds that a provision of the Nevada Constitution or the Nevada Revised Statutes violates a provision of the Nevada Constitution or the United States Constitution, the ~~*[clerk of the court]*~~ *prevailing party in the proceeding shall provide a copy of the ruling to the Office of the Attorney General.*

Sec. 8. NRS 179.225 is hereby amended to read as follows:

179.225 1. If the punishment of the crime is the confinement of the criminal in prison, the expenses must be paid from money appropriated to the Office of the Attorney General for that purpose, upon approval by the State Board of Examiners. After the appropriation is exhausted, the expenses must be paid from the Reserve for Statutory Contingency Account upon approval by the State Board of Examiners. In all other cases, they must be paid out of

the county treasury in the county wherein the crime is alleged to have been committed. The expenses are:

(a) If the prisoner is returned to this State from another state, the fees paid to the officers of the state on whose governor the requisition is made;

(b) If the prisoner is returned to this State from a foreign country or jurisdiction, the fees paid to the officers and agents of this State or the United States; or

(c) If the prisoner is temporarily returned for prosecution to this State from another state pursuant to this chapter or chapter 178 of NRS and is then returned to the sending state upon completion of the prosecution, the fees paid to the officers and agents of this State,

➥ and the per diem allowance and travel expenses provided for state officers and employees generally incurred in returning the prisoner.

2. If a person is returned to this State pursuant to this chapter or chapter 178 of NRS and is convicted of, or pleads guilty, guilty but mentally ill or nolo contendere to, the criminal charge for which the person was returned or a lesser criminal charge, the court shall conduct an investigation of the financial status of the person to determine the ability to make restitution. In conducting the investigation, the court shall determine if the person is able to pay any existing obligations for:

(a) Child support;

(b) Restitution to victims of crimes; and

(c) Any administrative assessment required to be paid pursuant to NRS 62E.270, 176.059, 176.0611, 176.0613 and 176.062.

3. If the court determines that the person is financially able to pay the obligations described in subsection 2, it shall, in addition to any other sentence it may impose, order the person to make restitution for the expenses incurred by the Attorney General or other governmental entity in returning the person to this State. The court shall not order the person to make restitution if payment of restitution will prevent the person from paying any existing obligations described in subsection 2. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of the completion of the sentence.

4. ~~*[If the court orders a person to make restitution for the expenses incurred by the Attorney General in returning the person to this State pursuant to subsection 3, the district attorney shall provide a copy of the order to the]*~~ *The Office of the Attorney General* ~~*[within 30 days after the entry of the order.]*~~ *and any other governmental entity to which restitution is ordered to be made pursuant to this section shall enter into a cooperative agreement with the Office of the State Controller pursuant to NRS 353.650 for the collection of any restitution which a court orders a person to make pursuant to this section.*

5. The Attorney General may adopt regulations to carry out the provisions of this section.

Sec. 9. ~~[Chapter 200 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*If a person is found guilty of abusing, neglecting, exploiting or isolating an older person or a vulnerable person in violation of NRS 200.5099 or of conspiring with another to commit abuse, exploitation or isolation of an older person or a vulnerable person in violation of NRS 200.50995, the prosecuting attorney shall provide a copy of the judgment of conviction to the Office of the Attorney General within 30 days after the entry of the judgment.*~~*]* (Deleted by amendment.)

Sec. 10. ~~[NRS 200.5092 is hereby amended to read as follows:~~

~~200.5092 As used in NRS 200.5091 to 200.50995, inclusive, *and section 9 of this act,* unless the context otherwise requires:~~

~~1. "Abuse" means willful and unjustified:~~

~~(a) Infliction of pain, injury or mental anguish on an older person or a vulnerable person; or~~

~~(b) Deprivation of food, shelter, clothing or services which are necessary to maintain the physical or mental health of an older person or a vulnerable person.~~

~~2. "Exploitation" means any act taken by a person who has the trust and confidence of an older person or a vulnerable person or any use of the power of attorney or guardianship of an older person or a vulnerable person to:~~

~~(a) Obtain control, through deception, intimidation or undue influence, over the older person's or vulnerable person's money, assets or property with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of his or her money, assets or property; or~~

~~(b) Convert money, assets or property of the older person or vulnerable person with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of his or her money, assets or property.~~

~~➥ As used in this subsection, "undue influence" does not include the normal influence that one member of a family has over another.~~

~~3. "Isolation" means willfully, maliciously and intentionally preventing an older person or a vulnerable person from having contact with another person by:~~

~~(a) Intentionally preventing the older person or vulnerable person from receiving visitors, mail or telephone calls, including, without limitation, communicating to a person who comes to visit the older person or vulnerable person or a person who telephones the older person or vulnerable person that the older person or vulnerable person is not present or does not want to meet with or talk to the visitor or caller knowing that the statement is false, contrary to the express wishes of the older person or vulnerable person and intended to prevent the older person or vulnerable person from having contact with the visitor; or~~

~~(b) Physically restraining the older person or vulnerable person to prevent the older person or vulnerable person from meeting with a person who comes to visit the older person or vulnerable person.~~

~~➡ The term does not include an act intended to protect the property or physical or mental welfare of the older person or vulnerable person or an act performed pursuant to the instructions of a physician of the older person or vulnerable person.~~

~~4. "Neglect" means the failure of:~~

~~(a) A person who has assumed legal responsibility or a contractual obligation for caring for an older person or a vulnerable person or who has voluntarily assumed responsibility for his or her care to provide food, shelter, clothing or services which are necessary to maintain the physical or mental health of the older person or vulnerable person; or~~

~~(b) An older person or a vulnerable person to provide for his or her own needs because of inability to do so.~~

~~5. "Older person" means a person who is 60 years of age or older.~~

~~6. "Protective services" means services the purpose of which is to prevent and remedy the abuse, neglect, exploitation and isolation of older persons. The services may include investigation, evaluation, counseling, arrangement and referral for other services and assistance.~~

~~7. "Vulnerable person" means a person 18 years of age or older who:~~

~~(a) Suffers from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness; or~~

~~(b) Has one or more physical or mental limitations that restrict the ability of the person to perform the normal activities of daily living.~~] (Deleted by amendment.)

Sec. 11. ~~[NRS 200.50925 is hereby amended to read as follows:~~

~~200.50925 For the purposes of NRS 200.5091 to 200.50995, inclusive,~~ *and section 9 of this act,* a person:

~~1. Has "reasonable cause to believe" if, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, a reasonable person would believe, under those facts and circumstances, that an act, transaction, event, situation or condition exists, is occurring or has occurred.~~

~~2. Acts "as soon as reasonably practicable" if, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, a reasonable person would act within approximately the same period under those facts and circumstances.~~] (Deleted by amendment.)

Sec. 12. ~~[NRS 200.5096 is hereby amended to read as follows:~~

~~200.5096 Immunity from civil or criminal liability extends to every person who, pursuant to NRS 200.5091 to 200.50995, inclusive,~~ *and section 9 of this act,* in good faith:

~~1. Participates in the making of a report;~~

~~2. Causes or conducts an investigation of alleged abuse, neglect, exploitation or isolation of an older person or a vulnerable person; or~~

~~3. Submits information contained in a report to a licensing board pursuant to subsection 4 of NRS 200.5095.]~~ (Deleted by amendment.)

Sec. 13. ~~[NRS 200.5099 is hereby amended to read as follows:~~

~~200.5099 1. Except as otherwise provided in subsection 6, any person who abuses an older person or a vulnerable person is guilty:~~

~~(a) For the first offense, of a gross misdemeanor; or~~

~~(b) For any subsequent offense or if the person has been previously convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct, of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 6 years, unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse.~~

~~2. Except as otherwise provided in subsection 7, any person who has assumed responsibility, legally, voluntarily or pursuant to a contract, to care for an older person or a vulnerable person and who:~~

~~(a) Neglects the older person or vulnerable person, causing the older person or vulnerable person to suffer physical pain or mental suffering;~~

~~(b) Permits or allows the older person or vulnerable person to suffer unjustifiable physical pain or mental suffering; or~~

~~(c) Permits or allows the older person or vulnerable person to be placed in a situation where the older person or vulnerable person may suffer physical pain or mental suffering as the result of abuse or neglect,~~

~~→ is guilty of a gross misdemeanor unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse or neglect.~~

~~3. Except as otherwise provided in subsection 4, any person who exploits an older person or a vulnerable person shall be punished, if the value of any money, assets and property obtained or used:~~

~~(a) Is less than $650, for a misdemeanor by imprisonment in the county jail for not more than 1 year, or by a fine of not more than $2,000, or by both fine and imprisonment;~~

~~(b) Is at least $650, but less than $5,000, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, or by a fine of not more than $10,000, or by both fine and imprisonment; or~~

~~(c) Is $5,000 or more, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years, or by a fine of not more than $25,000, or by both fine and imprisonment,~~

~~→ unless a more severe penalty is prescribed by law for the act which brought about the exploitation. The monetary value of all of the money, assets and property of the older person or vulnerable person which have been~~

~~obtained or used, or both, may be combined for the purpose of imposing punishment for an offense charged pursuant to this subsection.~~

~~4. If a person exploits an older person or a vulnerable person and the monetary value of any money, assets and property obtained cannot be determined, the person shall be punished for a gross misdemeanor by imprisonment in the county jail for not more than 1 year, or by a fine of not more than $2,000, or by both fine and imprisonment.~~

~~5. Any person who isolates an older person or a vulnerable person is guilty:~~

~~(a) For the first offense, of a gross misdemeanor; or~~

~~(b) For any subsequent offense, of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $5,000.~~

~~6. A person who violates any provision of subsection 1, if substantial bodily or mental harm or death results to the older person or vulnerable 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 2 years and a maximum term of not more than 20 years, unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse.~~

~~7. A person who violates any provision of subsection 2, if substantial bodily or mental harm or death results to the older person or vulnerable person, shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 6 years, unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse or neglect.~~

~~8. In addition to any other penalty imposed against a person for a violation of any provision of NRS 200.5091 to 200.50995, inclusive, *and section 9 of this act,* the court shall order the person to pay restitution.~~

~~9. As used in this section:~~

~~(a) "Allow" means to take no action to prevent or stop the abuse or neglect of an older person or a vulnerable person if the person knows or has reason to know that the older person or vulnerable person is being abused or neglected.~~

~~(b) "Permit" means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care and custody of an older person or a vulnerable person.~~

~~(c) "Substantial mental harm" means an injury to the intellectual or psychological capacity or the emotional condition of an older person or a vulnerable person as evidenced by an observable and substantial impairment of the ability of the older person or vulnerable person to function within his or her normal range of performance or behavior.~~] (Deleted by amendment.)

Sec. 14. NRS 331.187 is hereby amended to read as follows:

331.187 1. There is created in the State Treasury the Fund for Insurance Premiums as an internal service fund to be maintained for use by

the Risk Management Division of the Department of Administration and the Attorney General.

2. Each state agency shall deposit in the Fund:

(a) An amount equal to its insurance premium and other charges for potential liability, self-insured claims, other than self-insured tort claims, and administrative expenses, as determined by the Risk Management Division; and

(b) An amount for self-insured tort claims and expenses related to those claims, as determined by the Attorney General.

3. Each county shall deposit in the Fund an assessment for the employees of the district court of that county, excluding district judges, unless the county enters into a written agreement with the Attorney General to:

(a) Hold the State of Nevada harmless and assume liability and costs of defense for the employees of the district court;

(b) Reimburse the State of Nevada for any liability and costs of defense that the State of Nevada incurs for the employees of the district court; or

(c) Include the employees of the district court under the county's own insurance or other coverage.

4. Expenditures from the Fund must be made by the Risk Management Division or the Attorney General to an insurer for premiums of state agencies as they become due or for deductibles, self-insured property and tort claims or claims pursuant to NRS 41.0349. If the money in the Fund is insufficient to pay a tort claim, it must be paid from the Reserve for Statutory Contingency Account.

5. As used in this section ~~[, "assessment"]~~ *:*

(a) "Assessment" means an amount determined by the Risk Management Division and the Attorney General to be equal to the share of a county for:

~~[(a)]~~ *(1)* Applicable insurance premiums;

~~[(b)]~~ *(2)* Other charges for potential liability and tort claims; and

~~[(c)]~~ *(3)* Expenses related to tort claims.

(b) "State agency" includes, without limitation, a part-time or full-time board, commission or similar body of the State which is created by law.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

Thank you, Mr. President. Amendment No. 17 to Senate Bill No. 22 deletes Sections 9, 10, 11 and 12 of the bill, removing the requirement that a prosecuting attorney provide to the Office of the Attorney General a copy of the judgment of conviction of a person who was found guilty of abusing, neglecting, exploiting or isolating an older person or vulnerable person.

Amendment No. 17 removes the requirement in Section 8 of the bill that if a court orders a person to make restitution for extradition expenses incurred by the Attorney General in returning the person to the State, the district attorney is required to provide the Attorney General with a copy of the order.

The amendment further requires the State Controller to collect restitution for extradition expenses unless the payment of extradition expenses will prevent the person from paying existing obligations for child support or restitution to the victims of crimes.

Finally, as written, Sections 6 and 7 of the amended bill provide that if a district court or justice court holds that a provision of the *Nevada Constitution* or *Nevada Revised Statutes*

violates a provision of the *Nevada Constitution* or *United States Constitution*, the clerk of the court must provide a copy of the ruling to the Attorney General. The amendment requires instead that the prevailing party must serve the court's order upon the Attorney General.

Please note all of these changes have been agreed to as the result of consultations between the courts, district attorneys and the Attorney General.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 35.

Bill read second time.

The following amendment was proposed by the Committee on Commerce, Labor and Energy.

Amendment No. 8.

"SUMMARY—Makes various changes concerning the Employment Security Division of the Department of Employment, Training and Rehabilitation. (BDR 53-372)"

"AN ACT relating to employment; eliminating obsolete references to certain administrative subdivisions within the Employment Security Division of the Department of Employment, Training and Rehabilitation; ~~[prohibiting county recorders from charging certain fees to the Division;]~~ requiring the Administrator of the Division to charge certain fees to employers under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law includes various references describing the Unemployment Compensation Service and the State Employment Service as administrative subdivisions within the Employment Security Division of the Department of Employment, Training and Rehabilitation. (NRS 612.210, 612.215, 612.260, 612.265, 612.330, 612.392, 612.630, 612.645) Sections 1-7 and 9 of this bill eliminate those references because they no longer accurately describe the administrative organization of the Division and are therefore obsolete.

Existing law authorizes the Division to bring civil actions to collect amounts owed to the Division. (NRS 612.625-612.640) Existing law also provides that no costs or filing fees may be charged to the State in any such action ~~[.]~~ , but does not specifically provide that no fees for recording, copying or certifying documents may be charged to the State. (NRS 612.645) Section 7 of this bill ~~[extends this exemption to include fees]~~ requires the Administrator of the Division to charge to the employer against whom such an action is brought an additional fee to defray the cost for recording, copying or certifying documents in such actions. Section 7 also provides that the additional fee must be charged to the employer in accordance with the fees otherwise charged by county recorders for such services and that the additional fee must be paid into the Unemployment Compensation Administration Fund.

~~[Under existing law, county recorders are prohibited from charging the State for certain services, such as the recording of liens or notices of the pendency of certain legal actions, but are required to charge and collect their~~

~~regular fees for copying, certifying or sealing documents at the request of the State. (NRS 247.305) Section 8 of this bill prohibits county recorders from charging or collecting from the Division any fees, including fees for copying, certifying or sealing documents, in connection with civil actions to collect money owed to the Division.]~~

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

Section 1. NRS 612.215 is hereby amended to read as follows:

612.215 1. The Division is administered by a full-time salaried Administrator, who is appointed by the Director of the Department of Employment, Training and Rehabilitation and who serves at the pleasure of the Director.

2. The Administrator:

(a) Is in the unclassified service of the State.

(b) Has full administrative authority with respect to the operation and functions of the ~~[Unemployment Compensation Service and the State Employment Service.]~~ *Division.*

(c) Except as otherwise provided in NRS 284.143, shall devote his or her entire time and attention to the business of his or her office and shall not pursue any other business or occupation or hold any other office of profit.

Sec. 2. NRS 612.260 is hereby amended to read as follows:

612.260 1. Each employing unit shall keep true and accurate work records, containing such information as the Administrator may prescribe. Such records must be open to inspection and may be copied by the Administrator or the Administrator's authorized representatives or the Department of Taxation at any reasonable time and as often as may be necessary.

2. The Administrator, the Board of Review, or any Appeal Tribunal may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the Administrator or the Board of Review deems necessary for the effective administration of this chapter.

3. Except as limited by this subsection, the Administrator may:

(a) Destroy any letter of the ~~[Unemployment Compensation Service or Employment Service]~~ *Division* and any form, benefit determination or redetermination, ruling, employer's status or contribution report, wage slip report, claim record, wage list or any auxiliary computer file related thereto at the expiration of 4 years after the record was originated or filed with the ~~[Service;]~~ *Division;* or

(b) Destroy such records at any time after having microfilmed them in the manner and on film or paper that complies with the minimum standards of quality approved for such microfilmed records by the American National Standards Institute. The microfilmed records must be retained for not less than 4 years.

➥ This subsection does not apply to records pertaining to grants, accounts or expenditures for administration, or to the records of the Unemployment Compensation Administration Fund.

Sec. 3. NRS 612.265 is hereby amended to read as follows:

612.265 1. Except as otherwise provided in this section and NRS 239.0115, 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 ~~[Employment Service]~~ *Division* 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 the 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 this chapter 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 this chapter 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. 4. NRS 612.330 is hereby amended to read as follows:

612.330 1. The Administrator shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this chapter and for the purposes of performing such duties as are within the purview of the Wagner-Peyser Act, being c. 49, 48 Stat. 113, approved June 6, 1933, as amended, and entitled "An Act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes," and also designated as 29 U.S.C. §§ 49 et seq.

2. The provisions of the Wagner-Peyser Act, as amended, are hereby accepted by this State in conformity with 29 U.S.C. § 49c, and this State will observe and comply with the requirements thereof.

3. The Administrator shall cooperate with any official or agency of the United States having powers or duties under the provisions of the Wagner-Peyser Act, as amended, and shall do and perform all things necessary to secure to this State the benefits of the Wagner-Peyser Act, as amended, in the promotion and maintenance of a system of public

employment offices. The Division is hereby designated and constituted the agency of this State for the purposes of the Wagner-Peyser Act, as amended.

4. All money received by this State under the Wagner-Peyser Act, as amended, must be paid into the Unemployment Compensation Administration Fund, and is hereby made available to the Administrator ~~[for the Nevada State Employment Service,]~~ to be expended as provided by this chapter and by the Wagner-Peyser Act, as amended.

5. For the purpose of establishing and maintaining free public employment offices, the Administrator is authorized to enter into agreements with the Railroad Retirement Board, or any other agency of the United States charged with the administration of an unemployment compensation law, with any political subdivision of this State, or with any private nonprofit organizations, and as a part of any such agreement the Administrator may accept money, services or quarters as a contribution to the Unemployment Compensation Administration Fund.

Sec. 5. NRS 612.392 is hereby amended to read as follows:

612.392 1. Except as otherwise provided in subsection 4, a person is not eligible to receive extended benefits for any week of unemployment in the person's eligibility period if the Administrator finds that during the period he or she failed to:

(a) Accept an offer of suitable work or failed to apply for any suitable work to which he or she was referred by the Administrator;

(b) Actively engage in a systematic and sustained effort to obtain work; or

(c) Furnish tangible evidence that he or she had made such efforts.

2. Any person found ineligible for extended benefits pursuant to subsection 1 must also be denied benefits, beginning with the first day of the week after the week in which the person was found ineligible, until he or she has been subsequently employed for 4 weeks and has earned wages equal to not less than four times the weekly amount of the extended benefit.

3. As used in this section, "suitable work" means any work which is within the person's capabilities and for which the gross average weekly wage:

(a) Exceeds the sum of:

(1) The amount, if any, of supplemental unemployment benefits (as defined in 26 U.S.C. § 501) payable to the person for the week; and

(2) The person's weekly amount of extended benefits as determined pursuant to NRS 612.3776; and

(b) Is not less than the higher of:

(1) The minimum wage provided in 29 U.S.C. § 206, without regard to any exemption; or

(2) Any applicable state minimum wage.

4. No person may be denied extended benefits for failure to apply for or accept suitable work if:

(a) The position was not offered to the person in writing or was not listed with the ~~[Employment Service;]~~ *Division;*

(b) The failure does not result in a denial of benefits pursuant to NRS 612.390 to the extent that the criteria for suitability in that section are not inconsistent with the provisions of this section; or

(c) The person furnishes evidence satisfactory to the Administrator that the person's prospects for obtaining work in his or her customary occupation within a reasonably short period are good. If the evidence is deemed satisfactory, the determination of whether work is suitable for the person must be made pursuant to NRS 612.390.

5. The Administrator shall refer any person entitled to extended benefits to any available suitable work.

Sec. 6. NRS 612.630 is hereby amended to read as follows:

612.630 1. In addition to or independently of the remedy by civil action provided in NRS 612.625, the Administrator, or the Administrator's authorized representative, after giving to any employer who defaults in any payment of contributions, interest or forfeit provided by this chapter 15 days' notice by registered or certified mail, addressed to the employer's last known place of business or address, may file in the office of the clerk of the district court in the county in which the employer has his or her principal place of business, or if there is no such principal place of business, then in Carson City, a certificate, which need not be verified, but which must specify the amount of contribution, interest and forfeit due, the name and last known place of business of the employer liable for the same, and which must contain a statement that the ~~[Unemployment Compensation Service]~~ *Division* has complied with all the provisions of this chapter in relation to the computation and levy of the contribution, together with the request that judgment be entered for the State of Nevada, and against the employer named, in the amount of the contribution, interest and forfeit set forth in the certificate.

2. Within the 15-day period, the employer may pay the amount specified in such notice, under protest, to the Administrator, and thereupon has the right to initiate, within 60 days following such payment, and to maintain his or her action against the ~~[Unemployment Compensation Service]~~ *Division* for a refund of all or any part of any such amount and to recover so much thereof as may have been erroneously assessed or paid. Such an action by the employer must be commenced and maintained in the district court in the county wherein is located the principal place of business of the employer. In the event of entry of judgment for the employer, the ~~[Unemployment Compensation Service]~~ *Division* shall promptly refund such sum without interest as may be determined by the court.

3. If no such payment under protest is made as provided in subsection 2, upon filing the certificate as provided in subsection 1, the clerk of the district court shall immediately enter a judgment in favor of the ~~[Unemployment Compensation Service]~~ *Division* and against the employer in the amount of the contributions, interest and forfeit set forth in the certificate.

Sec. 7. NRS 612.645 is hereby amended to read as follows:

612.645 1. In all proceedings under NRS 612.625 to 612.640, inclusive, the ~~[Unemployment Compensation Service]~~ *Division* shall be authorized to act in its name on behalf of the State of Nevada.

2. No costs or ~~*[fees, including, without limitation,]*~~ filing fees ~~*[and fees for recording, copying or certifying documents,]*~~ shall be charged to the State of Nevada in any proceedings brought under any provision of NRS 612.625 to 612.640, inclusive, nor shall any bond or undertaking be required of the State of Nevada, either in proceedings in the district court or on appeal to the Supreme Court.

3. In any proceedings brought under any provision of NRS 612.625 to 612.640, inclusive, the Administrator shall charge to the employer against whom the proceeding is brought an additional fee to defray the cost for recording, copying or certifying documents, as applicable. Any such fee must be:

(a) Charged to the employer in accordance with the fees set forth in NRS 247.305; and

(b) Paid into the Unemployment Compensation Administration Fund.

Sec. 8. ~~[NRS 247.305 is hereby amended to read as follows:~~

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

~~(a) For recording any document, for the first page, $10.~~

~~(b) For each additional page, $1.~~

~~(c) For recording each portion of a document which must be separately indexed, after the first indexing, $3.~~

~~(d) For copying any record, for each page, $1.~~

~~(e) For certifying, including certificate and seal, $4.~~

~~(f) For a certified copy of a certificate of marriage, $10.~~

~~(g) For a certified abstract of a certificate of marriage, $10.~~

~~(h) For a certified copy of a certificate of marriage or for a certified abstract of a certificate of marriage, the additional sum of $5 for the Account for Aid for Victims of Domestic Violence in the State General Fund. The fees collected for this purpose must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and must be credited to that Account. The county treasurer shall, on or before the 15th day of each month, remit those fees deposited by the recorder to the State Controller for credit to that Account.~~

~~2. Except as otherwise provided in this subsection and NRS 375.060, a county recorder may charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee not to exceed $3 for recording a document, instrument, paper, notice, deed, conveyance, map, chart, survey or any other writing. A county recorder may not charge the additional fee authorized in this subsection for recording the originally signed copy of a certificate of marriage described in NRS 122.120.~~

~~On or before the fifth day of each month, the county recorder shall pay the amount of fees collected by him or her pursuant to this subsection to the county treasurer for credit to the account established pursuant to NRS 247.306.~~

~~3. Except as otherwise provided in this subsection and NRS 375.060, a county recorder shall charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee of $1 for recording a document, instrument, paper, notice, deed, conveyance, map, chart, survey or any other writing. A county recorder shall not charge the additional fee authorized in this subsection for recording the originally signed copy of a certificate of marriage described in NRS 122.120. On or before the fifth day of each month, the county recorder shall pay the amount of fees collected by him or her pursuant to this subsection to the county treasurer. On or before the 15th day of each month, the county treasurer shall remit the money received by him or her pursuant to this subsection to the State Treasurer for credit to the Account to Assist Persons Formerly in Foster Care established pursuant to NRS 432.017.~~

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

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

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

~~(a) The county in which the county recorder's office is located.~~

~~(b) The State of Nevada or any city or town within the county in which the county recorder's office is located, if the document being recorded:~~

~~(1) Conveys to the State, or to that city or town, an interest in land;~~

~~(2) Is a mortgage or deed of trust upon lands within the county which names the State or that city or town as beneficiary;~~

~~(3) Imposes a lien in favor of the State or that city or town;~~ [or]

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

~~*(5) Concerns any proceeding brought by the Employment Security Division of the Department of Employment, Training and Rehabilitation under any provision of NRS 612.625 to 612.640, inclusive.*~~

~~7. [A]~~ ~~*Except as otherwise provided in NRS 612.645, a*~~ ~~county recorder shall charge and collect the fees specified in this section for copying any document at the request of the State of Nevada, and any city or town within the county. For copying, and for his or her certificate and seal upon the copy, the county recorder shall charge the regular fee.~~

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

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

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

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

~~10. For the purposes of this section, "State of Nevada," "county," "city" and "town" include any department or agency thereof and any officer thereof in his or her official capacity.~~] (Deleted by amendment.)

Sec. 9. NRS 612.210 is hereby repealed.

Sec. 10. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

612.210 Unemployment Compensation Service and State Employment Service created within Employment Security Division of Department of Employment, Training and Rehabilitation. The functions exercised by the Nevada Unemployment Compensation Division and the Nevada State Employment Service Division before March 20, 1941, shall be exercised, after March 20, 1941, by the Unemployment Compensation Service and the State Employment Service, which services are hereby created within the Division.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

Thank you, Mr. President. Amendment No. 8 to Senate Bill No. 35 requires the Administrator of the Employment Security Division to charge the employer for which the judgment pertains for fees to defray the cost for recording, copying or certifying documents in such actions, and

requires that the additional fee must be charged to the employer in accordance with the fee charged by county recorders for such services and the additional fee must be paid into the Unemployment Compensation Administration Fund.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 51.

Bill read second time.

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

Amendment No. 56.

"SUMMARY—Makes various changes relating to the regulation of certain nonmedical and medical services provided to persons with disabilities. (BDR 40-309)"

"AN ACT relating to public welfare; transferring the powers and duties concerning the certification and regulation of intermediary service organizations from the Aging and Disability Services Division of the Department of Health and Human Services to the Health Division of the Department; transferring the regulatory authority relating to intermediary service organizations from the Aging and Disability Services Division to the State Board of Health; authorizing the provision of certain medical services to persons with disabilities by an agency to provide personal care services in the home under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Aging and Disability Services Division of the Department of Health and Human Services to carry out and administer the certification of intermediary service organizations. (NRS 427A.0291, 427A.701-427A.745) Existing law further requires the Division to adopt regulations governing the: (1) certification of intermediary service organizations; (2) imposition of administrative sanctions for violations related to such certification; and (3) procedures for appealing the imposition of disciplinary action or administrative sanctions. (NRS 427A.727, 427A.731, 427A.733) Section 36 of this bill repeals the provisions governing the certification and regulation of intermediary service organizations by the Division. Sections 2-25 of this bill transfer the powers and duties concerning carrying out and administering the certification of intermediary service organizations from the Aging and Disability Services Division of the Department of Health and Human Services to the Health Division of the Department. Sections 16, 18 and 19 also transfer the duty to adopt regulations governing intermediary service organizations from the Aging and Disability Services Division to the State Board of Health. Section 4 excludes a person who is licensed to operate an agency to provide personal care services in the home from the requirement of obtaining a certificate to operate an intermediary service organization.

Existing law provides that certain providers of health care may, under certain circumstances, authorize a person to act as a personal assistant to perform specific medical, nursing or home health services for a person with a disability without obtaining a license to perform the service. (NRS 629.091) Section 26 of this bill authorizes an agency to provide personal care services in the home to provide those medical services authorized pursuant to existing law to persons with disabilities through its employees or by contractual arrangement with other persons.

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 26, inclusive, of this act.

Sec. 2. *As used in sections 2 to 25, inclusive, of this act, unless the context otherwise requires, "intermediary service organization" means a nongovernmental entity that provides services authorized pursuant to section 3 of this act for a person with a disability or other responsible person.*

Sec. 3. *1. An intermediary service organization that is certified pursuant to sections 2 to 25, inclusive, of this act may provide services for a person with a disability or other responsible person relating to personal assistance received by the person with a disability. The services that may be provided by an intermediary service organization include, without limitation:*

(a) Obtaining a criminal background check of a personal assistant selected by the person with a disability or other responsible person to provide nonmedical services and any medical services authorized pursuant to NRS 629.091;

(b) Providing payroll services to pay the personal assistant and determine any tax liability;

(c) Providing services relating to financial management; and

(d) Providing any other services relating to the employment of a personal assistant and any other financial assistance relating to the personal assistance for the person with a disability.

2. As used in this section:

(a) "Other responsible person" means:

(1) A parent or guardian of, or any other person legally responsible for, a person with a disability who is under the age of 18 years; or

(2) A parent, spouse, guardian or adult child of a person with a disability who suffers from a cognitive impairment.

(b) "Personal assistance" means the provision of any goods or services to help a person with a disability maintain his or her independence, personal hygiene and safety, including, without limitation, the provision of services by a personal assistant.

(c) "Personal assistant" means a person who, for compensation and under the direction of a person with a disability or other responsible person,

performs services for a person with a disability to help the person maintain his or her independence, personal hygiene and safety.

Sec. 4. *1. ~~[A]~~ Except as otherwise provided in subsection 2, a person shall not operate or maintain in this State an intermediary service organization without first obtaining a certificate to operate an intermediary service organization as provided in sections 2 to 25, inclusive, of this act.*

2. A person who is licensed to operate an agency to provide personal care services in the home pursuant to this chapter is not required to obtain a certificate to operate an intermediary service organization as described in this section.

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

Sec. 5. *Any person wishing to obtain a certificate to operate an intermediary service organization pursuant to the provisions of sections 2 to 25, inclusive, of this act must file with the Health Division an application on a form prescribed, prepared and furnished by the Health Division, containing:*

1. The name of the applicant and, if a natural person, whether the applicant has attained the age of 21 years.

2. The location of the intermediary service organization.

3. The name of the person in charge of the intermediary service organization.

4. Such other information as may be required by the Health Division for the proper administration and enforcement of sections 2 to 25, inclusive, of this act.

5. Evidence satisfactory to the Health Division that the applicant is of reputable and responsible character. If the applicant is a firm, association, organization, partnership, business trust, corporation or company, similar evidence must be submitted as to the members thereof, and the person in charge of the intermediary service organization for which application is made.

6. Evidence satisfactory to the Health Division of the ability of the applicant to comply with the provisions of sections 2 to 25, inclusive, of this act and the standards and regulations adopted by the Board.

Sec. 6. *An application for the issuance of a certificate to operate an intermediary service organization pursuant to section 5 of this act must include the social security number of the applicant.*

Sec. 7. *1. An applicant for the issuance or renewal of a certificate to operate an intermediary service organization must submit to the Health Division the statement prescribed by the Division of Welfare and Supportive Services of the Department pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

2. The Health Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the certificate; or

(b) A separate form prescribed by the Health Division.

3. A certificate as an intermediary service organization may not be issued or renewed by the Health Division if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Health Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 8. *Each application for a certificate to operate an intermediary service organization must be accompanied by such fee as may be determined by regulation of the Board. The Board may, by regulation, allow or require payment of a fee for a certificate in installments and may fix the amount of each payment and the date on which the payment is due.*

Sec. 9. *1. The Health Division shall issue the certificate to operate an intermediary service organization to the applicant if, after investigation, the Health Division finds that the:*

(a) Applicant is in full compliance with the provisions of sections 2 to 25, inclusive, of this act; and

(b) Applicant is in substantial compliance with the standards and regulations adopted by the Board.

2. A certificate applies only to the person to whom it is issued and is not transferable.

Sec. 10. *Each certificate to operate an intermediary service organization issued by the Health Division pursuant to sections 2 to 25, inclusive, of this act must be in the form prescribed by the Health Division and must contain:*

1. The name of the person or persons authorized to operate the intermediary service organization;

2. The location of the intermediary service organization; and

3. The services offered by the intermediary service organization.

Sec. 11. *1. Each certificate to operate an intermediary service organization issued pursuant to sections 2 to 25, inclusive, of this act expires on December 31 following its issuance and is renewable for 1 year upon reapplication and payment of all fees required pursuant to section 8 of this*

act unless the Health Division finds, after an investigation, that the intermediary service organization has not satisfactorily complied with the provisions of sections 2 to 25, inclusive, of this act or the standards and regulations adopted by the Board.

2. Each reapplication for an intermediary service organization must include, without limitation, a statement that the organization is in compliance with the provisions of sections 20 to 23, inclusive, of this act.

Sec. 12. *The Health Division may deny an application for a certificate to operate an intermediary service organization or may suspend or revoke any certificate issued under the provisions of sections 2 to 25, inclusive, of this act upon any of the following grounds:*

1. Violation by the applicant or the holder of a certificate of any of the provisions of sections 2 to 25, inclusive, of this act or of any other law of this State or of the standards, rules and regulations adopted thereunder.

2. Aiding, abetting or permitting the commission of any illegal act.

3. Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the operation of an intermediary service organization.

4. Conduct or practice detrimental to the health or safety of a person under contract with or employees of the intermediary service organization.

Sec. 13. *1. If the Health Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a certificate to operate an intermediary service organization, the Health Division shall deem the certificate issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Health Division receives a letter issued to the holder of the certificate by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

2. The Health Division shall reinstate a certificate to operate an intermediary service organization that has been suspended by a district court pursuant to NRS 425.540 if the Health Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate was suspended stating that the person whose certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 14. *1. The Health Division may cancel a certificate to operate an intermediary service organization and issue a provisional certificate, effective for a period determined by the Health Division, to the intermediary service organization if the intermediary service organization:*

(a) Is in operation at the time of the adoption of standards and regulations pursuant to the provisions of sections 2 to 25, inclusive, of this act and the Health Division determines that the intermediary service organization

requires a reasonable time under the particular circumstances within which to comply with the standards and regulations; or

(b) Has failed to comply with the standards or regulations and the Health Division determines that the intermediary service organization is in the process of making the necessary changes or has agreed to make the changes within a reasonable time.

2. The provisions of subsection 1 do not require the issuance of a certificate or prevent the Health Division from refusing to renew or from revoking or suspending any certificate if the Health Division deems such action necessary for the health and safety of a person for whom the intermediary service organization provides services.

Sec. 15. *1. Money received from the certification of intermediary service organizations:*

(a) Must be forwarded to the State Treasurer for deposit in the State Treasury;

(b) Must be accounted for separately in the State General Fund; and

(c) May only be used to carry out the provisions of sections 2 to 25, inclusive, of this act.

2. The Health Division shall enforce the provisions of sections 2 to 25, inclusive, of this act and may incur any necessary expenses not in excess of money appropriated for that purpose by the State or received from the Federal Government.

Sec. 16. *1. The Board shall adopt regulations governing the certification of intermediary service organizations and such other regulations as it deems necessary to carry out the provisions of sections 2 to 25, inclusive, of this act.*

2. The Health Division may:

(a) Upon receipt of an application for a certificate to operate an intermediary service organization, conduct an investigation into the qualifications of personnel, methods of operation and policies and purposes of any person proposing to engage in the operation of an intermediary service organization.

(b) Upon receipt of a complaint against an intermediary service organization, except for a complaint concerning the cost of services, conduct an investigation into the qualifications of personnel, methods of operation and policies, procedures and records of that intermediary service organization or any other intermediary service organization which may have information pertinent to the complaint.

(c) Employ such professional, technical and clerical assistance as it deems necessary to carry out the provisions of sections 2 to 25, inclusive, of this act.

Sec. 17. *1. If an intermediary service organization violates any provision related to its certification, including, without limitation, any provision of sections 2 to 25, inclusive, of this act or any condition, standard or regulation adopted by the Board, the Health Division, in accordance with*

the regulations adopted pursuant to section 18 of this act, may, as it deems appropriate:

(a) Prohibit the intermediary service organization from providing services pursuant to section 3 of this act until it determines that the intermediary service organization has corrected the violation;

(b) 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

(c) Appoint temporary management to oversee the operation of the intermediary service organization and to ensure the health and safety of the persons for whom the intermediary service organization performs services, until:

(1) It determines that the intermediary service organization 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 the intermediary service organization fails to pay any administrative penalty imposed pursuant to paragraph (b) of subsection 1, the Health Division may:

(a) Suspend the certificate to operate an intermediary service organization which is held by the intermediary service organization until the administrative penalty is paid; and

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

3. The Health Division may require any intermediary service organization that violates any provision of sections 2 to 25, inclusive, of this act or any condition, standard or regulation adopted by the Board, to make any improvements necessary to correct the violation.

4. 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 persons for whom the intermediary service organization performs services in accordance with applicable federal standards.

Sec. 18. *The Board shall adopt regulations establishing the criteria for the imposition of each sanction prescribed by section 17 of this act. These regulations must:*

1. Prescribe the circumstances and manner in which each sanction applies;

2. Minimize the time between identification of a violation and the imposition of a sanction;

3. Provide for the imposition of incrementally more severe sanctions for repeated or uncorrected violations; and

4. Provide for less severe sanctions for lesser violations of applicable state statutes, conditions, standards or regulations.

Sec. 19. *1. When the Health Division intends to deny, suspend or revoke a certificate to operate an intermediary service organization, or to impose any sanction prescribed by section 17 of this act, the Health Division shall give reasonable notice to the holder of the certificate by certified mail. The notice must contain the legal authority, jurisdiction and reasons for the action to be taken. Notice is not required if the Health Division finds that the public health requires immediate action. In that case, the Health Division may order a summary suspension of a certificate or impose any sanction prescribed by section 17 of this act, pending proceedings for revocation or other action.*

2. If a person wants to contest the action of the Health Division, the person must file an appeal pursuant to regulations adopted by the Board.

3. Upon receiving notice of an appeal, the Health Division shall hold a hearing pursuant to regulations adopted by the Board.

4. The Board shall adopt such regulations as are necessary to carry out the provisions of this section.

Sec. 20. *1. Except as otherwise provided in subsection 2, within 10 days after hiring an employee or entering into a contract with an independent contractor, the holder of a certificate to operate an intermediary service organization shall:*

(a) Obtain a written statement from the employee or independent contractor stating whether he or she has been convicted of any crime listed in subsection 1 of section 23 of this act;

(b) Obtain an oral and written confirmation of the information contained in the written statement obtained pursuant to paragraph (a);

(c) Obtain from the employee or independent contractor two sets of fingerprints and a written authorization to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(d) Submit to the Central Repository for Nevada Records of Criminal History the fingerprints obtained pursuant to paragraph (c).

2. The holder of a certificate to operate an intermediary service organization is not required to obtain the information described in subsection 1 from an employee or independent contractor who provides proof that an investigation of his or her criminal history has been conducted by the Central Repository for Nevada Records of Criminal History within the immediately preceding 6 months and the investigation did not indicate that the employee or independent contractor had been convicted of any crime set forth in subsection 1 of section 23 of this act.

3. The holder of a certificate to operate an intermediary service organization shall ensure that the criminal history of each employee or independent contractor who works at or for the intermediary service organization is investigated at least once every 5 years. The holder of the certificate shall:

(a) If the intermediary service organization does not have the fingerprints of the employee or independent contractor on file, obtain two sets of fingerprints from the employee or independent contractor;

(b) Obtain written authorization from the employee or independent contractor to forward the fingerprints on file or obtained pursuant to paragraph (a) to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(c) Submit the fingerprints to the Central Repository for Nevada Records of Criminal History.

4. Upon receiving fingerprints submitted pursuant to this section, the Central Repository for Nevada Records of Criminal History shall determine whether the employee or independent contractor has been convicted of a crime listed in subsection 1 of section 23 of this act and immediately inform the Health Division and the holder of the certificate to operate an intermediary service organization for which the person works whether the employee or independent contractor has been convicted of such a crime.

5. The Central Repository for Nevada Records of Criminal History may impose a fee upon an intermediary service organization that submits fingerprints pursuant to this section for the reasonable cost of the investigation. The intermediary service organization may recover from the employee or independent contractor not more than one-half of the fee imposed by the Central Repository. If the intermediary service organization requires the employee or independent contractor to pay for any part of the fee imposed by the Central Repository, it shall allow the employee or independent contractor to pay the amount through periodic payments.

Sec. 21. *Each intermediary service organization shall maintain accurate records of the information concerning its employees and independent contractors collected pursuant to section 20 of this act and shall maintain a copy of the fingerprints submitted to the Central Repository for Nevada Records of Criminal History and proof that it submitted two sets of fingerprints to the Central Repository for its report. These records must be made available for inspection by the Health Division at any reasonable time, and copies thereof must be furnished to the Health Division upon request.*

Sec. 22. *1. Upon receiving information from the Central Repository for Nevada Records of Criminal History pursuant to section 20 of this act, or evidence from any other source, that an employee or independent contractor of an intermediary service organization has been convicted of a crime listed in subsection 1 of section 23 of this act, the holder of the certificate to operate an intermediary service organization shall terminate the employment or contract of that person after allowing the employee or independent contractor time to correct the information pursuant to subsection 2.*

2. If an employee or independent contractor believes that the information provided by the Central Repository is incorrect, the employee or independent contractor may immediately inform the intermediary service organization.

An intermediary service organization that is so informed shall give the employee or independent contractor a reasonable amount of time of not less than 30 days to correct the information received from the Central Repository before terminating the employment or contract of the person pursuant to subsection 1.

3. An intermediary service organization that has complied with section 20 of this act may not be held civilly or criminally liable based solely upon the ground that the intermediary service organization allowed an employee or independent contractor to work:

(a) Before it received the information concerning the employee or independent contractor from the Central Repository;

(b) During any period required pursuant to subsection 2 to allow the employee or independent contractor to correct that information;

(c) Based on the information received from the Central Repository, if the information received from the Central Repository was inaccurate; or

(d) Any combination thereof.

➥ *An intermediary service organization may be held liable for any other conduct determined to be negligent or unlawful.*

Sec. 23. *In addition to the grounds listed in section 12 of this act, the Health Division may deny a certificate to operate an intermediary service organization to an applicant or may suspend or revoke a certificate of a holder of a certificate to operate an intermediary service organization if:*

1. The applicant for or holder of the certificate has been convicted of:

(a) Murder, voluntary manslaughter or mayhem;

(b) Assault with intent to kill or to commit sexual assault or mayhem;

(c) Sexual assault, statutory sexual seduction, incest, lewdness ~~[,]~~ or indecent exposure , or any other sexually related crime ~~[,]~~ that is punished as a felony;

(d) Prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punished as a misdemeanor, if the conviction occurred within the immediately preceding 7 years;

(e) Abuse or neglect of a child or contributory delinquency;

~~[(e)]~~ (f) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, within the past 7 years;

~~[(f)]~~ (g) A violation of any provision of NRS 200.5099 or 200.50995;

~~[(g)]~~ (h) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years; or

~~[(h)]~~ (i) Any other felony involving the use of a firearm or other deadly weapon, within the immediately preceding 7 years; or

2. The holder of a certificate has continued to employ a person who has been convicted of a crime listed in subsection 1.

Sec. 24. *1. ~~[The]~~ Except as otherwise provided in subsection 2 of section 4 of this act, the Health Division may bring an action in the name of*

the State to enjoin any person from operating or maintaining an intermediary service organization within the meaning of sections 2 to 25, inclusive, of this act:

(a) Without first obtaining a certificate to operate an intermediary service organization; or

(b) After the person's certificate 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 the intermediary service organization without a certificate.

Sec. 25. *The district attorney of the county in which an intermediary service organization operates shall, upon application by the Health Division, institute and conduct the prosecution of any action for violation of any provision of sections 2 to 25, inclusive, of this act.*

Sec. 26. *An agency to provide personal care services in the home that is licensed pursuant to this section and NRS 449.030 to 449.240, inclusive, may, through its employees or by contractual arrangement with other persons, provide:*

1. To persons with disabilities, any medical services authorized pursuant to NRS 629.091; and

2. Nonmedical services related to personal care to elderly persons or persons with disabilities to assist those persons with activities of daily living, including, without limitation:

(a) The elimination of wastes from the body;

(b) Dressing and undressing;

(c) Bathing;

(d) Grooming;

(e) The preparation and eating of meals;

(f) Laundry;

(g) Shopping;

(h) Cleaning;

(i) Transportation; and

(j) Any other minor needs related to the maintenance of personal hygiene.

Sec. 27. NRS 449.0021 is hereby amended to read as follows:

449.0021 1. "Agency to provide personal care services in the home" means any person, other than a natural person, which provides in the home ~~[, through its employees or by contractual arrangement with other persons, nonmedical services related to personal care to elderly persons or persons with disabilities to assist those persons with activities of daily living, including, without limitation:~~

~~(a) The elimination of wastes from the body;~~

~~(b) Dressing and undressing;~~

~~(c) Bathing;~~

~~(d) Grooming;~~

~~(e) The preparation and eating of meals;~~

~~(f) Laundry;~~
~~(g) Shopping;~~
~~(h) Cleaning;~~
~~(i) Transportation; and~~
~~(j) Any other minor needs related to the maintenance of personal hygiene.]~~ *the services authorized pursuant to section 26 of this act to elderly persons or persons with disabilities.*

2. The term does not include:

(a) An independent contractor who provides nonmedical services specified ~~[by subsection 1]~~ *in section 26 of this act* without the assistance of employees;

(b) An organized group of persons composed of the family or friends of a person needing personal care services that employs or contracts with persons to provide *nonmedical* services specified ~~[by subsection 1]~~ *in section 26 of this act* for the person if:

(1) The organization of the group of persons is set forth in a written document that is made available for review by the Health Division upon request; and

(2) The personal care services are provided to only one person or one family who resides in the same residence; or

(c) An intermediary service organization.

3. As used in this section, "intermediary service organization" has the meaning ascribed to it in ~~[NRS 427A.0291.]~~ *section 2 of this act.*

Sec. 28. NRS 449.0305 is hereby amended to read as follows:

449.0305 1. Except as otherwise provided in subsection 5, a person must obtain a license from the Board to operate a business that provides referrals to residential facilities for groups.

2. The Board shall adopt:

(a) Standards for the licensing of businesses that provide referrals to residential facilities for groups;

(b) Standards relating to the fees charged by such businesses;

(c) Regulations governing the licensing of such businesses; and

(d) Regulations establishing requirements for training the employees of such businesses.

3. A licensed nurse, social worker, physician or hospital, or a provider of geriatric care who is licensed as a nurse or social worker, may provide referrals to residential facilities for groups through a business that is licensed pursuant to this section. The Board may, by regulation, authorize a public guardian or any other person it determines appropriate to provide referrals to residential facilities for groups through a business that is licensed pursuant to this section.

4. A business that is licensed pursuant to this section or an employee of such a business shall not:

(a) Refer a person to a residential facility for groups that is not licensed.

(b) Refer a person to a residential facility for groups if the business or its employee knows or reasonably should know that the facility, or the services provided by the facility, are not appropriate for the condition of the person being referred.

(c) Refer a person to a residential facility for groups that is owned by the same person who owns the business.

➥ A person who violates the provisions of this subsection is liable for a civil penalty to be recovered by the Attorney General in the name of the Board for the first offense of not more than $10,000 and for a second or subsequent offense of not less than $10,000 nor more than $20,000. Unless otherwise required by federal law, the Board shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used to administer and carry out the provisions of ~~[this chapter]~~ *NRS 449.001 to 449.965, inclusive, and section 26 of this act* and to protect the health, safety, well-being and property of the patients and residents of facilities in accordance with applicable state and federal standards.

5. This section does not apply to a medical facility that is licensed pursuant to NRS 449.030 to 449.240, inclusive, *and section 26 of this act* on October 1, 1999.

Sec. 29. 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 449.030 to 449.240, inclusive, *and section 26 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 449.030 to 449.245, inclusive, *and section 26 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,]~~ *NRS 449.001 to 449.965, inclusive, and section 26 of this act* 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. 30. NRS 449.163 is hereby amended to read as follows:

449.163 1. In addition to the payment of the amount required by NRS 449.0308, if a medical facility or facility for the dependent violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.030 to 449.240, inclusive, *and section 26 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) If the license of the facility limits the occupancy of the facility and the facility has exceeded the approved occupancy, require the facility, at its own expense, to move patients to another facility that is licensed;

(d) 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

(e) 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 (d) 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 (d) 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 449.030 to 449.240, inclusive, *and section 26 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 paragraph (d) of subsection 1 must be accounted for separately and used to administer and carry out the provisions of ~~[this chapter]~~ *NRS 449.001 to 449.965, inclusive, and section 26 of this act* and to protect the health, safety, well-being and property of the patients and residents of facilities in accordance with applicable state and federal standards.

Sec. 31. NRS 449.210 is hereby amended to read as follows:

449.210 1. In addition to the payment of the amount required by NRS 449.0308, except as otherwise provided in subsection 2 and NRS 449.24897, a person who operates a medical facility or facility for the dependent without a license issued by the Health Division is guilty of a misdemeanor.

2. In addition to the payment of the amount required by NRS 449.0308, if a person operates a residential facility for groups or a home for individual residential care without a license issued by the Health Division, the Health Division shall:

(a) Impose a civil penalty on the operator in the following amount:

(1) For a first offense, $10,000.

(2) For a second offense, $25,000.

(3) For a third or subsequent offense, $50,000.

(b) Order the operator, at the operator's own expense, to move all of the persons who are receiving services in the residential facility for groups or home for individual residential care to a residential facility for groups or home for individual residential care, as applicable, that is licensed.

(c) Prohibit the operator from applying for a license to operate a residential facility for groups or home for individual residential care, as applicable. The duration of the period of prohibition must be:

(1) For 6 months if the operator is punished pursuant to subparagraph (1) of paragraph (a).

(2) For 1 year if the operator is punished pursuant to subparagraph (2) of paragraph (a).

(3) Permanent if the operator is punished pursuant to subparagraph (3) of paragraph (a).

3. Before the Health Division imposes an administrative sanction pursuant to subsection 2, the Health Division shall provide the operator of a residential facility for groups with reasonable notice. The notice must contain the legal authority, jurisdiction and reasons for the action to be taken. If the operator of a residential facility for groups wants to contest the action, the operator may file an appeal pursuant to the regulations of the State Board of Health adopted pursuant to NRS 449.165 and 449.170. Upon receiving notice of an appeal, the Health Division shall hold a hearing in accordance with those regulations. For the purpose of this subsection, it is no defense to the violation of operating a residential facility for groups without a license that the operator thereof subsequently licensed the facility in accordance with law.

4. Unless otherwise required by federal law, the Health Division shall deposit all civil penalties collected pursuant to paragraph (a) of subsection 2 into a separate account in the State General Fund to be used to administer and carry out the provisions of ~~[this chapter]~~ *NRS 449.001 to 449.965, inclusive, and section 26 of this act* and to protect the health, safety, well-being and property of the patients and residents of facilities and homes for individual residential care in accordance with applicable state and federal standards.

Sec. 32. NRS 179A.075 is hereby amended to read as follows:

179A.075 1. The Central Repository for Nevada Records of Criminal History is hereby created within the Records and Technology Division of the Department.

2. Each agency of criminal justice and any other agency dealing with crime or delinquency of children shall:

(a) Collect and maintain records, reports and compilations of statistical data required by the Department; and

(b) Submit the information collected to the Central Repository in the manner approved by the Director of the Department.

3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates or issues, and any information in its possession relating to the genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913, to the Division. The information must be submitted to the Division:

(a) Through an electronic network;

(b) On a medium of magnetic storage; or

(c) In the manner prescribed by the Director of the Department,

➥ within the period prescribed by the Director of the Department. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.

4. The Division shall, in the manner prescribed by the Director of the Department:

(a) Collect, maintain and arrange all information submitted to it relating to:

(1) Records of criminal history; and

(2) The genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913.

(b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him or her.

(c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.

5. The Division may:

(a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;

(b) Enter into cooperative agreements with repositories of the United States and other states to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and

(c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose record of fingerprints the Central Repository submits to the Federal Bureau of Investigation and:

(1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;

(2) With whom any agency of the State of Nevada or any political subdivision thereof intends to enter into a relationship of employment or a contract for personal services;

(3) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;

(4) For whom such information is required to be obtained pursuant to NRS 62B.270, 424.031, ~~[427A.735,]~~ 432A.170, 433B.183 and 449.123 ~~[.]~~ ~~[,]~~ *and section 20 of this act;* or

(5) About whom any agency of the State of Nevada or any political subdivision thereof is authorized by law to have accurate personal

information for the protection of the agency or the persons within its jurisdiction.

➥ To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to this subsection, the Central Repository must receive the person's complete set of fingerprints from the agency or political subdivision and submit the fingerprints to the Federal Bureau of Investigation for its report.

6. The Central Repository shall:

(a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.

(b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.

(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository.

(d) Investigate the criminal history of any person who:

(1) Has applied to the Superintendent of Public Instruction for the issuance or renewal of a license;

(2) Has applied to a county school district, charter school or private school for employment; or

(3) Is employed by a county school district, charter school or private school,

➥ and notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of the Central Repository indicates that the person has been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude.

(e) Upon discovery, notify the superintendent of each county school district, the governing body of each charter school or the administrator of each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:

(1) Investigated pursuant to paragraph (d); or

(2) Employed by a county school district, charter school or private school whose fingerprints were sent previously to the Central Repository for investigation,

➥ who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.

(f) Investigate the criminal history of each person who submits fingerprints or has fingerprints submitted pursuant to NRS 62B.270, 424.031, ~~[427A.735,]~~ 432A.170, 433B.183, 449.122 or 449.123 ~~[.]~~ *or section 20 of this act.*

(g) On or before July 1 of each year, prepare and present to the Governor a printed annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be presented to the Governor throughout the year regarding specific areas of crime if they are approved by the Director of the Department.

(h) On or before July 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, a report containing statistical data about domestic violence in this State.

(i) Identify and review the collection and processing of statistical data relating to criminal justice and the delinquency of children by any agency identified in subsection 2 and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.

7. The Central Repository may:

(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime or the delinquency of children.

(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The Central Repository may not collect such a fee from an agency of criminal justice, any other agency dealing with crime or the delinquency of children which is required to submit information pursuant to subsection 2 or the State Disaster Identification Team of the Division of Emergency Management of the Department. All money collected pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.

(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.

8. As used in this section:

(a) "Personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:

(1) The name, driver's license number, social security number, date of birth and photograph or computer-generated image of a person; and

(2) The fingerprints, voiceprint, retina image and iris image of a person.

(b) "Private school" has the meaning ascribed to it in NRS 394.103.

Sec. 33. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in a professional or occupational capacity, knows or has reasonable cause to

believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging and Disability Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging and Disability Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging and Disability Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, perfusionist, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, music therapist, athletic trainer, driver of an ambulance, advanced emergency medical technician, licensed dietitian or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in ~~[NRS 427A.0291.]~~ *section 2 of this act.*

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his or her written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging and Disability Services Division of the Department of Health and Human Services, must be forwarded within 30 days after the completion of the report to the:

(a) Aging and Disability Services Division;

(b) Repository for Information Concerning Crimes Against Older Persons created by NRS 179A.450; and

(c) Unit for the Investigation and Prosecution of Crimes.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging and Disability Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if the older person is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 34. NRS 427A.175 is hereby amended to read as follows:

427A.175 1. Within 1 year after an older patient sustains damage to his or her property as a result of any act or failure to act by a facility for intermediate care, a facility for skilled nursing, a residential facility for groups, a home for individual residential care, an agency to provide personal care services in the home, an intermediary service organization or an agency to provide nursing in the home in protecting the property, the older patient may file a verified complaint with the Division setting forth the details of the damage.

2. Upon receiving a verified complaint pursuant to subsection 1, the Administrator shall investigate the complaint and attempt to settle the matter through arbitration, mediation or negotiation.

3. If a settlement is not reached pursuant to subsection 2, the facility, home, agency, organization or older patient may request a hearing before the Specialist for the Rights of Elderly Persons. If requested, the Specialist for the Rights of Elderly Persons shall conduct a hearing to determine whether the facility, home, agency or organization is liable for damages to the patient. If the Specialist for the Rights of Elderly Persons determines that the facility, home, agency or organization is liable for damages to the patient, the Specialist for the Rights of Elderly Persons shall order the amount of the surety bond pursuant to NRS 449.065 or the substitute for the surety bond necessary to pay for the damages pursuant to NRS 449.067 to be released to the Division. The Division shall pay any such amount to the older patient or the estate of the older patient.

4. The Division shall create a separate account for money to be collected and distributed pursuant to this section.

5. As used in this section:

(a) "Agency to provide nursing in the home" has the meaning ascribed to it in NRS 449.0015;

(b) "Agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021;

(c) "Facility for intermediate care" has the meaning ascribed to it in NRS 449.0038;

(d) "Facility for skilled nursing" has the meaning ascribed to it in NRS 449.0039;

(e) "Home for individual residential care" has the meaning ascribed to it in NRS 449.0105;

(f) *"Intermediary service organization" has the meaning ascribed to it in section 2 of this act;*

(g) "Older patient" has the meaning ascribed to it in NRS 449.065; and

~~[(g)]~~ *(h)* "Residential facility for groups" has the meaning ascribed to it in NRS 449.017.

Sec. 35. NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, medication aide - certified, perfusionist, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, alcohol or drug abuse counselor, music therapist, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in ~~[NRS 427A.0291.]~~ *section 2 of this act.*

(f) Any person who maintains or is employed by an agency to provide nursing in the home.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Any social worker.

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant or medication aide - certified has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section, "agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.

Sec. 36. NRS 427A.0291, 427A.701, 427A.703, 427A.705, 427A.707, 427A.709, 427A.711, 427A.713, 427A.715, 427A.717, 427A.719, 427A.721, 427A.723, 427A.725, 427A.727, 427A.729, 427A.731, 427A.733, 427A.735, 427A.737, 427A.739, 427A.741, 427A.743 and 427A.745 are hereby repealed.

Sec. 37. 1. Any administrative regulations adopted by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remain in force until ~~[amended]~~ the administrative regulations are:

(a) Amended by the officer, agency or other entity to which the responsibility for the adoption of the administrative regulations has been transferred ~~[.]~~ ; or

(b) Conformed pursuant to the authority set forth in section 38 of this act,

➥ whichever occurs first.

2. Any contracts or other agreements entered into by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity are binding upon the officer, agency or other entity to which the responsibility for the administration of the provisions of the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer, agency or other entity to which the responsibility for the enforcement of the provisions of the contract or other agreement has been transferred.

3. Any action taken by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remains in effect as if taken by the officer, agency or other entity to which the responsibility for the enforcement of such actions has been transferred.

Sec. 38. The Legislative Counsel shall, in preparing supplements to the Nevada Administrative Code, appropriately change any references to any officer, agency or other entity:

1. Whose name is changed pursuant to the provisions of this act; or

2. Whose responsibilities have been transferred pursuant to the provisions of this act,

➥ to refer to the appropriate officer, agency or other entity.

~~[Sec. 38.]~~ *Sec. 39.* An intermediary service organization that is certified pursuant to NRS 427A.701 to 427A.745, inclusive, before the effective date of this act, and whose certification is not expired or revoked is

not required to obtain a certificate pursuant to sections 2 to 25, inclusive, of this act until the expiration of the certificate obtained pursuant to NRS 427A.701 to 427A.745, inclusive.

~~[Sec. 39.]~~ *Sec. 40.* 1. This act becomes effective upon passage and approval.

2. Sections 6, 7 and 13 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

LEADLINES OF REPEALED SECTIONS

427A.0291 "Intermediary service organization" defined.

427A.701 Authority to provide services.

427A.703 Certificate required; penalty.

427A.705 Application for certificate: Contents.

427A.707 Application for certificate: Social security number required.

427A.709 Application for certificate: Statement regarding obligation of child support; grounds for denial; duty of Division.

427A.711 Application for certificate: Fee.

427A.713 Certificate: Issuance; nontransferability.

427A.715 Certificate: Form; contents.

427A.717 Certificate: Expiration and renewal.

427A.719 Certificate: Grounds for denial, suspension or revocation.

427A.721 Certificate: Suspension for failure to pay child support or comply with certain subpoenas or warrants; reinstatement.

427A.723 Provisional certificate.

427A.725 Deposit of money received from certification; expenses of Division to enforce provisions.

427A.727 Duties and powers of Division.

427A.729 Administrative sanctions: Imposition by Division; consequences of failure to pay; use of money collected.

427A.731 Administrative sanctions: Regulations.

427A.733 Notice by Division of disciplinary action; exception; appeal.

427A.735 Initial and periodic investigations of criminal history of employee or independent contractor.

427A.737 Maintenance and availability of certain records regarding employees and independent contractors.

427A.739 Termination of employee or independent contractor required for conviction for certain crimes; reasonable time to correct information; liability of organization.

427A.741 Additional grounds for denial, suspension or revocation of certificate.

427A.743 Action to enjoin violations.

427A.745 Prosecution by district attorney.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 56 to Senate Bill No. 51 excludes a person, who is licensed to operate an agency to provide personal care services in the home, from the requirement of obtaining a certificate to operate an intermediary service organization.

Additionally, Amendment No. 56 also adds conviction of prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punished as a misdemeanor to the list of offenses that may be used to deny, suspend or revoke a certificate to operate an intermediary service organization, thus making this provision consistent with the provision currently in law for operating an agency to provide personal care services.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 55.

Bill read second time.

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

Amendment No. 59.

"SUMMARY—Revises provisions governing master plans. (BDR 22-254)"

"AN ACT relating to land use planning; revising provisions governing the subject matter of master plans; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth the subject matter that may be included in a master plan and specifies 19 separate plans and other items that may be so included, with the exception of certain cities and counties who must include all or a portion of certain elements in a master plan. (NRS 278.150-278.170) Section 3 of this bill reorganizes the 19 separate plans and other items into 8 different elements that may comprise a master plan. Pursuant to this reorganization, a master plan may now include: (1) a conservation element; (2) a historic preservation element; (3) a housing element; (4) a land use element; (5) a public facilities and services element; (6) a recreation and open space element; (7) a safety element; and (8) a transportation element.

Existing law provides that in a county whose population is 100,000 or more but less than 700,000 (currently Washoe County), if a planning commission or governing body of a city or county adopts only a portion of the master plan, the following must be included in the master plan: (1) a conservation plan; (2) a housing plan; and (3) a population plan. (NRS 278.150, 278.170) Sections 2 and 4 of this bill provide that if a planning commission or governing body in such a county adopts only a portion of a master plan, the following must be included in the master plan:

(1) a conservation plan of the conservation element; (2) the housing element; and (3) a population plan of the public facilities and services element.

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

Section 1. NRS 278.02556 is hereby amended to read as follows:

278.02556 Except as otherwise provided in this section, a governing body, regional agency, state agency or public utility that is located in whole or in part within the region shall not adopt a master plan, facilities plan or other similar plan, or an amendment thereto, after March 1, 2001, unless the regional planning coalition has been afforded an opportunity to make recommendations regarding the plan or amendment. A governing body, regional agency, state agency or public utility may adopt an amendment to a land use plan described in ~~[paragraph (g) of subsection 1 of]~~ NRS 278.160 without affording the regional planning coalition the opportunity to make recommendations regarding the amendment.

Sec. 2. NRS 278.150 is hereby amended to read as follows:

278.150 1. The planning commission shall prepare and adopt a comprehensive, long-term general plan for the physical development of the city, county or region which in the commission's judgment bears relation to the planning thereof.

2. The plan must be known as the master plan, and must be so prepared that all or portions thereof, except as otherwise provided in subsections 3 and 4, may be adopted by the governing body, as provided in NRS 278.010 to 278.630, inclusive, as a basis for the development of the city, county or region for such reasonable period of time next ensuing after the adoption thereof as may practically be covered thereby.

3. In counties whose population is 100,000 or more but less than 700,000, if the governing body of the city or county adopts only a portion of the master plan, it shall include in that portion ~~[a]~~ *:*

(a) A conservation plan ~~[, a]~~ *of the conservation element, as described in subparagraph (1) of paragraph (a) of subsection 1 of NRS 278.160;*

(b) The housing ~~[plan]~~ *element, as described in paragraph (c) of subsection 1 of NRS 278.160;* and ~~[a]~~

(c) A population plan ~~[as provided in]~~ *of the public facilities and services element, as described in subparagraph (2) of paragraph (e) of subsection 1 of* NRS 278.160.

4. In counties whose population is 700,000 or more, the governing body of the city or county shall adopt a master plan for all of the city or county that must address each of the ~~[subjects]~~ *elements* set forth in ~~[subsection 1 of]~~ NRS 278.160.

Sec. 3. NRS 278.160 is hereby amended to read as follows:

278.160 1. Except as otherwise provided in *this section and* subsection 4 of NRS 278.150 and subsection 3 of NRS 278.170, the master plan, with the accompanying charts, drawings, diagrams, schedules and reports, may include such of the following ~~[subject matter]~~ *elements* or

portions thereof as are appropriate to the city, county or region, and as may be made the basis for the physical development thereof:

(a) ~~[Community design. Standards and principles governing the subdivision of land and suggestive patterns for community design and development.~~

~~(b) Conservation plan. For the conservation, development and utilization of natural resources, including, without limitation, water and its hydraulic force, underground water, water supply, solar or wind energy, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The plan must also cover the reclamation of land and waters, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan, prevention, control and correction of the erosion of soils through proper clearing, grading and landscaping, beaches and shores, and protection of watersheds. The plan must also indicate the maximum tolerable level of air pollution.~~

~~(c) Economic plan. Showing recommended schedules for the allocation and expenditure of public money in order to provide for the economical and timely execution of the various components of the plan.~~

~~(d) Historic neighborhood preservation plan. The plan:~~

~~(1) Must include, without limitation:~~

~~(I) A plan to inventory historic neighborhoods.~~

~~(II) A statement of goals and methods to encourage the preservation of historic neighborhoods.~~

~~(2) May include, without limitation, the creation of a commission to monitor and promote the preservation of historic neighborhoods.~~

~~(e) Historical properties preservation plan. An inventory of significant historical, archaeological, paleontological and architectural properties as defined by a city, county or region, and a statement of methods to encourage the preservation of those properties.~~

~~(f) Housing plan. The housing plan must include, without limitation:~~

~~(1) An inventory of housing conditions, needs and plans and procedures for improving housing standards and for providing adequate housing to individuals and families in the community, regardless of income level.~~

~~(2) An inventory of existing affordable housing in the community, including, without limitation, housing that is available to rent or own, housing that is subsidized either directly or indirectly by this State, an agency or political subdivision of this State, or the Federal Government or an agency of the Federal Government, and housing that is accessible to persons with disabilities.~~

~~(3) An analysis of projected growth and the demographic characteristics of the community.~~

~~(4) A determination of the present and prospective need for affordable housing in the community.~~

~~(5) An analysis of any impediments to the development of affordable housing and the development of policies to mitigate those impediments.~~

~~(6) An analysis of the characteristics of the land that is suitable for residential development. The analysis must include, without limitation:~~

~~(I) A determination of whether the existing infrastructure is sufficient to sustain the current needs and projected growth of the community; and~~

~~(II) An inventory of available parcels that are suitable for residential development and any zoning, environmental and other land use planning restrictions that affect such parcels.~~

~~(7) An analysis of the needs and appropriate methods for the construction of affordable housing or the conversion or rehabilitation of existing housing to affordable housing.~~

~~(8) A plan for maintaining and developing affordable housing to meet the housing needs of the community for a period of at least 5 years.~~

~~(g) Land use plan. An inventory and classification of types of natural land and of existing land cover and uses, and comprehensive plans for the most desirable utilization of land. The land use plan:~~

~~(1) Must address, if applicable:~~

~~(I) Mixed use development, transit oriented development, master planned communities and gaming enterprise districts; and~~

~~(II) The coordination and compatibility of land uses with any military installation in the city, county or region, taking into account the location, purpose and stated mission of the military installation.~~

~~(2) May include a provision concerning the acquisition and use of land that is under federal management within the city, county or region, including, without limitation, a plan or statement of policy prepared pursuant to NRS 321.7355.~~

~~(h) Population plan. An estimate of the total population which the natural resources of the city, county or region will support on a continuing basis without unreasonable impairment.~~

~~(i) Public buildings. Showing locations and arrangement of civic centers and all other public buildings, including the architecture thereof and the landscape treatment of the grounds thereof.~~

~~(j) Public services and facilities. Showing general plans for sewage, drainage and utilities, and rights of way, easements and facilities therefor, including, without limitation, any utility projects required to be reported pursuant to NRS 278.145.~~

~~(k) Recreation plan. Showing a comprehensive system of recreation areas, including, without limitation, natural reservations, parks, parkways, trails, reserved riverbank strips, beaches, playgrounds and other recreation areas, including, when practicable, the locations and proposed development thereof.~~

~~(l) Rural neighborhoods preservation plan. In any county whose population is 700,000 or more, showing general plans to preserve the character and density of rural neighborhoods.~~

~~(m) Safety plan. In any county whose population is 700,000 or more, identifying potential types of natural and man-made hazards, including, without limitation, hazards from floods, landslides or fires, or resulting from the manufacture, storage, transfer or use of bulk quantities of hazardous materials. The plan may set forth policies for avoiding or minimizing the risks from those hazards.~~

~~(n) School facilities plan. Showing the general locations of current and future school facilities based upon information furnished by the appropriate local school district.~~

~~(o) Seismic safety plan. Consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking or to ground failures.~~

~~(p) Solid waste disposal plan. Showing general plans for the disposal of solid waste.~~

~~(q) Streets and highways plan. Showing the general locations and widths of a comprehensive system of major traffic thoroughfares and other traffic ways and of streets and the recommended treatment thereof, building line setbacks, and a system of naming or numbering streets and numbering houses, with recommendations concerning proposed changes.~~

~~(r) Transit plan. Showing a proposed multimodal system of transit lines, including mass transit, streetcar, motorcoach and trolley coach lines, paths for bicycles and pedestrians, satellite parking and related facilities.~~

~~(s) Transportation plan. Showing a comprehensive transportation system, including, without limitation, locations of rights-of-way, terminals, viaducts and grade separations. The plan may also include port, harbor, aviation and related facilities.~~] *A conservation element, which may include:*

(1) A conservation plan for the conservation, development and utilization of natural resources, including, without limitation, water and its hydraulic force, underground water, water supply, solar or wind energy, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The conservation plan must also cover the reclamation of land and waters, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan, prevention, control and correction of the erosion of soils through proper clearing, grading and landscaping, beaches and shores, and protection of watersheds. The conservation plan must also indicate the maximum tolerable level of air pollution.

(2) A solid waste disposal plan showing general plans for the disposal of solid waste.

(b) A historic preservation element, which may include:

(1) A historic neighborhood preservation plan which:

(I) Must include, without limitation, a plan to inventory historic neighborhoods and a statement of goals and methods to encourage the preservation of historic neighborhoods.

(II) May include, without limitation, the creation of a commission to monitor and promote the preservation of historic neighborhoods.

(2) A historical properties preservation plan setting forth an inventory of significant historical, archaeological, paleontological and architectural properties as defined by a city, county or region, and a statement of methods to encourage the preservation of those properties.

(c) A housing element, ~~[which may include a housing plan,]~~ which must include, without limitation:

(1) An inventory of housing conditions and needs, and plans and procedures for improving housing standards and providing adequate housing to individuals and families in the community, regardless of income level.

(2) An inventory of existing affordable housing in the community, including, without limitation, housing that is available to rent or own, housing that is subsidized either directly or indirectly by this State, an agency or political subdivision of this State, or the Federal Government or an agency of the Federal Government, and housing that is accessible to persons with disabilities.

(3) An analysis of projected growth and the demographic characteristics of the community.

(4) A determination of the present and prospective need for affordable housing in the community.

(5) An analysis of any impediments to the development of affordable housing and the development of policies to mitigate those impediments.

(6) An analysis of the characteristics of the land that is suitable for residential development. The analysis must include, without limitation:

(I) A determination of whether the existing infrastructure is sufficient to sustain the current needs and projected growth of the community; and

(II) An inventory of available parcels that are suitable for residential development and any zoning, environmental and other land-use planning restrictions that affect such parcels.

(7) An analysis of the needs and appropriate methods for the construction of affordable housing or the conversion or rehabilitation of existing housing to affordable housing.

(8) A plan for maintaining and developing affordable housing to meet the housing needs of the community for a period of at least 5 years.

(d) A land use element, which may include:

(1) Provisions concerning community design, including standards and principles governing the subdivision of land and suggestive patterns for community design and development.

(2) A land use plan, including an inventory and classification of types of natural land and of existing land cover and uses, and comprehensive plans for the most desirable utilization of land. The land use plan:

(I) Must, if applicable, address mixed-use development, transit-oriented development, master-planned communities and gaming enterprise

districts. The land use plan must also, if applicable, address the coordination and compatibility of land uses with any military installation in the city, county or region, taking into account the location, purpose and stated mission of the military installation.

(II) May include a provision concerning the acquisition and use of land that is under federal management within the city, county or region, including, without limitation, a plan or statement of policy prepared pursuant to NRS 321.7355.

(3) In any county whose population is 700,000 or more, a rural neighborhoods preservation plan showing general plans to preserve the character and density of rural neighborhoods.

(e) A public facilities and services element, which may include:

(1) An economic plan showing recommended schedules for the allocation and expenditure of public money to provide for the economical and timely execution of the various components of the plan.

(2) A population plan setting forth an estimate of the total population which the natural resources of the city, county or region will support on a continuing basis without unreasonable impairment.

(3) Provisions concerning public buildings showing the locations and arrangement of civic centers and all other public buildings, including the architecture thereof and the landscape treatment of the grounds thereof.

(4) Provisions concerning public services and facilities showing general plans for sewage, drainage and utilities, and rights-of-way, easements and facilities therefor, including, without limitation, any utility projects required to be reported pursuant to NRS 278.145.

(5) A school facilities plan showing the general locations of current and future school facilities based upon information furnished by the appropriate county school district.

(f) A recreation and open space element, which may include a recreation plan showing a comprehensive system of recreation areas, including, without limitation, natural reservations, parks, parkways, trails, reserved riverbank strips, beaches, playgrounds and other recreation areas, including, when practicable, the locations and proposed development thereof.

(g) A safety element, which may include:

(1) In any county whose population is 700,000 or more, a safety plan identifying potential types of natural and man-made hazards, including, without limitation, hazards from floods, landslides or fires, or resulting from the manufacture, storage, transfer or use of bulk quantities of hazardous materials. The safety plan may set forth policies for avoiding or minimizing the risks from those hazards.

(2) A seismic safety plan consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking or to ground failures.

(h) A transportation element, which may include:

(1) A streets and highways plan showing the general locations and widths of a comprehensive system of major traffic thoroughfares and other traffic ways and of streets and the recommended treatment thereof, building line setbacks, and a system of naming or numbering streets and numbering houses, with recommendations concerning proposed changes.

(2) A transit plan showing a proposed multimodal system of transit lines, including mass transit, streetcar, motorcoach and trolley coach lines, paths for bicycles and pedestrians, satellite parking and related facilities.

(3) A transportation plan showing a comprehensive transportation system, including, without limitation, locations of rights-of-way, terminals, viaducts and grade separations. The transportation plan may also include port, harbor, aviation and related facilities.

2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other ~~[subjects]~~ *elements* as may in its judgment relate to the physical development of the city, county or region, and nothing contained in NRS 278.010 to 278.630, inclusive, prohibits the preparation and adoption of any such ~~[subject]~~ *element* as a part of the master plan.

Sec. 4. NRS 278.170 is hereby amended to read as follows:

278.170 1. Except as otherwise provided in subsections 2 and 3, the commission may prepare and adopt all or any part of the master plan or any ~~[subject]~~ *element* thereof for all or any part of the city, county or region. Master regional plans must be coordinated with similar plans of adjoining regions, and master county and city plans within each region must be coordinated so as to fit properly into the master plan for the region.

2. In counties whose population is 100,000 or more but less than 700,000, if the commission prepares and adopts less than all ~~[subjects]~~ *elements* of the master plan, as outlined in NRS 278.160, it shall include, in its preparation and adoption ~~[, the]~~ *:*

(a) A conservation ~~[,]~~ *plan of the conservation element, as described in subparagraph (1) of paragraph (a) of subsection 1 of NRS 278.160;*

(b) The housing *element, as described in paragraph (c) of subsection 1 of NRS 278.160;* and

(c) A population ~~[plans]~~ *plan of the public facilities and services element, as* described in ~~[that section.]~~ *subparagraph (2) of paragraph (e) of subsection 1 of NRS 278.160.*

3. In counties whose population is 700,000 or more, the commission shall prepare and adopt a master plan for all of the city or county that must address each of the ~~[subjects]~~ *elements* set forth in ~~[subsection 1 of]~~ NRS 278.160.

Sec. 5. NRS 278.210 is hereby amended to read as follows:

278.210 1. Before adopting the master plan or any part of it in accordance with NRS 278.170, or any substantial amendment thereof, the commission shall hold at least one public hearing thereon, notice of the time and place of which must be given at least by one publication in a newspaper

of general circulation in the city or county, or in the case of a regional planning commission, by one publication in a newspaper in each county within the regional district, at least 10 days before the day of the hearing.

2. Before a public hearing may be held pursuant to subsection 1 in a county whose population is 100,000 or more on an amendment to a master plan, including, without limitation, a gaming enterprise district, if applicable, the person who requested the proposed amendment must hold a neighborhood meeting to provide an explanation of the proposed amendment. Notice of such a meeting must be given by the person requesting the proposed amendment to:

(a) Each owner, as listed on the county assessor's records, of real property located within a radius of 750 feet of the area to which the proposed amendment pertains;

(b) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest to the area to which the proposed amendment pertains, to the extent this notice does not duplicate the notice given pursuant to paragraph (a);

(c) Each tenant of a mobile home park if that park is located within a radius of 750 feet of the area to which the proposed amendment pertains; and

(d) If a military installation is located within 3,000 feet of the area to which the proposed amendment pertains, the commander of the military installation.

➥ The notice must be sent by mail at least 10 days before the neighborhood meeting and include the date, time, place and purpose of the neighborhood meeting.

3. Except as otherwise provided in NRS 278.225, the adoption of the master plan, or of any amendment, extension or addition thereof, must be by resolution of the commission carried by the affirmative votes of not less than two-thirds of the total membership of the commission. The resolution must refer expressly to the maps, descriptive matter and other matter intended by the commission to constitute the plan or any amendment, addition or extension thereof, and the action taken must be recorded on the map and plan and descriptive matter by the identifying signatures of the secretary and chair of the commission.

4. Except as otherwise provided in NRS 278.225, no plan or map, hereafter, may have indicated thereon that it is a part of the master plan until it has been adopted as part of the master plan by the commission as herein provided for the adoption thereof, whenever changed conditions or further studies by the commission require such amendments, extension or addition.

5. Except as otherwise provided in this subsection, the commission shall not amend the land use plan of the master plan set forth in ~~[paragraph (g) of subsection 1 of]~~ NRS 278.160, or any portion of such a land use plan, more than four times in a calendar year. The provisions of this subsection do not apply to:

(a) A change in the land use designated for a particular area if the change does not affect more than 25 percent of the area; or

(b) A minor amendment adopted pursuant to NRS 278.225.

6. An attested copy of any part, amendment, extension of or addition to the master plan adopted by the planning commission of any city, county or region in accordance with NRS 278.170 must be certified to the governing body of the city, county or region. The governing body of the city, county or region may authorize such certification by electronic means.

7. An attested copy of any part, amendment, extension of or addition to the master plan adopted by any regional planning commission must be certified to the county planning commission and to the board of county commissioners of each county within the regional district. The county planning commission and board of county commissioners may authorize such certification by electronic means.

Sec. 6. NRS 278.230 is hereby amended to read as follows:

278.230 1. Except as otherwise provided in subsection 4 of NRS 278.150, whenever the governing body of any city or county has adopted a master plan or part thereof for the city or county, or for any major section or district thereof, the governing body shall, upon recommendation of the planning commission, determine upon reasonable and practical means for putting into effect the master plan or part thereof, in order that the same will serve as:

(a) A pattern and guide for that kind of orderly physical growth and development of the city or county which will cause the least amount of natural resource impairment and will conform to the adopted population plan, where required, and ensure an adequate supply of housing, including affordable housing; and

(b) A basis for the efficient expenditure of funds thereof relating to the ~~[subjects]~~ *elements* of the master plan.

2. The governing body may adopt and use such procedure as may be necessary for this purpose.

Sec. 7. NRS 278.235 is hereby amended to read as follows:

278.235 1. If the governing body of a city or county is required to include ~~[a]~~ *the* housing ~~[plan]~~ *element* in its master plan pursuant to NRS 278.150, the governing body, in carrying out the plan for maintaining and developing affordable housing to meet the housing needs of the community, which is required to be included in the housing ~~[plan]~~ *element* pursuant to subparagraph (8) of paragraph ~~[(f)]~~ *(c)* of subsection 1 of NRS 278.160, shall adopt at least six of the following measures:

(a) At the expense of the city or county, as applicable, subsidizing in whole or in part impact fees and fees for the issuance of building permits collected pursuant to NRS 278.580.

(b) Selling land owned by the city or county, as applicable, to developers exclusively for the development of affordable housing at not more than 10 percent of the appraised value of the land, and requiring that any such

savings, subsidy or reduction in price be passed on to the purchaser of housing in such a development. Nothing in this paragraph authorizes a city or county to obtain land pursuant to the power of eminent domain for the purposes set forth in this paragraph.

(c) Donating land owned by the city or county to a nonprofit organization to be used for affordable housing.

(d) Leasing land by the city or county to be used for affordable housing.

(e) Requesting to purchase land owned by the Federal Government at a discounted price for the creation of affordable housing pursuant to the provisions of section 7(b) of the Southern Nevada Public Land Management Act of 1998, Public Law 105-263.

(f) Establishing a trust fund for affordable housing that must be used for the acquisition, construction or rehabilitation of affordable housing.

(g) Establishing a process that expedites the approval of plans and specifications relating to maintaining and developing affordable housing.

(h) Providing money, support or density bonuses for affordable housing developments that are financed, wholly or in part, with low-income housing tax credits, private activity bonds or money from a governmental entity for affordable housing, including, without limitation, money received pursuant to 12 U.S.C. § 1701q and 42 U.S.C. § 8013.

(i) Providing financial incentives or density bonuses to promote appropriate transit-oriented housing developments that would include an affordable housing component.

(j) Offering density bonuses or other incentives to encourage the development of affordable housing.

(k) Providing direct financial assistance to qualified applicants for the purchase or rental of affordable housing.

(l) Providing money for supportive services necessary to enable persons with supportive housing needs to reside in affordable housing in accordance with a need for supportive housing identified in the 5-year consolidated plan adopted by the United States Department of Housing and Urban Development for the city or county pursuant to 42 U.S.C. § 12705 and described in 24 C.F.R. Part 91.

2. On or before January 15 of each year, the governing body shall submit to the Housing Division of the Department of Business and Industry a report, in the form prescribed by the Division, of how the measures adopted pursuant to subsection 1 assisted the city or county in maintaining and developing affordable housing to meet the needs of the community for the preceding year. The report must include an analysis of the need for affordable housing within the city or county that exists at the end of the reporting period.

3. On or before February 15 of each year, the Housing Division shall compile the reports submitted pursuant to subsection 2 and transmit the compilation to the Legislature, or the Legislative Commission if the Legislature is not in regular session.

Sec. 8. NRS 278.240 is hereby amended to read as follows:

278.240 Whenever the governing body of a city, county or region has adopted a master plan, or one or more ~~[subject matters]~~ *elements* thereof, for the city, county or region, or for a major section or district thereof, no street, square, park, or other public way, ground, or open space may be acquired by dedication or otherwise, except by bequest, and no street or public way may be closed or abandoned, and no public building or structure may be constructed or authorized in the area for which the master plan or one or more ~~[subject matters]~~ *elements* thereof has been adopted by the governing body unless the dedication, closure, abandonment, construction or authorization is approved in a manner consistent with the requirements of the governing body, board or commission having jurisdiction over such a matter.

Sec. 9. NRS 278.4787 is hereby amended to read as follows:

278.4787 1. Except as otherwise provided in subsection 5, a person who proposes to divide land for transfer or development into four or more lots pursuant to NRS 278.360 to 278.460, inclusive, or chapter 278A of NRS, may, in lieu of providing for the creation of an association for a common-interest community, request the governing body of the jurisdiction in which the land is located to assume the maintenance of one or more of the following improvements located on the land:

(a) Landscaping;

(b) Public lighting;

(c) Security walls; and

(d) Trails, parks and open space which provide a substantial public benefit or which are required by the governing body for the primary use of the public.

2. A governing body shall establish by ordinance a procedure pursuant to which a request may be submitted pursuant to subsection 1 in the form of a petition, which must be signed by a majority of the owners whose property will be assessed and which must set forth descriptions of all tracts of land or residential units that would be subject to such an assessment.

3. The governing body may by ordinance designate a person to approve or disapprove a petition submitted pursuant to this section. If the governing body adopts such an ordinance, the ordinance must provide, without limitation:

(a) Procedures pursuant to which the petition must be reviewed to determine whether it would be desirable for the governing body to assume the maintenance of the proposed improvements.

(b) Procedures for the establishment of a maintenance district or unit of assessment.

(c) A method for:

(1) Determining the relative proportions in which the assumption of the maintenance of the proposed improvements by the governing body will:

(I) Benefit the development or subdivision in which the improvements are located; and

(II) Benefit the public;

(2) Assessing the tracts of land or residential units in the development or subdivision to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements, in the proportion that such maintenance will benefit the development or subdivision in which the improvements are located; and

(3) Allocating an amount of public money to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements, in the proportion that such maintenance will benefit the public.

(d) Procedures for a petitioner or other aggrieved person to appeal to the governing body a decision of the person designated by the governing body by ordinance adopted pursuant to this subsection to approve or disapprove a petition.

4. If the governing body does not designate by an ordinance adopted pursuant to subsection 3 a person to approve or disapprove a petition, the governing body shall, after receipt of a complete petition submitted at least 120 days before the approval of the final map for the land, hold a public hearing at least 90 days before the approval of the final map for the land, unless otherwise waived by the governing body, to determine the desirability of assuming the maintenance of the proposed improvements. If the governing body determines that it would be undesirable for the governing body to assume the maintenance of the proposed improvements, the governing body shall specify for the record its reasons for that determination. If the governing body determines that it would be desirable for the governing body to assume the maintenance of the proposed improvements, the governing body shall by ordinance:

(a) Determine the relative proportions in which the assumption of the maintenance of the proposed improvements by the governing body will:

(1) Benefit the development or subdivision in which the improvements are located; and

(2) Benefit the public.

(b) Create a maintenance district or unit of assessment consisting of the tracts of land or residential units set forth in the petition or include the tracts of land or residential units set forth in the petition in an existing maintenance district or unit of assessment.

(c) Establish the method or, if the tracts or units are included within an existing maintenance district or unit of assessment, apply an existing method for determining:

(1) The amount of an assessment to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements. The amount of the assessment must be determined in accordance with the proportion to which such maintenance will benefit the development or subdivision in which the improvements are located.

(2) The time and manner of payment of the assessment.

(d) Provide that the assessment constitutes a lien upon the tracts of land or residential units within the maintenance district or unit of assessment. The lien must be executed, and has the same priority, as a lien for property taxes.

(e) Prescribe the levels of maintenance to be provided.

(f) Allocate to the cost of providing the maintenance the appropriate amount of public money to pay for that part of the maintenance which creates the public benefit.

(g) Address any other matters that the governing body determines to be relevant to the maintenance of the improvements, including, without limitation, matters relating to the ownership of the improvements and the land on which the improvements are located and any exposure to liability associated with the maintenance of the improvements.

5. If the governing body requires an owner of land to dedicate a tract of land as a trail identified in the recreation plan of the governing body adopted pursuant to ~~[paragraph (k) of subsection 1 of]~~ NRS 278.160, the governing body shall:

(a) Accept ownership of the tract; and

(b) Assume the maintenance of the tract and any other improvement located on the land that is authorized in subsection 1.

6. The governing body shall record, in the office of the county recorder for the county in which the tracts of land or residential units included in a petition approved pursuant to this section are located, a notice of the creation of the maintenance district or unit of assessment that is sufficient to advise the owners of the tracts of land or residential units that the tracts of land or residential units are subject to the assessment. The costs of recording the notice must be paid by the petitioner.

7. The provisions of this section apply retroactively to a development or subdivision with respect to which:

(a) An agreement or agreements between the owners of tracts of land within the development or subdivision and the developer allow for the provision of services in the manner set forth in this section; or

(b) The owners of affected tracts of land or residential units agree to dissolve the association for their common-interest community in accordance with the governing documents of the common-interest community upon approval by the governing body of a petition filed by the owners pursuant to this section.

Sec. 10. NRS 279.608 is hereby amended to read as follows:

279.608 1. If, at any time after the adoption of a redevelopment plan by the legislative body, the agency desires to take an action that will constitute a material deviation from the plan or otherwise determines that it would be necessary or desirable to amend the plan, the agency must recommend the amendment of the plan to the legislative body. An amendment may include the addition of one or more areas to any redevelopment area.

2. Before recommending amendment of the plan, the agency shall hold a public hearing on the proposed amendment. Notice of that hearing must be

published at least 10 days before the date of hearing in a newspaper of general circulation, printed and published in the community, or, if there is none, in a newspaper selected by the agency. The notice of hearing must include a legal description of the boundaries of the area designated in the plan to be amended and a general statement of the purpose of the amendment.

3. In addition to the notice published pursuant to subsection 2, the agency shall cause a notice of hearing on a proposed amendment to the plan to be sent by mail at least 10 days before the date of the hearing to each owner of real property, as listed in the records of the county assessor, whom the agency determines is likely to be directly affected by the proposed amendment. The notice must:

(a) Set forth the date, time, place and purpose of the hearing and a physical description of, or a map detailing, the proposed amendment; and

(b) Contain a brief summary of the intent of the proposed amendment.

4. If after the public hearing, the agency recommends substantial changes in the plan which affect the master or community plan adopted by the planning commission or the legislative body, those changes must be submitted by the agency to the planning commission for its report and recommendation. The planning commission shall give its report and recommendations to the legislative body within 30 days after the agency submitted the changes to the planning commission.

5. After receiving the recommendation of the agency concerning the changes in the plan, the legislative body shall hold a public hearing on the proposed amendment, notice of which must be published in a newspaper in the manner designated for notice of hearing by the agency. If after that hearing the legislative body determines that the amendments in the plan, proposed by the agency, are necessary or desirable, the legislative body shall adopt an ordinance amending the ordinance adopting the plan.

6. As used in this section, "material deviation" means an action that, if taken, would alter significantly one or more of the aspects of a redevelopment plan that are required to be shown in the redevelopment plan pursuant to NRS 279.572. The term includes, without limitation, the vacation of a street that is depicted in the streets and highways plan of the master plan described in ~~[paragraph (q) of subsection 1 of]~~ NRS 278.160 which has been adopted for the community and the relocation of a public park. The term does not include the vacation of a street that is not depicted in the streets and highways plan of the master plan described in ~~[paragraph (q) of subsection 1 of]~~ NRS 278.160 which has been adopted for the community.

Sec. 11. This act becomes effective upon passage and approval.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

Thank you, Mr. President. Amendment No. 59 to Senate Bill No. 55 clarifies that, in counties whose population is 100,000 or more but less than 700,000, if the governing body of a city or county adopts only a portion of a master plan: (1) it is not required to adopt the entirety of a

conservation element; (2) it must adopt the entirety of a housing element; and (3) it is not required to adopt the entirety of a public facilities and services element. Amendment No. 59 also deletes a reference to a housing "plan" within a housing "element."

The amendment is necessary in order to clarify within the *Nevada Revised Statutes* that Senate Bill No. 55 reorganizes which portions of a master plan a city in the affected population range has to adopt and which portions it does not have to adopt. A full explanation will be given on General File.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 61.

Bill read second time.

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

Amendment No. 55.

"SUMMARY—Revises certain provisions relating to persons with communications disabilities. (BDR 38-310)"

"AN ACT relating to public welfare; revising ~~[the number and qualifications of members of]~~ provisions relating to the Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities of the Nevada Commission on Services for Persons with Disabilities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law creates the Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities within the Nevada Commission on Services for Persons with Disabilities. The Subcommittee is authorized to: (1) make recommendations to the Commission concerning programs for persons with communications disabilities; (2) recommend to the Commission proposed legislation concerning persons with communications disabilities; and (3) collect information concerning persons with communications disabilities. The Subcommittee consists of 11 members (8 voting, 3 nonvoting) who represent various interests related to communications disabilities. (NRS 427A.750)

Section 1 of this bill removes five positions from the Subcommittee (including all three nonvoting members), changes the criteria for three positions, ~~[and]~~ adds ~~[one position]~~ two positions reserved for a user of telecommunications relay services or the services of persons engaged in the practice of interpreting or the practice of realtime captioning ~~[.]~~ and adds one position reserved for a parent of a child who is deaf, hard of hearing or speech-impaired. Section 1 also allows the Subcommittee to create and annually review a strategic plan and to provide certain advice to the Aging and Disability Services Division of the Department of Health and Human Services and to the Department of Education.

Section 2 of this bill provides that the terms of the Subcommittee members whose positions are being removed end on the effective date of this bill and

that the new members must be appointed in a manner consistent with the staggered terms currently served by the Subcommittee members.

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

Section 1. NRS 427A.750 is hereby amended to read as follows:

427A.750 1. The Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities of the Nevada Commission on Services for Persons with Disabilities is hereby created. The Subcommittee consists of ~~[11]~~ ~~*[seven]*~~ *nine* members appointed by the Administrator. The Administrator shall consider recommendations made by the Nevada Commission on Services for Persons with Disabilities and appoint to the Subcommittee:

(a) One member who is employed by the Division and who participates in the administration of the program of this State that provides services to persons with communications disabilities which affect their ability to communicate;

(b) One ~~[person]~~ *member* who is a member of the Nevada Association of the Deaf ~~[;]~~ *, or, if it ceases to exist, one member who represents an organization which has a membership of persons who are deaf, hard of hearing or speech-impaired ; ~~[, or a parent of a child who is deaf, hard of hearing or speech-impaired;]~~*

(c) One member who ~~[is professionally qualified in the field of deafness;]~~ *has experience with or an interest in and knowledge of the problems of and services for the deaf, hard of hearing or speech-impaired;*

(d) The Executive Director of the Nevada Telecommunications Association or, in the event of its dissolution, a member who represents the telecommunications industry;

(e) ~~[One member]~~ ~~*[Two]*~~ *Three members* who ~~[is a consumer]~~ *are users* of telecommunications relay services ~~[;]~~ *or the services of persons engaged in the practice of interpreting or the practice of realtime captioning; ~~[and]~~*

(f) ~~[One member who is a consumer of Communication Access Realtime Translation or realtime captioning;~~

~~(g) One member who is a consumer of services provided by a person engaged in the practice of interpreting;~~

~~(h) One nonvoting member who is registered with the Division pursuant to NRS 656A.100 to engage in the practice of interpreting in a community setting and holds a certificate issued by the Registry of Interpreters for the Deaf, Inc., or its successor organization;~~

~~(i) One nonvoting member who is registered with the Division pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting and has completed the Educational Interpreter Performance Assessment administered by the Boys Town National Research Hospital, or its successor organization, and received a rating of his or her level of proficiency in providing interpreting services at level 4 or 5;~~

~~(j) One nonvoting member who is registered with the Division pursuant to NRS 656A.400 to engage in the practice of realtime captioning; and~~

~~(k)~~] *One member who is a parent of a child who is deaf, hard of hearing or speech-impaired; and*

(g) One member who represents educators in this State and has knowledge concerning the provision of communication services to persons with communications disabilities in elementary, secondary and postsecondary schools and the laws concerning the provision of those services.

2. After the initial term, the term of each member is 3 years. A member may be reappointed.

3. If a vacancy occurs during the term of a member, the Administrator shall appoint a person similarly qualified to replace that member for the remainder of the unexpired term.

4. The Subcommittee shall:

(a) At its first meeting and annually thereafter, elect a Chair from among its ~~[voting]~~ members; and

(b) Meet at the call of the Administrator, the Chair of the Nevada Commission on Services for Persons with Disabilities, the Chair of the Subcommittee or a majority of its members as is necessary to carry out its responsibilities.

5. A majority of the ~~[voting]~~ members of the Subcommittee constitutes a quorum for the transaction of business, and a majority of the ~~[voting]~~ members of a quorum present at any meeting is sufficient for any official action taken by the Subcommittee.

6. Members of the Subcommittee serve without compensation, except that each member is entitled, while engaged in the business of the Subcommittee, to the per diem allowance and travel expenses provided for state officers and employees generally if funding is available for this purpose.

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

8. The Subcommittee may:

(a) Make recommendations to the Nevada Commission on Services for Persons with Disabilities concerning the establishment and operation of programs for persons with communications disabilities which affect their ability to communicate. ~~[;]~~

(b) Recommend to the Nevada Commission on Services for Persons with Disabilities any proposed legislation concerning persons with

communications disabilities which affect their ability to communicate . ~~[; and]~~

(c) Collect information concerning persons with communications disabilities which affect their ability to communicate.

(d) Create and annually review a 5-year strategic plan consisting of short-term and long-term goals for services provided by or on behalf of the Division. In creating and reviewing any such plan, the Subcommittee must solicit input from various persons, including, without limitation, persons with communications disabilities.

(e) Review the goals, programs and services of the Division for persons with communications disabilities and advise the Division regarding such goals, programs and services, including, without limitation, the outcomes of services provided to persons with communications disabilities and the requirements imposed on providers.

(f) Based on information collected by the Department of Education, advise the Department of Education on research and methods to ensure the availability of language and communication services for children who are deaf, hard of hearing or speech-impaired.

9. The Subcommittee shall make recommendations to the Nevada Commission on Services for Persons with Disabilities concerning the practice of interpreting and the practice of realtime captioning, including, without limitation, the adoption of regulations to carry out the provisions of chapter 656A of NRS.

10. As used in this section:

(a) "Nevada Commission on Services for Persons with Disabilities" means the Nevada Commission on Services for Persons with Disabilities created by NRS 427A.1211.

(b) "Practice of interpreting" has the meaning ascribed to it in NRS 656A.060.

(c) "Practice of realtime captioning" has the meaning ascribed to it in NRS 656A.062.

(d) "Telecommunications relay services" has the meaning ascribed to it in 47 C.F.R. § 64.601.

Sec. 2. 1. The terms of the current members of the Subcommittee appointed pursuant to paragraphs ~~[(b),]~~ (c) and (e) to (j), inclusive, of subsection 1 of NRS 427A.750, as that section existed before the effective date of this act, expire on the effective date of this act.

2. As soon as practicable after the effective date of this act, the Administrator shall appoint to the Subcommittee the new members required by paragraphs ~~[(b),]~~ (c) , ~~[and]~~ (e) and (f) of subsection 1 of NRS 427A.750, as amended by section 1 of this act. A member may be reappointed pursuant to this subsection if the member meets the applicable criteria of subsection 1 of NRS 427A.750, as amended by section 1 of this act.

3. In making the appointments described in subsection 2, the Administrator must, insofar as is possible, appoint the new members to initial

terms which are of such durations that the terms are consistent with the manner in which the terms of the other members of the Subcommittee are staggered.

4. As used in this section:

(a) "Administrator" has the meaning ascribed to it in NRS 427A.021.

(b) "Subcommittee" means the Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities of the Nevada Commission on Services for Persons with Disabilities.

Sec. 3. This act becomes effective upon passage and approval.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 55 to Senate Bill No. 61 revises the Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities by adding two positions to the Subcommittee for individuals that use telecommunication relay services, interpreting services or real-time captioning, and it adds a position for a parent of a child who is deaf, hard of hearing or speech impaired.

Finally, it also allows the Subcommittee to create and annually review a strategic plan and to provide advice to the Aging and Disability Services Division of the Department of Health and Human Services.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 78.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary.

Amendment No. 25.

"SUMMARY—Makes various changes concerning guardianships and powers of attorney. (BDR 13-465)"

"AN ACT relating to fiduciaries; revising provisions governing guardianship proceedings; revising provisions governing the appointment and the powers and duties of guardians; revising provisions governing powers of attorney; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a petition for the appointment of a guardian to include certain documentation demonstrating the need for a guardianship, including, without limitation, a certificate signed by a physician, a letter signed by any governmental agency in this State which conducts investigations or a certificate signed by any other person whom the court finds qualified to execute a certificate, stating certain information concerning the condition of the proposed ward. (NRS 159.044) Section 7 of this bill provides that this certificate or letter is only required if the proposed ward is an adult. Section 7 further requires the petition to include: (1) a written consent to the appointment of a special guardian if the proposed ward has the limited capacity to consent to such an appointment; and (2) statements setting forth whether the proposed guardian is a party to a civil or criminal

proceeding and whether the proposed guardian has filed for or received bankruptcy protection within the immediately preceding 7 years.

Under existing law, if a petition for the appointment of a guardian is filed, a citation setting forth a time and place for the hearing and directing certain persons to appear and show cause why a guardian should not be appointed must be served on certain persons. (NRS 159.047, 159.0475) Under section 6 of this bill, if service is made by publication, the court may allow fewer publications to be made and extend or shorten the time in which the publications must be made. Section 8 of this bill amends the list of persons upon whom the citation must be served.

Under existing law, at the first hearing for the appointment of a guardian for a proposed adult ward, the court must advise the proposed adult ward of his or her right to counsel and determine whether the proposed adult ward wishes to be represented by counsel. (NRS 159.0485) If the proposed adult ward is not in attendance and is not appearing by videoconference, the proposed adult ward must be notified of his or her rights by the physician or other person who signed the certificate excusing the proposed ward from attendance. (NRS 159.0485, 159.0535) Sections 10 and 14 of this bill authorize the court to allow any other person found qualified by the court to notify the proposed adult ward of his or her rights. In addition, section 10 revises provisions concerning the compensation of an attorney for a proposed adult ward or adult ward.

Existing law authorizes the appointment of a temporary guardian under certain circumstances. (NRS 159.052, 159.0523, 159.0525) Sections 11, 12 and 13 of this bill: (1) revise provisions governing the information which must be provided in a petition for the appointment of a temporary guardian; and (2) require the determination of whether a temporary guardian is necessary for a minor to be based on the age of the minor and other factors deemed relevant by the court rather than on certain information provided by a physician. ~~[; and (3) authorize the court to accept other competent evidence that establishes by clear and convincing evidence that the appointment of a temporary guardian is necessary if the petitioner is unable to obtain certain documentation.]~~

Existing law requires a person who files a petition in a guardianship proceeding to notify certain persons of the time and place of the hearing on the petition. (NRS 159.034) Sections 5 and 19 of this bill clarify that this notice is required for any petition in a guardianship proceeding and specifically states the persons who must be provided this notice.

Existing law sets forth the powers and duties of a person appointed by the court as the guardian of a ward. (Chapter 159 of NRS) Section 2 of this bill authorizes the court to require a guardian to complete any available training concerning guardianships as a condition of appointment as a guardian. Section 3 of this bill: (1) requires a bank or financial institution to allow a guardian access to the account or other assets of the ward if the guardian provides a copy of the court order appointing the guardian and letters of

guardianship; and (2) provides that the bank or financial institution is not entitled to a copy of any competency evaluation of the ward or medical information concerning the ward or any inventory or accounting of the estate of the ward. Sections 16 and 18 of this bill specify that a guardian of the person rather than a guardian of the estate must file a petition with the court before placing a ward in a secured residential long-term care facility. Section 17 of this bill specifies the circumstances under which a guardian of the estate of a ward is not required to represent the ward in an action, suit or proceeding.

Existing law provides that if, at a hearing to confirm a sale of a ward's real property, a higher offer or bid is received by the court, the court may: (1) accept the offer or bid if the written offer is lawful and exceeds the original bid by a certain amount; or (2) continue the hearing if the court determines that the person who made the original offer or bid was not notified of the hearing and may wish to increase his or her offer or bid. (NRS 159.146) Section 20 of this bill provides that if the court does not accept a higher offer or bid received during the hearing to confirm the sale, any successive offer or bid must exceed the preceding bid by a certain amount.

Existing law sets forth the circumstances under which a court may remove a guardian and authorizes certain persons to petition the court for the removal of the guardian. (NRS 159.185, 159.1853) Section 4 of this bill requires a guardian to notify the court of certain circumstances relating to the qualifications of the guardian to serve as the guardian of a ward. Upon receipt of such notice, the court may remove the guardian and appoint a successor guardian unless the court finds that it is in the best interest of the ward to allow the guardian to continue the appointment.

Existing law sets forth the circumstances under which a guardianship is terminated and provides that a guardianship of the person of a ward is terminated by the death of the ward. (NRS 159.191) Section 21 of this bill: (1) specifies that guardianship of the estate of a ward is also terminated by the death of the ward, subject to the guardian's power to wind up the affairs of the estate under existing law; and (2) requires a guardian to notify the court and certain other persons of the death of the ward within 30 days of the death. Section 15 of this bill requires the acknowledgment filed by a guardian before entering upon his or her duties as a guardian to set forth the duty to notify the court and certain other persons of the death of the ward.

Existing law sets forth the circumstances under which and the length of time for which the guardian of the estate of the ward may possess the ward's property for the purpose of winding up the affairs of the guardianship after the death of the ward. (NRS 159.193) Section 22 of this bill revises the length of time for which the guardian of the estate may possess the deceased ward's property. Section 22 further authorizes the guardian of the estate to retain sufficient assets to pay any anticipated taxes and expenses of the guardianship estate under certain circumstances.

Existing law sets forth the manner in which an adult may execute a power of attorney enabling an agent to make health care decisions for him or her if he or she becomes incapable of giving informed consent. (NRS 162A.790) Section 28 of this bill provides that a certification of competency from a physician, psychologist or psychiatrist must be attached to the power of attorney if the adult resides in certain medical facilities at the time the power of attorney for health care is executed. Under section 29 of this bill, a power of attorney for health care is not required to be in the form provided by existing law, but it may be in that form. Section 23 of this bill provides that a physician, health care facility or other provider of health care may act in reliance on an acknowledged power of attorney for health care if the physician, health care facility or other provider of health care acts in good faith and without knowledge of certain information affecting the validity of the power of attorney.

Existing law provides that a certification of competency from a physician, psychologist or psychiatrist must be attached to the financial power of attorney if the person executing it resides in certain medical facilities at the time the power of attorney is executed. (NRS 162A.220) Section 24 of this bill corrects references to such medical facilities and expands the types of medical facilities to which this requirement applies.

Under existing law, a financial power of attorney is terminated if, after its execution, a court appoints a guardian of the estate for the principal. (NRS 162A.250) Section 25 of this bill authorizes the court to allow the agent under the financial power of attorney to retain such powers conferred by the power of attorney as the court specifies. Under section 25, if the court allows the agent to retain specific powers, the agent must file an accounting with the court and the guardian on a quarterly basis or such other period designated by the court.

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

Section 1. Chapter 159 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *As a condition of the appointment of a guardian, the court may require the guardian to complete any available training concerning guardianships that the court determines appropriate.*

Sec. 3. *1. A guardian shall present a copy of the court order appointing the guardian and letters of guardianship to a bank or other financial institution that holds any account or other assets of the ward before the guardian may access the account or other assets.*

2. The bank or other financial institution shall accept the copy of the court order appointing the guardian and letters of guardianship as proof of guardianship and allow the guardian access to the account or other assets of the ward, subject to any limitations set forth in the court order.

3. Unless the bank or other financial institution is a party to the guardianship proceeding, the bank or other financial institution is not entitled to a copy of any:

(a) Competency evaluation of the ward or any other confidential information concerning the medical condition or the placement of the ward; or

(b) Inventory or accounting of the estate of the ward.

Sec. 4. *A guardian who, after appointment:*

1. Is convicted of a gross misdemeanor or felony in any state;

2. Files for or receives protection as an individual or as a principal of any entity under the federal bankruptcy laws;

3. Has a driver's license suspended, revoked or cancelled for nonpayment of child support;

4. Is suspended for misconduct or disbarred from:

(a) The practice of law;

(b) The practice of accounting; or

(c) Any other profession which:

(1) Involves or may involve the management or sale of money, investments, securities or real property; or

(2) Requires licensure in this State or any other state; or

5. Has a judgment entered against him or her for misappropriation of funds or assets from any person or entity in any state,

➥ *shall immediately inform the court of the circumstances of those events. The court may remove the guardian and appoint a successor guardian, unless the court finds that it is in the best interest of the ward to allow the guardian to continue in his or her appointment.*

Sec. 5. NRS 159.034 is hereby amended to read as follows:

159.034 1. Except as otherwise provided in this section, by specific statute or as ordered by the court, a petitioner in a guardianship proceeding shall give notice of the time and place of the hearing on ~~[the]~~ *any* petition *filed in the guardianship proceeding* to:

(a) ~~[Each interested person or the attorney of the interested person;]~~ *Any minor ward who is 14 years of age or older.*

(b) ~~[Any person entitled to notice pursuant to this chapter or the person's attorney;]~~ *The parent or legal guardian of any minor ward who is less than 14 years of age.*

(c) *The spouse of the ward and all other known relatives of the ward who are within the second degree of consanguinity.*

(d) Any other *interested* person *or the person's attorney* who has filed a request for notice in the guardianship proceedings ~~[,]~~ *and has served a copy of the request upon the guardian. The request for notice must state the interest of the person filing the request and the person's name and address, or that of his or her attorney.*

~~[(d)]~~ *(e)* The ~~[proposed]~~ guardian, if the petitioner is not the ~~[proposed]~~ guardian . ~~[; and~~

~~(e)~~ *(f) Any person or care provider who is providing care for the ward, except that if the person or care provider is not related to the ward, such person or care provider must not receive copies of any inventory or accounting.*

(g) Any office of the Department of Veterans Affairs in this State if the ward is receiving any payments or benefits through the Department of Veterans Affairs.

(h) The Director of the Department of Health and Human Services if the ward has received or is receiving benefits from Medicaid.

(i) Those persons entitled to notice if a proceeding were brought in the ~~[proposed]~~ ward's home state.

2. The petitioner shall give notice not later than 10 days before the date set for the hearing:

(a) By mailing a copy of the notice by certified, registered or ordinary first-class mail to the residence, office or post office address of each person required to be notified pursuant to this section;

(b) By personal service; or

(c) In any other manner ordered by the court, upon a showing of good cause.

3. ~~[If]~~ *Except as otherwise provided in this subsection, if none of* the ~~[address or identity of a person required]~~ *persons entitled* to ~~[be notified]~~ *notice* of a hearing on a petition pursuant to this section ~~[is not known and cannot be ascertained with reasonable]~~ *can, after due* diligence, *be served by certified mail or personal service and this fact is proven by affidavit to the satisfaction of the court, service of the* notice must be ~~[given:~~

~~(a) By publishing a copy of the notice in a newspaper of general circulation in the county where the hearing is to be held at least once every 7 days for 21 consecutive days, the last]~~ *made by* publication ~~[of which must occur]~~ *in the manner provided by N.R.C.P. 4(e). In all such cases, the notice must be published* not later than 10 days before the date set for the hearing . ~~[; or~~

~~(b) In any other manner ordered by the court, upon a showing of good cause.]~~ *If, after the appointment of a guardian, a search for relatives of the ward listed in paragraph (c) of subsection 1 fails to find any such relative, the court may waive the notice by publication required by this subsection.*

4. For good cause shown, the court may waive the requirement of giving notice.

5. A person entitled to notice pursuant to this section may waive such notice. Such a waiver must be in writing and filed with the court.

6. On or before the date set for the hearing, the petitioner shall file with the court proof of giving notice to each person entitled to notice pursuant to this section.

Sec. 6. NRS 159.0345 is hereby amended to read as follows:

159.0345 If publication of a notice *or citation* is required pursuant to this chapter, the court may, for good cause shown:

1. Allow fewer publications to be made within the time for publication; and

2. Extend or shorten the time in which the publications must be made.

Sec. 7. NRS 159.044 is hereby amended to read as follows:

159.044 1. Except as otherwise provided in NRS 127.045, a proposed ward, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

(a) The name and address of the petitioner.

(b) The name, date of birth and current address of the proposed ward.

(c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

➥ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 120 days after the appointment of a guardian or as otherwise ordered by the court.

(d) If the proposed ward is a minor, the date on which the proposed ward will attain the age of majority and:

(1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and

(2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.

(e) Whether the proposed ward is a resident or nonresident of this State.

(f) The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.

(g) The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595. If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage.

(h) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as

otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

(i) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which the proposed guardian was convicted and whether the proposed guardian was placed on probation or parole.

(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. ~~[The]~~ *If the proposed ward is an adult, the* documentation must include, without limitation:

(1) A certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs *, a letter signed by any governmental agency in this State which conducts investigations or a certificate signed by any other person whom the court finds qualified to execute a certificate,* stating:

(I) The need for a guardian;

(II) Whether the proposed ward presents a danger to himself or herself or others;

(III) Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;

(IV) Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and

(V) Whether the proposed ward is capable of living independently with or without assistance; *and*

(2) ~~[A letter signed by any governmental agency in this State which conducts investigations stating:~~

~~(I) The need for a guardian;~~

~~(II) Whether the proposed ward presents a danger to himself or herself or others;~~

~~(III) Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;~~

~~(IV) Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and~~

~~(V) Whether the proposed ward is capable of living independently with or without assistance; or~~

~~(3) A certificate signed by any other person whom the court finds qualified to execute a certificate stating:~~

~~(I) The need for a guardian;~~

~~(II) Whether the proposed ward presents a danger to himself or herself or others;~~

~~(III) Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;~~

~~(IV) Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and~~

~~(V) Whether the proposed ward is capable of living independently with or without assistance.~~] *If the proposed ward is determined to have the limited capacity to consent to the appointment of a special guardian, a written consent to the appointment of a special guardian from the ward.*

(k) Whether the appointment of a general or a special guardian is sought.

(l) A general description and the probable value of the property of the proposed ward and any income to which the proposed ward is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by the United States through the Department of Veterans Affairs, the petition must so state.

(m) The name and address of any person or care provider having the care, custody or control of the proposed ward.

(n) If the petitioner is not the spouse or natural child of the proposed ward, a declaration explaining the relationship of the petitioner to the proposed ward or to the proposed ward's family or friends, if any, and the interest, if any, of the petitioner in the appointment.

(o) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.

(p) If the guardianship is sought as the result of an investigation of a report of abuse, neglect or exploitation of the proposed ward, whether the referral was from a law enforcement agency or a state or county agency.

(q) Whether the proposed ward *or the proposed guardian* is a party to any pending criminal or civil litigation.

(r) Whether the guardianship is sought for the purpose of initiating litigation.

(s) Whether the proposed ward has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.

(t) Whether the proposed guardian has filed for or received protection under the federal bankruptcy laws within the immediately preceding 7 years.

3. Before the court makes a finding pursuant to NRS 159.054, a petitioner seeking a guardian for a proposed adult ward must provide the court with an assessment of the needs of the proposed adult ward completed by a licensed physician which identifies the limitations of capacity of the proposed adult ward and how such limitations affect the ability of the proposed adult ward to maintain his or her safety and basic needs. The court may prescribe the form in which the assessment of the needs of the proposed adult ward must be filed.

Sec. 8. NRS 159.047 is hereby amended to read as follows:

159.047 1. Except as otherwise provided in NRS 159.0475 and 159.049 to 159.0525, inclusive, upon the filing of a petition under NRS 159.044, the clerk shall issue a citation setting forth a time and place for the hearing and directing the persons or care provider referred to in subsection 2 to appear and show cause why a guardian should not be appointed for the proposed ward.

2. A citation issued under subsection 1 must be served ~~[:]~~ *upon:*

(a) ~~[Upon a]~~ *A* proposed ward who is 14 years of age or older;

(b) ~~[Upon the]~~ *The* spouse of the proposed ward and all other known relatives of the proposed ward who are:

(1) Fourteen years of age or older; and

(2) Within the second degree of consanguinity;

(c) ~~[Upon the parent or legal guardian of all known relatives of the proposed ward who are:~~

~~(1) Less than 14 years of age; and~~

~~(2) Within the second degree of consanguinity;]~~ *The parents and custodian of the proposed ward;*

(d) ~~[If there is no spouse of the proposed ward and there are no known relatives of the proposed ward who are within the second degree of consanguinity to the proposed ward, upon the office of the public guardian of the county where the proposed ward resides; and~~

~~(e) Upon any]~~ *Any* person or officer of a care provider having the care, custody or control of the proposed ward ~~[.]~~ *;*

(e) The proposed guardian, if the petitioner is not the proposed guardian;

(f) Any office of the Department of Veterans Affairs in this State if the proposed ward is receiving any payments or benefits through the Department of Veterans Affairs; and

(g) The Director of the Department of Health and Human Services if the proposed ward has received or is receiving any benefits from Medicaid.

Sec. 9. NRS 159.0475 is hereby amended to read as follows:

159.0475 1. A copy of the citation issued pursuant to NRS 159.047 must be served by:

(a) Certified mail, with a return receipt requested, on each person required to be served pursuant to NRS 159.047 at least 20 days before the hearing; or

(b) Personal service in the manner provided pursuant to N.R.C.P. 4(d) at least 10 days before the date set for the hearing on each person required to be served pursuant to NRS 159.047.

2. If none of the persons on whom the citation is to be served can, after due diligence, be served by certified mail or personal service and this fact is proven, by affidavit, to the satisfaction of the court, service of the citation must be made by publication in the manner provided by N.R.C.P. 4(e). In all such cases, the citation must be published at least 20 days before the date set for the hearing.

3. A citation need not be served on a person or an officer of the care provider who has signed the petition or a written waiver of service of citation or who makes a general appearance.

4. ~~[If the proposed ward is receiving money paid or payable by the United States through the Department of Veterans Affairs, a copy of the citation must be mailed to any office of the Department of Veterans Affairs in this State, unless the Department of Veterans Affairs has executed a written waiver of service of citation.~~

~~5.]~~ The court may find that notice is sufficient if:

(a) The citation has been served by certified mail, with a return receipt requested, or by personal service on the proposed ward, care provider or public guardian required to be served pursuant to NRS 159.047; and

(b) At least one relative of the proposed ward who is required to be served pursuant to NRS 159.047 has been served, as evidenced by the return receipt or the certificate of service. If the court finds that at least one relative of the proposed ward has not received notice that is sufficient, the court will require the citation to be published pursuant to subsection 2.

Sec. 10. NRS 159.0485 is hereby amended to read as follows:

159.0485 1. At the first hearing for the appointment of a guardian for a proposed adult ward, the court shall advise the proposed adult ward who is in attendance at the hearing or who is appearing by videoconference at the hearing of his or her right to counsel and determine whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding. If the proposed adult ward is not in attendance at the hearing because the proposed adult ward has been excused pursuant to NRS 159.0535 and is not appearing by videoconference at the hearing, the ~~[person who signs the certificate pursuant to NRS 159.0535 to excuse the]~~ proposed adult ward ~~[from attending the hearing shall advise the proposed adult ward]~~ *must be advised* of his or her right to counsel ~~[and determine whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding.]~~ *pursuant to subsection 2 of NRS 159.0535.*

2. If an adult ward or proposed adult ward is unable to retain legal counsel and requests the appointment of counsel ~~[,]~~ at any stage in a guardianship proceeding and whether or not the adult ward or proposed adult ward lacks or appears to lack capacity, the court shall, at or before the time of the next hearing, appoint an attorney who works for legal aid services, if available, or a private attorney to represent the adult ward or proposed adult ward. The appointed attorney ~~[must]~~ *shall* represent the adult ward or proposed adult ward until relieved of the duty by court order.

3. Subject to the discretion and approval of the court, the attorney for the adult ward or proposed adult ward is entitled to reasonable compensation ~~[which must be paid from the estate of the adult ward or proposed adult ward.]~~ *and expenses. Unless the court determines that the adult ward or proposed adult ward does not have the ability to pay such compensation and expenses or the court shifts the responsibility of payment to a third party, the*

compensation and expenses must be paid from the estate of the adult ward or proposed adult ward, unless the compensation and expenses are provided for or paid by another person or entity. If the court finds that a person has unnecessarily or unreasonably caused the appointment of an attorney, the court may order the person to pay to the estate of the adult ward or proposed adult ward all or part of the expenses associated with the appointment of the attorney.

Sec. 11. NRS 159.052 is hereby amended to read as follows:

159.052 1. A petitioner may request the court to appoint a temporary guardian for a ward who is a minor and who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) Documentation which shows that the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention and lacks capacity to respond to the risk of harm or obtain the necessary medical attention. Such documentation must include, without limitation ~~[, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs or a letter signed by any governmental agency in this State which conducts investigations indicating:~~

~~(1) That the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;~~

~~(2) Whether]~~ *:*

(1) A copy of the birth certificate of the proposed ward or other documentation verifying the age of the proposed ward; and

(2) A letter signed by any governmental agency in this State which conducts investigations or a police report indicating whether the proposed ward presents a danger to himself or herself or others *,* ~~[; and~~

~~(3) Whether]~~ *or whether* the proposed ward is or has been subjected to abuse, neglect or exploitation; and

(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention ~~[.]~~ *based on the age of the proposed ward and other factors deemed relevant by the court;* and

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in subsection 7, if the court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention, the court may extend the temporary guardianship until a general or special guardian is appointed pursuant to subsection 8.

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of physical harm or to a need for immediate medical attention.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. The court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the

court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

Sec. 12. NRS 159.0523 is hereby amended to read as follows:

159.0523 1. A petitioner may request the court to appoint a temporary guardian for a ward who is an adult and who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) Documentation which shows the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention and lacks capacity to respond to the risk of harm or obtain the necessary medical attention. Such documentation must include, without limitation, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs *,* ~~[or]~~ a letter signed by any governmental agency in this State which conducts investigations *or a police report* indicating:

(1) That the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;

(2) Whether the proposed ward presents a danger to himself or herself or others; and

(3) Whether the proposed ward is or has been subjected to abuse, neglect or exploitation; and

(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; and

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the

persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2 , ~~[or 9,]~~ the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in subsection ~~[subsections]~~ 7 , ~~[and 9,]~~ the court may extend the temporary guardianship until a general or special guardian is appointed pursuant to subsection 8 if:

(a) The court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; and

(b) The extension of the temporary guardianship is necessary and in the best interests of the proposed ward.

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of physical harm or to a need for immediate medical attention.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. The court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

~~[9. If the petitioner is unable to obtain the documentation required by subsection 1, the court may accept other competent evidence that establishes by clear and convincing evidence that the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention and lacks capacity to respond to the risk of harm or obtain the necessary medical attention. If the court appoints a temporary guardian pursuant to~~

~~*this subsection, the court shall limit the powers of the temporary guardian to those necessary to obtain a competency evaluation of the proposed ward or to obtain emergency medical treatment for the proposed ward. A temporary guardianship under this subsection may be extended pursuant to subsection 5 but shall not be extended without presentation of a physician's certificate stating the proposed ward requires continuation of the guardianship.]*~~

Sec. 13. NRS 159.0525 is hereby amended to read as follows:

159.0525 1. A petitioner may request the court to appoint a temporary guardian for a ward who is unable to respond to a substantial and immediate risk of financial loss. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) Documentation which shows that the proposed ward faces a substantial and immediate risk of financial loss and lacks capacity to respond to the risk of loss. Such documentation must include, without limitation, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs *,* ~~[or]~~ a letter signed by any governmental agency in this State which conducts investigations *or a police report* indicating:

(1) That the proposed ward is unable to respond to a substantial and immediate risk of financial loss;

(2) Whether the proposed ward can live independently with or without assistance or services; and

(3) Whether the proposed ward is or has been subjected to abuse, neglect or exploitation;

(b) A detailed explanation of what risks the proposed ward faces, including, without limitation, termination of utilities or other services because of nonpayment, initiation of eviction or foreclosure proceedings, exploitation or loss of assets as the result of fraud, coercion or undue influence; and

(c) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of financial loss if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; and

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to

those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (c) of subsection 1.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (c) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2 , ~~[or 9,]~~ the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in subsection ~~[subsections]~~ 7 , ~~[and 9,]~~ the court may extend the temporary guardianship until a general or special guardian is appointed pursuant to subsection 8 if:

(a) The court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; and

(b) The extension of the temporary guardianship is necessary and in the best interests of the proposed ward.

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of financial loss, specifically limiting the temporary guardian's authority to take possession of, close or have access to any accounts of the ward or to sell or dispose of tangible personal property of the ward to only that authority as needed to provide for the ward's basic living expenses until a general or special guardian can be appointed. The court may freeze any or all of the ward's accounts to protect such accounts from loss.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. The court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

~~[9. If the petitioner is unable to obtain the documentation required by subsection 1, the court may accept other competent evidence that establishes by clear and convincing evidence that the proposed ward faces a substantial and immediate risk of financial loss and lacks capacity to respond to the risk of financial loss. If the court appoints a temporary guardian pursuant to this subsection, the court shall limit the powers of the temporary guardian to those necessary to freeze any or all of the accounts of the proposed ward to protect such accounts from loss. A temporary guardianship under this subsection may be extended pursuant to subsection 5 but shall not be extended without presentation of a physician's certificate stating the proposed ward requires continuation of the guardianship.]~~

Sec. 14. NRS 159.0535 is hereby amended to read as follows:

159.0535 1. A proposed ward who is found in this State must attend the hearing for the appointment of a guardian unless:

(a) A certificate signed by a physician *or psychiatrist* who is licensed to practice in this State *or who is employed by the Department of Veterans Affairs* specifically states the condition of the proposed ward, the reasons why the proposed ward is unable to appear in court and whether the proposed ward's attendance at the hearing would be detrimental to the physical *or mental* health of the proposed ward; or

(b) A certificate signed by any other person the court finds qualified to execute a certificate states the condition of the proposed ward, the reasons why the proposed ward is unable to appear in court and whether the proposed ward's attendance at the hearing would be detrimental to the physical *or mental* health of the proposed ward.

2. A proposed ward found in this State who cannot attend the hearing for the appointment of a general or special guardian as set forth in a certificate pursuant to subsection 1 may appear by videoconference. If the proposed ward is an adult and cannot attend by videoconference, the person who signs the certificate described in subsection 1 *or any other person the court finds qualified* shall:

(a) Inform the proposed adult ward that the petitioner is requesting that the court appoint a guardian for the proposed adult ward;

(b) Ask the proposed adult ward for a response to the guardianship petition;

(c) Inform the proposed adult ward of his or her right to counsel and ask whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding; and

(d) Ask the preferences of the proposed adult ward for the appointment of a particular person as the guardian of the proposed adult ward.

3. If the proposed ward is an adult, the person who ~~[signs the certificate described in subsection 1]~~ *informs the proposed adult ward of the rights of the proposed adult ward pursuant to subsection 2* shall state in ~~[the]~~ *a* certificate ~~[.]~~ *signed by that person:*

(a) That the proposed adult ward has been advised of his or her right to counsel and asked whether he or she wishes to be represented by counsel in the guardianship proceeding;

(b) The responses of the proposed adult ward to the questions asked pursuant to subsection 2; and

(c) Any conditions that the person believes may have limited the responses by the proposed adult ward.

4. The court may prescribe the form in which ~~[the]~~ *a* certificate *required by this section* must be filed. If the certificate consists of separate parts, each part must be signed by ~~[a]~~ *the* person ~~[identified in subsection 1.]~~ *who is required to sign the certificate.*

5. If the proposed ward is not in this State, the proposed ward must attend the hearing only if the court determines that the attendance of the proposed ward is necessary in the interests of justice.

Sec. 15. NRS 159.073 is hereby amended to read as follows:

159.073 1. Every guardian, 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) Be endorsed on the letters of guardianship; and

(2) State that the guardian will well and faithfully perform the duties of guardian according to law.

(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 acknowledgment 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.

(V) Notify the court, all interested parties, the trustee, and named executor or appointed personal representative of the estate of the ward of the death of the ward within 30 days after the death.

(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. 16. NRS 159.079 is hereby amended to read as follows:

159.079 1. Except as otherwise ordered by the court, a guardian of the person has the care, custody and control of the person of the ward, and has the authority and, subject to subsection 2, shall perform the duties necessary for the proper care, maintenance, education and support of the ward, including, without limitation, the following:

(a) Supplying the ward with food, clothing, shelter and all incidental necessaries, including locating an appropriate residence for the ward.

(b) Authorizing medical, surgical, dental, psychiatric, psychological, hygienic or other remedial care and treatment for the ward.

(c) Seeing that the ward is properly trained and educated and that the ward has the opportunity to learn a trade, occupation or profession.

2. In the performance of the duties enumerated in subsection 1 by a guardian of the person, due regard must be given to the extent of the estate of the ward. A guardian of the person is not required to incur expenses on behalf of the ward except to the extent that the estate of the ward is sufficient to reimburse the guardian.

3. A guardian of the person is the ward's personal representative for purposes of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and any applicable regulations. The guardian of the person has authority to obtain information from any government agency, medical provider, business, creditor or third party who may have information pertaining to the ward's health care or health insurance.

4. ~~[A]~~ *Except as otherwise provided in subsection 6, a* guardian of the person may establish and change the residence of the ward at any place within this State without the permission of the court. The guardian shall select the least restrictive appropriate residence which is available and necessary to meet the needs of the ward and which is financially feasible.

5. ~~[A]~~ *Except as otherwise provided in subsection 6, a* guardian of the person shall petition the court for an order authorizing the guardian to change

the residence of the ward to a location outside of this State. The guardian must show that the placement outside of this State is in the best interest of the ward or that there is no appropriate residence available for the ward in this State. The court shall retain jurisdiction over the guardianship unless the guardian files for termination of the guardianship pursuant to NRS 159.1905 or 159.191 or the jurisdiction of the guardianship is transferred to the other state.

6. *A guardian of the person must file a petition with the court requesting authorization to move or place a ward in a secured residential long-term care facility unless:*

(a) The court has previously granted the guardian authority to move or place the ward in such a facility based on findings made when the court appointed the guardian; or

(b) The move or placement is made pursuant to a written recommendation by a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of a county or state office for protective services.

7. This section does not relieve a parent or other person of any duty required by law to provide for the care, support and maintenance of any dependent.

8. As used in this section "protective services" has the meaning ascribed to it in NRS 200.5092.

Sec. 17. NRS 159.095 is hereby amended to read as follows:

159.095 1. A guardian of the estate shall appear for and represent the ward in all actions, suits or proceedings to which the ward is a party, unless *the court finds that the interests of the guardian conflict with the interests of the ward or it is otherwise appropriate to appoint* a guardian ad litem ~~[is appointed]~~ in the action, suit or proceeding. ~~[If a guardian ad litem is appointed in the action, suit or proceeding, the guardian of the estate shall notify the court that the guardian ad litem has been appointed in the action, suit or proceeding.]~~

2. Upon final resolution of the action, suit or proceeding, the guardian of the estate *or the guardian ad litem* shall notify the court of the outcome of the action, suit or proceeding.

3. If the person of the ward would be affected by the outcome of any action, suit or proceeding, the guardian of the person, if any, should be joined to represent the ward in the action, suit or proceeding.

Sec. 18. NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian of the estate shall petition the court for an order authorizing the guardian to:

(a) Invest the property of the ward pursuant to NRS 159.117.

(b) Continue the business of the ward pursuant to NRS 159.119.

(c) Borrow money for the ward pursuant to NRS 159.121.

(d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward pursuant to NRS 159.123.

(e) Make gifts from the ward's estate or make expenditures for the ward's relatives pursuant to NRS 159.125.

(f) Sell, lease or place in trust any property of the ward pursuant to NRS 159.127.

(g) Exchange or partition the ward's property pursuant to NRS 159.175.

(h) Release the power of the ward as trustee, personal representative or custodian for a minor or guardian.

(i) Exercise or release the power of the ward as a donee of a power of appointment.

(j) Exercise the right of the ward to take under or against a will.

(k) Transfer to a trust created by the ward any property unintentionally omitted from the trust.

(l) Submit a revocable trust to the jurisdiction of the court if:

(1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or

(2) The trust was created by the court.

(m) Pay any claim by the Department of Health and Human Services to recover benefits for Medicaid correctly paid to or on behalf of the ward.

(n) Transfer money in a minor ward's blocked account to the Nevada Higher Education Prepaid Tuition Trust Fund created pursuant to NRS 353B.140.

~~[(o) Except as otherwise provided in subsection 6, move the ward into a secured residential long-term care facility.]~~

2. Before taking any of the following actions, unless the guardian has been otherwise ordered by the court to petition the court for permission to take specified actions or make specified decisions in addition to those described in subsection 1, the guardian may petition the court for an order authorizing the guardian to:

(a) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.

(b) Take any other action which the guardian deems would be in the best interests of the ward.

3. The petition must be signed by the guardian and contain:

(a) The name, age, residence and address of the ward.

(b) A concise statement as to the condition of the ward's estate.

(c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.

(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

4. Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

5. A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed, the court may enter additional orders authorizing the guardian to continue the business of the ward, enter contracts for the ward or complete contracts of the ward.

~~[6. Without filing a petition pursuant to paragraph (o) of subsection 1, a guardian may move a ward into a secured residential long-term care facility if:~~

~~(a) The court has previously granted the guardian authority to move the ward to such a facility based on findings made when the court appointed the general or special guardian; or~~

~~(b) The transfer is made pursuant to a written recommendation by a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of a county's office for protective services.~~

~~7. As used in this section, "protective services" has the meaning ascribed to it in NRS 200.5092.]~~

Sec. 19. NRS 159.115 is hereby amended to read as follows:

159.115 1. Upon the filing of any petition under NRS 159.078 or 159.113, or any account, notice must be given ~~[:~~

~~(a) At least 10 days before the date set for the hearing, by mailing a copy of the notice by regular mail to the residence, office or post office address of each person required to be notified pursuant to subsection 3;~~

~~(b) At least 10 days before the date set for the hearing, by personal service;~~

~~(c) If the address or identity of the person is not known and cannot be ascertained with reasonable diligence, by publishing a copy of the notice in a newspaper of general circulation in the county where the hearing is to be held, the last publication of which must be published at least 10 days before the date set for the hearing; or~~

~~(d) In any other manner ordered by the court, for good cause shown.]~~ *in the manner prescribed by NRS 159.034.*

2. The notice must:

(a) Give the name of the ward.

(b) Give the name of the petitioner.

(c) Give the date, time and place of the hearing.

(d) State the nature of the petition.

(e) Refer to the petition for further particulars, and notify all persons interested to appear at the time and place mentioned in the notice and show cause why the court order should not be made.

~~[3. At least 10 days before the date set for the hearing, the~~ petitioner ~~shall cause a copy of the notice to be mailed to the following:~~

~~(a) Any minor ward who is 14 years of age or older or the parent or legal guardian of any minor ward who is less than 14 years of age.~~

~~(b) The spouse of the ward and other heirs of the ward who are related within the second degree of consanguinity so far as known to the petitioner.~~

~~(c) The guardian of the person of the ward, if the guardian is not the petitioner.~~

~~(d) Any person or care provider who is providing care for the ward, except that if the person or care provider is not related to the ward, such person or provider must not be given copies of any inventory or accounting.~~

~~(e) Any office of the Department of Veterans Affairs in this State if the ward is receiving any payments or benefits through the Department of Veterans Affairs.~~

~~(f) The Director of the Department of Health and Human Services if the ward has received or is receiving any benefits from Medicaid.~~

~~(g) Any other interested person or the person's attorney who has filed a request for notice in the guardianship proceeding and served a copy of the request upon the guardian. The request for notice must state the interest of the person filing the request, and the person's name and address, or that of his or her attorney. If the notice so requests, copies of all petitions and accounts must be mailed to the interested person or the person's attorney.~~

~~4. An interested person who is entitled to notice pursuant to subsection 3 may, in writing, waive notice of the hearing of a petition.~~

~~5. Proof of giving notice must be:~~

~~(a) Made on or before the date set for the hearing; and~~

~~(b) Filed in the guardianship proceeding.]~~

Sec. 20. NRS 159.146 is hereby amended to read as follows:

159.146 1. At the hearing to confirm the sale of real property, the court shall:

(a) Consider whether the sale is necessary or in the best interest of the estate of the ward; and

(b) Examine the return on the investment and the evidence submitted in relation to the sale.

2. The court shall confirm the sale and order conveyances to be executed if it appears to the court that:

(a) Good reason existed for the sale;

(b) The sale was conducted in a legal and fair manner;

(c) The amount of the offer or bid is not disproportionate to the value of the property; and

(d) It is unlikely that an offer or bid would be made which exceeds the original offer or bid:

(1) By at least 5 percent if the offer or bid is less than $100,000; or

(2) By at least $5,000 if the offer or bid is $100,000 or more.

3. The court shall not confirm the sale if the conditions in this section are not satisfied.

4. If the court does not confirm the sale, the court:

(a) May order a new sale;

(b) May conduct a public auction in open court; or

(c) May accept a written offer or bid from a responsible person and confirm the sale to the person if the written offer complies with the laws of this state and exceeds the original bid:

(1) By at least 5 percent if the bid is less than $100,000; or

(2) By at least $5,000 if the bid is $100,000 or more.

5. If the court does not confirm the sale and orders a new sale:

(a) Notice must be given in the manner set forth in NRS 159.1425; and

(b) The sale must be conducted in all other respects as though no previous sale has taken place.

6. If a higher offer or bid is received by the court during the hearing to confirm the sale, the court may continue the hearing rather than accept the offer or bid as set forth in paragraph (c) of subsection 4 if the court determines that the person who made the original offer or bid was not notified of the hearing and that the person who made the original offer or bid may wish to increase his or her bid. This subsection does not grant a right to a person to have a continuance granted and may not be used as a ground to set aside an order confirming a sale.

7. ~~[If]~~ Except as otherwise provided in this subsection, if a higher offer or bid is received by the court during the hearing to confirm the sale and the court does not accept that offer or bid, ~~[unless the court sets other incremental bid amounts,]~~ each successive bid must be for not less than:

(a) An additional $5,000, if the original offer is for $100,000 or more; or

(b) An additional ~~[5% of the original offer]~~ $250 if the original offer is less than $100,000.

➥ Upon the request of the guardian during the hearing to confirm the sale, the court may set other incremental bid amounts.

Sec. 21. NRS 159.191 is hereby amended to read as follows:

159.191 1. A guardianship of the person is terminated:

(a) By the death of the ward;

(b) Upon the ward's change of domicile to a place outside this state and the transfer of jurisdiction to the court having jurisdiction in the new domicile;

(c) Upon order of the court, if the court determines that the guardianship no longer is necessary; or

(d) If the ward is a minor:

(1) On the date on which the ward reaches 18 years of age; or

(2) On the date on which the ward graduates from high school or becomes 19 years of age, whichever occurs sooner, if:

(I) The ward will be older than 18 years of age upon graduation from high school; and

(II) The ward and the guardian consent to continue the guardianship and the consent is filed with the court at least 14 days before the date on which the ward will become 18 years of age.

2. A guardianship of the estate is terminated *:* ~~[if the court:]~~

(a) ~~[Removes]~~ *If the court removes* the guardian or accepts the resignation of the guardian and does not appoint a successor guardian; ~~[or]~~

(b) ~~[Determines]~~ *If the court determines* that the guardianship is not necessary and orders the guardianship terminated ~~[.]~~ *; or*

(c) By the death of the ward, subject to the provisions of NRS 159.193.

3. If the guardianship is of the person and estate, the court may order the guardianship terminated as to the person, the estate, or the person and estate.

4. The guardian shall notify the court, all interested parties, the trustee, and the named executor or appointed personal representative of the estate of the ward of the death of the ward within 30 days after the death.

5. Immediately upon the death of the ward:

(a) The guardian of the estate shall have no authority to act for the ward except to wind up the affairs of the guardianship pursuant to NRS 159.193, and to distribute the property of the ward as provided in NRS 159.195 and 159.197; and

(b) No person has standing to file a petition pursuant to NRS 159.078.

Sec. 22. NRS 159.193 is hereby amended to read as follows:

159.193 1. The guardian of the estate is entitled to *retain* possession of the ward's property *already in the control of the guardian* and is authorized to perform the duties of the guardian to wind up the affairs of the guardianship:

(a) ~~[For]~~ *Except as otherwise provided in paragraph (b), (c) or (d), for not more than 180 days or* a period that is reasonable and necessary *as determined by the court* after the termination of the guardianship;

(b) Except as otherwise provided in paragraph ~~[(c)]~~ *(d)*, for not more than ~~[180]~~ *90* days after the date of the appointment of a personal representative of the estate of a deceased ward; ~~[or]~~

(c) *Except as otherwise provided in paragraph (d), for not more than ~~[30]~~ 90 days after the date of the appointment of a successor trustee of a trust of the deceased ward and upon request by the trustee; or*

(d) Upon approval of the court, for more than 180 *days or 90* days ~~*[or 30 days,]*~~ *, as applicable,* if the guardian is awaiting certification from the appropriate authority acknowledging that the guardian has no further liability for taxes on the estate.

2. To wind up the affairs of the guardianship, the guardian shall:

(a) Pay all expenses of administration of the guardianship estate, including those incurred in winding up the affairs of the guardianship.

(b) Complete the performance of any contractual obligations incurred by the guardianship estate.

(c) With prior approval of the court, continue any activity that:

(1) The guardian believes is appropriate and necessary; or

(2) Was commenced before the termination of the guardianship.

(d) If the guardianship is terminated for a reason other than the death of the ward, examine and allow and pay, or reject, all claims presented to the

guardian prior to the termination of the guardianship for obligations incurred prior to the termination.

3. If the assets are transferred to a personal representative or a successor trustee as provided for in paragraphs (b) and (c) of subsection 1, the court may authorize the guardian to retain sufficient assets to pay any anticipated expenses and taxes of the guardianship estate.

Sec. 23. Chapter 162A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A physician, health care facility or other provider of health care that in good faith accepts an acknowledged power of attorney for health care without actual knowledge that the signature is not genuine may rely upon the presumption that the signature is genuine.

2. A physician, health care facility or other provider of health care that in good faith accepts an acknowledged power of attorney for health care without actual knowledge that the power of attorney for health care is void, invalid or terminated, or that the purported agent's authority is void, invalid or terminated, may rely upon the power of attorney for health care as if the power of attorney for health care were genuine, valid and still in effect, and the agent's authority was genuine, valid and still in effect.

3. A physician, health care facility or other provider of health care that in good faith accepts an acknowledged power of attorney for health care is not subject to civil or criminal liability or discipline for unprofessional conduct for giving effect to a declaration contained within the power of attorney for health care or for following the direction of an agent named in the power of attorney for health care.

Sec. 24. NRS 162A.220 is hereby amended to read as follows:

162A.220 1. A power of attorney must be signed by the principal or, in the principal's conscious presence, by another individual directed by the principal to sign the principal's name on the power of attorney. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.

2. If the principal resides in a hospital, ~~[assisted living facility or]~~ *residential facility for groups,* facility for skilled nursing *or home for individual residential care,* at the time of execution of the power of attorney, a certification of competency of the principal from a physician, psychologist or psychiatrist must be attached to the power of attorney.

3. If the principal resides or is about to reside in a hospital, assisted living facility or facility for skilled nursing at the time of execution of the power of attorney, in addition to the prohibition set forth in NRS 162A.840 and except as otherwise provided in subsection 4, the principal may not name as agent in any power of attorney for any purpose:

(a) The hospital, assisted living facility or facility for skilled nursing;

(b) An owner or operator of the hospital, assisted living facility or facility for skilled nursing; or

(c) An employee of the hospital, assisted living facility or facility for skilled nursing.

4. The principal may name as agent any person identified in subsection 3 if that person is:

(a) The spouse, legal guardian or next of kin of the principal; or

(b) Named only for the purpose of assisting the principal to establish eligibility for Medicaid and the power of attorney complies with the provisions of subsection 5.

5. A person may be named as agent pursuant to paragraph (b) of subsection 4 only if:

(a) A valid financial power of attorney for the principal does not exist;

(b) The agent has made a good faith effort to contact each family member of the principal identified in the records of the hospital, assisted living facility or facility for skilled nursing, as applicable, to request that the family member establish a financial power of attorney for the principal and has documented his or her effort;

(c) The power of attorney specifies that the agent is only authorized to access financial documents of the principal which are necessary to prove eligibility of the principal for Medicaid as described in the application for Medicaid and specifies that any request for such documentation must be accompanied by a copy of the application for Medicaid or by other proof that the document is necessary to prove eligibility for Medicaid;

(d) The power of attorney specifies that the agent does not have authority to access money or any other asset of the principal for any purpose; and

(e) The power of attorney specifies that the power of attorney is only valid until eligibility of the principal for Medicaid is determined or 6 months after the power of attorney is signed, whichever is sooner.

6. A person who is named as agent pursuant to paragraph (b) of subsection 4 shall not use the power of attorney for any purpose other than to assist the principal to establish eligibility for Medicaid and shall not use the power of attorney in a manner inconsistent with the provisions of subsection 5. A person who violates the provisions of this subsection is guilty of a category C felony and shall be punished as provided in NRS 193.130.

7. As used in this section:

(a) "Assisted living facility" has the meaning ascribed to it in NRS 422.2708.

(b) "Facility for skilled nursing" has the meaning ascribed to it in NRS 449.0039.

(c) *"Home for individual residential care" has the meaning ascribed to it in NRS 449.0105.*

(d) "Hospital" has the meaning ascribed to it in NRS 449.012.

(e) "Residential facility for groups" has the meaning ascribed to it in NRS 449.017.

Sec. 25. NRS 162A.250 is hereby amended to read as follows:

162A.250 1. In a power of attorney, a principal may nominate a guardian of the principal's estate for consideration by the court if guardianship proceedings for the principal's estate or person are begun after the principal executes the power of attorney.

2. If, after a principal executes a power of attorney, a court appoints a guardian of the principal's estate, the power of attorney is terminated ~~[.]~~ *, unless the court allows the agent to retain specific powers conferred by the power of attorney. In the event the court allows the agent to retain specific powers, the agent shall file an accounting with the court and the guardian on a quarterly basis or such other period as the court may designate.*

Sec. 26. NRS 162A.700 is hereby amended to read as follows:

162A.700 NRS 162A.700 to 162A.860, inclusive, *and section 23 of this act* apply to any power of attorney containing the authority to make health care decisions.

Sec. 27. NRS 162A.710 is hereby amended to read as follows:

162A.710 As used in NRS 162A.700 to 162A.860, inclusive, *and section 23 of this act,* unless the context otherwise requires, the words and terms defined in NRS 162A.720 to 162A.780, inclusive, have the meanings ascribed to them in those sections.

Sec. 28. NRS 162A.790 is hereby amended to read as follows:

162A.790 1. Any adult person may execute a power of attorney enabling the agent named in the power of attorney to make decisions concerning health care for the principal if that principal becomes incapable of giving informed consent concerning such decisions.

2. A power of attorney for health care must be signed by the principal. The principal's signature on the power of attorney for health care must be:

(a) Acknowledged before a notary public; or

(b) Witnessed by two adult witnesses who know the principal personally.

3. Neither of the witnesses to a principal's signature may be:

(a) A provider of health care;

(b) An employee of a provider of health care;

(c) An operator of a health care facility;

(d) An employee of a health care facility; or

(e) The agent.

4. At least one of the witnesses to a principal's signature must be a person who is:

(a) Not related to the principal by blood, marriage or adoption; and

(b) To the best of the witnesses' knowledge, not entitled to any part of the estate of the principal upon the death of the principal.

5. If the principal resides in a hospital, residential facility for groups, facility for skilled nursing or home for individual residential care, at the time of the execution of the power of attorney, a certification of competency of the principal from a physician, psychologist or psychiatrist must be attached to the power of attorney.

6. A power of attorney executed in a jurisdiction outside of this State is valid in this State if, when the power of attorney was executed, the execution complied with the laws of that jurisdiction or the requirements for a military power of attorney pursuant to 10 U.S.C. § 1044b.

7. As used in this section:

(a) "Facility for skilled nursing" has the meaning ascribed to it in NRS 449.0039.

(b) "Home for individual residential care" has the meaning ascribed to it in NRS 449.0105.

(c) "Hospital" has the meaning ascribed to it in NRS 449.012.

(d) "Residential facility for groups" has the meaning ascribed to it in NRS 449.017.

Sec. 29. NRS 162A.860 is hereby amended to read as follows:

162A.860 The form of a power of attorney for health care ~~[must]~~ *may* be substantially ~~[as follows:]~~ *in the following form, and must be witnessed or executed in the same manner as the following form:*

DURABLE POWER OF ATTORNEY
FOR HEALTH CARE DECISIONS
WARNING TO PERSON EXECUTING THIS DOCUMENT

THIS IS AN IMPORTANT LEGAL DOCUMENT. IT CREATES A DURABLE POWER OF ATTORNEY FOR HEALTH CARE. BEFORE EXECUTING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

1. THIS DOCUMENT GIVES THE PERSON YOU DESIGNATE AS YOUR AGENT THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU. THIS POWER IS SUBJECT TO ANY LIMITATIONS OR STATEMENT OF YOUR DESIRES THAT YOU INCLUDE IN THIS DOCUMENT. THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE CONSENT, REFUSAL OF CONSENT OR WITHDRAWAL OF CONSENT TO ANY CARE, TREATMENT, SERVICE OR PROCEDURE TO MAINTAIN, DIAGNOSE OR TREAT A PHYSICAL OR MENTAL CONDITION. YOU MAY STATE IN THIS DOCUMENT ANY TYPES OF TREATMENT OR PLACEMENTS THAT YOU DO NOT DESIRE.

2. THE PERSON YOU DESIGNATE IN THIS DOCUMENT HAS A DUTY TO ACT CONSISTENT WITH YOUR DESIRES AS STATED IN THIS DOCUMENT OR OTHERWISE MADE KNOWN OR, IF YOUR DESIRES ARE UNKNOWN, TO ACT IN YOUR BEST INTERESTS.

3. EXCEPT AS YOU OTHERWISE SPECIFY IN THIS DOCUMENT, THE POWER OF THE PERSON YOU DESIGNATE TO MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE THE POWER TO CONSENT TO YOUR DOCTOR NOT GIVING TREATMENT OR STOPPING TREATMENT WHICH WOULD KEEP YOU ALIVE.

4. UNLESS YOU SPECIFY A SHORTER PERIOD IN THIS DOCUMENT, THIS POWER WILL EXIST INDEFINITELY FROM THE DATE YOU EXECUTE THIS DOCUMENT AND, IF YOU ARE UNABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF, THIS POWER WILL CONTINUE TO EXIST UNTIL THE TIME WHEN YOU BECOME ABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF.

5. NOTWITHSTANDING THIS DOCUMENT, YOU HAVE THE RIGHT TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOURSELF SO LONG AS YOU CAN GIVE INFORMED CONSENT WITH RESPECT TO THE PARTICULAR DECISION. IN ADDITION, NO TREATMENT MAY BE GIVEN TO YOU OVER YOUR OBJECTION, AND HEALTH CARE NECESSARY TO KEEP YOU ALIVE MAY NOT BE STOPPED IF YOU OBJECT.

6. YOU HAVE THE RIGHT TO REVOKE THE APPOINTMENT OF THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THAT PERSON OF THE REVOCATION ORALLY OR IN WRITING.

7. YOU HAVE THE RIGHT TO REVOKE THE AUTHORITY GRANTED TO THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THE TREATING PHYSICIAN, HOSPITAL OR OTHER PROVIDER OF HEALTH CARE ORALLY OR IN WRITING.

8. THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU HAS THE RIGHT TO EXAMINE YOUR MEDICAL RECORDS AND TO CONSENT TO THEIR DISCLOSURE UNLESS YOU LIMIT THIS RIGHT IN THIS DOCUMENT.

9. THIS DOCUMENT REVOKES ANY PRIOR DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

10. IF THERE IS ANYTHING IN THIS DOCUMENT THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

1. DESIGNATION OF HEALTH CARE AGENT.

I,.....

(insert your name) do hereby designate and appoint:

Name: .....

Address: .....

Telephone Number: .....

as my agent to make health care decisions for me as authorized in this document.

(Insert the name and address of the person you wish to designate as your agent to make health care decisions for you. Unless the person is also your spouse, legal guardian or the person most closely related to you by blood, none of the following may be designated as your agent: (1) your

treating provider of health care; (2) an employee of your treating provider of health care; (3) an operator of a health care facility; or (4) an employee of an operator of a health care facility.)

2. CREATION OF DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

By this document I intend to create a durable power of attorney by appointing the person designated above to make health care decisions for me. This power of attorney shall not be affected by my subsequent incapacity.

3. GENERAL STATEMENT OF AUTHORITY GRANTED.

In the event that I am incapable of giving informed consent with respect to health care decisions, I hereby grant to the agent named above full power and authority: to make health care decisions for me before or after my death, including consent, refusal of consent or withdrawal of consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition; to request, review and receive any information, verbal or written, regarding my physical or mental health, including, without limitation, medical and hospital records; to execute on my behalf any releases or other documents that may be required to obtain medical care and/or medical and hospital records, EXCEPT any power to enter into any arbitration agreements or execute any arbitration clauses in connection with admission to any health care facility including any skilled nursing facility; and subject only to the limitations and special provisions, if any, set forth in paragraph 4 or 6.

4. SPECIAL PROVISIONS AND LIMITATIONS.

(Your agent is not permitted to consent to any of the following: commitment to or placement in a mental health treatment facility, convulsive treatment, psychosurgery, sterilization or abortion. If there are any other types of treatment or placement that you do not want your agent's authority to give consent for or other restrictions you wish to place on his or her agent's authority, you should list them in the space below. If you do not write any limitations, your agent will have the broad powers to make health care decisions on your behalf which are set forth in paragraph 3, except to the extent that there are limits provided by law.)

In exercising the authority under this durable power of attorney for health care, the authority of my agent is subject to the following special provisions and limitations:

.....

.....

.....

.....

5. DURATION.

I understand that this power of attorney will exist indefinitely from the date I execute this document unless I establish a shorter time. If I am unable to make health care decisions for myself when this power of attorney expires,

the authority I have granted my agent will continue to exist until the time when I become able to make health care decisions for myself.

(IF APPLICABLE)

I wish to have this power of attorney end on the following date: .....

6. STATEMENT OF DESIRES.

(With respect to decisions to withhold or withdraw life-sustaining treatment, your agent must make health care decisions that are consistent with your known desires. You can, but are not required to, indicate your desires below. If your desires are unknown, your agent has the duty to act in your best interests; and, under some circumstances, a judicial proceeding may be necessary so that a court can determine the health care decision that is in your best interests. If you wish to indicate your desires, you may INITIAL the statement or statements that reflect your desires and/or write your own statements in the space below.)

	(If the statement reflects your desires initial the box next to the statement.)
1. I desire that my life be prolonged to the greatest extent possible, without regard to my condition, the chances I have for recovery or long-term survival, or the cost of the procedures.	[.....]
2. If I am in a coma which my doctors have reasonably concluded is irreversible, I desire that life-sustaining or prolonging treatments not be used. (Also should utilize provisions of NRS 449.535 to 449.690, inclusive, if this subparagraph is initialed.)	[.....]
3. If I have an incurable or terminal condition or illness and no reasonable hope of long-term recovery or survival, I desire that life sustaining or prolonging treatments not be used. (Also should utilize provisions of NRS 449.535 to 449.690, inclusive, if this subparagraph is initialed.)	[.....]

4. Withholding or withdrawal of artificial nutrition and hydration may result in death by starvation or dehydration. I want to receive or continue receiving artificial nutrition and hydration by way of the gastrointestinal tract after all other treatment is withheld. [.....]

5. I do not desire treatment to be provided and/or continued if the burdens of the treatment outweigh the expected benefits. My agent is to consider the relief of suffering, the preservation or restoration of functioning, and the quality as well as the extent of the possible extension of my life. [.....]

(If you wish to change your answer, you may do so by drawing an "X" through the answer you do not want, and circling the answer you prefer.)

Other or Additional Statements of Desires: .....
.....
.....
.....
.....
.....

7. DESIGNATION OF ALTERNATE AGENT.

(You are not required to designate any alternative agent but you may do so. Any alternative agent you designate will be able to make the same health care decisions as the agent designated in paragraph 1, page 2, in the event that he or she is unable or unwilling to act as your agent. Also, if the agent designated in paragraph 1 is your spouse, his or her designation as your agent is automatically revoked by law if your marriage is dissolved.)

If the person designated in paragraph 1 as my agent is unable to make health care decisions for me, then I designate the following persons to serve as my agent to make health care decisions for me as authorized in this document, such persons to serve in the order listed below:

A. First Alternative Agent

Name: .....
Address: .....
Telephone Number: .....

B. Second Alternative Agent

Name: .....
Address: .....

Telephone Number: .....

8. PRIOR DESIGNATIONS REVOKED.

I revoke any prior durable power of attorney for health care.

9. WAIVER OF CONFLICT OF INTEREST.

If my designated agent is my spouse or is one of my children, then I waive any conflict of interest in carrying out the provisions of this Durable Power of Attorney for Health Care that said spouse or child may have by reason of the fact that he or she may be a beneficiary of my estate.

10. CHALLENGES.

If the legality of any provision of this Durable Power of Attorney for Health Care is questioned by my physician, my agent or a third party, then my agent is authorized to commence an action for declaratory judgment as to the legality of the provision in question. The cost of any such action is to be paid from my estate. This Durable Power of Attorney for Health Care must be construed and interpreted in accordance with the laws of the State of Nevada.

11. NOMINATION OF GUARDIAN.

If, after execution of this Durable Power of Attorney for Health Care, incompetency proceedings are initiated either for my estate or my person, I hereby nominate as my guardian or conservator for consideration by the court my agent herein named, in the order named.

12. RELEASE OF INFORMATION.

I agree to, authorize and allow full release of information by any government agency, medical provider, business, creditor or third party who may have information pertaining to my health care, to my agent named herein, pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and applicable regulations.

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)

I sign my name to this Durable Power of Attorney for Health Care on..... (date) at..... (city),..... (state)

.....

(Signature)

(THIS POWER OF ATTORNEY WILL NOT BE VALID FOR MAKING HEALTH CARE DECISIONS UNLESS IT IS EITHER (1) SIGNED BY AT LEAST TWO QUALIFIED WITNESSES WHO ARE PERSONALLY KNOWN TO YOU AND WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE OR (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC.)

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

(You may use acknowledgment before a notary public instead of the statement of witnesses.)

State of Nevada }
}ss.
County of ..... }

On this..... day of....., in the year....., before me, ... (here insert name of notary public) personally appeared..... (here insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it. I declare under penalty of perjury that the person whose name is ascribed to this instrument appears to be of sound mind and under no duress, fraud or undue influence.

NOTARY SEAL .....

(Signature of Notary Public)

STATEMENT OF WITNESSES

(You should carefully read and follow this witnessing procedure. This document will not be valid unless you comply with the witnessing procedure. If you elect to use witnesses instead of having this document notarized, you must use two qualified adult witnesses. None of the following may be used as a witness: (1) a person you designate as the agent; (2) a provider of health care; (3) an employee of a provider of health care; (4) the operator of a health care facility; or (5) an employee of an operator of a health care facility. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as agent by this document and that I am not a provider of health care, an employee of a provider of health care, the operator of a community care facility or an employee of an operator of a health care facility.

Signature: ..... Residence Address: ……...

Print Name: ..... ……

Date: ..... ……

Signature: ..... Residence Address: ……...

Print Name: ..... ……

Date: ..... ……

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I declare under penalty of perjury that I am not related to the principal by blood, marriage or adoption and that to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature: .....

Signature: .....

Names: ..... Address: …….....

Print Name: ..... ……

Date: ....

COPIES: You should retain an executed copy of this document and give one to your agent. The power of attorney should be available so a copy may be given to your providers of health care.

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settelmeyer.

Thank you, Mr. President. Amendment No. 25 to Senate Bill No. 78 was crafted on behalf of the sponsor of the bill to make the bill more accurate and to address some of the concerns put forward by the rural elder programs.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 79.

Bill read second time and ordered to third reading.

Senate Bill No. 92.

Bill read second time.

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

Amendment No. 57.

"SUMMARY—Makes certain changes related to the health of infants. (BDR 40-529)"

"AN ACT relating to public health; requiring that infants born in certain institutions be examined for critical congenital heart disease; providing an exception for written parental objection; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Any physician, midwife, nurse, obstetric center or hospital attending or assisting any infant , or the mother of any infant , at childbirth is required to examine and test the infant for certain preventable and inheritable disorders. If the tests reveal such a disorder, the physician, midwife, nurse, obstetric center or hospital is required to: (1) report the condition to the State Health Officer, the local health officer of the county or city within which the infant or the mother of the infant resides, and the local health officer of the county or city in which the child is born; and (2) discuss the condition and treatment of the condition with the parents or other persons responsible for the care of the infant. (NRS 442.008) This bill requires any physician, midwife ~~[,]~~ or nurse ~~[, obstetric center or hospital]~~ attending or assisting any infant , or the mother of any infant , at childbirth at an obstetric center or a hospital which regularly offers obstetric services in the normal course of business to examine the infant for critical congenital heart disease, including conducting pulse oximetry screening, and to report ~~[and discuss]~~ any positive results ~~[in the same manner as required for preventable and inheritable disorders, and providing]~~ to the State Health Officer and discuss such results with the parent of or other person responsible for the infant. This bill provides an exception to the requirement for examination in the event of written parental objection.

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

Section 1. Chapter 442 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 3, any physician, midwife ~~[,]~~ or nurse ~~[, obstetric center or hospital of any nature]~~ attending or assisting in any way any infant, or the mother of any infant, at childbirth at an obstetric center or a hospital which regularly offers obstetric services in the normal course of business and not only on an emergency basis shall make or cause to be made an examination of the infant, including, without limitation, conducting pulse oximetry screening, to determine whether the infant suffers from critical congenital heart disease.

2. If the examination reveals that an infant suffers from critical congenital heart disease, the physician, midwife ~~[,]~~ or nurse ~~[, obstetric center or hospital]~~ attending or assisting at the birth of the infant shall : ~~[immediately:]~~

(a) Report the condition to the State Health Officer or a representative of the State Health Officer ; ~~[, the local health officer of the county or city within which the infant or the mother of the infant resides, and the local health officer of the county or city in which the child is born;]~~ and

(b) Discuss the condition with the parent, parents or other persons responsible for the care of the infant and inform them of the treatment necessary for the amelioration of the condition.

3. An ~~[infant is exempt from]~~ examination of an infant is not required pursuant to this section if either parent files a written objection with the person ~~[or institution]~~ responsible for conducting the examination ~~[.]~~ or with the obstetric center or hospital at which the infant is born.

4. The State Board of Health may adopt such regulations as necessary to carry out the provisions of this section.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senators Kieckhefer and Hardy.

SENATOR KIECKHEFER:

Thank you, Mr. President. Amendment No. 57 to Senate Bill No. 92 limits the requirements to examine an infant for critical congenital heart disease and to report for births that occur at an obstetric center or at a hospital which regularly offers obstetric services in the normal course of business. Amendment No. 57 also revises the provisions for reporting positive results by requiring that the report be provided to the State Health Officer and that results be discussed with the parent or person responsible for the infant.

SENATOR HARDY:

Thank you, Mr. President. I stand in opposition to Amendment No. 57 to Senate Bill No. 92. On line 9 of the amendment's digest, the word "or" is inserted before "nurse," and on line 10 it is written, "the mother." Therefore, the nurse attending or assisting any infant, or the mother of any infant, would be placed in a position to do, for example, a pulse oximetry screening, which is not diagnostic. When faced with the potential positive results as it mentions on line 13 of the amendment's digest, he or she would be in a position where he or she would have to "discuss any positive results … with the parent of or other person responsible for the infant." This would

result in the nurse being placed in a position of making a diagnosis and giving advice which he or she may not be in a legal position to do.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 98.

Bill read second time.

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

Amendment No. 130.

"SUMMARY—Revises provisions governing certain reasonable efforts made by an agency which provides child welfare services to preserve and reunify the family of a child. (BDR 38-68)"

"AN ACT relating to children; revising provisions governing certain reasonable efforts made by an agency which provides child welfare services to preserve and reunify the family of a child; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing federal law, each state is eligible to receive payments for providing assistance to needy families with children and for providing child welfare services if the state adopts a state plan for foster care and adoption assistance and the plan is approved by the Secretary of the United States Department of Health and Human Services. Each state plan must set forth provisions for providing that assistance, including the imposition of a requirement that reasonable efforts be made to preserve and reunify families: (1) before a child is placed in foster care in order to prevent the need to remove the child from his or her home; and (2) to make it possible to return the child safely to his or her home. Each state plan must also provide that those reasonable efforts are not required to be made concerning a parent of a child if a court ~~[determines that: (1) the parent has subjected the child to certain aggravated circumstances, including, without limitation, abandonment, torture, chronic abuse and sexual abuse; (2) the parent has committed murder or voluntary manslaughter of another child of the parent or has aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; (3) the parent has committed a felony assault resulting in serious bodily injury to the child or another child of the parent; or (4) the parental rights of the parent to a sibling have been terminated voluntarily.]~~ makes certain determinations. (42 U.S.C. § 671)

Pursuant to the federal requirement to adopt a state plan, existing law in Nevada requires an agency which provides child welfare services to make reasonable efforts to preserve and reunify the family of a child under the same circumstances as those set forth in federal law. (NRS 432B.393) This bill makes various changes to those circumstances. ~~[in order to ensure consistency with federal law.]~~ Specifically, this bill: (1) ~~[clarifies that a court must determine whether or not an agency which provides child welfare~~

~~services is required to make any reasonable efforts to preserve and reunify the family of a child; (2)~~] revises the findings that the court is required to make [~~concerning that determination; (3)~~] in determining whether an agency which provides child welfare services is required to make reasonable efforts to preserve and reunify the family of a child; (2) revises the definition of "reasonable efforts" to require the exercise of diligence and care in arranging [~~culturally~~] appropriate, accessible and available services that are designed to improve the ability of a family to provide a safe and stable home for each child in the family; [~~(4)~~] (3) requires the court, when determining whether reasonable efforts have been made, to consider whether any efforts made were contrary to the health and safety of the child and to consider the efforts made, if any, to prevent the need to remove the child from the home and the efforts to finalize the plan for the permanent placement of the child; and [~~(5)~~] (4) requires the court, when determining whether reasonable efforts are not required or whether the agency which provides child welfare services has made those efforts, to ensure that each determination is made by the court on a case-by-case basis, is based upon specific evidence and is expressly stated by the court in its order.

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

Section 1. NRS 432B.393 is hereby amended to read as follows:

432B.393 1. Except as otherwise provided in this section, an agency which provides child welfare services shall make reasonable efforts to preserve and reunify the family of a child:

(a) Before the placement of the child in foster care, to prevent or eliminate the need to remove the child from the home; and

(b) To make it possible for the safe return of the child to the home.

2. In determining the reasonable efforts required by subsection 1, the health and safety of the child must be the paramount concern. The agency which provides child welfare services may make reasonable efforts to place the child for adoption or with a legal guardian concurrently with making the reasonable efforts required pursuant to subsection 1. If the court determines that continuation of the reasonable efforts required by subsection 1 is inconsistent with the plan for the permanent placement of the child, the agency which provides child welfare services shall make reasonable efforts to place the child in a timely manner in accordance with that plan and to complete whatever actions are necessary to finalize the permanent placement of the child.

3. An ~~*[The court must determine whether or not an]*~~ agency which provides child welfare services is not required to make the reasonable efforts required by subsection 1 ~~*[,]*~~ if ~~*[To make that determination,]*~~ the court finds that: ~~*[must establish and consider whether:]*~~

(a) A parent or other [~~primary caretaker of the child~~] *person responsible for the child's welfare* has:

(1) Committed, aided or abetted in the commission of, or attempted, conspired or solicited to commit murder or voluntary manslaughter ; ~~[of another child of the parent or primary caretaker;]~~

(2) Caused the abuse or neglect of the child, or of another child of the parent or ~~[primary caretaker,]~~ *other person responsible for the child's welfare,* which resulted in substantial bodily harm to the abused or neglected child;

(3) Caused the abuse or neglect of the child, a sibling of the child or another child in the household, and the abuse or neglect was so extreme or repetitious as to indicate that any plan to return the child to the home would result in an unacceptable risk to the health or welfare of the child; or

(4) Abandoned the child for 60 or more days, and the identity of the parent of the child is unknown and cannot be ascertained through reasonable efforts;

(b) A parent of the child has, for the previous 6 months, had the ability to contact or communicate with the child and made no more than token efforts to do so;

(c) The parental rights of a parent to a sibling of the child have been terminated by a court order upon any basis other than the execution of a voluntary relinquishment of those rights by a natural parent, and the court order is not currently being appealed;

(d) The child or a sibling of the child was previously removed from the home, adjudicated to have been abused or neglected, returned to the home and subsequently removed from the home as a result of additional abuse or neglect;

(e) The child is less than 1 year of age, the father of the child is not married to the mother of the child and the father of the child:

(1) Has failed within 60 days after learning of the birth of the child, to visit the child, to commence proceedings to establish his paternity of the child or to provide financial support for the child; or

(2) Is entitled to seek custody of the child but fails to do so within 60 days after learning that the child was placed in foster care; ~~[or]~~

(f) ~~*[(e)]*~~ The child was delivered to a provider of emergency services pursuant to NRS 432B.630 ~~[.]~~ ;

(g) The child, a sibling of the child or another child in the household has been sexually abused or has been subjected to neglect by pervasive instances of failure to protect the child from sexual abuse; or

(h) A parent of the child is required to register as a sex offender pursuant to the provisions of chapter 179D of NRS or the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006, 42 U.S.C. §§ 16901 et seq.

4. Except as otherwise provided in subsection 6, for the purposes of this section, unless the context otherwise requires, "reasonable efforts" have been made if an agency which provides child welfare services to children with legal custody of a child has exercised diligence and care in arranging

~~*[culturally]*~~ appropriate *, accessible* and available services ~~[for the child,]~~ *that are designed to improve the ability of a family to provide a safe and stable home for each child in the family,* with the health and safety of the child as its paramount concerns. The exercise of such diligence and care includes, without limitation, obtaining necessary and appropriate information concerning the child for the purposes of NRS 127.152, 127.410 and 424.038.

5. In determining whether reasonable efforts have been made pursuant to subsection 4, the court shall:

(a) Evaluate the evidence and make findings based on whether a reasonable person would conclude that reasonable efforts were made;

(b) Consider any input from the child;

(c) Consider the efforts made and the evidence presented since the previous finding of the court concerning reasonable efforts;

(d) Consider the diligence and care that the agency is legally authorized and able to exercise;

(e) Recognize and take into consideration the legal obligations of the agency to comply with any applicable laws and regulations;

(f) Base its determination on the circumstances and facts concerning the particular family or plan for the permanent placement of the child at issue;

(g) Consider whether *any of the efforts made were contrary to the health and safety of the child;*

(h) Consider the efforts made, if any, to prevent the need to remove the child from the home and to finalize the plan for the permanent placement of the child;

(i) Consider whether the provisions of subsection 6 are applicable; and

~~[(h)]~~ *(j)* Consider any other matters the court deems relevant.

6. An agency which provides child welfare services may satisfy the requirement of making reasonable efforts pursuant to this section by taking no action concerning a child or making no effort to provide services to a child if it is reasonable, under the circumstances, to do so.

7. In determining whether reasonable efforts are not required pursuant to subsection 3 or whether reasonable efforts have been made pursuant to subsection 4, the court shall ensure that each determination is:

(a) Made by the court on a case-by-case basis;

(b) Based upon specific evidence; and

(c) Expressly stated by the court in its order.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 130 to Senate Bill No. 98 revises the findings that the court is required to make in determining whether a child welfare agency is required to make reasonable efforts to preserve and reunify the family by: (1) making *Nevada Revised Statutes* consistent by also referencing a person responsible for the child's welfare; (2) retaining certain current *Nevada Revised Statutes* provisions related to the involvement of a parent or person responsible for the child's welfare in the commission of a murder or voluntary manslaughter and provisions related to certain instances of previous removal of children from the home; and

(3) adding provisions related to sexual abuse and requirements that a parent register as a sex offender.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 102.

Bill read second time.

The following amendment was proposed by the Committee on Education.

Amendment No. 81.

"SUMMARY—Revises provisions relating to the Kenny C. Guinn Memorial Millennium Scholarship. (BDR 34-837)"

"AN ACT relating to education; expanding the scope of the Kenny C. Guinn Memorial Millennium Scholarship by requiring the Board of Trustees of the College Savings Plans of Nevada to award the Memorial Scholarship to two eligible recipients each year; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Board of Trustees of the College Savings Plans of Nevada to award annually the Kenny C. Guinn Memorial Millennium Scholarship to one eligible recipient who is a senior or rising senior at a university, state college or community college within the Nevada System of Higher Education or at certain other accredited colleges or universities in this State. (NRS 396.945) This bill requires the Board to award annually the Memorial Scholarship to : (1) one eligible recipient who is a student enrolled at the University of Nevada, Reno, Great Basin College , ~~[or]~~ Sierra Nevada College or any other eligible college or university designated by the Board as representative of northern Nevada; and ~~[to]~~ (2) one eligible recipient who is a student enrolled at the University of Nevada, Las Vegas, ~~[or]~~ Nevada State College ~~[.]~~ or any other eligible college or university designated by the Board as representative of southern Nevada.

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

Section 1. NRS 396.945 is hereby amended to read as follows:

396.945 1. *The Board shall annually award the Memorial Scholarship to:*

(a) One recipient who is a student enrolled at ~~[the]~~ :

(1) The University of Nevada, Reno, Great Basin College or Sierra Nevada College; or

(2) Any other college or university which awards a bachelor's degree in education and which is designated by the Board as an institution representative of northern Nevada; and

(b) One recipient who is a student enrolled at ~~[the]~~ :

(1) The University of Nevada, Las Vegas, or Nevada State College ~~[.]~~ ; or

(2) Any other college or university which awards a bachelor's degree in education and which is designated by the Board as an institution representative of southern Nevada.

2. The Board shall establish *additional* criteria governing the annual selection of ~~[the]~~ *each* recipient of the Memorial Scholarship, which must include, without limitation, a requirement that ~~[the]~~ *a* recipient:

(a) Be in or entering his or her senior year at an ~~[eligible]~~ *academic* institution ~~[;]~~ *described in subsection 1;*

(b) Be on the list of eligible students for a Millennium Scholarship which is certified to the State Treasurer pursuant to NRS 396.934;

(c) Have a college grade point average of not less than 3.5 on a 4.0 grading scale;

(d) Have a declared major in elementary education or secondary education;

(e) Have a stated commitment to teaching in this State following graduation; and

(f) Have a commendable record of community service.

~~[2.]~~ *3.* A student who satisfies the criteria established pursuant to ~~[subsection 1]~~ *this section* may apply for a Memorial Scholarship by submitting an application to the Office of the State Treasurer on a form provided on the Internet website of the State Treasurer.

~~[3.]~~ *4.* The State Treasurer shall forward all applications received pursuant to subsection ~~[2]~~ *3* to the Board. The Board shall review and evaluate each application received from the State Treasurer and select ~~[the]~~ *each* recipient of the Memorial Scholarship ~~[.~~ ~~4.]~~ *in accordance with the criteria established pursuant to this section.*

5. To the extent of available money in the account established pursuant to NRS 396.940, the annual Memorial Scholarship may be awarded to ~~[the]~~ *each* selected recipient in an amount not to exceed $4,500 to pay the educational expenses of the recipient for the school year which are authorized by subsection ~~[5]~~ *6* and which are not otherwise paid for by the Millennium Scholarship awarded to the recipient.

~~[5.]~~ *6.* A Memorial Scholarship must be used only:

(a) For the payment of registration fees and laboratory fees and expenses;

(b) To purchase required textbooks and course materials; and

(c) For other costs related to the attendance of the student at the ~~[eligible]~~ *academic* institution ~~[.~~ ~~6.]~~ *in which he or she is enrolled.*

7. As used in this section, "Board" means the Board of Trustees of the College Savings Plans of Nevada created by NRS 353B.005.

Sec. 2. This act becomes effective on July 1, 2013.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Thank you, Mr. President. Amendment No. 81 makes two changes to Senate Bill No. 102: it authorizes the Board of Trustees of the College Savings Plans of Nevada to expand the list of

eligible colleges that are already specified in the bill to include other Nevada colleges and universities that award a bachelor's degree in education; and it provides that if the Board adds a new college or university to the list, it must designate the college or university as an institution that represents the northern portion or the southern portion of the State.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 108.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary.

Amendment No. 70.

"SUMMARY—Revises provisions governing juvenile justice. (BDR 5-518)"

"AN ACT relating to juvenile justice; providing that a child who violates certain local ordinances relating to curfews and loitering is to be treated by the juvenile court as a child in need of supervision rather than as a delinquent child; decreasing the length of time a child may remain in detention or shelter care pending the filing of a petition alleging delinquency or need of supervision; authorizing the juvenile court to order the Department of Motor Vehicles to issue a restricted driver's license to a child in certain circumstances; revising the statement of state policy concerning a probation program of special supervision for certain delinquent juveniles; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a juvenile court has exclusive jurisdiction over proceedings concerning a child who is: (1) alleged or adjudicated to be in need of supervision as a result of certain acts committed by the child; or (2) alleged or adjudicated to have committed a delinquent act, including the violation of a county or municipal ordinance. (NRS 62B.320, 62B.330) Sections 1 and 2 of this bill provide that a child who violates a county or municipal ordinance imposing a curfew on or restricting loitering by a child is to be adjudicated by the juvenile court as a child in need of supervision rather than as a delinquent child.

Under existing law, a child who is in detention or shelter care pending the filing of a petition alleging delinquency or need of supervision must be released if the district attorney has not filed the petition within 8 days after the complaint was referred to a probation officer. (NRS 62C.100) Section 3 of this bill decreases the length of time that a child may remain in detention or shelter care pending the filing of a petition by requiring a child to be released if the district attorney has not filed a petition in juvenile court within ~~[72 hours]~~ 4 days after the referral of the complaint to a probation officer, excluding Saturdays, Sundays and holidays. Section 3 also provides that a juvenile court may, for good cause shown by the district attorney, allow an additional 4 days for the filing of the petition, excluding Saturdays, Sundays and holidays.

Existing law authorizes the juvenile court to suspend or delay the issuance of the driver's license of a child who has been adjudicated delinquent or in need of supervision for certain acts. (NRS 62E.250, 62E.430, 62E.630, 62E.640, 62E.650, 62E.690) Under existing law, the Department of Motor Vehicles may issue a restricted driver's license permitting a child whose driver's license has been revoked or suspended by the juvenile court to drive: (1) to and from work or in the course of work, or both; or (2) to and from school. (NRS 483.390) Sections 4 and 6 of this bill authorize the juvenile court to order the Department of Motor Vehicles to issue a restricted driver's license to a child if: (1) the juvenile court has suspended or delayed the issuance of the child's driver's license because the child was adjudicated delinquent for the unlawful use, possession, sale or distribution of a controlled substance, or the unlawful purchase, consumption or possession of an alcoholic beverage; and (2) the juvenile court finds that the suspension or delay causes severe or undue hardship to the child or his or her immediate family.

Existing law establishes a program of special supervision of certain juveniles who have been adjudicated delinquent and authorizes the Department of Health and Human Services to adopt rules and distribute money to juvenile courts to carry out the program. (NRS 62G.400-62G.470) Section 5 of this bill revises the statement of the state policy concerning the program.

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

Section 1. NRS 62B.320 is hereby amended to read as follows:

62B.320 1. Except as otherwise provided in this title, the juvenile court has exclusive original jurisdiction in proceedings concerning any child living or found within the county who is alleged or adjudicated to be in need of supervision because the child:

(a) Is subject to compulsory school attendance and is a habitual truant from school;

(b) Habitually disobeys the reasonable and lawful demands of the parent or guardian of the child and is unmanageable;

(c) Deserts, abandons or runs away from the home or usual place of abode of the child and is in need of care or rehabilitation; ~~[or]~~

(d) Uses an electronic communication device to transmit or distribute a sexual image of himself or herself to another person or to possess a sexual image in violation of NRS 200.737 ~~[.]~~ *;*

(e) Violates a county or municipal ordinance imposing a curfew on a child; or

(f) Violates a county or municipal ordinance restricting loitering by a child.

2. A child who is subject to the jurisdiction of the juvenile court pursuant to this section must not be considered a delinquent child.

3. As used in this section:

(a) "Electronic communication device" has the meaning ascribed to it in NRS 200.737.

(b) "Sexual image" has the meaning ascribed to it in NRS 200.737.

Sec. 2. NRS 62B.330 is hereby amended to read as follows:

62B.330 1. Except as otherwise provided in this title, the juvenile court has exclusive original jurisdiction over a child living or found within the county who is alleged or adjudicated to have committed a delinquent act.

2. For the purposes of this section, a child commits a delinquent act if the child:

(a) Violates a county or municipal ordinance ~~[;]~~ *other than those specified in paragraph (e) or (f) of subsection 1 of NRS 62B.320;*

(b) Violates any rule or regulation having the force of law; or

(c) Commits an act designated a criminal offense pursuant to the laws of the State of Nevada.

3. For the purposes of this section, each of the following acts shall be deemed not to be a delinquent act, and the juvenile court does not have jurisdiction over a person who is charged with committing such an act:

(a) Murder or attempted murder and any other related offense arising out of the same facts as the murder or attempted murder, regardless of the nature of the related offense.

(b) Sexual assault or attempted sexual assault involving the use or threatened use of force or violence against the victim and any other related offense arising out of the same facts as the sexual assault or attempted sexual assault, regardless of the nature of the related offense, if:

(1) The person was 16 years of age or older when the sexual assault or attempted sexual assault was committed; and

(2) Before the sexual assault or attempted sexual assault was committed, the person previously had been adjudicated delinquent for an act that would have been a felony if committed by an adult.

(c) An offense or attempted offense involving the use or threatened use of a firearm and any other related offense arising out of the same facts as the offense or attempted offense involving the use or threatened use of a firearm, regardless of the nature of the related offense, if:

(1) The person was 16 years of age or older when the offense or attempted offense involving the use or threatened use of a firearm was committed; and

(2) Before the offense or attempted offense involving the use or threatened use of a firearm was committed, the person previously had been adjudicated delinquent for an act that would have been a felony if committed by an adult.

(d) A felony resulting in death or substantial bodily harm to the victim and any other related offense arising out of the same facts as the felony, regardless of the nature of the related offense, if:

(1) The felony was committed on the property of a public or private school when pupils or employees of the school were present or may have

been present, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties; and

(2) The person intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person.

(e) A category A or B felony and any other related offense arising out of the same facts as the category A or B felony, regardless of the nature of the related offense, if the person was at least 16 years of age but less than 18 years of age when the offense was committed, and:

(1) The person is not identified by law enforcement as having committed the offense and charged before the person is at least 20 years, 3 months of age, but less than 21 years of age; or

(2) The person is not identified by law enforcement as having committed the offense until the person reaches 21 years of age.

(f) Any other offense if, before the offense was committed, the person previously had been convicted of a criminal offense.

Sec. 3. NRS 62C.100 is hereby amended to read as follows:

62C.100 1. When a complaint is made alleging that a child is delinquent or in need of supervision:

(a) The complaint must be referred to a probation officer of the appropriate county; and

(b) The probation officer shall conduct a preliminary inquiry to determine whether the best interests of the child or of the public:

(1) Require that a petition be filed; or

(2) Would better be served by placing the child under informal supervision pursuant to NRS 62C.200.

2. If, after conducting the preliminary inquiry, the probation officer recommends the filing of a petition, the district attorney shall determine whether to file the petition.

3. If, after conducting the preliminary inquiry, the probation officer does not recommend the filing of a petition or that the child be placed under informal supervision, the probation officer must notify the complainant regarding the complainant's right to seek a review of the complaint by the district attorney.

4. If the complainant seeks a review of the complaint by the district attorney, the district attorney shall:

(a) Review the facts presented by the complainant;

(b) Consult with the probation officer; and

(c) File the petition with the juvenile court if the district attorney believes that the filing of the petition is necessary to protect the interests of the child or of the public.

5. The determination of the district attorney concerning whether to file the petition is final.

6. Except as otherwise provided in NRS 62C.060, if a child is in detention or shelter care, the child must be released immediately if a petition alleging that the child is delinquent or in need of supervision is not:

(a) Approved by the district attorney; or

(b) Filed within ~~[~~8~~]~~ *4* days ~~*[72 hours]*~~ after the date ~~*[time]*~~ the complaint was referred to the probation officer ~~[.]~~ *, excluding Saturdays, Sundays and holidays* ~~*[.]*~~ *, except that the juvenile court may, for good cause shown by the district attorney, allow an additional 4 days for the filing of the petition, excluding Saturdays, Sundays and holidays.*

Sec. 4. NRS 62E.630 is hereby amended to read as follows:

62E.630 1. Except as otherwise provided in this section, if a child is adjudicated delinquent for the unlawful act of using, possessing, selling or distributing a controlled substance, or purchasing, consuming or possessing an alcoholic beverage in violation of NRS 202.020, the juvenile court shall:

(a) If the child possesses a driver's license, issue an order suspending the driver's license of the child for at least 90 days but not more than 2 years; or

(b) If the child does not possess a driver's license and the child is or will be eligible to receive a driver's license within the 2 years immediately following the date of the order, issue an order prohibiting the child from receiving a driver's license for a period specified by the juvenile court which must be at least 90 days but not more than 2 years:

(1) Immediately following the date of the order, if the child is eligible to receive a driver's license; or

(2) After the date the child will be eligible to receive a driver's license, if the child is not eligible to receive a driver's license on the date of the order.

2. If the child is already the subject of a court order suspending or delaying the issuance of the driver's license of the child, the juvenile court shall order the additional suspension or delay, as appropriate, to apply consecutively with the previous order.

3. If the juvenile court finds that a suspension or delay in the issuance of the driver's license of a child pursuant to this section would cause or is causing a severe or undue hardship to the child or his or her immediate family and that the child is otherwise eligible to receive a driver's license, the juvenile court may order the Department of Motor Vehicles to issue a restricted driver's license to the child pursuant to NRS 483.490.

4. If the juvenile court issues an order requiring the Department of Motor Vehicles to issue a restricted driver's license to a child pursuant to subsection 3, not later than 5 days after issuing the order, the juvenile court shall forward to the Department of Motor Vehicles a copy of the order.

Sec. 5. NRS 62G.410 is hereby amended to read as follows:

62G.410 1. It is the policy of this state to ~~[rehabilitate delinquent children, to effect a more even administration of justice and to increase]~~ *effectuate a system of youth interventions, in a civil arena, to improve outcomes for juveniles, to diminish juvenile criminality, to facilitate juvenile accountability and to improve juvenile health and welfare, fairly and equally*

in the best interest of the child and in furtherance of the public welfare of the citizens of this state.

2. It is the purpose of NRS 62G.400 to 62G.470, inclusive, to reduce the necessity for commitment of delinquent children to a state facility for the detention of children by strengthening and improving local supervision of children placed on probation by the juvenile court.

Sec. 6. 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 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]~~ *Except as otherwise provided in NRS 62E.630, 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.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 70 to Senate Bill No. 108 increases from 72 hours to four days the length of time that a child may remain in detention or shelter care pending the filing of a petition in juvenile court by the District Attorney, and it adds that a juvenile court may, for good cause shown by the District Attorney, allow an additional four days for the filing of the petition excluding Saturdays, Sundays and holidays.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 130.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary.

Amendment No. 69.

"SUMMARY—Revises provisions governing common-interest communities. (BDR 10-428)"

"AN ACT relating to common-interest communities; revising provisions governing the imposition of a fine for a violation of the governing documents of an association of a common-interest community; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes a homeowners' association to impose a fine against a unit's owner or a tenant or an invitee of a unit's owner or tenant who violates any provision of the governing documents of the association. Under existing law, before imposing a fine, the association must follow certain procedures, including, without limitation, providing the unit's owner and, if different, the person against whom the fine will be imposed with: (1) a written notice specifying the details of the violation, the amount of the fine, and the date, time and location of the hearing on the violation; and (2) a reasonable opportunity to contest the violation at the hearing. (NRS 116.31031)

This bill requires that the written notice provided to the unit's owner and, if different, the person against whom the fine will be imposed: (1) specify the alleged violation in ~~[reasonable]~~ detail; (2) specify the proposed action to cure the alleged violation; and (3) under certain circumstances, include a photograph of the alleged violation. This bill further provides that after the person against whom the fine will be imposed is provided the written notice of the alleged violation, he or she must be provided a reasonable opportunity to cure the alleged violation or to contest the alleged violation at the hearing.

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

Section 1. NRS 116.31031 is hereby amended to read as follows:

116.31031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or an invitee of a unit's owner or a tenant violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:

(a) Prohibit, for a reasonable time, the unit's owner or the tenant or the invitee of the unit's owner or the tenant from:

(1) Voting on matters related to the common-interest community.

(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner or the tenant or the invitee of the unit's owner

or the tenant from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

(b) Impose a fine against the unit's owner or the tenant or the invitee of the unit's owner or the tenant for each violation, except that:

(1) A fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305; and

(2) A fine may not be imposed against a unit's owner or a tenant or invitee of a unit's owner or a tenant for a violation of the governing documents which involves a vehicle and which is committed by a person who is delivering goods to, or performing services for, the unit's owner or tenant or invitee of the unit's owner or the tenant.

➥ If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed $100 for each violation or a total amount of $1,000, whichever is less. The limitations on the amount of the fine do not apply to any charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.

2. The executive board may not impose a fine pursuant to subsection 1 against a unit's owner for a violation of any provision of the governing documents of an association committed by an invitee of the unit's owner or the tenant unless the unit's owner:

(a) Participated in or authorized the violation;

(b) Had prior notice of the violation; or

(c) Had an opportunity to stop the violation and failed to do so.

3. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.

4. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the *alleged* violation, the unit's owner and, if different, the person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the governing documents that form the basis of the *alleged* violation; and

(b) Within a reasonable time after the discovery of the *alleged* violation, the unit's owner and, if different, the person against whom the fine will be imposed has been provided with:

(1) Written notice ~~[specifying the details of]~~ *:*

(I) Specifying in ~~[reasonable]~~ detail the *alleged* violation, *the proposed action to cure the alleged violation,* the amount of the fine, and the date, time and location for a hearing on the *alleged* violation; and

(II) Providing a clear and detailed photograph of the alleged violation, if the alleged violation relates to the physical condition of the unit or the grounds of the unit or an act or a failure to act of which it is ~~[reasonably]~~ possible to obtain a photograph; and

(2) A reasonable opportunity to *cure the alleged violation or to* contest the *alleged* violation at the hearing.

➥ For the purposes of this subsection, a unit's owner shall not be deemed to have received written notice unless written notice is mailed to the address of the unit and, if different, to a mailing address specified by the unit's owner.

5. The executive board must schedule the date, time and location for the hearing on the *alleged* violation so that the unit's owner and, if different, the person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

6. The executive board must hold a hearing before it may impose the fine, unless the fine is paid before the hearing or unless the unit's owner and, if different, the person against whom the fine will be imposed:

(a) Executes a written waiver of the right to the hearing; or

(b) Fails to appear at the hearing after being provided with proper notice of the hearing.

7. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured. Any additional fine may be imposed without *providing the opportunity to cure the violation and without the* notice and an opportunity to be heard ~~[.]~~ *required by paragraph (b) of subsection 4.*

8. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on *alleged* violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.

9. A member of the executive board shall not participate in any hearing or cast any vote relating to a fine imposed pursuant to subsection 1 if the member has not paid all assessments which are due to the association by the member. If a member of the executive board:

(a) Participates in a hearing in violation of this subsection, any action taken at the hearing is void.

(b) Casts a vote in violation of this subsection, the vote is void.

10. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

11. Any past due fine must not bear interest, but may include any costs incurred by the association during a civil action to enforce the payment of the past due fine.

12. If requested by a person upon whom a fine was imposed, not later than 60 days after receiving any payment of a fine, an association shall provide to the person upon whom the fine was imposed a statement of the remaining balance owed.

Sec. 2. This act becomes effective on January 1, 2014.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 69 makes three changes to Senate Bill No. 130: (1) it deletes the word "reasonable" with regard to the detail to be provided in the written notice; (2) it adds that the photograph provided must be a "clear and detailed" picture; and (3) it revises the effective date of this measure from October 1, 2013, to January 1, 2014.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 142.

Bill read second time.

The following amendment was proposed by the Committee on Finance.

Amendment No. 136.

"SUMMARY—Makes various changes to provisions governing local government contracting. (BDR 27-676)"

"AN ACT relating to local governments; revising provisions governing contracting by school districts; revising provisions governing performance contracts for operating cost-savings measures; requiring the Office of Energy to provide local governments with information, educational resources and support relating to such performance contracts; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes local governments, including school districts, to enter into performance contracts for the purchase and installation of operating cost-savings measures to reduce costs related to energy, water and the disposal of waste, and related labor costs. (NRS 332.300-332.440) Section 2 of this bill provides , with limited exceptions, that before the board of trustees of a school district advertises for, requests or solicits bids or proposals for certain contracts ~~[,]~~ for which the estimated cost exceeds $100,000, the board of trustees or its designee shall ~~[determine if]~~ evaluate

whether the work to be performed pursuant to the contract will include ~~[an]~~ certain operating cost-savings ~~[measure]~~ measures and qualifies to be performed pursuant to a performance contract. Section 2 also requires the board of trustees to ~~[prepare a]~~ report ~~[setting forth its determinations and make the report available to the public. Section 2 further requires the report to include, without limitation, the reasons why the work to be performed includes or does not include an operating cost-savings measure and, if the board of trustees determines not to award a performance contract for the work, the reasons for that determination.]~~ on the evaluation at its next regularly scheduled meeting.

Section 3 of this bill requires the Office of Energy to: (1) provide local governments with information, educational resources and support relating to operating cost-savings measures and performance contracts; and (2) include on the Internet website maintained by the Office, if any, information and educational resources relating to operating cost-savings measures and performance contracts.

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

Section 1. Chapter 332 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. ~~[Before]~~ Except as otherwise provided in subsection 3, before the board of trustees of a school district advertises for, requests or solicits bids or proposals for a contract relating to work to be performed on a building ~~[,]~~ for which the estimated cost exceeds $100,000, the board of trustees or its designee shall ~~[:~~*

~~(a) Determine if]~~ evaluate whether the work to be performed pursuant to the contract:

~~[(1)]~~ (a) Will include an operating cost-savings measure; and

~~[(2)]~~ (b) Qualifies to be performed pursuant to a performance contract ~~.]~~;

~~(b) Prepare a report setting forth the determinations required pursuant to paragraph (a); and~~

~~(c) Make the report available to the public, including, without limitation, by posting the report on the Internet website, if any, maintained by the school district.]~~

2. ~~[The report prepared pursuant to paragraph (b) of]~~ If the evaluation performed pursuant to subsection 1 ~~[must include, without limitation:~~

~~(a) The]~~ indicates that the work to be performed will include an operating cost-savings measure and qualifies to be performed pursuant to a performance contract, the board of trustees shall report on the evaluation at the next regularly scheduled meeting of the board of trustees. If the board of trustees determines not to award a performance contract for the work, the board of trustees shall state the reasons ~~[why the work to be performed pursuant to the contract includes or does not include an operating cost-savings measure; and~~

~~*(b) If the board of trustees determines not to award a performance contract for the work, the reasons]*~~ *for that determination* ~~*[,]*~~ *on the record at the meeting and those reasons must be included in the minutes of the meeting.*

3. The provisions of this section do not apply if the board of trustees has performed a comprehensive audit and assessment of all potential operating cost-savings measures that might be implemented within the buildings of the school district within the immediately preceding 7 years and a report of the audit and assessment is available on the Internet website, if any, of the school district.

4. As used in this section, "operating cost-savings measure" means an investment in equipment, products and materials, and strategies for building operation, or any combination thereof, designed to reduce energy and other utility expenses, including, without limitation:

(a) Costs for materials and labor required to replace old equipment with new, more efficient equipment.

(b) Storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed or coated windows or doors, reductions in glass area, and other modifications to windows and doors that will reduce energy consumption.

(c) Automated or computerized energy control systems.

(d) Replacement of, or modifications to, heating, ventilation or air-conditioning systems.

(e) Replacement of, or modifications to, lighting fixtures.

(f) Improvements to the indoor air quality of a building that conform to all requirements of an applicable building code.

(g) Energy recovery systems.

(h) Systems for combined cooling, heating and power that produce steam or other forms of energy, for use primarily within the building or a complex of buildings.

(i) Installation of, or modifications to, existing systems for daylighting, including lighting control systems.

(j) Installation of, or modification to, technologies that use renewable or alternative energy sources.

(k) Programs relating to building operation that reduce operating costs, including, without limitation, computerized programs, training and other similar activities.

(l) Programs for improvement of steam traps to reduce operating costs.

(m) Devices that reduce water consumption in buildings, for lawns and for other irrigation applications.

(n) Trash compaction and waste minimization.

(o) Ground source systems for heating and cooling.

Sec. 3. *The Office of Energy shall:*

1. Provide to local governments information, educational resources and support relating to operating cost-savings measures and performance contracts.

2. Include on the Internet website maintained by the Office, if any, information and educational resources relating to operating cost-savings measures and performance contracts.

Sec. 4. NRS 332.300 is hereby amended to read as follows:

332.300 As used in NRS 332.300 to 332.440, inclusive, *and sections 2 and 3 of this act,* unless the context otherwise requires, the words and terms defined in NRS 332.310 to 332.350, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. This act becomes effective on July 1, 2013.

Senator Jones moved the adoption of the amendment.

Remarks by Senator Jones.

Thank you, Mr. President. Amendment No. 136 to Senate Bill No. 142 revises several provisions in the bill related to performance contracting by school districts for cost-saving measures: (1) it adds a cost threshold of more than $100,000 in order for the bill's provisions to apply; (2) it limits the type of operating cost-savings measures to which the bill's provisions apply; (3) it allows for a designee of the school board to conduct a work evaluation; (4) it requires the school board to report on the work evaluation at its next regularly scheduled meeting only if the work is determined to include a cost-savings measure and qualifies to be performed pursuant to a performance contract; (5) it requires that, if the board chooses not to award a performance contract for a qualifying job, the board must state the reason for this decision on the record at its next regularly scheduled meeting and the reasons must be included in the minutes of the meeting; and (6) it provides that, if the board has solicited and received a comprehensive cost-savings measure audit of its buildings within the preceding seven years and has made the audit publicly available, the board is exempt from the requirements set forth in Section 2.1 of the bill.

Amendment adopted.

Senator Smith moved that Senate Bill No. 142 be re-referred to the Committee on Finance upon return from reprint.

Motion carried.

Bill ordered reprinted, engrossed and to the Committee on Finance.

Senate Bill No. 149.

Bill read second time.

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

Amendment No. 88.

"SUMMARY—Revises provisions relating to inspections of certain medical facilities and offices. (BDR 40-841)"

"AN ACT relating to public health; requiring the Health Division of the Department of Health and Human Services to extend the period between periodic inspections under certain circumstances; requiring the Health Division to reduce certain fees for certain facilities and offices regulated by the Health Division; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Health Division of the Department of Health and Human Services to charge and collect a fee for a license to operate a medical facility or facility for the dependent in this State and to charge and collect a fee for a permit which authorizes certain facilities and offices to offer to patients the service of general anesthesia, conscious sedation or deep sedation. Existing law also authorizes the Health Division to inspect and investigate such facilities to ensure that the facilities are in compliance with certain federal and state laws, regulations and standards. Furthermore, existing law requires facilities and offices that offer patients the service of general anesthesia, conscious sedation or deep sedation and surgical centers for ambulatory patients to be inspected annually by the Health Division. (NRS 449.0307, 449.050, 449.080, 449.089, 449.131, 449.132, 449.435-449.448) If a medical facility or facility for the dependent passes a periodic inspection by the Health Division that is required by existing law, section 2 of this bill requires the Health Division: (1) to conduct the next consecutive periodic inspection of the facility after the expiration of a period which is equal to one and one-half times the usual period between inspections that is required by state law or which is equal to the period that is required by federal law or regulation, whichever is shorter; and (2) to reduce by 25 percent the fee for the next consecutive renewal of the license of the facility. Section 3 of this bill sets forth similar provisions for a surgical center for ambulatory patients, an office of a physician or a facility which is required to obtain a permit to offer patients the service of general anesthesia, conscious sedation or deep sedation.

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. Notwithstanding any other provision of this chapter and except as otherwise provided in this section, if a medical facility or facility for the dependent passes a periodic inspection by the Health Division required by this chapter:*

(a) The Health Division shall conduct the next consecutive periodic inspection of the facility after the expiration of a period which is equal to one and one-half times the period between inspections that is otherwise required by state law or regulation or which is equal to the period between inspections that is required by federal law or regulation, whichever is shorter; and

(b) Notwithstanding the length of the period of the inspection required pursuant to paragraph (a), the Health Division shall reduce by 25 percent the amount of the fee charged by the Health Division for the next consecutive renewal of the license of the facility pursuant to NRS 449.089.

2. The provisions of this section do not apply to an inspection of a medical facility or facility for the dependent if:

(a) The inspection is conducted upon the receipt of an application for a license or upon the receipt of a complaint pursuant to NRS 449.0307;

(b) The inspection is conducted to allow the facility to correct any deficiencies discovered during a previous inspection;

(c) The inspection is conducted after a change is made to the license of the facility, including, without limitation, a change in the person who is licensed to operate or maintain the facility or in the ownership of the facility;

(d) The facility has had a substantiated complaint filed against it ~~[within the immediately preceding 12 months;]~~ since the last periodic inspection of the facility; or

(e) The inspection is conducted pursuant to NRS 449.131 or 449.132.

3. The Health Division shall establish by regulation the manner in which to determine whether a medical facility or facility for the dependent passes a periodic inspection for the purposes of subsection 1.

4. The provisions of this section do not exempt any medical facility or facility for the dependent from compliance with any applicable federal law or regulation governing the inspection or investigation of such facilities.

Sec. 3. *1. Notwithstanding any other provision of this chapter and except as otherwise provided in this subsection, if an office of a physician or a facility which is required to obtain a permit pursuant to NRS 449.442 or a surgical center for ambulatory patients passes a periodic inspection by the Health Division required by this chapter:*

(a) The Health Division shall conduct the next consecutive periodic inspection of the office, facility or surgical center for ambulatory patients after the expiration of a period which is equal to one and one-half times the period between inspections that is otherwise required by state law or regulation, or which is equal to the period between inspections that is required by federal law or regulation, whichever is shorter; and

(b) Notwithstanding the length of the period of the inspection required pursuant to paragraph (a), the Health Division shall reduce by 25 percent the amount of the fee charged by the Health Division for the next consecutive renewal of:

(1) A permit issued to the office or facility pursuant to NRS 449.444.

(2) A license issued to the surgical center for ambulatory patients pursuant to NRS 449.050.

2. The provisions of this section do not apply to an inspection of an office of a physician or a facility which is required to obtain a permit pursuant to NRS 449.442 or a surgical center for ambulatory patients if:

(a) The inspection is conducted upon the receipt of an application for a license or permit or upon the receipt of a complaint;

(b) The inspection is conducted to allow the office, facility or surgical center for ambulatory patients to correct any deficiencies discovered during a previous inspection;

(c) The inspection is conducted after a change is made to the license or permit of the office, facility or surgical center for ambulatory patients,

including, without limitation, a change in the person who has a license or permit to operate or maintain the office, facility or surgical center for ambulatory patients or in the ownership of the office, facility or surgical center for ambulatory patients;

(d) The office, facility or surgical center for ambulatory patients has had a substantiated complaint filed against it ~~[within the immediately preceding 12 months;]~~ since the last periodic inspection of the facility; or

(e) The inspection is an unannounced on-site inspection conducted pursuant to NRS 449.446.

3. The Health Division shall establish by regulation the manner in which to determine whether an office of a physician or a facility which is required to obtain a permit pursuant to NRS 449.442 or a surgical center for ambulatory patients passes a periodic inspection for the purposes of subsection 1.

4. The provisions of this section do not exempt any office of a physician or a facility which is required to obtain a permit pursuant to NRS 449.442 or a surgical center for ambulatory patients from compliance with any applicable federal law or regulation governing the inspection or investigation of such an office, facility or surgical center for ambulatory patients.

Sec. 4. NRS 449.0301 is hereby amended to read as follows:

449.0301 The provisions of NRS 449.030 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. 5. NRS 449.0302 is hereby amended to read as follows:

449.0302 1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.030 to 449.240, inclusive, *and section 2 of this act* and for programs of hospice care.

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

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

(d) Regulations establishing a procedure for the indemnification by the Health Division, from the amount of any surety bond or other obligation filed

or deposited by a facility for refractive surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) ~~[Any]~~ *Except as otherwise provided in section 2 of this act, any* other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.030 to 449.240, inclusive ~~[.]~~ *, and section 2 of this act.*

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

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

(b) Residential facilities for groups,

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

3. The Board shall adopt separate regulations for:

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

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

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

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

5. In addition to the training requirements prescribed pursuant to NRS 449.093, the Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

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

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

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

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

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

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

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

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

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

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

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

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

(2) Contain a sleeping area or bedroom; and

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

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

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

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

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

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

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

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

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

8. The Health Division may grant an exception from the requirement of subparagraph (1) of paragraph (b) of subsection 7 to a facility which is

licensed as a residential facility for groups on or before July 1, 2005, and which is authorized to have 10 or fewer beds and was originally constructed as a single-family dwelling if the Health Division finds that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 6. NRS 449.050 is hereby amended to read as follows:

449.050 1. ~~[Each]~~ *Except as otherwise provided in section 2 of this act, each* application for a license must be accompanied by such fee as may be determined by regulation of the Board. The Board may, by regulation, allow

or require payment of a fee for a license in installments and may fix the amount of each payment and the date that the payment is due.

2. ~~[The]~~ *Except as otherwise provided in section 2 of this act, the* fee imposed by the Board for a facility for transitional living for released offenders must be based on the type of facility that is being licensed and must be calculated to produce the revenue estimated to cover the costs related to the license, but in no case may a fee for a license exceed the actual cost to the Health Division of issuing or renewing the license.

3. If an application for a license for a facility for transitional living for released offenders is denied, any amount of the fee paid pursuant to this section that exceeds the expenses and costs incurred by the Health Division must be refunded to the applicant.

Sec. 7. NRS 449.131 is hereby amended to read as follows:

449.131 1. Any authorized member or employee of the Health Division may enter and inspect any building or premises at any time to secure compliance with or prevent a violation of any provision of NRS 449.030 to 449.245, inclusive.

2. The State Fire Marshal or a designee of the State Fire Marshal shall, upon receiving a request from the Health Division or a written complaint concerning compliance with the plans and requirements to respond to an emergency adopted pursuant to subsection 9 of NRS 449.0302:

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

(b) Make recommendations regarding the adoption of plans and requirements pursuant to subsection 9 of NRS 449.0302,

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

3. ~~[The]~~ *Except as otherwise provided in section 2 of this act, the* State Health Officer or a designee of the State Health Officer shall enter and inspect at least annually each building or the premises of a residential facility for groups to ensure compliance with standards for health and sanitation.

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

~~[Sec. 7.]~~ *Sec. 8.* 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 449.030 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 449.030 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. 8.]~~ *Sec. 9.* NRS 449.441 is hereby amended to read as follows:

449.441 The provisions of NRS 449.435 to 449.448, inclusive, *and section 3 of this act* do not apply to an office of a physician or a facility that provides health care, other than a medical facility, if the office of a physician or the facility only administers a medication to a patient to relieve the

patient's anxiety or pain and if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

~~[Sec. 9.]~~ *Sec. 10.* NRS 449.446 is hereby amended to read as follows:

449.446 1. ~~[The]~~ *Except as otherwise provided in section 3 of this act, the* Health Division shall conduct annual and unannounced on-site inspections of each office of a physician or a facility that provides health care, other than a medical facility, which holds a permit issued pursuant to NRS 449.443 and each surgical center for ambulatory patients which holds a license issued pursuant to this chapter.

2. An inspection conducted pursuant to this section must focus on the infection control practices and policies of the surgical center for ambulatory patients, the office or the facility that is the subject of the inspection. The Health Division may, as it deems necessary, conduct a more comprehensive inspection of a surgical center, office or facility.

3. Upon completion of an inspection, the Health Division shall:

(a) Compile a report of the inspection, including each deficiency discovered during the inspection, if any; and

(b) Forward a copy of the report to the surgical center for ambulatory patients, the office of the physician or the facility where the inspection was conducted.

4. If a deficiency is indicated in the report, the surgical center for ambulatory patients, the office of the physician or the facility shall correct each deficiency indicated in the report in the manner prescribed by the Board pursuant to NRS 449.448.

5. The Health Division shall annually prepare and submit to the Legislative Committee on Health Care and the Legislative Commission a report which includes:

(a) The number and frequency of inspections conducted pursuant to this section;

(b) A summary of deficiencies or other significant problems discovered while conducting inspections pursuant to this section and the results of any follow-up inspections; and

(c) Any other information relating to the inspections as deemed necessary by the Legislative Committee on Health Care or the Legislative Commission.

~~[Sec. 10.]~~ *Sec. 11.* NRS 449.447 is hereby amended to read as follows:

449.447 1. If an office of a physician or a facility that provides health care, other than a medical facility, violates the provisions of NRS 449.435 to 449.448, inclusive, *and section 3 of this act* or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to NRS 449.446, the Health Division, in accordance with the regulations adopted pursuant to NRS 449.448, may take any of the following actions:

(a) Decline to issue or renew a permit;

(b) Suspend or revoke a permit; or

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

2. The Health Division may review a report submitted pursuant to NRS 630.30665 or 633.524 to determine whether an office of a physician or a facility is in violation of the provisions of NRS 449.435 to 449.448, inclusive, *and section 3 of this act* or the regulations adopted pursuant thereto. If the Health Division determines that such a violation has occurred, the Health Division shall immediately notify the appropriate professional licensing board of the physician.

3. If a surgical center for ambulatory patients violates the provisions of NRS 449.435 to 449.448, inclusive, *and section 3 of this act* or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to NRS 449.446, the Health Division may impose administrative sanctions pursuant to NRS 449.163.

~~[Sec. 11.]~~ *Sec. 12.* NRS 449.448 is hereby amended to read as follows:

449.448 1. ~~[The]~~ *Except as otherwise provided in section 3 of this act, the* Board shall adopt regulations to carry out the provisions of NRS 449.435 to 449.448, inclusive, including, without limitation, regulations which:

(a) Prescribe the amount of the fee required for applications for the issuance and renewal of a permit pursuant to NRS 449.443 and 449.444.

(b) Prescribe the procedures and standards for the issuance and renewal of a permit.

(c) Identify the nationally recognized organizations approved by the Board for the purposes of the accreditation required for the issuance of a:

(1) License to operate a surgical center for ambulatory patients.

(2) Permit for an office of a physician or a facility that provides health care, other than a medical facility, to offer to a patient a service of general anesthesia, conscious sedation or deep sedation.

(d) Prescribe the procedures and scope of the inspections conducted by the Health Division pursuant to NRS 449.446.

(e) Prescribe the procedures and time frame for correcting each deficiency indicated in a report pursuant to NRS 449.446.

(f) Prescribe the criteria for the imposition of each sanction prescribed by NRS 449.447, including, without limitation:

(1) Setting forth the circumstances and manner in which a sanction applies;

(2) Minimizing the time between the identification of a violation and the imposition of a sanction; and

(3) Providing for the imposition of incrementally more severe sanctions for repeated or uncorrected violations.

2. The regulations adopted pursuant to this section must require that the practices and policies of each holder of a permit to offer to a patient a service

of general anesthesia, conscious sedation or deep sedation and each holder of a license to operate a surgical center for ambulatory patients provide adequately for the protection of the health, safety and well-being of patients.

~~[Sec. 12.]~~ *Sec. 13.* This act becomes effective on July 1, 2013.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 88 to Senate Bill No. 149 clarifies that certain facilities that have had a substantiated complaint filed against it since the last periodic inspection of the facility, rather than the immediately preceding 12 months, are exempt from the extended inspection timeframes and the reduced inspection fee obtainable within the measure.

Amendment adopted.

Senator Smith moved that Senate Bill No. 149 be re-referred to the Committee on Finance upon return from reprint.

Motion carried.

Bill ordered reprinted, engrossed and to the Committee on Finance.

Senate Bill No. 162.

Bill read second time.

The following amendment was proposed by the Committee on Commerce, Labor and Energy.

Amendment No. 15.

"SUMMARY—Revises provisions governing the practice of medicine. (BDR 54-108)"

"AN ACT relating to professions; revising provisions governing certain reporting requirements for the Board of Medical Examiners; providing for the licensure of administrative osteopathic physicians; prohibiting the Board of Medical Examiners and the State Board of Osteopathic Medicine from issuing a license by endorsement to practice as an administrative physician or as an administrative osteopathic physician, respectively, except for certain limited purposes; revising provisions governing disciplinary action or the denial of licensure by the Board of Medical Examiners or the State Board of Osteopathic Medicine; revising provisions governing certain examinations to determine the competency of a physician, osteopathic physician or physician assistant; revising provisions governing the summary suspension of a license by the Board of Medical Examiners or the State Board of Osteopathic Medicine; revising certain procedural provisions governing the filing of a formal complaint against a licensee by the Board of Medical Examiners or the State Board of Osteopathic Medicine; authorizing the Board of Medical Examiners and the State Board of Osteopathic Medicine to make service of process on a licensee electronically under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law generally provides for the licensure and regulation of physicians, physician assistants, perfusionists and practitioners of respiratory care by the Board of Medical Examiners and of osteopathic physicians and

physician assistants by the State Board of Osteopathic Medicine. Existing law further prescribes the powers and duties of each board. (Chapters 630 and 633 of NRS) Section 14.6 of this bill provides for the licensure of administrative osteopathic physicians by the State Board of Osteopathic Medicine.

Existing law requires the Board of Medical Examiners to submit to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the Legislature a biennial report compiling disciplinary action taken by the Board in the previous biennium against any physician for malpractice or negligence. (NRS 630.130) Section 1 of this bill requires the Board of Medical Examiners to include in the biennial report any disciplinary action taken against a physician assistant, perfusionist or practitioner of respiratory care for malpractice or negligence.

Existing law authorizes the Board of Medical Examiners and the State Board of Osteopathic Medicine to issue a license by endorsement to practice medicine or to practice osteopathic medicine, respectively, to certain qualified applicants who have been issued a license to practice medicine or osteopathic medicine in another state or territory of the United States. (NRS 630.1605 ~~[) Section]~~ , 633.400) Sections 2 and 16.5 of this bill ~~[prohibits]~~ prohibit the Board of Medical Examiners and the State Board of Osteopathic Medicine from issuing a license by endorsement to practice as an administrative physician or as an administrative osteopathic physician, respectively, except for certain limited purposes.

Existing law provides that certain acts committed by a person licensed by either the Board of Medical Examiners or the State Board of Osteopathic Medicine constitute grounds for disciplinary action or denial of licensure by the respective boards. (NRS 630.306, 630.3062, 630.3065, 630.30665, 630.342, 633.131, 633.511, 633.524) Sections 5-8, 12 and 16-18 of this bill expand such grounds to those acts which are committed knowingly or willfully by a licensee.

Sections 9 and 19 of this bill provide that the testimony or reports of a person who conducts an examination to determine the competency of a physician on behalf of the Board of Medical Examiners, or an osteopathic physician or physician assistant on behalf of the State Board of Osteopathic Medicine, are not privileged communications.

Sections 10 and 20 of this bill revise provisions relating to the summary suspension of the license of a physician, perfusionist, physician assistant or practitioner of respiratory care by the Board of Medical Examiners, or the license of an osteopathic physician or physician assistant by the State Board of Osteopathic Medicine, pending the conclusion of a hearing to consider a formal complaint against the licensee. Sections 10 and 20 also require the respective boards to reinstate the license of the licensee under certain circumstances.

Existing law establishes the procedure by which a formal complaint against a physician, perfusionist, physician assistant or practitioner

of respiratory care is filed and reviewed by the Board of Medical Examiners. (NRS 630.339) Section 11 of this bill: (1) authorizes ~~[the legal counsel for]~~ a member of an investigative committee of the Board of Medical Examiners to sign a formal complaint; (2) authorizes rather than requires a respondent to file an answer to a formal complaint; and (3) authorizes the Board or an investigative committee of the Board to proceed with adjudicating the complaint if a respondent fails timely to file an answer.

Existing law provides the manner in which the Board of Medical Examiners and the State Board of Osteopathic Medicine may make service of process upon a licensee. (NRS 630.344, 633.631) Sections 13 and 22 of this bill authorize the President and Vice President of the Board of Medical Examiners and the State Board of Osteopathic Medicine to cause notice of certain actions to be published in certain newspapers if personal service on a licensee cannot be made. Sections 13 and 22 further authorize the Board of Medical Examiners and the State Board of Osteopathic Medicine to make service of process on a licensee electronically if the licensee consents to electronic service of process in writing.

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

Section 1. NRS 630.130 is hereby amended to read as follows:

630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:

(a) Enforce the provisions of this chapter;

(b) Establish by regulation standards for licensure under this chapter;

(c) Conduct examinations for licensure and establish a system of scoring for those examinations;

(d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and

(e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.

2. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against ~~[physicians]~~ *any physician, physician assistant, perfusionist or practitioner of respiratory care* for malpractice or negligence;

(b) Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections 3 and 6 of NRS 630.307 and NRS 690B.250 and 690B.260; and

(c) Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and types of surgeries performed by each holder of a license to practice medicine and the occurrence of sentinel events arising from such surgeries, if any.

➥ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.

Sec. 2. NRS 630.1605 is hereby amended to read as follows:

630.1605 1. Except as otherwise provided in *subsection 3 and* NRS 630.161, the Board may issue a license by endorsement to practice medicine to an applicant who has been issued a license to practice medicine by the District of Columbia or any state or territory of the United States if:

(a) At the time the applicant files an application with the Board, the license is in effect;

(b) The applicant:

(1) Submits to the Board proof of passage of an examination approved by the Board;

(2) Submits to the Board any documentation and other proof of qualifications required by the Board;

(3) Meets all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160; and

(4) Completes any additional requirements relating to the fitness of the applicant to practice required by the Board; and

(c) Any documentation and other proof of qualifications required by the Board is authenticated in a manner approved by the Board.

2. A license by endorsement to practice medicine may be issued at a meeting of the Board or between its meetings by the President and Executive Director of the Board. Such an action shall be deemed to be an action of the Board.

3. The Board shall not issue a license by endorsement to practice as an administrative physician except for the limited purpose of practicing as an administrative physician as an:

(a) Officer or employee of a state agency; or

(b) Independent contractor pursuant to a contract with the State.

Sec. 3. NRS 630.257 is hereby amended to read as follows:

630.257 If a licensee does not *engage in the* practice ~~[allopathic]~~ *of* medicine for a period of more than 12 consecutive months, the Board may require the licensee to take the same examination to test medical competency as that given to applicants for a license.

Sec. 4. NRS 630.277 is hereby amended to read as follows:

630.277 1. Every person who wishes to practice respiratory care in this State must:

(a) Have a high school diploma or general equivalency diploma;

(b) Complete an educational program for respiratory care which has been approved by the Commission on Accreditation of Allied Health Education Programs or its successor organization or the ~~[Committee]~~ *Commission* on Accreditation for Respiratory Care or its successor organization;

(c) Pass the examination as an entry-level or advanced practitioner of respiratory care administered by the National Board for Respiratory Care or its successor organization;

(d) Be certified by the National Board for Respiratory Care or its successor organization; and

(e) Be licensed to practice respiratory care by the Board and have paid the required fee for licensure.

2. Except as otherwise provided in subsection 3, a person shall not:

(a) Practice respiratory care; or

(b) Hold himself or herself out as qualified to practice respiratory care,

➥ in this State without complying with the provisions of subsection 1.

3. Any person who has completed the educational requirements set forth in paragraphs (a) and (b) of subsection 1 may practice respiratory care pursuant to a program of practical training as an intern in respiratory care for not more than 12 months after completing those educational requirements.

Sec. 5. NRS 630.306 is hereby amended to read as follows:

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to others except as authorized by law.

4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he or she is not competent to perform or which are beyond the scope of his or her training.

6. Performing, without first obtaining the informed consent of the patient or the patient's family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

8. Habitual intoxication from alcohol or dependency on controlled substances.

9. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

10. Failing to comply with the requirements of NRS 630.254.

11. Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against the licensee or applicant by another state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of a license to practice medicine in another jurisdiction.

12. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

13. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

14. Operation of a medical facility at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➥ This subsection applies to an owner or other principal responsible for the operation of the facility.

15. Failure to comply with the requirements of NRS 630.373.

16. Engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board.

17. Knowingly *or willfully* procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:

(a) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(b) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328; or

(c) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS.

18. Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.

Sec. 6. NRS 630.3062 is hereby amended to read as follows:

630.3062 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

2. Altering medical records of a patient.

3. Making or filing a report which the licensee knows to be false, failing to file a record or report as required by law or *knowingly or* willfully obstructing or inducing another to obstruct such filing.

4. Failure to make the medical records of a patient available for inspection and copying as provided in NRS 629.061.

5. Failure to comply with the requirements of NRS 630.3068.

6. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board ~~[within]~~ *not later than* 30 days after the date the licensee knows or has reason to know of the violation.

Sec. 7. NRS 630.3065 is hereby amended to read as follows:

630.3065 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. ~~[Willful disclosure of]~~ *Knowingly or willfully disclosing* a communication privileged pursuant to a statute or court order.

2. ~~[Willful failure]~~ *Knowingly or willfully failing* to comply with:

(a) A regulation, subpoena or order of the Board or a committee designated by the Board to investigate a complaint against a physician;

(b) A court order relating to this chapter; or

(c) A provision of this chapter.

3. ~~[Willful failure]~~ *Knowingly or willfully failing* to perform a statutory or other legal obligation imposed upon a licensed physician, including a violation of the provisions of NRS 439B.410.

Sec. 8. NRS 630.30665 is hereby amended to read as follows:

630.30665 1. The Board shall require each holder of a license to practice medicine to submit to the Board, on a form provided by the Board, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his or her office or any other facility, excluding any surgical care performed:

(a) At a medical facility as that term is defined in NRS 449.0151; or

(b) Outside of this State.

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice medicine to submit a report to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the State Board of Health for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice medicine shall submit the reports required pursuant to subsections 1 and 2:

(a) At the time the holder of a license renews his or her license; and

(b) Whether or not the holder of the license performed any surgery described in subsection 1. Failure to submit a report or knowingly *or willfully* filing false information in a report constitutes grounds for initiating disciplinary action pursuant to subsection 9 of NRS 630.306.

4. In addition to the reports required pursuant to subsections 1 and 2, the Board shall require each holder of a license to practice medicine to submit a report to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1 ~~[within]~~ *not later than* 14 days after the occurrence of the sentinel event. The report must be submitted in the manner prescribed by the Board.

5. The Board shall:

(a) Collect and maintain reports received pursuant to subsections 1, 2 and 4;

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access; and

(c) Submit to the Health Division a copy of the report submitted pursuant to subsection 1. The Health Division shall maintain the confidentiality of such reports in accordance with subsection 6.

6. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1, 2 or 4 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

7. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

8. In addition to any other remedy or penalty, if a holder of a license to practice medicine fails to submit a report or knowingly *or willfully* files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice medicine with notice and opportunity for a hearing, impose against the holder of a license to practice medicine an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license pursuant to this subsection. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

9. As used in this section:

(a) "Conscious sedation" has the meaning ascribed to it in NRS 449.436.

(b) "Deep sedation" has the meaning ascribed to it in NRS 449.437.

(c) "General anesthesia" has the meaning ascribed to it in NRS 449.438.

(d) "Health Division" has the meaning ascribed to it in NRS 449.009.

(e) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

Sec. 9. NRS 630.318 is hereby amended to read as follows:

630.318 1. If the Board or any investigative committee of the Board has reason to believe that the conduct of any physician has raised a reasonable question as to his or her competence to practice medicine with reasonable skill and safety to patients, or if the Board has received a report pursuant to the provisions of NRS 630.3067, 630.3068, 690B.250 or 690B.260 indicating that a judgment has been rendered or an award has been made against a physician regarding an action or claim for malpractice or that such an action or claim against the physician has been resolved by settlement, ~~[it]~~ *the Board or committee* may order that the physician undergo a mental or physical examination , ~~[or]~~ an examination testing his or her competence to practice medicine ~~[by physicians]~~ or *any* other ~~[examinations]~~ *examination* designated by the Board to assist the Board or committee in determining the fitness of the physician to practice medicine.

2. For the purposes of this section:

(a) Every physician who applies for a license or who is licensed under this chapter shall be deemed to have given consent to submit to a mental or physical examination or an examination testing his or her competence to practice medicine when ordered to do so in writing by the Board or an investigative committee of the Board.

(b) The testimony or reports of ~~[the examining physicians]~~ *a person who conducts an examination of a physician on behalf of the Board or an investigative committee of the Board pursuant to this section* are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a physician licensed under this chapter to submit to an examination when directed as provided in this section constitutes an admission of the charges against the physician.

Sec. 10. NRS 630.326 is hereby amended to read as follows:

630.326 1. If an investigation by the Board regarding a physician, perfusionist, physician assistant or practitioner of respiratory care reasonably determines that the health, safety or welfare of the public or any patient served by the ~~[physician, perfusionist, physician assistant or practitioner of respiratory care]~~ *licensee* is at risk of imminent or continued harm, the Board may summarily suspend the license of the ~~[physician, perfusionist, physician assistant or practitioner of respiratory care.]~~ *licensee pending the conclusion of a hearing to consider a formal complaint against the licensee.* The order of summary suspension may be issued *only* by the Board ~~[,]~~ *or* an investigative committee of the Board . ~~[or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.]~~

2. If the Board issues an order summarily suspending the license of a physician, perfusionist, physician assistant or practitioner of respiratory care pursuant to subsection 1, the Board shall hold a hearing ~~[regarding the matter]~~ not later than ~~[45]~~ *60* days after the date on which the Board issues

the order summarily suspending the license , unless the Board and the licensee mutually agree to a longer period ~~[.]~~ *, to determine whether a reasonable basis exists to continue the suspension of the license pending the conclusion of any hearing to consider a formal complaint against the licensee. If no formal complaint against the licensee is pending before the Board on the date on which a hearing is held pursuant to this section, the Board shall reinstate the license of the licensee.*

3. If the Board issues an order *summarily* suspending the license of a physician, perfusionist, physician assistant or practitioner of respiratory care ~~[pending proceedings for disciplinary action]~~ *pursuant to subsection 1* and *the Board* requires the ~~[physician, perfusionist, physician assistant or practitioner of respiratory care]~~ *licensee* to submit to a mental or physical examination or an examination testing his or her competence to practice, the examination must be conducted and the results obtained not later than ~~[60]~~ *30* days after the Board issues its order.

Sec. 11. NRS 630.339 is hereby amended to read as follows:

630.339 1. If a committee designated by the Board to conduct an investigation of a complaint decides to proceed with disciplinary action, it shall bring charges against the licensee by filing a formal complaint. The formal complaint must include a written statement setting forth the charges alleged and setting forth in concise and plain language each act or omission of the respondent upon which the charges are based. The formal complaint must be prepared with sufficient clarity to ensure that the respondent is able to prepare a defense. The formal complaint must specify any applicable law or regulation that the respondent is alleged to have violated. The formal complaint may be signed by the chair *or any member* of the investigative committee. ~~[or the]~~ ~~[Executive Director of the Board acting in his or her official capacity.]~~ ~~*[legal counsel for the Board.]*~~

2. The respondent ~~[shall]~~ *may* file an answer to the formal complaint ~~[within]~~ *not later than* 20 days after service of the complaint upon the respondent. ~~[The]~~ *An* answer must state in concise and plain language the respondent's defenses to each charge set forth in the complaint and must admit or deny the averments stated in the complaint. If a party fails to file an answer within the time prescribed, the party shall be deemed to have denied generally the allegations of the formal complaint ~~[.]~~ *and the Board or an investigative committee of the Board may proceed pursuant to this section as if the answer were timely filed.*

3. ~~[Within]~~ *Not later than* 20 days after the filing of ~~[the]~~ *an* answer ~~[,]~~ *or 20 days after the date on which an answer is due, whichever is earlier,* the parties shall hold an early case conference at which the parties and ~~[the]~~ *a* hearing officer appointed by the Board or a member of the Board must preside. At the early case conference, the parties shall in good faith:

(a) Set the earliest possible hearing date agreeable to the parties and the hearing officer, panel of the Board or the Board, including the estimated duration of the hearing;

(b) Set dates:

(1) By which all documents must be exchanged;

(2) By which all prehearing motions and responses thereto must be filed;

(3) On which to hold the prehearing conference; and

(4) For any other foreseeable actions that may be required for the matter;

(c) Discuss or attempt to resolve all or any portion of the evidentiary or legal issues in the matter;

(d) Discuss the potential for settlement of the matter on terms agreeable to the parties; and

(e) Discuss and deliberate any other issues that may facilitate the timely and fair conduct of the matter.

4. If the Board receives a report pursuant to subsection 5 of NRS 228.420, such a hearing must be held ~~[within]~~ *not later than* 30 days after receiving the report. The Board shall notify the licensee of the charges brought against him or her, the time and place set for the hearing, and the possible sanctions authorized in NRS 630.352.

5. A formal hearing must be held at the time and date set at the early case conference by:

(a) The Board;

(b) A hearing officer;

(c) A member of the Board designated by the Board or an investigative committee of the Board;

(d) A panel of members of the Board designated by an investigative committee of the Board or the Board;

(e) A hearing officer together with not more than one member of the Board designated by an investigative committee of the Board or the Board; or

(f) A hearing officer together with a panel of members of the Board designated by an investigative committee of the Board or the Board. If the hearing is before a panel, at least one member of the panel must not be a physician.

6. At any hearing at which at least one member of the Board presides, whether in combination with a hearing officer or other members of the Board, the final determinations regarding credibility, weight of evidence and whether the charges have been proven must be made by the members of the Board. If a hearing officer presides together with one or more members of the Board, the hearing officer shall:

(a) Conduct the hearing;

(b) In consultation with each member of the Board, make rulings upon any objections raised at the hearing;

(c) In consultation with each member of the Board, make rulings concerning any motions made during or after the hearing; and

(d) ~~[Within]~~ *Not later than* 30 days after the conclusion of the hearing, prepare and file with the Board written findings of fact and conclusions of

law in accordance with the determinations made by each member of the Board.

Sec. 12. NRS 630.342 is hereby amended to read as follows:

630.342 1. Any licensee against whom the Board initiates disciplinary action pursuant to this chapter shall, ~~[within]~~ *not later than* 30 days after the licensee's receipt of notification of the initiation of the disciplinary action, submit to the Board a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The *knowing or* willful failure of a licensee to comply with the requirements of subsection 1 constitutes additional grounds for disciplinary action and the revocation of the license of the licensee.

3. The Board has additional grounds for initiating disciplinary action against a licensee if the report from the Federal Bureau of Investigation indicates that the licensee has been convicted of:

(a) An act that is a ground for disciplinary action pursuant to NRS 630.301 to 630.3066, inclusive; or

(b) A violation of NRS 630.400.

Sec. 13. NRS 630.344 is hereby amended to read as follows:

630.344 1. Service of process under this chapter must be made on a licensee ~~[personally, or by]~~ *:*

(a) Personally;

(b) By registered or certified mail with return receipt requested addressed to the licensee at his or her last known address ~~[.]~~ *; or*

(c) If the Board obtains written consent from the licensee, electronically at an electronic mail address designated by the licensee in the written consent.

2. If ~~[personal]~~ service *of process* cannot be made ~~[and if notice by mail is returned undelivered,]~~ *pursuant to subsection 1,* the *President, Vice President or* Secretary-Treasurer of the Board shall cause notice to be published once a week for 4 consecutive weeks in a newspaper published in the county of the last known address of the licensee or, if no newspaper is published in that county, then in a newspaper widely distributed in that county.

~~[2.]~~ *3.* Proof of service of process or publication of notice made under this chapter must be filed with the Board and *may be* recorded in the minutes of the Board.

4. The Board shall prescribe by regulation a reasonable method and procedure by which the Board may make service of process electronically pursuant to subsection 1.

Sec. 14. NRS 630.405 is hereby amended to read as follows:

630.405 A physician licensed pursuant to this chapter who *knowingly or* willfully fails or refuses to make the health care records of a patient available for physical inspection or copying as provided in NRS 629.061 is guilty of a misdemeanor.

Sec. 14.2. Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 14.4 and 14.6 of this act.

Sec. 14.4. *"Administrative osteopathic physician" means an osteopathic physician who is licensed only to act in an administrative capacity as an:*

1. Officer or employee of a state agency;

2. Independent contractor pursuant to a contract with the State; or

3. Officer, employee or independent contractor of a private insurance company, medical facility or medical care organization, and who does not examine or treat patients in a clinical setting.

Sec. 14.6. *1. A person may apply to the Board to be licensed as an administrative osteopathic physician if the person meets all the statutory requirements for licensure in effect at the time of application.*

2. A person who is licensed as an administrative osteopathic physician pursuant to this section:

(a) May not engage in the practice of clinical osteopathic medicine;

(b) Shall comply with all the statutory requirements for continued licensure pursuant to this chapter; and

(c) Shall be deemed to hold a license to practice osteopathic medicine in an administrative capacity only.

Sec. 14.8. NRS 633.011 is hereby amended to read as follows:

633.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 633.021 to 633.131, inclusive, *and section 14.4 of this act* have the meanings ascribed to them in those sections.

Sec. 15. NRS 633.041 is hereby amended to read as follows:

633.041 "Gross malpractice" means malpractice where the failure to exercise the requisite degree of care, diligence or skill consists of:

1. Performing surgery upon or otherwise ministering to a patient while the osteopathic physician is under the influence of alcohol or any controlled substance;

2. Gross negligence;

3. ~~[Willful]~~ *Knowing or willful* disregard of established medical procedures; or

4. ~~[Willful]~~ *Knowing or willful* and consistent use of medical procedures, services or treatment considered by osteopathic physicians in the community to be inappropriate or unnecessary in the cases where used.

Sec. 16. NRS 633.131 is hereby amended to read as follows:

633.131 1. "Unprofessional conduct" includes:

(a) ~~[Willfully]~~ *Knowingly or willfully* making a false or fraudulent statement or submitting a forged or false document in applying for a license to practice osteopathic medicine or to practice as a physician assistant, or in applying for the renewal of a license to practice osteopathic medicine or to practice as a physician assistant.

(b) Failure of a person who is licensed to practice osteopathic medicine to identify himself or herself professionally by using the term D.O., osteopathic physician, doctor of osteopathy or a similar term.

(c) Directly or indirectly giving to or receiving from any person, corporation or other business organization any fee, commission, rebate or other form of compensation for sending, referring or otherwise inducing a person to communicate with an osteopathic physician in his or her professional capacity or for any professional services not actually and personally rendered, except as otherwise provided in subsection 2.

(d) Employing, directly or indirectly, any suspended or unlicensed person in the practice of osteopathic medicine or in practice as a physician assistant, or the aiding or abetting of any unlicensed person to practice osteopathic medicine or to practice as a physician assistant.

(e) Advertising the practice of osteopathic medicine in a manner which does not conform to the guidelines established by regulations of the Board.

(f) Engaging in any:

(1) Professional conduct which is intended to deceive or which the Board by regulation has determined is unethical; or

(2) Medical practice harmful to the public or any conduct detrimental to the public health, safety or morals which does not constitute gross or repeated malpractice or professional incompetence.

(g) Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, otherwise than in the course of legitimate professional practice or as authorized by law.

(h) Habitual drunkenness or habitual addiction to the use of a controlled substance.

(i) Performing, assisting in or advising an unlawful abortion or the injection of any liquid silicone substance into the human body, other than the use of silicone oil to repair a retinal detachment.

(j) ~~[Willful disclosure of]~~ *Knowingly or willfully disclosing* a communication privileged pursuant to a statute or court order.

(k) ~~[Willful disobedience of the]~~ *Knowingly or willfully disobeying* regulations of the State Board of Health, the State Board of Pharmacy or the State Board of Osteopathic Medicine.

(l) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any prohibition made in this chapter.

(m) Failure of a licensee to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

(n) Making alterations to the medical records of a patient that the licensee knows to be false.

(o) Making or filing a report which the licensee knows to be false.

(p) Failure of a licensee to file a record or report as required by law, or *knowingly or* willfully obstructing or inducing any person to obstruct such filing.

(q) Failure of a licensee to make medical records of a patient available for inspection and copying as provided by NRS 629.061.

(r) Providing false, misleading or deceptive information to the Board in connection with an investigation conducted by the Board.

2. It is not unprofessional conduct:

(a) For persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to practice osteopathic medicine in partnership under a partnership agreement or in a corporation or an association authorized by law, or to pool, share, divide or apportion the fees and money received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association;

(b) For two or more persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to receive adequate compensation for concurrently rendering professional care to a patient and dividing a fee if the patient has full knowledge of this division and if the division is made in proportion to the services performed and the responsibility assumed by each person; or

(c) For a person licensed to practice osteopathic medicine pursuant to the provisions of this chapter to form an association or other business relationship with an optometrist pursuant to the provisions of NRS 636.373.

Sec. 16.5. NRS 633.400 is hereby amended to read as follows:

633.400 1. Except as otherwise provided in *subsection 4 and* NRS 633.315, the Board shall, except for good cause, issue a license by endorsement to a person who has been issued a license to practice osteopathic medicine by the District of Columbia or any state or territory of the United States if:

(a) At the time the person files an application with the Board, the license is in effect and unrestricted; and

(b) The applicant:

(1) Is currently certified by either a specialty board of the American Board of Medical Specialties or a specialty board of the American Osteopathic Association, or was certified or recertified within the past 10 years;

(2) Has had no adverse actions reported to the National Practitioner Data Bank within the past 5 years;

(3) Has been continuously and actively engaged in the practice of osteopathic medicine within his or her specialty for the past 5 years;

(4) Is not involved in and does not have pending any disciplinary action concerning a license to practice osteopathic medicine in the District of Columbia or any state or territory of the United States;

(5) Provides information on all the medical malpractice claims brought against him or her, without regard to when the claims were filed or how the claims were resolved; and

(6) Meets all statutory requirements to obtain a license to practice osteopathic medicine in this State except that the applicant is not required to meet the requirements set forth in NRS 633.311.

2. Any person applying for a license pursuant to this section shall pay in advance to the Board the application and initial license fee specified in this chapter.

3. A license by endorsement may be issued at a meeting of the Board or between its meetings by its President and Executive Director. Such action shall be deemed to be an action of the Board.

4. The Board shall not issue a license by endorsement to practice as an administrative osteopathic physician except for the limited purpose of practicing as an administrative osteopathic physician as an:

(a) Officer or employee of a state agency; or

(b) Independent contractor pursuant to a contract with the State.

Sec. 17. NRS 633.511 is hereby amended to read as follows:

633.511 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.

2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A felony relating to the practice of osteopathic medicine or practice as a physician assistant;

(c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(d) Murder, voluntary manslaughter or mayhem;

(e) Any felony involving the use of a firearm or other deadly weapon;

(f) Assault with intent to kill or to commit sexual assault or mayhem;

(g) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(h) Abuse or neglect of a child or contributory delinquency; or

(i) Any offense involving moral turpitude.

3. The suspension of a license to practice osteopathic medicine or to practice as a physician assistant by any other jurisdiction.

4. Malpractice or gross malpractice, which may be evidenced by a claim of malpractice settled against a licensee.

5. Professional incompetence.

6. Failure to comply with the requirements of NRS 633.527.

7. Failure to comply with the requirements of subsection 3 of NRS 633.471.

8. Failure to comply with the provisions of NRS 633.694.

9. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➥ This subsection applies to an owner or other principal responsible for the operation of the facility.

10. Failure to comply with the provisions of subsection 2 of NRS 633.322.

11. Signing a blank prescription form.

12. Knowingly *or willfully* procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:

(a) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(b) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328; or

(c) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS.

13. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

14. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

15. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or *knowingly or* willfully obstructing or inducing another to obstruct the making or filing of such a record or report.

16. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board ~~[within]~~ *not later than* 30 days after the date the licensee knows or has reason to know of the violation.

17. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

18. Engaging in any act that is unsafe in accordance with regulations adopted by the Board.

19. Failure to comply with the provisions of NRS 633.165.

20. Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.

Sec. 18. NRS 633.524 is hereby amended to read as follows:

633.524 1. The Board shall require each holder of a license to practice osteopathic medicine issued pursuant to this chapter to submit to the Board, on a form provided by the Board, and in the format required by the Board by regulation, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the

holder of the license at his or her office or any other facility, excluding any surgical care performed:

(a) At a medical facility as that term is defined in NRS 449.0151; or

(b) Outside of this State.

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice osteopathic medicine to submit a report to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the State Board of Health for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice osteopathic medicine shall submit the reports required pursuant to subsections 1 and 2:

(a) At the time the holder of the license renews his or her license; and

(b) Whether or not the holder of the license performed any surgery described in subsection 1. Failure to submit a report or knowingly *or willfully* filing false information in a report constitutes grounds for initiating disciplinary action pursuant to NRS 633.511.

4. In addition to the reports required pursuant to subsections 1 and 2, the Board shall require each holder of a license to practice osteopathic medicine to submit a report to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1 ~~[within]~~ *not later than* 14 days after the occurrence of the sentinel event. The report must be submitted in the manner prescribed by the Board.

5. The Board shall:

(a) Collect and maintain reports received pursuant to subsections 1, 2 and 4;

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access; and

(c) Submit to the Health Division a copy of the report submitted pursuant to subsection 1. The Health Division shall maintain the confidentiality of such reports in accordance with subsection 6.

6. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1, 2 or 4 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

7. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

8. In addition to any other remedy or penalty, if a holder of a license to practice osteopathic medicine fails to submit a report or knowingly *or willfully* files false information in a report submitted pursuant to this

section, the Board may, after providing the holder of a license to practice osteopathic medicine with notice and opportunity for a hearing, impose against the holder of a license an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license to practice osteopathic medicine. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

9. As used in this section:

(a) "Conscious sedation" has the meaning ascribed to it in NRS 449.436.

(b) "Deep sedation" has the meaning ascribed to it in NRS 449.437.

(c) "General anesthesia" has the meaning ascribed to it in NRS 449.438.

(d) "Health Division" has the meaning ascribed to it in NRS 449.009.

(e) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

Sec. 19. NRS 633.529 is hereby amended to read as follows:

633.529 1. Notwithstanding the provisions of chapter 622A of NRS, if the Board receives a report pursuant to the provisions of NRS 633.526, 633.527, 690B.250 or 690B.260 indicating that a judgment has been rendered or an award has been made against an osteopathic physician or physician assistant regarding an action or claim for malpractice, or that such an action or claim against the osteopathic physician or physician assistant has been resolved by settlement, the Board may order the osteopathic physician or physician assistant to undergo a mental or physical examination or any other examination designated by the Board to test his or her competence to practice osteopathic medicine or to practice as a physician assistant, as applicable. An examination conducted pursuant to this subsection must be conducted by ~~[osteopathic physicians]~~ *a person* designated by the Board.

2. For the purposes of this section:

(a) An osteopathic physician or physician assistant who applies for a license or who holds a license under this chapter is deemed to have given consent to submit to a mental or physical examination or an examination testing his or her competence to practice osteopathic medicine or to practice as a physician assistant, as applicable, pursuant to a written order by the Board.

(b) The testimony or reports of ~~[the examining osteopathic physician]~~ *a person who conducts an examination of an osteopathic physician or physician assistant on behalf of the Board pursuant to this section* are not privileged communications.

Sec. 20. NRS 633.581 is hereby amended to read as follows:

633.581 1. If an investigation by the Board of an osteopathic physician or physician assistant reasonably determines that the health, safety or welfare of the public or any patient served by the osteopathic physician or physician assistant is at risk of imminent or continued harm, the Board may summarily suspend the license of the ~~[osteopathic physician or physician assistant.]~~ *licensee pending the conclusion of a hearing to consider a formal complaint against the licensee.* The order of summary suspension may be issued *only* by the Board ~~[,]~~ *or* an investigative committee of the Board . ~~[or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.]~~

2. If the Board issues an order summarily suspending the license of an osteopathic physician or physician assistant pursuant to subsection 1, the Board shall hold a hearing ~~[regarding the matter]~~ not later than ~~[45]~~ *60* days after the date on which the Board issues the order summarily suspending the license *,* unless the Board and the licensee mutually agree to a longer period ~~[.]~~ *, to determine whether a reasonable basis exists to continue the suspension of the license pending the conclusion of a hearing to consider a formal complaint against the licensee. If no formal complaint against the licensee is pending before the Board on the date on which a hearing is held pursuant to this section, the Board shall reinstate the license of the licensee.*

3. Notwithstanding the provisions of chapter 622A of NRS, if the Board issues an order summarily suspending the license of an osteopathic physician or physician assistant ~~[pending a proceeding for disciplinary action]~~ *pursuant to subsection 1* and *the Board* requires the ~~[osteopathic physician or physician assistant]~~ *licensee* to submit to a mental or physical examination or a medical competency examination, the examination must be conducted and the results must be obtained not later than ~~[60]~~ *30* days after the Board issues the order.

Sec. 21. NRS 633.625 is hereby amended to read as follows:

633.625 1. Any licensee against whom the Board initiates disciplinary action pursuant to this chapter shall, within 30 days after the licensee's receipt of notification of the initiation of the disciplinary action, submit to the Board a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The *knowing or* willful failure of a licensee to comply with the requirements of subsection 1 constitutes additional grounds for disciplinary action and the revocation of the license of the licensee.

3. The Board has additional grounds for initiating disciplinary action against a licensee if the report from the Federal Bureau of Investigation indicates that the licensee has been convicted of:

(a) An act that is a ground for disciplinary action pursuant to NRS 633.511; or

(b) A felony set forth in NRS 633.741.

Sec. 22. NRS 633.631 is hereby amended to read as follows:

633.631 Except as otherwise provided in chapter 622A of NRS:

1. Service of process made under this chapter must be ~~[either personal or by]~~ *made on a licensee:*

(a) Personally;

(b) By registered or certified mail with return receipt requested, addressed to the osteopathic physician or physician assistant at his or her last known address, as indicated in the records of the Board ~~[.]~~ *; or*

(c) If the Board obtains written consent from the licensee, electronically at an electronic mail address designated by the licensee in the written consent.

2. If ~~[personal]~~ service *of process* cannot be made ~~[and if mail notice is returned undelivered,]~~ *pursuant to subsection 1,* the *President, Vice President or* Secretary of the Board shall cause a notice of hearing to be published once a week for 4 consecutive weeks in a newspaper published in the county of the last known address of the osteopathic physician or physician assistant or, if no newspaper is published in that county, in a newspaper widely distributed in that county.

~~[2.]~~ *3.* Proof of service of process or publication of notice made under this chapter must be filed with the Secretary of the Board and ~~[must]~~ *may* be recorded in the minutes of the Board.

4. The Board shall prescribe by regulation a reasonable method and procedure by which the Board may make service of process electronically pursuant to subsection 1.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Thank you, Mr. President. Amendment No. 15 to Senate Bill No. 162 clarifies licensure of administrative osteopathic physicians by the State Board of Osteopathic Medicine.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 167.

Bill read second time.

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

Amendment No. 129.

"SUMMARY—Enacts provisions for the designation of certain hospitals as ~~[heart attack]~~ STEMI receiving centers. ~~[or heart attack referring centers.]~~ (BDR 40-229)"

"AN ACT relating to public health; enacting provisions for the designation of certain hospitals as ~~[heart attack]~~ STEMI receiving centers; ~~[or heart attack referring centers;]~~ authorizing the State Board of Health to adopt regulations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The American Heart Association defines an ST-Elevation Myocardial Infarction (STEMI) as a severe type of heart attack that is caused by a

prolonged period of blocked blood supply which affects a large area of the heart and which carries a substantial risk of death and disability. This bill establishes provisions for the Health Division of the Department of Health and Human Services to acknowledge and prepare a list of hospitals that are designated as ~~[either heart attack]~~ STEMI receiving centers ~~[or heart attack referring centers]~~ for meeting the high standards of performance in STEMI care. This bill also authorizes the State Board of Health to adopt regulations relating to such designations. This bill further provides that a licensed hospital which is not designated as a ~~[heart attack]~~ STEMI receiving ~~[or referring]~~ center may not advertise that the hospital is a ~~[heart attack]~~ STEMI receiving ~~[or referring]~~ center. This bill does not prohibit any hospital from providing care to a victim of a heart attack, even if the hospital does not receive such a designation.

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

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

1. A hospital licensed pursuant to NRS 449.030 to 449.240, inclusive, may submit to the Health Division proof that the hospital is accredited as a ~~[heart attack]~~ STEMI receiving center . ~~[or a heart attack referring center.]~~ Upon receiving proof that a hospital is accredited as a ~~[heart attack]~~ STEMI receiving center , ~~[or a heart attack referring center,]~~ the Health Division shall include the hospital on the list established pursuant to subsection 2.

2. On or before July 1 of each year, the Health Division shall post a list of all hospitals designated as ~~[heart attack]~~ STEMI receiving centers ~~[or heart attack referring centers]~~ on an Internet website maintained by the Health Division.

3. If a hospital wishes to be included as a ~~[heart attack]~~ STEMI receiving center ~~[or heart attack referring center]~~ on the list established pursuant to subsection 2, the hospital must annually resubmit the proof required pursuant to this section.

4. The Health Division may remove a hospital from the list established pursuant to subsection 2 if the accreditation recognizing the hospital as a ~~[heart attack]~~ STEMI receiving center ~~[or heart attack referring center]~~ is suspended or revoked.

5. A hospital that is not included on the list established pursuant to subsection 2 shall not represent, advertise or imply that the hospital is designated as a ~~[heart attack]~~ STEMI receiving center . ~~[or heart attack referring center.]~~

6. The provisions of this section do not prohibit a hospital that is licensed pursuant to NRS 449.030 to 449.240, inclusive, from providing care to a victim of a heart attack if the hospital does not have a designation as a ~~[heart attack]~~ STEMI receiving center . ~~[or heart attack referring center.]~~

7. The Board may adopt regulations to carry out the provisions of this section and to designate hospitals with accreditations similar to those required for designation as a ~~[heart attack]~~ STEMI receiving center ~~. [or heart attack referring center.]~~

8. As used in this section:

(a) ~~["Heart attack]~~ "STEMI" means a myocardial infarction as indicated by an abnormal elevation of the ST segment of an electrocardiogram that is administered to a patient.

(b) "STEMI receiving center" means a hospital that is accredited by the Society of Cardiovascular Patient Care, in conjunction with the initiative developed by the American Heart Association known as the "Mission: Lifeline initiative," or an equivalent organization approved by the Health Division, as having met specific standards of performance in the receipt and treatment of a patient with STEMI.

~~[(b) "Heart attack referring center" means a hospital that is accredited by the Society of Cardiovascular Patient Care, in conjunction with the initiative specified in paragraph (a), or an equivalent organization approved by the Health Division, as having met specific standards of performance in the prompt diagnosis and transfer of a patient with STEMI.~~

~~(c) "STEMI" means an elevated myocardial infarction as indicated by any electrographic abnormality in the ST segment of an electrocardiogram which is administered to a patient.~~ ~~]~~

Sec. 2. This act becomes effective on January 1, 2014.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 129 to Senate Bill No. 167 clarifies that hospitals that meet the requirements will be designated as “STEMI,” ST-Elevation Myocardial Infarction receiving centers, not heart attack receiving centers, and it provides a definition for the term “STEMI.”

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 169.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary.

Amendment No. 39.

"SUMMARY—Revises provisions governing criminal penalties. (BDR 15-495)"

"AN ACT relating to crimes; revising criminal penalties for crimes that are gross misdemeanors; revising provisions governing the sealing of records of convictions pertaining to gross misdemeanors; and providing other matters properly relating thereto."

Legislative Counsel’s Digest:

Existing law generally provides that a person convicted of a gross misdemeanor may be punished, in lieu of or in addition to a fine, by

imprisonment in the county jail for not more than 1 year. (NRS 193.140) Existing law further provides that a person convicted of certain other offenses may also be punished, in lieu of or in addition to a fine, by imprisonment in the county jail for not more than 1 year. (NRS 200.5099, 372.760, 374.765, 383.180, 453.411, 459.280, 459.595, 618.685, 638.170, 641A.440)

This bill provides that a person convicted of a gross misdemeanor may, in lieu of or in addition to any fine, only be punished by imprisonment in the county jail for a maximum of 364 days. Sections 4, 8-10, 16-18, 23, 27 and 28 of this bill also clarify that certain crimes which are punishable by imprisonment in the county jail for a maximum of 364 days constitute gross misdemeanors.

Existing law provides that a person may petition the court in which the person was convicted for the sealing of all records relating to a conviction of a gross misdemeanor after 7 years from the date of release from actual custody or discharge from probation, whichever occurs later. (NRS 179.245) Section 5 of this bill reduces the period to ~~[2]~~ 5 years after the date of release from actual custody or discharge from probation, whichever occurs later.

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

Section 1. NRS 193.140 is hereby amended to read as follows:

193.140 Every person convicted of a gross misdemeanor shall be punished by imprisonment in the county jail for not more than ~~[1 year,]~~ *364 days,* or by a fine of not more than $2,000, or by both fine and imprisonment, unless the statute in force at the time of commission of such gross misdemeanor prescribed a different penalty.

Sec. 2. NRS 193.1605 is hereby amended to read as follows:

193.1605 1. Any person who commits a gross misdemeanor on the property of a public or private school, at an activity sponsored by a public or private school, or on a school bus or at a bus stop used to load and unload a school bus while the bus is engaged in its official duties:

(a) Shall be punished by imprisonment in the county jail for not fewer than 15 days but not more than ~~[1 year;]~~ *364 days;* and

(b) In addition to imprisonment, may be punished by a fine of not more than $2,000.

2. For the purposes of this section, "school bus" has the meaning ascribed to it in NRS 483.160.

Sec. 3. NRS 193.330 is hereby amended to read as follows:

193.330 1. An act done with the intent to commit a crime, and tending but failing to accomplish it, is an attempt to commit that crime. A person who attempts to commit a crime, unless a different penalty is prescribed by statute, shall be punished as follows:

(a) If the person is convicted of:

(1) Attempt to commit a category A felony, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years.

(2) Attempt to commit a category B felony for which the maximum term of imprisonment authorized by statute is greater than 10 years, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years.

(3) Attempt to commit a category B felony for which the maximum term of imprisonment authorized by statute is 10 years or less, for a category C felony as provided in NRS 193.130.

(4) Attempt to commit a category C felony, for a category D felony as provided in NRS 193.130, or for a gross misdemeanor by imprisonment in the county jail for not more than ~~[1 year,]~~ *364 days,* or by a fine of not more than $2,000, or by both fine and imprisonment.

(5) Attempt to commit a category D felony, for a category E felony as provided in NRS 193.130, or for a gross misdemeanor by imprisonment in the county jail for not more than ~~[1 year,]~~ *364 days,* or by a fine of not more than $2,000, or by both fine and imprisonment.

(6) Attempt to commit a category E felony, for a category E felony as provided in NRS 193.130, or for a gross misdemeanor by imprisonment in the county jail for not more than ~~[1 year,]~~ *364 days,* or by a fine of not more than $2,000, or by both fine and imprisonment.

(b) If the person is convicted of attempt to commit a misdemeanor, a gross misdemeanor or a felony for which a category is not designated by statute, by imprisonment for not more than one-half the longest term authorized by statute, or by a fine of not more than one-half the largest sum, prescribed upon conviction for the commission of the offense attempted, or by both fine and imprisonment.

2. Nothing in this section protects a person who, in an unsuccessful attempt to commit one crime, does commit another and different one, from the punishment prescribed for the crime actually committed. A person may be convicted of an attempt to commit a crime, although it appears on the trial that the crime was consummated, unless the court in its discretion discharges the jury and directs the defendant to be tried for the crime itself.

Sec. 4. NRS 200.5099 is hereby amended to read as follows:

200.5099 1. Except as otherwise provided in subsection 6, any person who abuses an older person or a vulnerable person is guilty:

(a) For the first offense, of a gross misdemeanor; or

(b) For any subsequent offense or if the person has been previously convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct, of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 6 years, unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse.

2. Except as otherwise provided in subsection 7, any person who has assumed responsibility, legally, voluntarily or pursuant to a contract, to care for an older person or a vulnerable person and who:

(a) Neglects the older person or vulnerable person, causing the older person or vulnerable person to suffer physical pain or mental suffering;

(b) Permits or allows the older person or vulnerable person to suffer unjustifiable physical pain or mental suffering; or

(c) Permits or allows the older person or vulnerable person to be placed in a situation where the older person or vulnerable person may suffer physical pain or mental suffering as the result of abuse or neglect,

➥ is guilty of a gross misdemeanor unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse or neglect.

3. Except as otherwise provided in subsection 4, any person who exploits an older person or a vulnerable person shall be punished, if the value of any money, assets and property obtained or used:

(a) Is less than $650, for a *gross* misdemeanor by imprisonment in the county jail for not more than ~~[1 year,]~~ *364 days,* or by a fine of not more than $2,000, or by both fine and imprisonment;

(b) Is at least $650, but less than $5,000, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, or by a fine of not more than $10,000, or by both fine and imprisonment; or

(c) Is $5,000 or more, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years, or by a fine of not more than $25,000, or by both fine and imprisonment,

➥ unless a more severe penalty is prescribed by law for the act which brought about the exploitation. The monetary value of all of the money, assets and property of the older person or vulnerable person which have been obtained or used, or both, may be combined for the purpose of imposing punishment for an offense charged pursuant to this subsection.

4. If a person exploits an older person or a vulnerable person and the monetary value of any money, assets and property obtained cannot be determined, the person shall be punished for a gross misdemeanor by imprisonment in the county jail for not more than ~~[1 year,]~~ *364 days,* or by a fine of not more than $2,000, or by both fine and imprisonment.

5. Any person who isolates an older person or a vulnerable person is guilty:

(a) For the first offense, of a gross misdemeanor; or

(b) For any subsequent offense, of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $5,000.

6. A person who violates any provision of subsection 1, if substantial bodily or mental harm or death results to the older person or vulnerable 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 2 years and a maximum term of not more than 20 years, unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse.

7. A person who violates any provision of subsection 2, if substantial bodily or mental harm or death results to the older person or vulnerable person, shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 6 years, unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse or neglect.

8. In addition to any other penalty imposed against a person for a violation of any provision of NRS 200.5091 to 200.50995, inclusive, the court shall order the person to pay restitution.

9. As used in this section:

(a) "Allow" means to take no action to prevent or stop the abuse or neglect of an older person or a vulnerable person if the person knows or has reason to know that the older person or vulnerable person is being abused or neglected.

(b) "Permit" means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care and custody of an older person or a vulnerable person.

(c) "Substantial mental harm" means an injury to the intellectual or psychological capacity or the emotional condition of an older person or a vulnerable person as evidenced by an observable and substantial impairment of the ability of the older person or vulnerable person to function within his or her normal range of performance or behavior.

Sec. 5. NRS 179.245 is hereby amended to read as follows:

179.245 1. Except as otherwise provided in subsection 5 and NRS 176A.265, 176A.295, 179.259, 453.3365 and 458.330, a person may petition the court in which the person was convicted for the sealing of all records relating to a conviction of:

(a) A category A or B felony after 15 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(b) A category C or D felony after 12 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(c) A category E felony after 7 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(d) Any gross misdemeanor after ~~[7] [2]~~ 5 years from the date of release from actual custody or discharge from probation, whichever occurs later;

(e) A violation of NRS 484C.110 or 484C.120 other than a felony, or a battery which constitutes domestic violence pursuant to NRS 33.018 other than a felony, after 7 years from the date of release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later; or

(f) Any other misdemeanor after 2 years from the date of release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later.

2. A petition filed pursuant to subsection 1 must:

(a) Be accompanied by current, verified records of the petitioner's criminal history received from:

(1) The Central Repository for Nevada Records of Criminal History; and

(2) The local law enforcement agency of the city or county in which the conviction was entered;

(b) Include a list of any other public or private agency, company, official or other custodian of records that is reasonably known to the petitioner to have possession of records of the conviction and to whom the order to seal records, if issued, will be directed; and

(c) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

3. Upon receiving a petition pursuant to this section, the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

(a) If the person was convicted in a district court or justice court, the prosecuting attorney for the county; or

(b) If the person was convicted in a municipal court, the prosecuting attorney for the city.

➥ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

4. If, after the hearing, the court finds that, in the period prescribed in subsection 1, the petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations, the court may order sealed all records of the conviction which are in the custody of the court, of another court in the State of Nevada or of a public or private agency, company or official in the State of Nevada, and may also order all such criminal identification records of the petitioner returned to the file of the court where the proceeding was commenced from, including, but not limited to, the Federal Bureau of Investigation, the California Bureau of Criminal Identification and Information, sheriffs' offices and all other law enforcement agencies reasonably known by either the petitioner or the court to have possession of such records.

5. A person may not petition the court to seal records relating to a conviction of a crime against a child or a sexual offense.

6. If the court grants a petition for the sealing of records pursuant to this section, upon the request of the person whose records are sealed, the court may order sealed all records of the civil proceeding in which the records were sealed.

7. As used in this section:

(a) "Crime against a child" has the meaning ascribed to it in NRS 179D.0357.

(b) "Sexual offense" means:

(1) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.

(2) Sexual assault pursuant to NRS 200.366.

(3) Statutory sexual seduction pursuant to NRS 200.368, if punishable as a felony.

(4) Battery with intent to commit sexual assault pursuant to NRS 200.400.

(5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this paragraph.

(6) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this paragraph.

(7) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

(8) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(9) Incest pursuant to NRS 201.180.

(10) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.

(11) Open or gross lewdness pursuant to NRS 201.210, if punishable as a felony.

(12) Indecent or obscene exposure pursuant to NRS 201.220, if punishable as a felony.

(13) Lewdness with a child pursuant to NRS 201.230.

(14) Sexual penetration of a dead human body pursuant to NRS 201.450.

(15) Luring a child or a person with mental illness pursuant to NRS 201.560, if punishable as a felony.

(16) An attempt to commit an offense listed in subparagraphs (1) to (15), inclusive.

Sec. 6. NRS 332.810 is hereby amended to read as follows:

332.810 1. Before a contract is awarded, a person who has bid on the contract or an officer, employee, representative, agent or consultant of such a person shall not:

(a) Make an offer or promise of future employment or business opportunity to, or engage in a discussion of future employment or business opportunity with, an evaluator or member of the governing body offering the contract;

(b) Offer, give or promise to offer or give money, a gratuity or any other thing of value to an evaluator or member of the governing body offering the contract; or

(c) Solicit or obtain from an officer, employee or member of the governing body offering the contract:

(1) Any proprietary information regarding the contract; or

(2) Any information regarding a bid on the contract submitted by another person, unless such information is available to the general public.

2. A person who violates any of the provisions of subsection 1 is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than ~~[1 year,]~~ *364 days,* or by a fine of not less than $2,000 nor more than $50,000, or by both fine and imprisonment.

Sec. 7. NRS 333.800 is hereby amended to read as follows:

333.800 1. Before a contract is awarded, a person who has provided a bid or proposal on the contract or an officer, employee, representative, agent or consultant of such a person shall not:

(a) Make an offer or promise of future employment or business opportunity to, or engage in a discussion of future employment or business opportunity with, the Administrator, a purchasing officer or an employee of the using agency for which the contract is being offered;

(b) Offer, give or promise to offer or give money, a gratuity or any other thing of value to the Administrator, a purchasing officer or an employee of the using agency for which the contract is being offered; or

(c) Solicit or obtain from the Administrator, a purchasing officer or an employee of the using agency for which the contract is being offered:

(1) Any proprietary information regarding the contract; or

(2) Any information regarding a bid or proposal on the contract submitted by another person, unless such information is available to the general public.

2. A person who violates any of the provisions of subsection 1 is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than ~~[1 year,]~~ *364 days,* or by a fine of not less than $2,000 nor more than $50,000, or by both fine and imprisonment.

Sec. 8. NRS 372.760 is hereby amended to read as follows:

372.760 Any person required to make, render, sign or verify any report who makes any false or fraudulent return, with intent to defeat or evade the determination of an amount due required by law to be made, *is guilty of a gross misdemeanor and* shall for each offense be fined not less than $300 nor more than $5,000, or be imprisoned for not more than ~~[1 year]~~ *364 days* in the county jail, or be punished by both fine and imprisonment.

Sec. 9. NRS 374.765 is hereby amended to read as follows:

374.765 Any person required to make, render, sign or verify any report who makes any false or fraudulent return, with intent to defeat or evade the determination of an amount due required by law to be made, *is guilty of a gross misdemeanor and* shall for each offense be fined not less than $300 nor

more than $5,000, or be imprisoned for not ~~[exceeding 1 year]~~ *more than 364 days* in the county jail, or be subject to both fine and imprisonment.

Sec. 10. NRS 383.180 is hereby amended to read as follows:

383.180 1. Except as otherwise provided in NRS 383.170, a person who willfully removes, mutilates, defaces, injures or destroys the cairn or grave of a native Indian *is guilty of a gross misdemeanor and* shall be punished by a fine of $500 for the first offense, or by a fine of not more than $3,000 for a second or subsequent offense, and may be further punished by imprisonment in the county jail for not more than ~~[1 year.]~~ *364 days.*

2. A person who fails to notify the Office of the discovery and location of an Indian burial site in violation of NRS 383.170 *is guilty of a gross misdemeanor and* shall be punished by a fine of $500 for the first offense, or by a fine of not more than $1,500 for a second or subsequent offense, and may be further punished by imprisonment in the county jail for not more than ~~[1 year.]~~ *364 days.*

3. A person who:

(a) Possesses any artifact or human remains taken from the cairn or grave of a native Indian on or after October 1, 1989, in a manner other than that authorized by NRS 383.170;

(b) Publicly displays or exhibits any of the human remains of a native Indian, except during a funeral ceremony; or

(c) Sells any artifact or human remains taken from the cairn or grave of a native Indian,

➥ is guilty of a category D felony and shall be punished as provided in NRS 193.130.

4. This section does not apply to:

(a) The possession or sale of an artifact:

(1) Discovered in or taken from a location other than the cairn or grave of a native Indian; or

(2) Removed from the cairn or grave of a native Indian by other than human action; or

(b) Action taken by a peace officer in the performance of his or her duties.

Sec. 11. NRS 383.435 is hereby amended to read as follows:

383.435 1. Except as otherwise provided in this section, a person who knowingly and willfully removes, mutilates, defaces, excavates, injures or destroys a historic or prehistoric site or resource on state land or who receives, traffics in or sells cultural property appropriated from state land without a valid permit, unless a greater penalty is provided by a specific statute:

(a) For a first offense, is guilty of a misdemeanor and shall be punished by a fine of $500.

(b) For a second or subsequent offense, is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than ~~[1 year]~~ *364 days* or by a fine of not more than $3,000, or by both fine and imprisonment.

2. This section does not apply to any action taken:

(a) In accordance with an agreement with the Office entered into pursuant to NRS 383.430; or

(b) In accordance with the provisions of NRS 381.195 to 381.227, inclusive, by the holder of a permit issued pursuant to those sections.

3. In addition to any other penalty, a person who violates a provision of this section is liable for civil damages to the state agency or political subdivision which has jurisdiction over the state land in an amount equal to the cost or, in the discretion of the court, an amount equal to twice the cost of the restoration, stabilization and interpretation of the site plus any court costs and fees.

Sec. 12. NRS 398.496 is hereby amended to read as follows:

398.496 1. An athlete's agent shall not, with the intent to induce a student athlete to enter into any contract:

(a) Give any materially false or misleading information or make a materially false promise or representation;

(b) Furnish anything of value to the student athlete before the student athlete enters into the contract; or

(c) Furnish anything of value to a natural person other than the student athlete or another registered athlete's agent.

2. An athlete's agent shall not intentionally:

(a) Initiate communication, direct or indirect, with a student athlete to recruit or solicit the student athlete to enter into a contract of agency, unless the agent is registered pursuant to NRS 398.400 to 398.620, inclusive;

(b) Refuse or fail to retain or permit inspection of records required to be retained pursuant to NRS 398.480;

(c) Fail to register when required pursuant to NRS 398.448;

(d) Include materially false or misleading information in an application for registration or renewal of registration;

(e) Predate or postdate a contract of agency; or

(f) Fail to notify a student athlete, before the student athlete signs or otherwise authenticates a contract of agency for a particular sport, that the signing or authentication will make the student athlete ineligible to participate as a student athlete in that sport.

3. A person who willfully violates:

(a) A provision of NRS 398.400 to 398.620, inclusive;

(b) A regulation adopted by the Secretary of State pursuant to NRS 398.400 to 398.620, inclusive; or

(c) An order denying, suspending or revoking the effectiveness of a registration, or an order to cease and desist, issued by the Secretary of State pursuant to NRS 398.400 to 398.620, inclusive,

➥ is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than ~~[1 year,]~~ *364 days,* or by a fine of not more than $25,000, or by both fine and imprisonment. In addition to any other penalty, the court shall order the person to pay restitution.

4. A person who violates:

(a) A regulation adopted by the Secretary of State pursuant to NRS 398.400 to 398.620, inclusive; or

(b) An order denying, suspending or revoking the effectiveness of a registration, or an order to cease and desist, issued by the Secretary of State pursuant to NRS 398.400 to 398.620, inclusive,

➥ without knowledge of the regulation or order, is guilty of a misdemeanor and shall be punished by a fine of not more than $25,000.

5. The provisions of NRS 398.400 to 398.620, inclusive, do not limit the power of the State of Nevada to punish a person for conduct which constitutes a crime pursuant to any other law.

Sec. 13. NRS 444.630 is hereby amended to read as follows:

444.630 1. A person who places, deposits or dumps, or who causes to be placed, deposited or dumped, or who causes or allows to overflow, any sewage, sludge, cesspool or septic tank effluent, or accumulation of human excreta, or any solid waste, in or upon any street, alley, public highway or road in common use, or upon any public park or other public property other than property designated or set aside for such a purpose by the governing body having charge thereof, or upon any private property, is guilty of:

(a) For a first offense within the immediately preceding 2 years, a misdemeanor.

(b) For a second offense within the immediately preceding 2 years, a gross misdemeanor and shall be punished by imprisonment in the county jail for not less than 14 days but not more than ~~[1 year.]~~ *364 days.*

(c) For a third or subsequent offense within the immediately preceding 2 years, a gross misdemeanor and shall be punished by imprisonment in the county jail for ~~[1 year.]~~ *364 days.*

2. In addition to any criminal penalty imposed pursuant to subsection 1, any civil penalty imposed pursuant to NRS 444.635 and any administrative penalty imposed pursuant to NRS 444.629, a court shall sentence a person convicted of violating subsection 1:

(a) If the person is a natural person, to clean up the dump site and perform 10 hours of community service under the conditions prescribed in NRS 176.087.

(b) If the person is a business entity:

(1) For a first or second offense within the immediately preceding 2 years, to:

(I) Clean up the dump site; and

(II) Perform 40 hours of community service cleaning up other dump sites identified by the solid waste management authority.

(2) For a third or subsequent offense within the immediately preceding 2 years, to:

(I) Clean up the dump site; and

(II) Perform 200 hours of community service cleaning up other dump sites identified by the solid waste management authority.

3. If a person is sentenced to clean up a dump site pursuant to subsection 2, the person shall:

(a) Within 3 calendar days after sentencing, commence cleaning up the dump site; and

(b) Within 5 business days after cleaning up the dump site, provide to the solid waste management authority proof of the lawful disposal of the sewage, solid waste or other matter that the person was convicted of disposing of unlawfully.

➥ The solid waste management authority shall prescribe the forms of proof which may be provided to satisfy the provisions of paragraph (b).

4. In addition to any other penalty prescribed by law, if a business entity is convicted of violating subsection 1:

(a) Such violation constitutes reasonable grounds for the revocation of any license to engage in business that has been issued to the business entity by any governmental entity of this State; and

(b) The solid waste management authority may seek the revocation of such a license by way of any applicable procedures established by the governmental entity that issued the license.

5. Except as otherwise provided in NRS 444.585, ownership of solid waste does not transfer from the person who originally possessed it until it is received for transport by a person authorized to dispose of solid waste pursuant to this chapter or until it is disposed of at a municipal disposal site. Identification of the owner of any solid waste which is disposed of in violation of subsection 1 creates a reasonable inference that the owner is the person who disposed of the solid waste. The fact that the disposal of the solid waste was not witnessed does not, in and of itself, preclude the identification of its owner.

6. All:

(a) Health officers and their deputies;

(b) Game wardens;

(c) Police officers of cities and towns;

(d) Sheriffs and their deputies;

(e) Other peace officers of the State of Nevada; and

(f) Other persons who are specifically designated by the local government to do so,

➥ shall, within their respective jurisdictions, enforce the provisions of this section.

7. A district health officer or a deputy of the district health officer or other person specifically designated by the local government to do so may issue a citation for any violation of this section which occurs within the jurisdiction of the district health officer.

8. To effectuate the purposes of this section, the persons charged with enforcing this section may request information from any:

(a) Agency of the State or its political subdivisions.

(b) Employer, public or private.

(c) Employee organization or trust of any kind.

(d) Financial institution or other entity which is in the business of providing credit reports.

(e) Public utility.

➥ Each of these persons and entities, their officers and employees, shall cooperate by providing any information in their possession which may aid in the location and identification of a person believed to be in violation of subsection 1. A disclosure made in good faith pursuant to this subsection does not give rise to any action for damages for the disclosure.

Sec. 14. NRS 445A.705 is hereby amended to read as follows:

445A.705 1. Except as otherwise provided in NRS 445A.710 or unless a greater penalty is prescribed by NRS 459.600, a person who intentionally or with criminal negligence violates NRS 445A.465 or 445A.575, any limitation established pursuant to NRS 445A.525 and 445A.530, the terms or conditions of a permit issued pursuant to NRS 445A.495 to 445A.515, inclusive, or any final order issued under NRS 445A.690, except a final order concerning a diffuse source, is guilty of a gross misdemeanor and shall be punished by a fine of not more than $25,000 for each day of the violation or by imprisonment in the county jail for not more than ~~[1 year,]~~ *364 days,* or by both fine and imprisonment.

2. If the conviction is for a second violation of the provisions indicated in subsection 1, the person is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. The penalties imposed by subsections 1 and 2 are in addition to any other penalties, civil or criminal, provided pursuant to NRS 445A.300 to 445A.730, inclusive.

Sec. 15. NRS 445A.710 is hereby amended to read as follows:

445A.710 1. Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained by the provisions of NRS 445A.300 to 445A.730, inclusive, or by any permit, rule, regulation or order issued pursuant thereto, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained under the provisions of NRS 445A.300 to 445A.730, inclusive, or by any permit, rule, regulation or order issued pursuant thereto, is guilty of a gross misdemeanor and shall be punished by a fine of not more than $10,000 or by imprisonment in the county jail for not more than ~~[1 year,]~~ *364 days,* or by both fine and imprisonment.

2. The penalty imposed by subsection 1 is in addition to any other penalties, civil or criminal, provided pursuant to NRS 445A.300 to 445A.730, inclusive.

Sec. 16. NRS 453.411 is hereby amended to read as follows:

453.411 1. It is unlawful for a person knowingly to use or be under the influence of a controlled substance except in accordance with a lawfully issued prescription.

2. It is unlawful for a person knowingly to use or be under the influence of a controlled substance except when administered to the person at a rehabilitation clinic established or licensed by the Health Division of the Department, or a hospital certified by the Department.

3. Unless a greater penalty is provided in NRS 212.160, a person who violates this section shall be punished:

(a) If the controlled substance is listed in schedule I, II, III or IV, for a category E felony as provided in NRS 193.130.

(b) If the controlled substance is listed in schedule V, *for a gross misdemeanor* by imprisonment in the county jail for not more than ~~[1 year,]~~ *364 days,* and may be further punished by a fine of not more than $1,000.

Sec. 17. NRS 459.280 is hereby amended to read as follows:

459.280 1. A person who is employed at an area used for the disposal of radioactive waste and removes from the disposal area any of that waste, or without prior written authorization from the State Health Officer removes from the disposal area for his or her own personal use any machinery or equipment belonging to the operator of the area and used within the area where the waste is buried, *is guilty of a gross misdemeanor and* shall be punished by imprisonment in the county jail for not more than ~~[1 year,]~~ *364 days,* or by a fine of not more than $10,000, or by both fine and imprisonment.

2. If a person who violates this section is employed by the operator of the disposal area, the operator may be assessed an administrative penalty of not more than $10,000, in addition to any other penalty provided by law.

Sec. 18. NRS 459.595 is hereby amended to read as follows:

459.595 Any person who:

1. Knowingly makes any false statement, representation or certification on any application, record, report, manifest, plan or other document filed or required to be maintained by any provision of NRS 459.400 to 459.560, inclusive, NRS 459.590 or by any regulation adopted or permit or order issued pursuant to those sections; or

2. Falsifies, tampers with or knowingly renders inaccurate any device or method for continuing observation required by a provision of NRS 459.400 to 459.560, inclusive, or by any regulation adopted or permit or order issued pursuant to those sections,

➥ *is guilty of a gross misdemeanor and* shall be punished by imprisonment in the county jail for not more than ~~[1 year,]~~ *364 days,* or by a fine of not more than $25,000, or by both fine and imprisonment. Each day the false document remains uncorrected or a device or method described in subsection 2 remains inaccurate constitutes a separate violation of this section for purposes of determining the maximum fine.

Sec. 19. NRS 482.551 is hereby amended to read as follows:

482.551 1. Except as otherwise provided in subsection 3, a person who knowingly:

(a) Buys with the intent to resell;

(b) Disposes of;

(c) Sells; or

(d) Transfers,

➥ a motor vehicle or part from a motor vehicle that has an identification number or mark that has been falsely attached, removed, defaced, altered or obliterated to misrepresent the identity or to prevent the identification of the motor vehicle or part from a motor vehicle 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, and may be further punished by a fine of not more than $60,000, or by both fine and imprisonment.

2. Except as otherwise provided in subsection 3 and NRS 482.5505, or if a greater penalty is otherwise provided by law, a person who takes possession of a motor vehicle or part from a motor vehicle knowing that an identification number or mark has been falsely attached, removed, defaced, altered or obliterated is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than ~~[1 year,]~~ *364 days,* or by a fine of not more than $10,000, or by both fine and imprisonment.

3. The provisions of this section do not apply to an owner of or person authorized to possess a motor vehicle or part of a motor vehicle:

(a) If the motor vehicle or part of the motor vehicle was recovered by a law enforcement agency after having been stolen;

(b) If the condition of the identification number or mark of the motor vehicle or part of the motor vehicle is known to, or has been reported to, a law enforcement agency; or

(c) If the motor vehicle or part from the motor vehicle has an identification number attached to it which has been assigned or approved by the Department in lieu of the original identification number or mark.

Sec. 20. NRS 554.090 is hereby amended to read as follows:

554.090 Any corporation, common carrier, agent or employee of any corporation, or any other person violating or assisting in violating any of the provisions of NRS 554.020 to 554.090, inclusive, is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than ~~[1 year,]~~ *364 days,* or by a fine of not more than $5,000, or by both fine and imprisonment. The prosecuting attorney and the State Department of Agriculture may recover the costs of the proceeding, including investigative costs, against a person convicted of a gross misdemeanor pursuant to this section.

Sec. 21. NRS 581.445 is hereby amended to read as follows:

581.445 1. Except as otherwise provided in subsection 2, a person who violates any provision of NRS 581.415 is guilty of a gross misdemeanor and shall be punished:

(a) For the first offense, by imprisonment in the county jail for not more than 6 months, or by a fine of not less than $500 or more than $2,000, or by both fine and imprisonment.

(b) For a second or subsequent offense, by imprisonment in the county jail for not more than ~~[1 year,]~~ *364 days,* or by a fine of not less than $2,000 or more than $5,000, or by both fine and imprisonment.

2. A person who:

(a) Intentionally violates any provision of this chapter or any regulation adopted pursuant thereto;

(b) Is convicted pursuant to subsection 1 more than three times in a 2-year period; or

(c) Uses or has in his or her possession any device which has been altered to facilitate fraud,

➥ is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 22. NRS 582.320 is hereby amended to read as follows:

582.320 1. Except as otherwise provided in subsection 2, a person who by himself or herself, by a servant or agent, or as the servant or agent of another person, violates any provision of this chapter is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not less than 6 months or more than ~~[1 year,]~~ *364 days,* or by a fine of not less than $1,000 or more than $5,000, or by both fine and imprisonment.

2. A person who by himself or herself, by a servant or agent, or as the servant or agent of another person:

(a) Intentionally violates any provision of this chapter or any regulation adopted pursuant thereto; or

(b) Is convicted pursuant to subsection 1 more than three times in a 2 year period,

➥ is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 23. NRS 618.685 is hereby amended to read as follows:

618.685 Any employer who willfully violates any requirement of this chapter, or any standard, rule, regulation or order promulgated or prescribed pursuant to this chapter, where the violation causes the death of any employee, shall be punished:

1. For a first offense, *for a misdemeanor* by a fine of not more than $50,000 or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.

2. For a second or subsequent offense, *for a gross misdemeanor* by a fine of not more than $100,000 or by imprisonment in the county jail for not more than ~~[1 year,]~~ *364 days,* or by both fine and imprisonment.

Sec. 24. NRS 623.360 is hereby amended to read as follows:

623.360 1. It is unlawful for any person to:

(a) Hold himself or herself out to the public or to solicit business as an architect, registered interior designer or residential designer in this State without having a certificate of registration or temporary certificate issued by the Board. This paragraph does not prohibit a person who is exempt, pursuant

to NRS 623.330, from the provisions of this chapter from holding himself or herself out to the public or soliciting business as an interior designer.

(b) Advertise or put out any sign, card or other device which indicates to the public that he or she is an architect, registered interior designer or residential designer or that he or she is otherwise qualified to:

(1) Engage in the practice of architecture or residential design; or

(2) Practice as a registered interior designer,

➥ without having a certificate of registration issued by the Board.

(c) Engage in the practice of architecture or residential design or practice as a registered interior designer without a certificate of registration issued by the Board.

(d) Violate any other provision of this chapter.

2. Any person who violates any of the provisions of subsection 1:

(a) For the first violation, is guilty of a misdemeanor and shall be punished by a fine of not less than $500 nor more than $1,000, and may be further punished by imprisonment in the county jail for not more than 6 months.

(b) For the second or any subsequent violation, is guilty of a gross misdemeanor and shall be punished by a fine of not less than $1,000 nor more than $2,000, and may be further punished by imprisonment in the county jail for not more than ~~[1 year.]~~ *364 days.*

3. If any person has engaged or is about to engage in any acts or practices which constitute or will constitute an offense against this chapter, the district court of any county, on application of the Board, may issue an injunction or other appropriate order restraining such conduct. Proceedings pursuant to this subsection are governed by Rule 65 of the Nevada Rules of Civil Procedure, except that no bond or undertaking is required in any action commenced by the Board.

Sec. 25. NRS 624.750 is hereby amended to read as follows:

624.750 1. It is unlawful for a person to commit any act or omission described in subsection 1 of NRS 624.3012, subsection 2 of NRS 624.3013, NRS 624.3014 or subsection 1, 3 or 7 of NRS 624.3016.

2. Unless a greater penalty is otherwise provided by a specific statute, any person who violates subsection 1, NRS 624.305, subsection 1 of NRS 624.700 or NRS 624.720 or 624.740:

(a) For a first offense, is guilty of a misdemeanor and shall be punished by a fine of not more than $1,000, and may be further punished by imprisonment in the county jail for not more than 6 months.

(b) For the second offense, is guilty of a gross misdemeanor and shall be punished by a fine of not less than $2,000 nor more than $4,000, and may be further punished by imprisonment in the county jail for not more than ~~[1 year.]~~ *364 days.*

(c) For the third or subsequent offense, is guilty of a category E felony and shall be punished by a fine of not less than $5,000 nor more than $10,000 and

may be further punished by imprisonment in the state prison for not less than 1 year and not more than 4 years.

3. It is unlawful for a person to receive money for the purpose of obtaining or paying for services, labor, materials or equipment if the person:

(a) Willfully fails to use that money for that purpose by failing to complete the improvements for which the person received the money or by failing to pay for any services, labor, materials or equipment provided for that construction; and

(b) Wrongfully diverts that money to a use other than that for which it was received.

4. Unless a greater penalty is otherwise provided by a specific statute, any person who violates subsection 3:

(a) If the amount of money wrongfully diverted is $1,000 or less, is guilty of a gross misdemeanor and shall be punished by a fine of not less than $2,000 nor more than $4,000, and may be further punished by imprisonment in the county jail for not more than ~~[1 year.]~~ *364 days.*

(b) If the amount of money wrongfully diverted is more than $1,000, is guilty of a category E felony and shall be punished by a fine of not less than $5,000 nor more than $10,000, and may be further punished by imprisonment in the state prison for not less than 1 year and not more than 4 years.

5. Imposition of a penalty provided for in this section is not precluded by any disciplinary action taken by the Board against a contractor pursuant to the provisions of NRS 624.300 to 624.305, inclusive.

Sec. 26. NRS 624.965 is hereby amended to read as follows:

624.965 1. A violation of any provision of NRS 624.900 to 624.965, inclusive, or any regulation adopted by the Board with respect to contracts for work concerning a residential pool or spa by a contractor constitutes cause for disciplinary action pursuant to NRS 624.300.

2. It is unlawful for a person to violate any provision of NRS 624.900 to 624.965, inclusive.

3. Any person who violates any provision of NRS 624.900 to 624.965, inclusive:

(a) For a first offense, is guilty of a misdemeanor and shall be punished by a fine of not more than $1,000, and may be further punished by imprisonment in the county jail for not more than 6 months.

(b) For the second offense, is guilty of a gross misdemeanor and shall be punished by a fine of not less than $2,000 nor more than $4,000, and may be further punished by imprisonment in the county jail for not more than ~~[1 year.]~~ *364 days.*

(c) For the third or subsequent offense, is guilty of a ~~[class]~~ *category* E felony and shall be punished by a fine of not less than $5,000 nor more than $10,000 and may be further punished by imprisonment in the state prison for not less than 1 year and not more than 4 years.

4. The imposition of a penalty provided for in this section is not precluded by any disciplinary action taken by the Board against a contractor pursuant to the provisions of NRS 624.300 to 624.305, inclusive.

Sec. 27. NRS 638.170 is hereby amended to read as follows:

638.170 1. Except as otherwise provided in subsections 2 and 3 of this section and NRS 638.1525, a person who violates any of the provisions of this chapter is guilty of a misdemeanor.

2. A person who practices veterinary medicine without a license issued pursuant to the provisions of this chapter is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. A person who practices as a veterinary technician without a license issued pursuant to the provisions of this chapter *is guilty of a gross misdemeanor and* shall be punished by imprisonment in the county jail for not more than ~~[1 year,]~~ *364 days,* or by a fine of not more than $2,000, or by both fine and imprisonment.

Sec. 28. NRS 641A.440 is hereby amended to read as follows:

641A.440 Any person who violates any of the provisions of this chapter or, having had his or her license suspended or revoked, continues to represent himself or herself as a marriage and family therapist, marriage and family therapist intern, clinical professional counselor or clinical professional counselor intern *is guilty of a gross misdemeanor and* shall be punished by imprisonment in the county jail for not more than ~~[1 year]~~ *364 days* or by a fine of not more than $5,000, or by both fine and imprisonment. Each violation is a separate offense.

Sec. 29. NRS 645F.430 is hereby amended to read as follows:

645F.430 A foreclosure purchaser who engages in any conduct that operates as a fraud or deceit upon a homeowner in connection with a transaction that is subject to the provisions of NRS 645F.300 to 645F.450, inclusive, including, without limitation, a foreclosure reconveyance, is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than ~~[1 year,]~~ *364 days,* or by a fine of not more than $50,000, or by both fine and imprisonment.

Sec. 30. The amendatory provisions of this act apply to a person who is sentenced on or after October 1, 2013, for a crime committed before, on or after ~~[the effective date of this act.]~~ October 1, 2013.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 39 to Senate Bill No. 169 provides for the submission of a petition for the sealing of records relating to a gross misdemeanor at five years, instead of the current seven years.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 206.

Bill read second time.

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

Amendment No. 87.

"SUMMARY—Revises provisions relating to food establishments. (BDR 40-935)"

"AN ACT relating to food establishments; revising the definition of "food establishment" for purposes of provisions regulating such establishments; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a person to obtain a permit to operate a food establishment and to comply with various other requirements in the operation of the food establishment. (NRS 446.870) Existing law defines the term "food establishment" for those purposes and specifically excludes certain entities from the definition, including private homes where the food that is prepared or manufactured in the home is not provided for compensation or other consideration of any kind. (NRS 446.020) This bill adds to the list of entities that are excluded from the definition of "food establishment" a cottage food operation that: (1) manufactures or prepares certain food items for sale; ~~[and]~~ (2) meets certain requirements relating to the preparation, labeling and sale of those food items ~~[.]~~ ; and (3) registers with the health authority. This bill also prohibits a local government from adopting any ordinance or other regulation that prohibits a person from ~~[conducting]~~ preparing food in a cottage food operation within the person's private home.

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 cottage food operation which manufacturers or prepares a food item by any manner or means whatever for sale, or which offers or displays a food item for sale, is not a "food establishment" pursuant to paragraph (h) of subsection 2 of NRS 446.020 if each such food item is:

(a) Sold ~~[at]~~ on the private ~~[home]~~ property of the natural person who manufactures or prepares the food item or at a location where the natural person who manufactures or prepares the food item sells the food item directly to a consumer, including, without limitation, a farmers' market licensed pursuant to chapter 244 or 268 of NRS ~~[,]~~ , flea market, swap meet, church bazaar, garage sale or craft fair, by means of an in-person transaction that does not involve selling the food item by telephone or via the Internet;

(b) Sold to a natural person for his or her consumption and not for resale;

(c) Affixed with a label which complies with the federal labeling requirements set forth in 21 U.S.C. § 343(w) and 9 C.F.R. Part 317 and

21 C.F.R. Part 101 ; ~~[and which has been approved by the health authority if the food item is sold at a farmers' market;]~~

(d) Labeled with "MADE IN A COTTAGE FOOD OPERATION THAT IS NOT SUBJECT TO ~~[ROUTINE]~~ GOVERNMENT FOOD SAFETY ~~[INSPECTIONS"]~~ INSPECTION" printed prominently on the label for the food item;

(e) Prepackaged in a manner that protects the food item from contamination during transport, display, sale and acquisition by consumers; and

(f) Prepared and processed in the kitchen of the private home of the natural person who manufactures or prepares the food item ~~.~~:

~~(1) Without any domestic activities occurring in the kitchen simultaneously;~~

~~(2) Without any children or pets being present in the kitchen;~~

~~(3) Using only noncommercial types of kitchen equipment and utensils; and~~

~~(4) In which all food contact surfaces, equipment and utensils used for the preparation and processing of the food item are washed, rinsed and sanitized before each use;~~

~~(g) Prepared and stored only in areas that are maintained free of rodents and insects;~~

~~(h) Prepared and processed only by persons who:~~

~~(1) Are excluded from the preparation and processing of any food item when ill;~~

~~(2) Wash their hands before preparing and processing any food item; and~~

~~(3) Use utensils, including, without limitation, single-use gloves, bakery papers or tongs to prevent contact between the bare hands of the person and the food item; and~~

~~(i) Prepared and processed without the use of any special process, including, without limitation:~~

~~(1) Preservation by means of smoking, curing, dehydration or the addition of preservatives;~~

~~(2) Reduced oxygen packaging, including, without limitation, the cook-chill or sous vide processes; or~~

~~(3) Pressure canning of food with a pH of less than 4.2.]~~ or, if allowed by the health authority, in the kitchen of a fraternal or social clubhouse, a school or a religious, charitable or other nonprofit organization.

2. No local zoning board, planning commission or governing body of an unincorporated town, incorporated city or county may adopt any ordinance or other regulation that prohibits a natural person from ~~[conducting]~~ preparing food in a cottage food operation.

3. Each natural person who wishes to conduct a cottage food operation must, before selling any food item, register the cottage food operation with

the health authority by submitting such information as the health authority deems appropriate, including, without limitation:

(a) The name, address and contact information of the natural person conducting the cottage food operation; and

(b) If the cottage food operation sells food items under a name other than the name of the natural person who conducts the cottage food operation, the name under which the cottage food operation sells food items.

4. The health authority may charge a fee for the registration of a cottage food operation pursuant to subsection 3 in an amount not to exceed the actual cost of the health authority to establish and maintain a registry of cottage food operations.

5. The health authority may inspect a cottage food operation only to investigate a food item that may be deemed to be adulterated pursuant to NRS 585.300 to 585.360, inclusive, or an outbreak or suspected outbreak of illness known or suspected to be caused by a contaminated food item. The cottage food operation shall cooperate with the health authority in any such inspection. If, as a result of such inspection, the health authority determines that the cottage food operation has produced an adulterated food item or was the source of an outbreak of illness caused by a contaminated food item, the health authority may charge and collect from the cottage food operation a fee in an amount that does not exceed the actual cost of the health authority to conduct the investigation.

6. As used in this section:

(a) "Cottage food operation" means a natural person who manufactures or prepares food items in his or her private home or, if allowed by the health authority, in the kitchen of a fraternal or social clubhouse, a school or a religious, charitable or other nonprofit organization, for sale to a natural person for consumption ~~[.]~~ and whose gross sales of such food items are not more than $35,000 per calendar year.

(b) "Food item" means:

(1) Nuts and nut mixes;

(2) Candies;

(3) Jams, jellies and preserves;

(4) Vinegar and flavored vinegar;

(5) Dry herbs and seasoning mixes;

(6) Dried fruits;

(7) Cereals, trail mixes and granola;

(8) Popcorn and popcorn balls; or

(9) Baked goods that:

(I) Are not potentially hazardous foods;

(II) Do not contain cream, uncooked egg, custard, meringue or cream cheese frosting or garnishes ; ~~[, fillings or frostings with low sugar content;]~~ and

(III) Do not require time or temperature controls for food safety.

Sec. 2. NRS 446.020 is hereby amended to read as follows:

446.020 1. Except as otherwise limited by subsection 2, "food establishment" means any place, structure, premises, vehicle or vessel, or any part thereof, in which any food intended for ultimate human consumption is manufactured or prepared by any manner or means whatever, or in which any food is sold, offered or displayed for sale or served.

2. The term does not include:

(a) Private homes, unless the food prepared or manufactured in the home is sold, or offered or displayed for sale or for compensation or contractual consideration of any kind;

(b) Fraternal or social clubhouses at which attendance is limited to members of the club;

(c) Vehicles operated by common carriers engaged in interstate commerce;

(d) Any establishment in which religious, charitable and other nonprofit organizations sell food occasionally to raise money or in which charitable organizations receive salvaged food in bulk quantities for free distribution, unless the establishment is open on a regular basis to sell food to members of the general public;

(e) Any establishment where animals are slaughtered which is regulated and inspected by the State Department of Agriculture;

(f) Dairy farms and plants which process milk and products of milk or frozen desserts which are regulated under chapter 584 of NRS; ~~[or]~~

(g) The premises of a wholesale dealer of alcoholic beverages licensed under chapter 369 of NRS who handles only alcoholic beverages which are in sealed containers ~~[.]~~ *; or*

(h) A cottage food operation that meets the requirements of section 1 of this act with respect to food items as defined in that section.

Sec. 3. This act becomes effective on July 1, 2013.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 87 to Senate Bill No. 206 requires a cottage food operation to register with the health authority and provides the requirements for the registration, and it also authorizes the health authority to inspect the cottage food operation under certain specified circumstances.

In addition, Amendment No. 87 to Senate Bill No. 206 expands the definition of a “cottage food operation” to include, if allowable by the health authority, items prepared in the kitchen of a fraternal or social clubhouse, a school, or religious, charitable or other nonprofit organization; limits the gross sales for the food items to not more than $35,000 per calendar year; and clarifies that the local government may not adopt ordinances or regulations that prohibit a person from preparing food in a cottage food operation within a person’s private home.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 215.

Bill read second time and ordered to third reading.

Senate Bill No. 216.

Bill read second time and ordered to third reading.

Senate Bill No. 227.

Bill read second time and ordered to third reading.

Senate Bill No. 237.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary.

Amendment No. 49.

"SUMMARY—Revisions provisions governing certain graffiti offenses. (BDR 15-71)"

"AN ACT relating to crimes; revising the definition of "protected site" as it relates to certain graffiti offenses; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a person who places graffiti on or otherwise defaces the real or personal public or private property of another without the permission of the owner is guilty of a category C felony if the offense is committed on any protected site in this State. (NRS 206.330) This bill revises the definition of "protected site" to include any site, building, structure, object or district : (1) listed in the register of historic resources of a community which is recognized as a Certified Local Government pursuant to the Certified Local Government Program jointly administered by the National Park Service and the Office of Historic Preservation of the State Department of Conservation and Natural Resources; (2) listed in the State Register of Historic Places or the National Register of Historic Places [.] ; or (3) that is more than 50 years old and is located in a municipal or state park.

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

Section 1. NRS 206.330 is hereby amended to read as follows:

206.330 1. Unless a greater criminal penalty is provided by a specific statute, a person who places graffiti on or otherwise defaces the public or private property, real or personal, of another, without the permission of the owner:

(a) Where the value of the loss is less than $250, is guilty of a misdemeanor.

(b) Where the value of the loss is $250 or more but less than $5,000, is guilty of a gross misdemeanor.

(c) Where the value of the loss is $5,000 or more or where the damage results in the impairment of public communication, transportation or police and fire protection, is guilty of a category E felony and shall be punished as provided in NRS 193.130. If the court grants probation to such a person, the court shall require as a condition of probation that the person serve at least 10 days in the county jail.

(d) Where the offense is committed on any protected site in this State, is guilty of a category C felony and shall be punished as provided in NRS 193.130. If the court grants probation to such a person, the court shall require as a condition of probation that the person serve at least 10 days in the county jail.

2. If a person commits more than one offense pursuant to a scheme or continuing course of conduct, the value of all property damaged or destroyed by that person in the commission of those offenses must be aggregated for the purpose of determining the penalty prescribed in subsection 1, but only if the value of the loss when aggregated is $500 or more.

3. A person who violates subsection 1 shall, in addition to any other fine or penalty imposed:

(a) For the first offense, pay a fine of not less than $400 but not more than $1,000 and perform 100 hours of community service.

(b) For the second offense, pay a fine of not less than $750 but not more than $1,000 and perform 200 hours of community service.

(c) For the third and each subsequent offense:

(1) Pay a fine of $1,000; and

(2) Perform up to 300 hours of community service for up to 1 year, as determined by the court. The court may order the person to repair, replace, clean up or keep free of graffiti the property damaged or destroyed by the person or, if it is not practicable for the person to repair, replace, clean up or keep free of graffiti that specific property, the court may order the person to repair, replace, clean up or keep free of graffiti another specified property.

➥ The community service assigned pursuant to this subsection must, if possible, be related to the abatement of graffiti.

4. The court may, in addition to any other fine or penalty imposed, order a person who violates subsection 1 to pay restitution.

5. The parent or legal guardian of a person under 18 years of age who violates this section is liable for all fines and penalties imposed against the person. If the parent or legal guardian is unable to pay the fine and penalties resulting from a violation of this section because of financial hardship, the court may require the parent or legal guardian to perform community service.

6. If a person who is 18 years of age or older is found guilty of violating this section, the court shall, in addition to any other penalty imposed, issue an order suspending the driver's license of the person for not less than 6 months but not more than 2 years. The court shall require the person to surrender all driver's licenses then held by the person. If the person does not possess a driver's license, the court shall issue an order prohibiting the person from applying for a driver's license for not less than 6 months but not more than 2 years. The court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles any licenses together with a copy of the order.

7. The Department of Motor Vehicles:

(a) Shall not treat a violation of this section in the manner statutorily required for a moving traffic violation.

(b) Shall report the suspension of a driver's license pursuant to this section to an insurance company or its agent inquiring about the person's driving record. An insurance company shall not use any information obtained pursuant to this paragraph for purposes related to establishing premium rates or determining whether to underwrite the insurance.

8. A criminal penalty imposed pursuant to this section is in addition to any civil penalty or other remedy available pursuant to this section or another statute for the same conduct.

9. As used in this section:

(a) "Impairment" means the disruption of ordinary and incidental services, the temporary loss of use or the removal of the property from service for repair of damage.

(b) "Protected site" means:

(1) ~~[A]~~ *Any* site, landmark, monument, building or structure of historical significance pertaining to the history of the settlement of Nevada;

(2) *Any site, building, structure, object or district listed in the register of historic resources of a community which is recognized as a Certified Local Government pursuant to the Certified Local Government Program jointly administered by the National Park Service and the Office of Historic Preservation of the State Department of Conservation and Natural Resources;*

(3) Any site, building, structure, object or district listed in the State Register of Historic Places pursuant to NRS 383.085 or the National Register of Historic Places;

~~*[(3)]*~~ *(4) Any site, building, structure, object or district that is more than 50 years old and is located in a municipal or state park;*

(5) Any Indian campgrounds, shelters, petroglyphs, pictographs and burials; or

~~[(3)]~~ ~~*[(4)]*~~ *(6)* Any archeological or paleontological site, ruin, deposit, fossilized footprints and other impressions, petroglyphs and pictographs, habitation caves, rock shelters, natural caves, burial ground or sites of religious or cultural importance to an Indian tribe.

(c) "Value of the loss" means the cost of repairing, restoring or replacing the property, including, without limitation, the cost of any materials and labor necessary to repair, restore or replace the item.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 49 to Senate Bill No. 237 adds that a "protected site" means any site, building, structure, object or district listed in the register of historic resources of a community which is recognized as a Certified Local Government, or that is more than 50 years old and is located in a municipal or State park.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 239.

Bill read second time and ordered to third reading.

Senator Smith moved that Senate Bill No. 239 be taken from the General File and re-referred to the Committee on Finance.

Motion carried.

Senate Bill No. 250.

Bill read second time and ordered to third reading.

Senate Bill No. 262.

Bill read second time and ordered to third reading.

Senate Bill No. 264.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary.

Amendment No. 80.

"SUMMARY—Revises provisions governing criminal procedure. (BDR S-671)"

"AN ACT relating to criminal procedure; requiring the Advisory Commission on the Administration of Justice to identify and study certain issues relating to criminal procedure; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Advisory Commission on the Administration of Justice and directs the Commission, among other duties, to identify and study the elements of this State's system of criminal justice. (NRS 176.0123, 176.0125) This bill requires the Commission to include certain items relating to overcriminalization on an agenda for discussion.

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

Section 1. The Advisory Commission on the Administration of Justice created pursuant to NRS 176.0123 shall, at a meeting held by the Commission, include as an item on the agenda a discussion of the following issues relating to overcriminalization:

1. A review of all criminal sentences[, other than those related to controlled substances, to determine whether potential or actual harm to an individual victim should be included as an element of the offense.]

2. A review of all criminal offenses which may be duplicative or sanction the same or similar behavior.

3. An evaluation of the reclassification of certain misdemeanor offenses to determine whether jail time is necessary and whether such offenses may be more appropriately classified as civil violations.

4. An evaluation of certain felony offenses to determine whether misdemeanor punishment may be more appropriate given the disparate impacts a felony conviction may carry. The Commission shall consider the

lasting harm caused by the unlawful act, the blameworthiness accompanying the offense and the impact on future public safety.

Sec. 2. This act becomes effective on July 1, 2013.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 80 to Senate Bill No. 264 requires the Advisory Commission on the Administration of Justice to hold a discussion concerning a review of all criminal sentences.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 274.

Bill read second time.

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

Amendment No. 91.

"SUMMARY—Revisions provisions relating to contracts and agreements of the Department of Health and Human Services. (BDR 39-1082)"

"AN ACT relating to ~~[mental health;]~~ the Department of Health and Human Services; revising provisions governing contracts and agreements entered into by the Division of Mental Health and Developmental Services , ~~[and]~~ the Division of Child and Family Services , the Division of Welfare and Supportive Services, the Aging and Disability Services Division and the Health Division of the Department of Health and Human Services with private nonprofit corporations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Division of Mental Health and Developmental Services and the Division of Child and Family Services of the Department of Health and Human Services to cooperate and execute contracts or agreements with certain governmental or private entities. These contracts or agreements may include a requirement that the Division of Mental Health and Developmental Services or the Division of Child and Family Services provide services for payment. (NRS 433.354, 433B.220) Sections 3, 4 and 5 authorize the Division of Welfare and Supportive Services, the Aging and Disability Services Division and the Health Division of the Department to execute similar contracts or agreements. This bill authorizes such contracts or agreements to provide that the ~~[Division of Mental Health and Developmental Services or the Division of Child and Family Services, as applicable,]~~ division that executed the contract or agreement will provide staff, services and resources without payment to further the contract or agreement.

This bill also authorizes such a contract or agreement entered into with a private nonprofit corporation to include provisions authorizing: (1) the ~~[Division of Mental Health and Developmental Services or the Division of~~

~~Child and Family Services, as applicable,]~~ division that executed the contract or agreement to conduct certain activities to ensure the welfare of its consumers and to share confidential information about consumers served under the contract or agreement; and (2) the private nonprofit corporation to assign rights and obligations under the contract or agreement to the ~~[Division of Mental Health and Developmental Services or the Division of Child and Family Services, as applicable.]~~ division. This bill further clarifies that entering into such a contract or agreement does not waive any immunity from liability or limitation on liability that is provided by law.

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

Section 1. NRS 433.354 is hereby amended to read as follows:

433.354 *1.* For the purposes of chapters 433 to 436, inclusive, of NRS, the Department through the Division may cooperate, financially or otherwise, and execute contracts or agreements with the Federal Government, any federal department or agency, any other state department or agency, a county, a city, a public district or any political subdivision of this state, a public or private corporation, an individual or a group of individuals. Such contracts or agreements may include provisions whereby the Division will ~~[render]~~ *provide staff,* services ~~[,]~~ *or other resources, or any combination thereof, without payment, to further the purposes of the contract or agreement. If the contract or agreement includes a provision whereby the Division is paid for the provision of staff, services or other resources,* the payment ~~[for which]~~ will be reimbursed directly to the Division's budget. Cooperation pursuant to this section does not of itself relieve any person, department, agency or political subdivision of any responsibility or liability existing under any provision of law.

2. If the Administrator or the Administrator's designee enters into a contract or agreement pursuant to subsection 1 with a private nonprofit corporation, the contract or agreement may allow:

(a) The Division to enter and inspect any premises that are related to services provided under the contract or agreement and to inspect any records that are related to services provided under the contract or agreement to ensure the welfare of any consumer served by the private nonprofit corporation under the contract or agreement;

(b) The Division and the private nonprofit corporation to share confidential information concerning any consumer served by the private nonprofit corporation under the contract or agreement; and

(c) The private nonprofit corporation to assign rights and obligations of the private nonprofit corporation under the contract or agreement to the Division.

3. The State, Department and Division do not waive any immunity from liability or limitation on liability provided by law by entering into a contract or agreement pursuant to this section and any such contract or agreement must include a provision to that effect.

Sec. 2. NRS 433B.220 is hereby amended to read as follows:

433B.220 *1.* For the purposes of this chapter, the Department through the Division may cooperate, financially or otherwise, and execute contracts or agreements with the Federal Government, any federal department or agency, any other state department or agency, a county, a city, a public district or any political subdivision of this state, a public or private corporation, an individual or a group of individuals. Such a contract or agreement may include provisions whereby the Division will ~~[render]~~ *provide staff,* services ~~[,]~~ *or other resources, or any combination thereof, without payment, to further the purposes of the contract or agreement. If the contract or agreement includes a provision whereby the Division is paid for the provision of staff, services or other resources,* the payment ~~[for which]~~ will be reimbursed directly to the Division's budget. Cooperation pursuant to this section does not of itself relieve any person, department, agency or political subdivision of any responsibility or liability existing under any provision of law.

2. If the Administrator or the Administrator's designee enters into a contract or agreement pursuant to subsection 1 with a private nonprofit corporation, the contract or agreement may allow:

(a) The Division to enter and inspect any premises which are related to services provided under the contract or agreement and to inspect any records which are related to services provided under the contract or agreement to ensure the welfare of any consumer served by the private nonprofit corporation under the contract or agreement;

(b) The Division and the private nonprofit corporation to share confidential information concerning any consumer served by the private nonprofit corporation under the contract or agreement; and

(c) The private nonprofit corporation to assign rights and obligations of the private nonprofit corporation under the contract or agreement to the Division.

3. The State, Department and Division do not waive any immunity from liability or limitation on liability provided by law by entering into a contract or agreement pursuant to this section and any such contract or agreement must include a provision to that effect.

Sec. 3. Chapter 422A of NRS is hereby amended by adding thereto a new section to read as follows:

1. For the purposes of this chapter, the Department through the Division may cooperate, financially or otherwise, and execute contracts or agreements with the Federal Government, any federal department or agency, any other state department or agency, a county, a city, a public district or any political subdivision of this State, a public or private corporation, an individual or a group of individuals. Such a contract or agreement may include provisions whereby the Division will provide staff, services or other resources, or any combination thereof, without payment, to further the purposes of the contract or agreement. If the contract or agreement includes

a provision whereby the Division is paid for the provision of staff, services or other resources, the payment will be reimbursed directly to the Division's budget. Cooperation pursuant to this section does not of itself relieve any person, department, agency or political subdivision of any responsibility or liability existing under any provision of law.

2. If the Administrator or the Administrator's designee enters into a contract or agreement pursuant to subsection 1 with a private nonprofit corporation, the contract or agreement may allow:

(a) The Division to enter and inspect any premises which are related to services provided under the contract or agreement and to inspect any records which are related to services provided under the contract or agreement to ensure the welfare of any consumer served by the private nonprofit corporation under the contract or agreement;

(b) The Division and the private nonprofit corporation to share confidential information concerning any consumer served by the private nonprofit corporation under the contract or agreement; and

(c) The private nonprofit corporation to assign rights and obligations of the private nonprofit corporation under the contract or agreement to the Division.

3. The State, the Department and the Division do not waive any immunity from liability or limitation on liability provided by law by entering into a contract or agreement pursuant to this section and any such contract or agreement must include a provision to that effect.

Sec. 4. Chapter 427A of NRS is hereby amended by adding thereto a new section to read as follows:

1. For the purposes of this chapter, the Department through the Division may cooperate, financially or otherwise, and execute contracts or agreements with the Federal Government, any federal department or agency, any other state department or agency, a county, a city, a public district or any political subdivision of this State, a public or private corporation, an individual or a group of individuals. Such a contract or agreement may include provisions whereby the Division will provide staff, services or other resources, or any combination thereof, without payment, to further the purposes of the contract or agreement. If the contract or agreement includes a provision whereby the Division is paid for the provision of staff, services or other resources, the payment will be reimbursed directly to the Division's budget. Cooperation pursuant to this section does not of itself relieve any person, department, agency or political subdivision of any responsibility or liability existing under any provision of law.

2. If the Administrator or the Administrator's designee enters into a contract or agreement pursuant to subsection 1 with a private nonprofit corporation, the contract or agreement may allow:

(a) The Division to enter and inspect any premises which are related to services provided under the contract or agreement and to inspect any records which are related to services provided under the contract or

agreement to ensure the welfare of any consumer served by the private nonprofit corporation under the contract or agreement;

(b) The Division and the private nonprofit corporation to share confidential information concerning any consumer served by the private nonprofit corporation under the contract or agreement; and

(c) The private nonprofit corporation to assign rights and obligations of the private nonprofit corporation under the contract or agreement to the Division.

3. The State, the Department and the Division do not waive any immunity from liability or limitation on liability provided by law by entering into a contract or agreement pursuant to this section and any such contract or agreement must include a provision to that effect.

Sec. 5. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. For the purposes of this chapter, the Department through the Health Division may cooperate, financially or otherwise, and execute contracts or agreements with the Federal Government, any federal department or agency, any other state department or agency, a county, a city, a public district or any political subdivision of this State, a public or private corporation, an individual or a group of individuals. Such a contract or agreement may include provisions whereby the Health Division will provide staff, services or other resources, or any combination thereof, without payment, to further the purposes of the contract or agreement. If the contract or agreement includes a provision whereby the Health Division is paid for the provision of staff, services or other resources, the payment will be reimbursed directly to the Health Division's budget. Cooperation pursuant to this section does not of itself relieve any person, department, agency or political subdivision of any responsibility or liability existing under any provision of law.

2. If the Administrator or the Administrator's designee enters into a contract or agreement pursuant to subsection 1 with a private nonprofit corporation, the contract or agreement may allow:

(a) The Health Division to enter and inspect any premises which are related to services provided under the contract or agreement and to inspect any records which are related to services provided under the contract or agreement to ensure the welfare of any consumer served by the private nonprofit corporation under the contract or agreement;

(b) The Health Division and the private nonprofit corporation to share confidential information concerning any consumer served by the private nonprofit corporation under the contract or agreement; and

(c) The private nonprofit corporation to assign rights and obligations of the private nonprofit corporation under the contract or agreement to the Health Division.

3. The State, the Department and the Health Division do not waive any immunity from liability or limitation on liability provided by law by entering

into a contract or agreement pursuant to this section and any such contract or agreement must include a provision to that effect.

~~[Sec. 3.]~~ *Sec. 6.* This act becomes effective upon passage and approval.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 91 to Senate Bill No. 274 adds the Division of Welfare and Supportive Services, the Aging and Disability Service Division and the Health Division of the Department of Health and Human Services to the entities authorized to execute contracts or agreements with certain governmental or private entities and, when they execute the contract or agreement, to provide staff, services and resources without payment to further the contract or agreement.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 281.

Bill read second time and ordered to third reading.

Senate Bill No. 284.

Bill read second time.

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

Amendment No. 134.

"SUMMARY—Makes various changes concerning investigations of motor vehicle accidents. (BDR 23-107)"

"AN ACT relating to law enforcement; requiring a law enforcement agency in certain counties to adopt policies and procedures to govern the investigation of motor vehicle accidents in which peace officers employed by the law enforcement agency are involved; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill requires a law enforcement agency in a county whose population is 100,000 or more (currently Clark and Washoe Counties) to adopt policies and procedures to govern the investigation of motor vehicle accidents in which peace officers employed by the law enforcement agency are involved. The policies and procedures must include a requirement that if such a motor vehicle accident results in fatal injuries, the investigation must be conducted, except under certain circumstances, by a law enforcement agency other than the agency that employs the peace officer involved in the accident. The policies and procedures may include entering into agreements for cooperation between the law enforcement agency and agencies in other jurisdictions for the investigation of such accidents.

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

Section 1. Chapter 289 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In a county whose population is 100,000 or more ~~[~~.

~~1. Each]~~ , each law enforcement agency shall adopt policies and procedures to govern the investigation of motor vehicle accidents in which a peace officer employed by the law enforcement agency is involved. The policies and procedures must include, without limitation, a requirement that if such a motor vehicle accident results in a fatal injury to any person, the motor vehicle accident must be investigated by a law enforcement agency other than the law enforcement agency that employs the peace officer involved in the accident unless:

(a) Another law enforcement agency does not have comparable equipment and personnel to investigate the accident at least as effectively as the law enforcement agency that employs the peace officer involved in the motor vehicle accident;

(b) Another law enforcement agency is unavailable to investigate the motor vehicle accident; or

(c) Investigation of the motor vehicle accident by another law enforcement agency would delay the initiation of the investigation such that the integrity of the accident scene and preservation and collection of evidence may be jeopardized by such a delay.

2. This section does not prohibit a law enforcement agency in a county whose population is 100,000 or more from entering into agreements for cooperation with agencies in other jurisdictions for the investigation of motor vehicle accidents in which a peace officer of the law enforcement agency is involved.

Sec. 2. This act becomes effective on July 1, 2013.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Thank you, Mr. President. Amendment No. 134 to Senate Bill No. 284 adds a provision requiring that, if an automobile accident involves a fatality, it must be investigated by a law enforcement agency other than the one which employs the involved officer, unless several criteria are met.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 304.

Bill read second time and ordered to third reading.

Senate Bill No. 335.

Bill read second time and ordered to third reading.

Senate Bill No. 338.

Bill read second time.

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

Amendment No. 160.

Section 69 of Senate Bill No. 338 is hereby amended as follows:

Sec. 69. ~~[NRS 6.030 is hereby amended to read as follows:~~

~~6.030 1. The court may at any time temporarily excuse any juror on account of:~~

~~(a) Sickness or physical disability.~~

~~(b) Serious illness or death of a member of the juror's immediate family.~~

~~(c) Undue hardship or extreme inconvenience.~~

~~(d) Public necessity.~~

~~2. In addition to the reasons set forth in subsection 1, the court may at any time temporarily excuse a person who provides proof that the person is the primary caregiver of another person who has a documented medical condition which requires the assistance of another person at all times.~~

~~3. A person temporarily excused shall appear for jury service as the court may direct.~~

~~4. The court shall permanently excuse any person from service as a juror if the person is incapable, by reason of a permanent physical or [mental]~~ *intellectual* ~~disability, of rendering satisfactory service as a juror. The court may require the prospective juror to submit a physician's certificate concerning the nature and extent of the disability and the certifying physician may be required to testify concerning the disability when the court so directs.]~~ (Deleted by amendment.)

Section 70 of Senate Bill No. 338 is hereby amended as follows:

Sec. 70. ~~[NRS 40.251 is hereby amended to read as follows:~~

~~40.251 1. A tenant of real property, a recreational vehicle or a mobile home for a term less than life is guilty of an unlawful detainer when having leased:~~

~~(a) Real property, except as otherwise provided in this section, or a mobile home for an indefinite time, with monthly or other periodic rent reserved, the tenant continues in possession thereof, in person or by subtenant, without the landlord's consent after the expiration of a notice of:~~

~~(1) For tenancies from week to week, at least 7 days;~~

~~(2) Except as otherwise provided in subsection 2, for all other periodic tenancies, at least 30 days; or~~

~~(3) For tenancies at will, at least 5 days.~~

~~(b) A dwelling unit subject to the provisions of chapter 118A of NRS, the tenant continues in possession, in person or by subtenant, without the landlord's consent after expiration of:~~

~~(1) The term of the rental agreement or its termination and, except as otherwise provided in subparagraph (2), the expiration of a notice of:~~

~~(I) At least 7 days for tenancies from week to week; and~~

~~(II) Except as otherwise provided in subsection 2, at least 30 days for all other periodic tenancies; or~~

~~(2) A notice of at least 5 days where the tenant has failed to perform the tenant's basic or contractual obligations under chapter 118A of NRS.~~

~~(c) A mobile home lot subject to the provisions of chapter 118B of NRS, or a lot for a recreational vehicle in an area of a mobile home park other than~~

~~an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215, the tenant continues in possession, in person or by subtenant, without the landlord's consent:~~

~~(1) After notice has been given pursuant to NRS 118B.115, 118B.170 or 118B.190 and the period of the notice has expired; or~~

~~(2) If the person is not a natural person and has received three notices for nonpayment of rent within a 12-month period, immediately upon failure to pay timely rent.~~

~~(d) A recreational vehicle lot, the tenant continues in possession, in person or by subtenant, without the landlord's consent, after the expiration of a notice of at least 5 days.~~

~~2. Except as otherwise provided in this section, if a tenant with a periodic tenancy pursuant to paragraph (a) or (b) of subsection 1, other than a tenancy from week to week, is 60 years of age or older or has a physical or [mental] *intellectual* disability, the tenant may request to be allowed to continue in possession for an additional 30 days beyond the time specified in subsection 1 by submitting a written request for an extended period and providing proof of the tenant's age or disability. A landlord may not be required to allow a tenant to continue in possession if a shorter notice is provided pursuant to subparagraph (2) of paragraph (b) of subsection 1.~~

~~3. Any notice provided pursuant to paragraph (a) or (b) of subsection 1 must include a statement advising the tenant of the provisions of subsection 2.~~

~~4. If a landlord rejects a request to allow a tenant to continue in possession for an additional 30 days pursuant to subsection 2, the tenant may petition the court for an order to continue in possession for the additional 30 days. If the tenant submits proof to the court that the tenant is entitled to request such an extension, the court may grant the petition and enter an order allowing the tenant to continue in possession for the additional 30 days. If the court denies the petition, the tenant must be allowed to continue in possession for 5 calendar days following the date of entry of the order denying the petition.]~~ (Deleted by amendment.)

Section 72 of Senate Bill No. 338 is hereby amended as follows:

Sec. 72. ~~[NRS 41.690 is hereby amended to read as follows:~~

~~41.690 1. A person who has suffered injury as the proximate result of the willful violation of the provisions of NRS 200.280, 200.310, 200.366, 200.380, 200.400, 200.460, 200.463, 200.464, 200.465, 200.467, 200.468, 200.471, 200.481, 200.508, 200.5099, 200.571, 200.575, 203.010, 203.020, 203.030, 203.060, 203.080, 203.090, 203.100, 203.110, 203.119, 206.010, 206.040, 206.140, 206.200, 206.310, 207.180, 207.200 or 207.210 by a perpetrator who was motivated by the injured person's actual or perceived race, color, religion, national origin, physical or [mental] *intellectual* disability or sexual orientation may bring an action for the recovery of his or her actual damages and any punitive damages which the facts may warrant. If the person who has suffered injury prevails in an action brought pursuant to~~

~~this subsection, the court shall award the person costs and reasonable attorney's fees.~~

~~2. The liability imposed by this section is in addition to any other liability imposed by law.~~] (Deleted by amendment.)

Section 74 of Senate Bill No. 338 is hereby amended as follows:

Sec. 74. ~~[NRS 118A.340 is hereby amended to read as follows:~~

~~118A.340 1. Notwithstanding any provision in a lease of a dwelling to the contrary, if a physical or mental condition of a tenant requires the relocation of the tenant from his or her dwelling because of a need for care or treatment that cannot be provided in the dwelling and the tenant is 60 years of age or older or has a physical or~~ [mental] ~~*intellectual* disability:~~

~~(a) That tenant may terminate the lease by giving the landlord 30 days' written notice within 60 days after the tenant relocates; and~~

~~(b) A cotenant of that tenant may terminate the lease by giving the landlord 30 days' written notice within 60 days after the tenant relocates if:~~

~~(1) The cotenant became a tenant of the dwelling before the date on which the lease was signed by the tenant who is relocating and the cotenant is 60 years of age or older or has a physical or~~ [mental] ~~*intellectual* disability; or~~

~~(2) The cotenant became a tenant of the dwelling on or after the date on which the lease was signed by the tenant who is relocating.~~

~~2. Notwithstanding any provision in a lease of a dwelling to the contrary, upon the death of the spouse or cotenant of:~~

~~(a) A tenant who is 60 years of age or older; or~~

~~(b) A tenant who has a physical or~~ [mental] ~~*intellectual* disability,~~

~~→ the tenant may terminate the lease by giving the landlord 60 days' written notice within 3 months after the death.~~

~~3. The written notice provided to a landlord pursuant to subsection 1 or 2 must set forth the facts which demonstrate that the tenant or cotenant is entitled to terminate the lease. If the tenant or cotenant is terminating the lease pursuant to subsection 1, the tenant or cotenant shall include reasonable verification:~~

~~(a) Of the existence of the physical or mental condition of the tenant; and~~

~~(b) That the physical or mental condition requires the relocation of the tenant from his or her dwelling because of a need for care or treatment that cannot be provided in the dwelling.~~

~~4. This section does not give a landlord the right to terminate a lease solely because of the death of one of the tenants.~~

~~5. As used in this section, "cotenant" means a tenant who, pursuant to a lease, is entitled to occupy a dwelling that another tenant who is 60 years of age or older or who has a physical or~~ [mental] ~~*intellectual* disability is also entitled to occupy pursuant to the same lease.~~] (Deleted by amendment.)

Section 87 of Senate Bill No. 338 is hereby amended as follows:

Sec. 87. ~~[NRS 179A.175 is hereby amended to read as follows:~~

~~179A.175 1. The Director of the Department shall establish within the Central Repository a Program for Reporting Crimes that manifest evidence of prejudice based on race, color, religion, national origin, physical or [mental] *intellectual* disability or sexual orientation.~~

~~2. The Program must be designed to collect, compile and analyze statistical data about crimes that manifest evidence of prejudice based on race, color, religion, national origin, physical or [mental] *intellectual* disability or sexual orientation. The Director shall adopt guidelines for the collection of the statistical data, including, but not limited to, the criteria to establish the presence of prejudice.~~

~~3. The Central Repository shall include in its annual report to the Governor pursuant to subsection 6 of NRS 179A.075, and in any other appropriate report, an independent section relating solely to the analysis of crimes that manifest evidence of prejudice based on race, color, religion, national origin, physical or [mental] *intellectual* disability or sexual orientation.~~

~~4. Data acquired pursuant to this section must be used only for research or statistical purposes and must not contain any information that may reveal the identity of an individual victim of a crime.]~~ (Deleted by amendment.)

Section 88 of Senate Bill No. 338 is hereby amended as follows:

Sec. 88. ~~[NRS 193.1675 is hereby amended to read as follows:~~

~~193.1675 1. Except as otherwise provided in NRS 193.169, any person who willfully violates any provision of NRS 200.280, 200.310, 200.366, 200.380, 200.400, 200.460 to 200.465, inclusive, paragraph (b) of subsection 2 of NRS 200.471, NRS 200.508, 200.5099 or subsection 2 of NRS 200.575 because the actual or perceived race, color, religion, national origin, physical or [mental] *intellectual* disability or sexual orientation of the victim was different from that characteristic of the perpetrator may, in addition to the term of imprisonment prescribed by statute for the crime, 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 20 years. In determining the length of any additional penalty imposed, the court shall consider the following information:~~

~~(a) The facts and circumstances of the crime;~~

~~(b) The criminal history of the person;~~

~~(c) The impact of the crime on any victim;~~

~~(d) Any mitigating factors presented by the person; and~~

~~(e) Any other relevant information.~~

~~→ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of any additional penalty imposed.~~

~~2. A sentence imposed pursuant to this section:~~

~~(a) Must not exceed the sentence imposed for the crime; and~~

~~(b) Runs consecutively with the sentence prescribed by statute for the crime.~~

~~3. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.]~~ (Deleted by amendment.)

Section 90 of Senate Bill No. 338 is hereby amended as follows:

Sec. 90. ~~[NRS 200.033 is hereby amended to read as follows:~~

~~200.033 The only circumstances by which murder of the first degree may be aggravated are:~~

~~1. The murder was committed by a person under sentence of imprisonment.~~

~~2. The murder was committed by a person who, at any time before a penalty hearing is conducted for the murder pursuant to NRS 175.552, is or has been convicted of:~~

~~(a) Another murder and the provisions of subsection 12 do not otherwise apply to that other murder; or~~

~~(b) A felony involving the use or threat of violence to the person of another and the provisions of subsection 4 do not otherwise apply to that felony.~~

~~→ For the purposes of this subsection, a person shall be deemed to have been convicted at the time the jury verdict of guilt is rendered or upon pronouncement of guilt by a judge or judges sitting without a jury.~~

~~3. The murder was committed by a person who knowingly created a great risk of death to more than one person by means of a weapon, device or course of action which would normally be hazardous to the lives of more than one person.~~

~~4. The murder was committed while the person was engaged, alone or with others, in the commission of, or an attempt to commit or flight after committing or attempting to commit, any robbery, arson in the first degree, burglary, invasion of the home or kidnapping in the first degree, and the person charged:~~

~~(a) Killed or attempted to kill the person murdered; or~~

~~(b) Knew or had reason to know that life would be taken or lethal force used.~~

~~5. The murder was committed to avoid or prevent a lawful arrest or to effect an escape from custody.~~

~~6. The murder was committed by a person, for himself or herself or another, to receive money or any other thing of monetary value.~~

~~7. The murder was committed upon a peace officer or firefighter who was killed while engaged in the performance of his or her official duty or because of an act performed in his or her official capacity, and the defendant knew or reasonably should have known that the victim was a peace officer or firefighter. For the purposes of this subsection, "peace officer" means:~~

~~(a) An employee of the Department of Corrections who does not exercise general control over offenders imprisoned within the institutions and facilities of the Department, but whose normal duties require the employee to~~

~~come into contact with those offenders when carrying out the duties prescribed by the Director of the Department.~~

~~(b) Any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive, when carrying out those powers.~~

~~8. The murder involved torture or the mutilation of the victim.~~

~~9. The murder was committed upon one or more persons at random and without apparent motive.~~

~~10. The murder was committed upon a person less than 14 years of age.~~

~~11. The murder was committed upon a person because of the actual or perceived race, color, religion, national origin, physical or [mental] *intellectual* disability or sexual orientation of that person.~~

~~12. The defendant has, in the immediate proceeding, been convicted of more than one offense of murder in the first or second degree. For the purposes of this subsection, a person shall be deemed to have been convicted of a murder at the time the jury verdict of guilt is rendered or upon pronouncement of guilt by a judge or judges sitting without a jury.~~

~~13. The person, alone or with others, subjected or attempted to subject the victim of the murder to nonconsensual sexual penetration immediately before, during or immediately after the commission of the murder. For the purposes of this subsection:~~

~~(a) "Nonconsensual" means against the victim's will or under conditions in which the person knows or reasonably should know that the victim is mentally or physically incapable of resisting, consenting or understanding the nature of his or her conduct, including, but not limited to, conditions in which the person knows or reasonably should know that the victim is dead.~~

~~(b) "Sexual penetration" means cunnilingus, fellatio or any intrusion, however slight, of any part of the victim's body or any object manipulated or inserted by a person, alone or with others, into the genital or anal openings of the body of the victim, whether or not the victim is alive. The term includes, but is not limited to, anal intercourse and sexual intercourse in what would be its ordinary meaning.~~

~~14. The murder was committed on the property of a public or private school, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties by a person who intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person. For the purposes of this subsection, "school bus" has the meaning ascribed to it in NRS 483.160.~~

~~15. The murder was committed with the intent to commit, cause, aid, further or conceal an act of terrorism. For the purposes of this subsection, "act of terrorism" has the meaning ascribed to it in NRS 202.4415.]~~ (Deleted by amendment.)

Section 91 of Senate Bill No. 338 is hereby amended as follows:

Sec. 91. NRS 207.014 is hereby amended to read as follows:

207.014 1. A person who:

(a) Has been convicted in this State of any felony committed on or after July 1, 1995, of which fraud or intent to defraud is an element; and

(b) Has previously been two times convicted, whether in this State or elsewhere, of any felony of which fraud or intent to defraud is an element before the commission of the felony under paragraph (a),

➥ is a habitually fraudulent felon and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of not more than 20 years, if the victim of each offense was an older person, a person with a mental ~~*[an intellectual]*~~ disability or a vulnerable person.

2. The prosecuting attorney shall include a count under this section in any information or shall file a notice of habitually fraudulent felon if an indictment is found, if the prior convictions and the alleged offense committed by the accused are felonies of which fraud or intent to defraud is an element and the victim of each offense was:

(a) An older person;

(b) A person with a mental ~~*[an intellectual]*~~ disability; or

(c) A vulnerable person.

3. The trial judge may not dismiss a count under this section that is included in an indictment or information.

4. As used in this section:

(a) "Older person" means a person who is:

(1) Sixty-five years of age or older if the crime was committed before October 1, 2003.

(2) Sixty years of age or older if the crime was committed on or after October 1, 2003.

(b) "Person with a mental ~~*[an intellectual]*~~ disability" means a person who has a mental impairment which is medically documented and substantially limits one or more of the person's major life activities. The term includes, but is not limited to, a person who:

(1) Suffers from ~~[mental retardation;]~~ *an intellectual disability;*

(2) Suffers from a severe mental or emotional illness;

(3) Has a severe learning disability; or

(4) Is experiencing a serious emotional crisis in his or her life as a result of the fact that the person or a member of his or her immediate family has a catastrophic illness.

(c) "Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.

Section 92 of Senate Bill No. 338 is hereby amended as follows:

Sec. 92. ~~[NRS 207.185 is hereby amended to read as follows:~~

~~207.185 Unless a greater penalty is provided by law, a person who, by reason of the actual or perceived race, color, religion, national origin, physical or~~ [mental] ~~*intellectual*~~ ~~disability or sexual orientation of another person or group of persons, willfully violates any provision of NRS 200.471,~~

~~200.481, 200.5099, 200.571, 200.575, 203.010, 203.020, 203.030, 203.060, 203.080, 203.090, 203.100, 203.110, 203.119, 206.010, 206.040, 206.140, 206.200, 206.310, 207.180, 207.200 or 207.210 is guilty of a gross misdemeanor.~~] (Deleted by amendment.)

Section 96 of Senate Bill No. 338 is hereby amended as follows:

Sec. 96. NRS 274.270 is hereby amended to read as follows:

274.270 1. The governing body shall investigate the proposal made by a business pursuant to NRS 274.260, and if it finds that the business is qualified by financial responsibility and business experience to create and preserve employment opportunities in the specially benefited zone and improve the economic climate of the municipality and finds further that the business did not relocate from a depressed area in this State or reduce employment elsewhere in Nevada in order to expand in the specially benefited zone, the governing body may, on behalf of the municipality, enter into an agreement with the business, for a period of not more than 20 years, under which the business agrees in return for one or more of the benefits authorized in this chapter and NRS 374.643 for qualified businesses, as specified in the agreement, to establish, expand, renovate or occupy a place of business within the specially benefited zone and hire new employees at least 35 percent of whom at the time they are employed are at least one of the following:

(a) Unemployed persons who have resided at least 6 months in the municipality.

(b) Persons eligible for employment or job training under any federal program for employment and training who have resided at least 6 months in the municipality.

(c) Recipients of benefits under any state or county program of public assistance, including, without limitation, temporary assistance for needy families, Medicaid and unemployment compensation who have resided at least 6 months in the municipality.

(d) Persons with a physical or mental ~~[handicap]~~ ~~*[intellectual]*~~ *disability* who have resided at least 6 months in the State.

(e) Residents for at least 1 year of the area comprising the specially benefited zone.

2. To determine whether a business is in compliance with an agreement, the governing body:

(a) Shall each year require the business to file proof satisfactory to the governing body of its compliance with the agreement.

(b) May conduct any necessary investigation into the affairs of the business and may inspect at any reasonable hour its place of business within the specially benefited zone.

➥ If the governing body determines that the business is in compliance with the agreement, it shall issue a certificate to that effect to the business. The certificate expires 1 year after the date of its issuance.

3. The governing body shall file with the Administrator, the Department of Taxation and the Employment Security Division of the Department of Employment, Training and Rehabilitation a copy of each agreement, the information submitted under paragraph (a) of subsection 2 and the current certificate issued to the business under that subsection. The governing body shall immediately notify the Administrator, the Department of Taxation and the Employment Security Division of the Department of Employment, Training and Rehabilitation whenever the business is no longer certified.

Section 98 of Senate Bill No. 338 is hereby amended as follows:

Sec. 98. ~~[NRS 293.127 is hereby amended to read as follows:~~

~~293.127 1. This title must be liberally construed to the end that:~~

~~(a) All electors, including, without limitation, electors who are elderly or disabled, have an opportunity to participate in elections and to cast their votes privately;~~

~~(b) An eligible voter with a physical or [mental] *intellectual* disability is not denied the right to vote solely because of the physical or [mental] *intellectual* disability; and~~

~~(c) The real will of the electors is not defeated by any informality or by failure substantially to comply with the provisions of this title with respect to the giving of any notice or the conducting of an election or certifying the results thereof.~~

~~2. For purposes of counting a vote, the real will of an elector must be determined pursuant to NRS 293.3677 or 293C.369 or regulations adopted pursuant to NRS 293.3677 or 293C.369.]~~ (Deleted by amendment.)

Section 100 of Senate Bill No. 338 is hereby amended as follows:

Sec. 100. ~~[NRS 396.930 is hereby amended to read as follows:~~

~~396.930 1. Except as otherwise provided in subsections 2 and 3, a student may apply to the Board of Regents for a Millennium Scholarship if the student:~~

~~(a) Except as otherwise provided in paragraph (c) of subsection 2, has been a resident of this State for at least 2 years before the student applies for the Millennium Scholarship;~~

~~(b) Except as otherwise provided in paragraph (c), graduated from a public or private high school in this State:~~

~~(1) After May 1, 2000, but not later than May 1, 2003; or~~

~~(2) After May 1, 2003, and, except as otherwise provided in paragraphs (c), (d) and (f) of subsection 2, not more than 6 years before the student applies for the Millennium Scholarship;~~

~~(c) Does not satisfy the requirements of paragraph (b) and:~~

~~(1) Was enrolled as a pupil in a public or private high school in this State with a class of pupils who were regularly scheduled to graduate after May 1, 2000;~~

~~(2) Received his or her high school diploma within 4 years after he or she was regularly scheduled to graduate; and~~

~~(3) Applies for the Millennium Scholarship not more than 6 years after he or she was regularly scheduled to graduate from high school;~~

~~(d) Maintained in high school in the courses designated by the Board of Regents pursuant to paragraph (b) of subsection 2, at least:~~

~~(1) A 3.00 grade point average on a 4.0 grading scale, if the student was a member of the graduating class of 2003 or 2004;~~

~~(2) A 3.10 grade point average on a 4.0 grading scale, if the student was a member of the graduating class of 2005 or 2006; or~~

~~(3) A 3.25 grade point average on a 4.0 grading scale, if the student was a member of the graduating class of 2007 or a later graduating class; and~~

~~(e) Is enrolled in at least:~~

~~(1) Six semester credit hours in a community college within the System;~~

~~(2) Twelve semester credit hours in another eligible institution; or~~

~~(3) A total of 12 or more semester credit hours in eligible institutions if the student is enrolled in more than one eligible institution.~~

~~2. The Board of Regents:~~

~~(a) Shall define the core curriculum that a student must complete in high school to be eligible for a Millennium Scholarship.~~

~~(b) Shall designate the courses in which a student must earn the minimum grade point averages set forth in paragraph (d) of subsection 1.~~

~~(c) May establish criteria with respect to students who have been on active duty serving in the Armed Forces of the United States to exempt such students from the 6-year limitation on applications that is set forth in subparagraph (2) of paragraph (b) of subsection 1.~~

~~(d) Shall establish criteria with respect to students who have a documented physical or [mental] *intellectual* disability or who were previously subject to an individualized education program under the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., or a plan under Title V of the Rehabilitation Act of 1973, 29 U.S.C. §§ 791 et seq. The criteria must provide an exemption for those students from:~~

~~(1) The 6-year limitation on applications that is set forth in subparagraph (2) of paragraph (b) of subsection 1 and subparagraph (3) of paragraph (c) of subsection 1 and any limitation applicable to students who are eligible pursuant to subparagraph (1) of paragraph (b) of subsection 1.~~

~~(2) The minimum number of credits prescribed in paragraph (c) of subsection 1.~~

~~(e) Shall establish criteria with respect to students who have a parent or legal guardian on active duty in the Armed Forces of the United States to exempt such students from the residency requirement set forth in paragraph (a) of subsection 1 or subsection 3.~~

~~(f) Shall establish criteria with respect to students who have been actively serving or participating in a charitable, religious or public service assignment or mission to exempt such students from the 6-year limitation on applications that is set forth in subparagraph (2) of paragraph (b) of subsection 1. Such criteria must provide for the award of Millennium Scholarships to those~~

~~students who qualify for the exemption and who otherwise meet the eligibility criteria to the extent that money is available to award Millennium Scholarships to the students after all other obligations for the award of Millennium Scholarships for the current school year have been satisfied.~~

~~3. Except as otherwise provided in paragraph (e) of subsection 1, for students who did not graduate from a public or private high school in this State and who, except as otherwise provided in paragraph (e) of subsection 2, have been residents of this State for at least 2 years, the Board of Regents shall establish:~~

~~(a) The minimum score on a standardized test that such students must receive; or~~

~~(b) Other criteria that students must meet,~~

~~→ to be eligible for Millennium Scholarships.~~

~~4. In awarding Millennium Scholarships, the Board of Regents shall enhance its outreach to students who:~~

~~(a) Are pursuing a career in education or health care;~~

~~(b) Come from families who lack sufficient financial resources to pay for the costs of sending their children to an eligible institution; or~~

~~(c) Substantially participated in an antismoking, antidrug or antialcohol program during high school.~~

~~5. The Board of Regents shall establish a procedure by which an applicant for a Millennium Scholarship is required to execute an affidavit declaring the applicant's eligibility for a Millennium Scholarship pursuant to the requirements of this section. The affidavit must include a declaration that the applicant is a citizen of the United States or has lawful immigration status, or that the applicant has filed an application to legalize the applicant's immigration status or will file an application to legalize his or her immigration status as soon as he or she is eligible to do so.]~~ (Deleted by amendment.)

Section 109 of Senate Bill No. 338 is hereby amended as follows:

Sec. 109. ~~[NRS 483.250 is hereby amended to read as follows:~~

~~483.250 The Department shall not issue any license pursuant to the provisions of NRS 483.010 to 483.630, inclusive:~~

~~1. To any person who is under the age of 18 years, except that the Department may issue:~~

~~(a) A restricted license to a person between the ages of 14 and 18 years pursuant to the provisions of NRS 483.267 and 483.270.~~

~~(b) An instruction permit to a person who is at least 15 1/2 years of age pursuant to the provisions of subsection 1 of NRS 483.280.~~

~~(c) A restricted instruction permit to a person under the age of 18 years pursuant to the provisions of subsection 3 of NRS 483.280.~~

~~(d) A driver's license to a person who is 16 or 17 years of age pursuant to NRS 483.2521.~~

~~2. To any person whose license has been revoked until the expiration of the period during which the person is not eligible for a license.~~

~~3. To any person whose license has been suspended, but upon good cause shown to the Administrator, the Department may issue a restricted license to the person or shorten any period of suspension.~~

~~4. To any person who has previously been adjudged to be afflicted with or suffering from any [mental] *intellectual* disability or disease and who has not at the time of application been restored to legal capacity.~~

~~5. To any person who is required by NRS 483.010 to 483.630, inclusive, to take an examination, unless the person has successfully passed the examination.~~

~~6. To any person when the Administrator has good cause to believe that by reason of physical or [mental] *intellectual* disability that person would not be able to operate a motor vehicle safely.~~

~~7. To any person who is not a resident of this State.~~

~~8. To any child who is the subject of a court order issued pursuant to title 5 of NRS which delays the child's privilege to drive.~~

~~9. To any person who is the subject of a court order issued pursuant to NRS 206.330 which delays the person's privilege to drive until the expiration of the period of delay.~~

~~10. To any person who is not eligible for the issuance of a license pursuant to NRS 483.283.]~~ (Deleted by amendment.)

Section 111 of Senate Bill No. 338 is hereby amended as follows:

Sec. 111. ~~[NRS 615.110 is hereby amended to read as follows:~~

~~615.110 "Individual with a disability" means:~~

~~1. Any individual who has a physical or [mental] *intellectual* disability which constitutes a substantial handicap to employment but which is of such a nature that vocational rehabilitation services may reasonably be expected to render the individual fit to engage in a gainful occupation, including a gainful occupation which is more consistent with the capacities and abilities of the individual.~~

~~2. Any individual who has a physical or [mental] *intellectual* disability which constitutes a substantial handicap to employment for whom vocational rehabilitation services are necessary for the purposes of the determination of rehabilitation potential.]~~ (Deleted by amendment.)

Section 112 of Senate Bill No. 338 is hereby amended as follows:

Sec. 112. ~~[NRS 615.120 is hereby amended to read as follows:~~

~~615.120 "Physical or [mental] *intellectual* disability" means a physical or mental condition which materially limits, contributes to limiting or, if not corrected, will probably result in limiting an individual's activities or functioning. It includes behavioral disorders characterized by deviant social behavior or impaired ability to carry out normal relationships with family and community which may result from vocational, educational, cultural, social, environmental or other factors.]~~ (Deleted by amendment.)

Section 113 of Senate Bill No. 338 is hereby amended as follows:

Sec. 113. ~~[NRS 615.130 is hereby amended to read as follows:~~

~~615.130 "Substantial handicap to employment" means that a physical or [mental] *intellectual* disability (in the light of attendant medical, psychological, vocational, cultural, social or environmental factors) impedes an individual's occupational performance, by preventing the individual's obtaining, retaining or preparing for a gainful occupation consistent with the capacities and abilities of the individual.]~~ (Deleted by amendment.)

Section 114 of Senate Bill No. 338 is hereby amended as follows:

Sec. 114. ~~[NRS 615.230 is hereby amended to read as follows:~~

~~615.230 1. The Department through the Bureau may make agreements, arrangements or plans to:~~

~~(a) Cooperate with the Federal Government in carrying out the purposes of this chapter or of any federal statutes pertaining to vocational rehabilitation and to this end may adopt such methods of administration as are found by the Federal Government to be necessary for the proper and efficient operation of such agreements, arrangements or plans for vocational rehabilitation; and~~

~~(b) Comply with such conditions as may be necessary to secure benefits under those federal statutes.~~

~~2. Upon designation by the Governor, in addition to those provided in subsection 1, the Department through the Bureau may perform functions and services for the Federal Government relating to persons under a physical or [mental] *intellectual* disability.]~~ (Deleted by amendment.)

Section 115 of Senate Bill No. 338 is hereby amended as follows:

Sec. 115. ~~[NRS 634A.170 is hereby amended to read as follows:~~

~~634A.170 The Board may refuse to issue or may suspend or revoke any license for any one or any combination of the following causes:~~

~~1. Conviction of:~~

~~(a) A felony relating to the practice of Oriental medicine;~~

~~(b) Any offense involving moral turpitude;~~

~~(c) A violation of any state or federal law regulating the possession, distribution or use of any controlled substance, as shown by a certified copy of the record of the court; or~~

~~(d) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;~~

~~2. The obtaining of or any attempt to obtain a license or practice in the profession for money or any other thing of value, by fraudulent misrepresentations;~~

~~3. Gross or repeated malpractice, which may be evidenced by claims of malpractice settled against a practitioner;~~

~~4. Advertising by means of a knowingly false or deceptive statement;~~

~~5. Advertising, practicing or attempting to practice under a name other than one's own;~~

~~6. Habitual drunkenness or habitual addiction to the use of a controlled substance;~~

~~7. Using any false, fraudulent or forged statement or document, or engaging in any fraudulent, deceitful, dishonest or immoral practice in connection with the licensing requirements of this chapter;~~

~~8. Sustaining a physical or~~ [mental] ~~*intellectual* disability which renders further practice dangerous;~~

~~9. Engaging in any dishonorable, unethical or unprofessional conduct which may deceive, defraud or harm the public, or which is unbecoming a person licensed to practice under this chapter;~~

~~10. Using any false or fraudulent statement in connection with the practice of Oriental medicine or any branch thereof;~~

~~11. Violating or attempting to violate, or assisting or abetting the violation of, or conspiring to violate any provision of this chapter;~~

~~12. Being adjudicated incompetent or insane;~~

~~13. Advertising in an unethical or unprofessional manner;~~

~~14. Obtaining a fee or financial benefit for any person by the use of fraudulent diagnosis, therapy or treatment;~~

~~15. Willful disclosure of a privileged communication;~~

~~16. Failure of a licensee to designate the nature of his or her practice in the professional use of his or her name by the term doctor of Oriental medicine;~~

~~17. Willful violation of the law relating to the health, safety or welfare of the public or of the regulations adopted by the State Board of Health;~~

~~18. Administering, dispensing or prescribing any controlled substance, except for the prevention, alleviation or cure of disease or for relief from suffering;~~

~~19. Performing, assisting or advising in the injection of any liquid silicone substance into the human body; and~~

~~20. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:~~

~~(a) The license of the facility is suspended or revoked; or~~

~~(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.~~

~~→ This subsection applies to an owner or other principal responsible for the operation of the facility.~~] (Deleted by amendment.)

Section 116 of Senate Bill No. 338 is hereby amended as follows:

Sec. 116. ~~[NRS 645.310 is hereby amended to read as follows:~~

~~645.310 1. All deposits accepted by every real estate broker or person registered as an owner-developer pursuant to this chapter, which are retained by him or her pending consummation or termination of the transaction involved, must be accounted for in the full amount at the time of the consummation or termination.~~

~~2. Every real estate salesperson or broker-salesperson who receives any money on behalf of a broker or owner-developer shall pay over the money promptly to the real estate broker or owner-developer.~~

~~3. A real estate broker shall not commingle the money or other property of a client with his or her own.~~

~~4. If a real estate broker receives money, as a broker, which belongs to others, the real estate broker shall promptly deposit the money in a separate checking account located in a bank or credit union in this State which must be designated a trust account. All down payments, earnest money deposits, rents, or other money which the real estate broker receives, on behalf of a client or any other person, must be deposited in the account unless all persons who have any interest in the money have agreed otherwise in writing. A real estate broker may pay to any seller or the seller's authorized agent the whole or any portion of such special deposit. The real estate broker is personally responsible and liable for such deposit at all times. A real estate broker shall not permit any advance payment of money belonging to others to be deposited in the real estate broker's business or personal account or to be commingled with any money he or she may have on deposit.~~

~~5. Every real estate broker required to maintain a separate trust account shall keep records of all money deposited therein. The records must clearly indicate the date and from whom the real estate broker received money, the date deposited, the dates of withdrawals, and other pertinent information concerning the transaction, and must show clearly for whose account the money is deposited and to whom the money belongs. The real estate broker shall balance each separate trust account at least monthly. The real estate broker shall provide to the Division, on a form provided by the Division, an annual accounting which shows an annual reconciliation of each separate trust account. All such records and money are subject to inspection and audit by the Division and its authorized representatives. All such separate trust accounts must designate the real estate broker as trustee and provide for withdrawal of money without previous notice.~~

~~6. Each real estate broker shall notify the Division of the names of the banks and credit unions in which the real estate broker maintains trust accounts and specify the names of the accounts on forms provided by the Division.~~

~~7. If a real estate broker who has money in a trust account dies or becomes~~ [mentally] ~~*intellectually* disabled, the Division, upon application to the district court, may have a trustee appointed to administer and distribute the money in the account with the approval of the court. The trustee may serve without posting a bond.~~] (Deleted by amendment.)

Section 117 of Senate Bill No. 338 is hereby amended as follows:

Sec. 117. ~~[NRS 688C.270 is hereby amended to read as follows:~~

~~688C.270 1. A viator may not enter into a viatical settlement within 5 years after the issuance of the policy to which the settlement relates unless one or more of the following conditions is or has been satisfied:~~

~~(a) The policy was issued upon the owner's exercise of a right of conversion arising out of a group policy if the total of the time covered under the policy plus the time covered under the group policy is at least 60 months.~~

~~The time covered under the group policy must be calculated without regard to a change in insurance carriers if the coverage has been continuous.~~

~~(b) The viator or owner submits to the provider of viatical settlements independent evidence that within the 5-year period:~~

~~(1) The owner or insured has been diagnosed as terminally ill;~~

~~(2) The owner or insured has been diagnosed as chronically ill or has an illness or condition that is life threatening or requires a course of treatment for at least 2 years, long-term care or health care at home, or any combination of these;~~

~~(3) The spouse of the owner or insured has died;~~

~~(4) The owner or insured has divorced his or her spouse;~~

~~(5) The owner or insured has retired from full-time employment;~~

~~(6) The owner or insured has become physically or~~ [mentally] *intellectually* ~~disabled and a physician determines that the disability precludes the owner or insured from maintaining full-time employment;~~

~~(7) A final judgment or order has been entered or issued by a court of competent jurisdiction, on the application of a creditor or owner of the insured, adjudging the owner or insured bankrupt or insolvent, or approving a petition for reorganization of the owner or insured or appointing a receiver, trustee or liquidator for all or a substantial part of the assets of the owner or insured; or~~

~~(8) The owner of the policy experiences a significant decrease in income which is unexpected by the owner and impairs the reasonable ability of the owner to pay the premium on the policy.~~

~~2. The independent evidence must be submitted to the insurer when the provider of viatical settlements submits a request to the insurer to effect transfer of the policy to the provider of viatical settlements. The insurer shall respond timely to the request. This section does not prohibit an insurer from exercising its right to contest a policy on the ground of fraud.~~

~~3. If a provider of viatical settlements submits to an insurer a copy of the owner's or insured's certification that one of the events described in paragraph (b) of subsection 1 has occurred, the certification conclusively establishes that the viatical settlement is valid, and the insurer shall timely respond to the provider's request to effect a transfer of the policy.]~~ (Deleted by amendment.)

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 160 to Senate Bill No. 338 removes or revises all sections that replaced the term "mental disability" with "intellectual disability," because the term "mental disability" includes "mental retardation" but has a broader meaning.

Note that the *Nevada Revised Statutes* defines a "person with a mental disability" as "a person who has a mental impairment which is medically documented and substantially limits one or more of the person's major life activities. The term includes, but is not limited to, a person who suffers from mental retardation; suffers from a severe mental or emotional illness; has a severe learning disability; or is experiencing a serious emotional crisis in his or her life as a result of the fact that the person or a member of his or her immediate family has a catastrophic illness."

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 342.

Bill read second time.

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

Amendment No. 174.

"SUMMARY—Revises provisions governing the vacation and abandonment of certain streets. (BDR 22-665)"

"AN ACT relating to land use planning; authorizing certain local governments to establish simplified procedures for the vacation and abandonment of streets owned by the local government under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth a procedure for the vacation and abandonment of streets and easements owned by a city or county. (NRS 278.480) This bill authorizes a city or county to establish by ordinance a simplified procedure for the vacation or abandonment of such a street for the purpose of conforming the legal description of real property to a recorded survey or map of the relevant area.

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

Section 1. NRS 278.480 is hereby amended to read as follows:

278.480 1. Except as otherwise provided in ~~[subsection]~~ *subsections* 11 ~~[,]~~ *and 12,* any abutting owner or local government desiring the vacation or abandonment of any street or easement owned by a city or a county, or any portion thereof, shall file a petition in writing with the planning commission or the governing body having jurisdiction.

2. The governing body may establish by ordinance a procedure by which, after compliance with the requirements for notification of public hearing set forth in this section, a vacation or abandonment of a street or an easement may be approved in conjunction with the approval of a tentative map pursuant to NRS 278.349.

3. A government patent easement which is no longer required for a public purpose may be vacated by:

(a) The governing body; or

(b) The planning commission, hearing examiner or other designee, if authorized to take final action by the governing body,

➥ without conducting a hearing on the vacation if the applicant for the vacation obtains the written consent of each owner of property abutting the proposed vacation and any utility that is affected by the proposed vacation.

4. Except as otherwise provided in subsection 3, if any right-of-way or easement required for a public purpose that is owned by a city or a county is proposed to be vacated, the governing body, or the planning commission,

hearing examiner or other designee, if authorized to take final action by the governing body, shall, not less than 10 business days before the public hearing described in subsection 5:

(a) Notify each owner of property abutting the proposed abandonment. Such notice must be provided by mail pursuant to a method that provides confirmation of delivery and does not require the signature of the recipient.

(b) Cause a notice to be published at least once in a newspaper of general circulation in the city or county, setting forth the extent of the proposed abandonment and setting a date for public hearing.

5. Except as otherwise provided in subsection 6, if, upon public hearing, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, is satisfied that the public will not be materially injured by the proposed vacation, it shall order the street or easement vacated. The governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, may make the order conditional, and the order becomes effective only upon the fulfillment of the conditions prescribed. An applicant or other person aggrieved by the decision of the planning commission, hearing examiner or other designee may appeal the decision in accordance with the ordinance adopted pursuant to NRS 278.3195.

6. In addition to any other applicable requirements set forth in this section, before vacating or abandoning a street, the governing body of the local government having jurisdiction over the street, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, shall provide each public utility and video service provider serving the affected area with written notice that a petition has been filed requesting the vacation or abandonment of the street. After receiving the written notice, the public utility or video service provider, as applicable, shall respond in writing, indicating either that the public utility or video service provider, as applicable, does not require an easement or that the public utility or video service provider, as applicable, wishes to request the reservation of an easement. If a public utility or video service provider indicates in writing that it wishes to request the reservation of an easement, the governing body of the local government having jurisdiction over the street that is proposed to be vacated or abandoned, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, shall reserve and convey an easement in favor of the public utility or video service provider, as applicable, and shall ensure that such easement is recorded in the office of the county recorder.

7. The order must be recorded in the office of the county recorder, if all the conditions of the order have been fulfilled, and upon the recordation, title to the street or easement reverts to the abutting property owners in the approximate proportion that the property was dedicated by the abutting property owners or their predecessors in interest. In the event of a partial vacation of a street where the vacated portion is separated from the property

from which it was acquired by the unvacated portion of it, the governing body may sell the vacated portion upon such terms and conditions as it deems desirable and in the best interests of the city or county. If the governing body sells the vacated portion, it shall afford the right of first refusal to each abutting property owner as to that part of the vacated portion which abuts his or her property, but no action may be taken by the governing body to force the owner to purchase that portion and that portion may not be sold to any person other than the owner if the sale would result in a complete loss of access to a street from the abutting property.

8. If the street was acquired by dedication from the abutting property owners or their predecessors in interest, no payment is required for title to the proportionate part of the street reverted to each abutting property owner. If the street was not acquired by dedication, the governing body may make its order conditional upon payment by the abutting property owners for their proportionate part of the street of such consideration as the governing body determines to be reasonable. If the governing body determines that the vacation has a public benefit, it may apply the benefit as an offset against a determination of reasonable consideration which did not take into account the public benefit.

9. If an easement for light and air owned by a city or a county is adjacent to a street vacated pursuant to the provisions of this section, the easement is vacated upon the vacation of the street.

10. In any vacation or abandonment of any street owned by a city or a county, or any portion thereof, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, may reserve and except therefrom all easements, rights or interests therein which the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, deems desirable for the use of the city or county.

11. The governing body may establish by local ordinance a simplified procedure for the vacation or abandonment of an easement for a public utility owned or controlled by the governing body.

12. *The governing body may establish by local ordinance a simplified procedure for the vacation or abandonment of a street for the purpose of conforming the legal description of real property to a recorded map or survey of the area in which the real property is located.* *Any such simplified procedure must include, without limitation, the requirements set forth in subsection 6.*

13. As used in this section:

(a) "Government patent easement" means an easement for a public purpose owned by the governing body over land which was conveyed by a patent.

(b) "Public utility" has the meaning ascribed to it in NRS 360.815.

(c) "Video service provider" has the meaning ascribed to it in NRS 711.151.

Sec. 2. This act becomes effective upon passage and approval.

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

Thank you, Mr. President. Amendment No. 174 to Senate Bill No. 342 adds a provision requiring that before proceeding with the simplified procedure for vacating or abandoning a street, a governing body must provide a utility or video service provider serving the affected area with written notice so that these entities can, in turn, request in writing the reservation of an easement if needed.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 347.

Bill read second time and ordered to third reading.

Senate Bill No. 365.

Bill read second time and ordered to third reading.

Senate Bill No. 370.

Bill read second time and ordered to third reading.

Senator Smith moved that Senate Bill No. 370 be taken from the General File and re-referred to the Committee on Finance.

Motion carried.

Senate Bill No. 405.

Bill read second time and ordered to third reading.

Senate Bill No. 408.

Bill read second time and ordered to third reading.

Senator Smith moved that Senate Bill No. 408 be taken from the General File and re-referred to the Committee on Finance.

Motion carried.

Senate Bill No. 419.

Bill read second time and ordered to third reading.

Senate Bill No. 423.

Bill read second time and ordered to third reading.

Senator Smith moved that Senate Bill No. 423 be taken from General File and re-referred to the Committee on Finance.

Motion carried.

Senate Bill No. 430.

Bill read second time and ordered to third reading.

Senator Smith moved that Senate Bill No. 430 be taken from General File and re-referred to the Committee on Finance.

Motion carried.

Senate Bill No. 434.
Bill read second time and ordered to third reading.

Senate Bill No. 437.
Bill read second time and ordered to third reading.

Senate Bill No. 443.
Bill read second time and ordered to third reading.

Senate Bill No. 457.
Bill read second time and ordered to third reading.

Senate Bill No. 458.
Bill read second time and ordered to third reading.

Senate Bill No. 471.
Bill read second time.
The following amendment was proposed by the Committee on Finance.
Amendment No. 194.
"SUMMARY—Revises provisions relating to the Account for Charter Schools. (BDR 34-1133)"
"AN ACT relating to the Account for Charter Schools; transferring the responsibility to administer the Account for Charter Schools from the Department of Education to the State Public Charter School Authority; revising the maximum total amount of a loan that may be made to a charter school; and providing other matters properly relating thereto."
Legislative Counsel's Digest:
Under existing law, the Department of Education administers the Account for Charter Schools. (NRS 386.576) Money in the Account is used to make loans to charter schools for certain costs incurred: (1) in preparing a charter school to commence its first year of operation; and (2) to improve a charter school that has been in operation. (NRS 386.577) This bill transfers the responsibility to administer the Account for Charter Schools from the Department to the State Public Charter School Authority ~~[,]~~ and revises the maximum total amount of a loan that may be made to a charter school . ~~[for costs incurred in preparing to commence its first year of operation and removes the limitation on the maximum total amount of a loan that may be made to improve a charter school that has been in operation.]~~
THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
Section 1. NRS 386.576 is hereby amended to read as follows:
386.576 1. The Account for Charter Schools is hereby created in the State General Fund as a revolving loan account, to be administered by the ~~[Department.]~~ *State Public Charter School Authority.*
2. The money in the Account must be invested as money in other state accounts is invested. All interest and income earned on the money in the Account must be credited to the Account. Any money remaining in the

Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward.

3. All payments of principal and interest on all the loans made to a charter school from the Account must be deposited with the State Treasurer for credit to the Account.

4. Claims against the Account must be paid as other claims against the State are paid.

5. The ~~[Department]~~ *State Public Charter School Authority* may accept gifts, grants, bequests and donations from any source for deposit in the Account.

Sec. 2. NRS 386.577 is hereby amended to read as follows:

386.577 1. After deducting the costs directly related to administering the Account for Charter Schools, the ~~[Department]~~ *State Public Charter School Authority* may use the money in the Account for Charter Schools, including repayments of principal and interest on loans made from the Account, and interest and income earned on money in the Account, only to make loans at or below market rate to charter schools for the costs incurred:

(a) In preparing a charter school to commence its first year of operation; and

(b) To improve a charter school that has been in operation.

2. The total amount of a loan that may be made to a charter school ~~[in 1 year]~~ ~~*[for the costs incurred in preparing the charter school to commence its first year of operation]*~~ *pursuant to subsection 1* must not exceed ~~[$25,000.]~~ *the lesser of an amount equal to $500 per pupil enrolled or to be enrolled at the charter school or $200,000.*

Sec. 3. NRS 386.578 is hereby amended to read as follows:

386.578 1. If the governing body of a charter school has a written charter issued pursuant to NRS 386.527, the governing body may submit an application to the ~~[Department]~~ *State Public Charter School Authority* for a loan from the Account for Charter Schools. An application must include a written description of the manner in which the loan will be used to prepare the charter school for its first year of operation or to improve a charter school that has been in operation.

2. The ~~[Department]~~ *State Public Charter School Authority* shall, within the limits of money available for use in the Account, make loans to charter schools whose applications have been approved. If the ~~[Department]~~ *State Public Charter School Authority* makes a loan from the Account, the ~~[Department]~~ *State Public Charter School Authority* shall ensure that the contract for the loan includes all terms and conditions for repayment of the loan.

3. The State Board:

(a) Shall adopt regulations that prescribe the:

(1) Annual deadline for submission of an application to the ~~[Department]~~ *State Public Charter School Authority* by a charter school that desires to receive a loan from the Account; and

(2) Period for repayment and the rate of interest for loans made from the Account.

(b) May adopt such other regulations as it deems necessary to carry out the provisions of this section and NRS 386.576 and 386.577.

Sec. 4. This act becomes effective upon passage and approval.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Thank you, Mr. President. Amendment No. 194 to Senate Bill No. 471 clarifies that all charter schools are subject to the loan cap specified in the bill, not just schools in their first year of operation.

Amendment adopted.

Senator Smith moved that Senate Bill No. 471 be taken from the general file and re-referred to the Committee on Finance upon return from reprint.

Motion carried.

Bill ordered reprinted, engrossed and to the Committee on Finance.

Senate Bill No. 473.

Bill read second time and ordered to third reading.

Senator Smith moved that Senate Bill No. 473 be taken from the General File and re-referred to the Committee on Finance.

Motion carried.

Senate Joint Resolution No. 11.

Resolution read second time.

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

Amendment No. 118.

"SUMMARY—Urges Congress to propose an amendment to the United States Constitution to ~~[allow regulation of]~~ restore the authority of the governments of the United States and individual states to regulate and restrict independent political expenditures. ~~[by corporations.]~~ (BDR R-1047)"

"SENATE JOINT RESOLUTION—Urging Congress to propose an amendment to the United States Constitution to ~~[allow]~~ restore the authority of the governments of the United States and the individual states to regulate and restrict independent political expenditures. ~~[by corporations.]~~"

WHEREAS, The growing influence of large ~~[independent]~~ political expenditures ~~[by corporations]~~ is a great and growing concern to the people of the United States and the State of Nevada; and

WHEREAS, In a democracy, the assurance of a fair and uncorrupted election process is of the utmost importance, and the Nevada Legislature believes that it is a legitimate and vital role of government to regulate ~~[independent]~~ political expenditures ; ~~[by corporations;]~~ and

~~[WHEREAS, In fulfillment of this important role, the government of the United States and a majority of states have regulated and restricted independent political expenditures by corporations; and]~~

WHEREAS, The Supreme Court of the United States, in *Citizens United v. Federal Election Commission,* 558 U.S. 310 (2010), held that the First Amendment of the United States Constitution prohibits Congress and the states from banning independent political expenditures by corporations ~~[;]~~ , thus enabling corporations and unions to spend unlimited amounts of money on independent political expenditures for electioneering communications; and

WHEREAS, ~~[*Citizens United* overturned a long-standing precedent of restricting independent political expenditures by corporations;]~~ The United States Court of Appeals for the District of Columbia Circuit, in *SpeechNow.org v. Federal Election Commission*, 599 F.3d 686 (D.C. Cir. 2010), *cert. denied*, 131 S. Ct. 553 (2010), held that, as a result of *Citizens United*, groups unaffiliated with a candidate, commonly known as "super PACs," may receive and spend unlimited amounts of money on similar independent expenditures; and

WHEREAS, *Citizens United* has served as a precedent for further legal decisions harming our democratic system of government, including *American Tradition Partnership v. Bullock*, 132 S. Ct. 2490 (2012), which struck down a long-standing Montana campaign finance law, denying a state the right to regulate independent political expenditures by corporations in state elections; and

WHEREAS, The people of Nevada and all other states should have the power to limit by law the influence of money in their political systems; and

WHEREAS, In the wake of *Citizens United*, there has been an exponential increase in large independent political expenditures by corporations which threatens the integrity of the elections process, corrupts our candidates, dilutes the power of individual voters and distorts the public discourse; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the members of the 77th Session of the Nevada Legislature hereby urge the Congress of the United States to propose , support, work diligently towards the passage of and vote at all stages to advance an amendment to the United States Constitution to ~~[allow]~~ restore the authority of the governments of the United States and the individual states to regulate and restrict ~~[independent]~~ political expenditures ~~[by]~~ and to re-establish that the rights protected by the United States Constitution are granted only to natural persons and not to corporations ~~[;]~~ or other artificial entities created by a state; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the United States Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Senator Spearman moved the adoption of the amendment.

Remarks by Senator Spearman.

Thank you, Mr. President. Senate Joint Resolution No. 11 urges the United States Congress to propose an amendment to the *United States Constitution* to restore the authority of the federal and state governments to regulate and restrict independent political expenditures. Amendment No. 118 to Senate Joint Resolution No. 11 inserts reference to the impact of *Citizens United* on corporations and unions spending unlimited amounts of money on independent political expenditures; cites the holding in *SpeechNow.org v. Federal Election Commission* regarding super political action committees; and revises language to request that the constitutional amendment reestablish that the rights protected by the *United States Constitution* are granted only to natural persons and not to artificial entities created by a state.

Amendment adopted.

Resolution ordered reprinted, engrossed and to third reading.

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

Senate in recess at 12:54 p.m.

SENATE IN SESSION

At 1:02 p.m.

President Krolicki presiding.

Quorum present.

WAIVERS AND EXEMPTIONS

WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by Senator Smith

For: Senate Bill No. 482.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3.

Subsection 2 of Joint Standing Rule No. 14.3.

Subsection 3 of Joint Standing Rule No. 14.3.

Subsection 4 of Joint Standing Rule No. 14.3.

Has been granted effective: Wednesday, April 10, 2013.

MOISES DENIS
Senate Majority Leader

MARILYN KIRKPATRICK
Speaker of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that Senate Bills Nos. 5, 12, 18, 40, 125, 202, 279, 351, 438; Senate Joint Resolution No. 14 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

NOTICE OF EXEMPTION

April 10, 2013

The Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the eligibility for exemption of: Senate Bill No. 377.

MARK KRMPOTIC
Fiscal Analysis Division

REMARKS FROM THE FLOOR

PRESIDENT KROLICKI:

I would like to recognize Brenda Erdoes. Thanks to you and your staff who are unbelievably great. Thank you for all that you are doing for us.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of President Krolicki, the privilege of the Floor of the Senate Chamber for this day was extended to Reagan Jane Stephens.

On request of Senator Cegavske, the privilege of the Floor of the Senate Chamber for this day was extended to Deanna Hover.

On request of Senator Denis, the privilege of the Floor of the Senate Chamber for this day was extended to Girl Scout Troop 1141 from Coral Academy of Science: Ava Gochnour, Linda Kwong, Deidre McCormick, Delaney Polchan, Abigail Pruitt, Lydia Rigby, Madison Roberts-Smith, Ana Seiler, Sage Seiler, Elisabeth Stott and Rachel Yazinka.

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to Gabbs High School students: Daylon Boots, Shania Brown, Nolan Bryan, Cylissia Cervantes, Nickole Chiaratti, Tijmen Schoonderbeek, Annette Seeger, Schelbi Stark and Ryan Young.

On request of Senator Hardy, the privilege of the Floor of the Senate Chamber for this day was extended to Annie Downing.

On request of Senator Jones, the privilege of the Floor of the Senate Chamber for this day was extended to Sam Liberman.

On request of Senator Kieckhefer, the privilege of the Floor of the Senate Chamber for this day was extended to Girl Scout Troop 497's Brianna Ferguson, Isabella Lima and Amber Welsh.

On request of Senator Kihuen, the privilege of the Floor of the Senate Chamber for this day was extended to Quenia Castillo.

On request of Senator Settelmeyer, the privilege of the Floor of the Senate Chamber for this day was extended to Dakota Feenstra. Also to the Gardnerville Elementary students and chaperones: students, Michael Abawi, Liam Allen, Lisa Aleman, Olivia Altom, Ashlyn Altringer, Mitchell Black, Camden Brown, Nathan Caires, Martin Cariaga, Ethan Carson, Gina Cirillo, Didi Coker, Miya Connelly, Alex Contreras, Mason Croskery, Tristyn Cueva, Laura Dieter, Trent Dunagan, John Fent, Bayla Fitzpatrick, Jason Funk, Cesar Garcia, Christine Garcia, Adam Garren, Elizabeth Gignac, Cristal Gonzalez Cruz, Addison Gregory, Ramiro Gutierrez Rechy, Megan Hanson, Justice Harmon, Savanna Harrington, Natalie Hearn, Austin Hern, Juvraj Hothi, Jonathan Hunziker, Elizabeth Imhoff, Noel Ives, Hailey James, Taylor James, Amrit Kaur, Matthew Kruse, Kennedy Lash, Hayden Litka, Christopher Manning, Conor Manoukian, Ian McKown, Jordan McQuain, Mackey Miller, Jocelyn Mojica, Miranda Munoz, Raeann Nelson, Juan Ortiz, Mariana Peres Soto, Isabelle Perkins, Jesse Pimental, Shelby Preston, Hunter Reed, Ballardo Reyes Salinas, David Richardson, Capri Roach, Novel Robles, Christian Ross, Ashley Rowe, Annacaren Salas, Jessica Salas

Dominguez, Elizabeth Sanchez, Leah Schemenauer, Amelia Schramm, Colt Sedgewick, Andrew Sentell, Conner Smagala, Jaden Spotts, Chaslyn Stone, Imogene Tierney, Izzie Tierney, Jolene Votel, Dellta Waldburger, Maila Wallace, Kirsi Whear, Travis Whitwam; chaperones: Karin Allen, Mr. Brown, Mr. Carson, Mrs. Carson, Kyle Croskery, Mrs. Dunagan, Ms. Ferch, Robbi Jacobsen, Jessica James, Danette Morgan, Dana Rosingus, Mrs. Manning and Mrs. Schemenauer.

On request of Senator Smith, the privilege of the Floor of the Senate Chamber for this day was extended to Girl Scout Troop 47's Mia Allen, Emma Miner and Kelley Miner.

On request of Senator Woodhouse, the privilege of the Floor of the Senate Chamber for this day was extended to Michelle Phillips and Lynda Wilcox.

Senator Denis moved that the Senate adjourn until Friday, April 12, 2013, at 12:00 noon.

Motion carried.

Senate adjourned at 1:06 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate