

THE SEVENTY-FIFTH DAY

CARSON CITY (Friday), April 19, 2013

Senate called to order at 11:29 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Good morning, Lord. I ask that You give the Senators today the provisions of Your grace. Provide them with the grace of Your comfort to cheer, Your wisdom to teach, Your counsel to instruct and Your presence to inspire.

Prosper the works of their hands as You direct their steps. Lord, show them what needs to be changed and give them the courage and wisdom to do what is right for the people they represent. In all the work You elected them to do, help them to strive to fulfill Your purpose for this day and for this Session.

We pray in the Name of the Almighty.

AMEN.

Pledge of Allegiance to the Flag.

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. 88, 208, 211, 267, 496, 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 Health and Human Services, to which were referred Senate Bills Nos. 410, 448, 453, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JUSTIN C. JONES, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 224, 286, 297, 307, 409, 414, 421, 463, 478, 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 Bill No. 228, Senate Joint Resolution No. 13, 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 Transportation, to which were referred Senate Bills Nos. 170, 217, 312, 503, 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*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 18, 2013

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 225, 264, 351.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 10, 18, 21, 41, 44, 59, 64, 97, 98, 126, 129, 147, 165, 176, 236, 243, 246, 259, 263, 282, 284, 305, 307, 310, 312, 313, 346, 349, 357, 378, 379, 389, 407, 415.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Spearman moved that Senate Joint Resolution No. 13, just reported out of Committee, be placed at the top of the Second Reading File for this legislative day.

Motion carried.

Senator Smith moved that Senate Bills Nos. 94, 183, 373, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Denis moved that Senate Bill No. 68 be taken from the General File and placed on the Secretary's Desk.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 10.

Senator Smith moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 18.

Senator Smith moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 21.

Senator Smith moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 41.

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

Motion carried.

Assembly Bill No. 44.

Senator Smith moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 59.

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

Motion carried.

Assembly Bill No. 64.

Senator Smith moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 97.

Senator Smith moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 98.

Senator Smith moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 126.

Senator Smith moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Assembly Bill No. 129.

Senator Smith moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 147.

Senator Smith moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Assembly Bill No. 165.

Senator Smith moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 176.

Senator Smith moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 225.

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

Motion carried.

Assembly Bill No. 236.

Senator Smith moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 243.

Senator Smith moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 246.

Senator Smith moved that the bill be referred to the Committee on Natural Resources.

Motion carried.

Assembly Bill No. 259.

Senator Smith moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 263.

Senator Smith moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 264.

Senator Smith moved that the bill be referred to the Committee on Natural Resources.

Motion carried.

Assembly Bill No. 282.

Senator Smith moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 284.

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

Motion carried.

Assembly Bill No. 305.

Senator Smith moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 307.

Senator Smith moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 310.

Senator Smith moved that the bill be referred to the Committee on Natural Resources.

Motion carried.

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

Senate in recess at 11:59 a.m.

SENATE IN SESSION

At 12:12 p.m.

President Krolicki presiding.

Quorum present.

Assembly Bill No. 312.

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

Motion carried.

Assembly Bill No. 313.

Senator Smith moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 346.

Senator Smith moved that the bill be referred to the Committee on Natural Resources.

Motion carried.

Assembly Bill No. 349.

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

Motion carried.

Assembly Bill No. 351.

Senator Smith moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Assembly Bill No. 357.

Senator Smith moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 378.

Senator Smith moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 379.

Senator Smith moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 389.

Senator Smith moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 407.

Senator Smith moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 415.

Senator Smith moved that the bill be referred to the Committee on Judiciary.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Kieckhefer moved that Senate Bills Nos. 185, 350, be taken from the Secretary's Desk and placed on the General File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Senate Joint Resolution No. 13.

Resolution read second time.

The following amendment was proposed by Senator Spearman:

Amendment No. 540.

"SUMMARY—Proposes to amend the Nevada Constitution to ~~repeal the limitation on~~ require the recognition of [marriage.] all marriages, regardless of gender. (BDR C-88)"

SENATE JOINT RESOLUTION—Proposing to amend the Nevada Constitution ~~[by repealing the limitation on]~~ to require the recognition of [marriage.] all marriages, regardless of gender.

Legislative Counsel's Digest:

Section 21 of Article 1 of the Nevada Constitution provides that only a marriage between a male and female person may be recognized and given effect in this State. This resolution ~~[repeals]~~ amends that provision [.] to require the State of Nevada and its political subdivisions to recognize all marriages, regardless of gender. This resolution gives religious organizations

and clergy the right to refuse to solemnize a marriage and provides that no person has the right to make a claim against a religious organization or clergy for refusing to solemnize a marriage. This resolution further provides that all legally valid marriages shall be treated equally under the law.

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That Section 21 of Article 1 of the Nevada Constitution ~~[is hereby repealed.]~~ be amended to read as follows:

~~[Sec.]~~ Sec. 21. ~~[Limitation on recognition]~~ Recognition of marriage. ~~[Only a marriage between a male and female person shall be recognized and given effect in this state.]~~

1. The State of Nevada and its political subdivisions shall recognize marriages and issue marriage licenses to couples, regardless of gender.

2. Religious organizations and clergy have the right to refuse to solemnize a marriage and no person has the right to make any claim against a religious organization or clergy for such a refusal.

3. All legally valid marriages shall be treated equally under the law.

†

~~TEXT OF REPEALED SECTION~~

~~Sec. 21. Limitation on recognition of marriage.~~

~~Only a marriage between a male and female person shall be recognized and given effect in this state.]~~

Senator Spearman moved the adoption of the amendment.

Remarks by Senator Spearman.

Thank you, Mr. President. As I previously mentioned, the Senate Committee on Legislative Operations and Elections voted on an amendment to Senate Bill No. 449, but I needed to make sure those who were concerned about religious protections understood that these protections would not be denied by Senate Joint Resolution No. 13. This amendment makes explicit that churches, clergy and religious institutions are not bound to perform a marriage which is against their beliefs.

Motion carried on a division of the house.

Amendment adopted.

Resolution ordered reprinted, engrossed and to third reading.

Senate Bill No. 31.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 189.

"SUMMARY—~~[Provides for the sharing of information regarding certain children among child welfare agencies, schools, courts, probation departments and treatment providers.]~~ Revises provisions governing children within the jurisdiction of the juvenile court and children in protective custody. (BDR 5-385)"

"AN ACT relating to children; ~~[requiring certain persons to share]~~ revising provisions concerning the release of certain information ~~[and records]~~

relating to a child ~~under certain circumstances; providing that a child in the custody of an agency which provides child welfare services is homeless for the purposes of~~ subject to the jurisdiction of the juvenile court; revising provisions governing the release of certain information maintained by agencies which provide child welfare services; revising provisions concerning certain federal educational assistance for homeless children; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section ~~[1]~~ 1.2 of this bill ~~requires judges of the juvenile court, masters of the juvenile court,~~ authorizes directors of juvenile services, ~~superintendents of school districts, the Superintendent of Public Instruction, the directors of agencies which provide child welfare services, qualified professionals, physicians, guardians ad litem and persons who provide substance abuse treatment to share~~ chief juvenile probation officers and the Chief of the Youth Parole Bureau, or his or her designee, to release, upon written request and good cause shown, certain information concerning a child who is within the purview of the juvenile court ~~unless sharing such information would violate certain federal laws governing the privacy of health and educational information. Section 3 of this bill enacts the same provisions concerning sharing information for children who are placed in the protective custody of an agency which provides child welfare services.~~ to certain other persons involved in the juvenile justice system. Under ~~[sections 1 and 3:]~~ section 1.2: (1) any information ~~[shared]~~ released must be kept confidential by the recipient of the information and be provided only to a person authorized by ~~[sections 1 and 3]~~ section 1.2 to receive the information; and (2) the information may not be used to deny a child access to any services for which the child would otherwise be eligible. ~~[Sections 1 and 3 further provide that for the purposes of the federal law governing the privacy of the education records of a child, an agency which provides child welfare services is deemed to be the legal guardian of a child who is in the custody of the agency and, thus, may authorize the release of the child's education records.]~~

Section 1.2 also authorizes the release of certain information concerning a child who is within the purview of the juvenile court for the purposes of: (1) certain research concerning juvenile justice services if the information is provided in the aggregate and without the inclusion of personal identifying information; and (2) for the purposes of oversight of an agency, department or office providing services relating to juvenile justice. Section 1.4 of this bill authorizes the inspection of sealed juvenile justice records for research purposes.

Sections 2 and 4 of this bill ~~provides that, for the purposes of educational assistance available to homeless children pursuant to~~ enact provisions governing the application of the federal McKinney-Vento Homeless Assistance Act of 1987 ~~[, a child who is]~~ to children in the protective custody of an agency which provides child welfare services. ~~is deemed homeless~~

~~and, thus, eligible for such assistance, unless a court of competent jurisdiction has ordered a permanent home placement for the child.]~~

Sections 4.4, 4.6 and 4.8 of this bill authorize an agency which provides child welfare services to release certain information concerning reports or investigations of the alleged abuse or neglect of a child to certain agencies, persons and entities and provide for the confidentiality of such information. Section 4.8 also authorizes an agency which provides child welfare services to charge a fee for processing costs reasonably necessary to prepare the information for release.

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

Section 1. [Chapter 62D of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. Notwithstanding any other provision of law, the following persons or their designees shall, upon receipt of a written request complying with the provisions of subsection 2, provide to any other person listed in this subsection information or records relating to a child as described in subsection 3:~~

- ~~(a) A judge of the juvenile court;~~
- ~~(b) A master of the juvenile court;~~
- ~~(c) A director of juvenile services;~~
- ~~(d) The Superintendent of Public Instruction;~~
- ~~(e) The superintendent of a school district;~~
- ~~(f) The director or authorized representative of an agency which provides child welfare services;~~
- ~~(g) A qualified professional;~~
- ~~(h) A physician;~~
- ~~(i) The guardian ad litem for the child; and~~
- ~~(j) A person who has evaluated or treated the child for substance abuse;~~

~~unless providing the information or records would violate the Health Insurance Portability Accountability Act of 1996, Public Law 104-191, and applicable regulations, the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, and any regulations adopted pursuant thereto, or any other applicable provision of federal law.~~

~~2. A written request pursuant to subsection 1 must state the reason that the information or records are requested and be made for the purpose of determining the appropriate placement of a child, the appropriate treatment or services to be provided to a child or the appropriate conditions of probation to be imposed on a child.~~

~~3. The information or records which must be provided pursuant to subsection 1 include, without limitation:~~

- ~~(a) The personal identifying information of the child;~~
- ~~(b) Any assessments or evaluations of the child relating to substance abuse or mental illness, or both;~~

~~(c) The medical history of the child or the child's history of treatment for mental health issues or substance abuse;~~

~~(d) Information relating to any placement of the child outside of the child's home;~~

~~(e) The education records of the child, including, without limitation, any individualized education program; and~~

~~(f) Any records of a case brought before the juvenile court which provide information relating to:~~

~~(1) The child, including, without limitation, any current or previous conditions of probation;~~

~~(2) The parents of the child;~~

~~(3) Any legal guardians of the child; and~~

~~(4) The adult members of any current or past household of the child.~~

~~4. Any information or records provided pursuant to this section is confidential and must be provided only to those persons listed in subsection 1.~~

~~5. Any information provided pursuant to this section may not be used to deny a child access to any service for which the child would otherwise be eligible, including, without limitation:~~

~~(a) Educational services;~~

~~(b) Social services;~~

~~(c) Mental health services;~~

~~(d) Medical services; or~~

~~(e) Legal services.~~

~~6. For the purposes of this section, an agency which provides child welfare services shall be deemed to be the legal guardian of a child who is in the custody of the agency for the purposes of authorizing the release of information governed by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto.~~

~~7. As used in this section:~~

~~(a) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.~~

~~(b) "Education records" has the meaning ascribed to it in 20 U.S.C. § 1232g(a)(1). (Deleted by amendment.)~~

Sec. 1.2. Chapter 62H of NRS is hereby amended by adding thereto a new section to read as follows:

1. Juvenile justice information must be maintained in accordance with federal law, and any provision of federal law authorizing the release of juvenile justice information must be construed as broadly as possible in favor of the release of juvenile justice information.

2. For the purpose of ensuring the safety, permanent placement, rehabilitation, educational success and well-being of a child, a director of juvenile services or the Chief of the Youth Parole Bureau, or his or her designee, may, upon written request and good cause shown, share appropriate juvenile justice information with:

- (a) A judge of the juvenile court or his or her designee;
- (b) A master of the juvenile court or his or her designee;
- (c) A director of juvenile services or his or her designee;
- (d) The Chief of the Youth Parole Bureau or his or her designee;
- (e) A district attorney or his or her designee;
- (f) An attorney representing the child;
- (g) The director of a state agency which administers juvenile justice or his or her designee;
- (h) A director of a state, regional or local facility for the detention of children or his or her designee;
- (i) The director of an agency which provides child welfare services;
- (j) A guardian ad litem or court appointed special advocate who represents the child;
- (k) A parent or guardian of the child if the release of the information to the parent or guardian is consistent with the purposes of this section; or
- (l) The child to whom the juvenile justice information pertains if the child has reached the age of majority.

3. A written request for juvenile justice information pursuant to subsection 2 may be made only for the purpose of determining the appropriate placement of the child pursuant to the provisions of chapter 432B of NRS, the appropriate treatment or services to be provided to the child or the appropriate conditions of probation or parole to be imposed on the child. The written request must state the reason that the juvenile justice information is requested. A written request for juvenile justice information may be refused if:

- (a) The request does not demonstrate good cause for the release of the information; or
 - (b) The release of the information would cause material harm to the child or would prejudice any court proceeding to which the child is subject.
- ➡ A refusal pursuant to this subsection must be made in writing to the person or entity requesting the information not later than 3 days after receipt of the request, excluding Saturdays, Sundays and holidays.

4. Any juvenile justice information provided pursuant to this section is confidential, must be provided only to those persons listed in subsection 2 and must be maintained in accordance with any applicable laws and regulations.

5. Any juvenile justice information provided pursuant to this section may not be used to deny a child access to any service for which the child would otherwise be eligible, including, without limitation:

- (a) Educational services;
- (b) Social services;
- (c) Mental health services;
- (d) Medical services; or
- (e) Legal services.

6. A director of juvenile services or the Chief of the Youth Parole Bureau, or his or her designee, may release juvenile justice information:

(a) In the aggregate and without personal identifying information included, to a person engaged in bona fide research that may be used to improve juvenile justice services or secure additional funding for juvenile justice services.

(b) As deemed necessary by a legislative body of this State or a local government in this State to conduct an audit or proper oversight of any department, agency or office providing services related to juvenile justice.

7. A judge of the juvenile court or a master of the juvenile court shall not receive or release any juvenile justice information in a manner which violates any applicable rules adopted by the Supreme Court, the Nevada Code of Judicial Conduct or title 4 of NRS.

8. "Juvenile justice information" means any information maintained by a director of juvenile services or the Chief of the Youth Parole Bureau, or his or her designee, which is directly related to a child in need of supervision, a delinquent child or any other child who is otherwise subject to the jurisdiction of the juvenile court.

Sec. 1.4. NRS 62H.170 is hereby amended to read as follows:

62H.170 1. Except as otherwise provided in this section, if the records of a person are sealed:

(a) All proceedings recounted in the records are deemed never to have occurred; and

(b) The person may reply accordingly to any inquiry concerning the proceedings and the acts which brought about the proceedings.

2. The juvenile court may order the inspection of records that are sealed if:

(a) The person who is the subject of the records petitions the juvenile court to permit the inspection of the records by the persons named in the petition;

(b) An agency charged with the medical or psychiatric care of the person who is the subject of the records petitions the juvenile court to permit the inspection of the records by the agency; ~~for~~

(c) A district attorney or an attorney representing a defendant in a criminal action petitions the juvenile court to permit the inspection of the records to obtain information relating to the persons who were involved in the acts detailed in the records. ~~for~~; or

(d) The juvenile court determines that the inspection of the records is necessary to:

(1) Perform bona fide outcome and recidivism studies;

(2) Further bona fide research to determine the effectiveness of juvenile justice services;

(3) Improve the delivery of juvenile justice services; or

(4) Obtain additional resources for the delivery of juvenile justice services.

↪ Personal identifying information contained in records inspected pursuant to this paragraph must remain confidential in a manner consistent with any applicable laws and regulations.

3. Upon its own order, any court of this State may inspect records that are sealed if the records relate to a person who is less than 21 years of age and who is to be sentenced by the court in a criminal proceeding.

Sec. 1.6. NRS 218G.555 is hereby amended to read as follows:

218G.555 1. Except as otherwise provided in subsections 2 and 3, upon request, the Legislative Auditor or the Legislative Auditor's designee shall provide data and information obtained pursuant to NRS 218G.550 concerning a child who suffered a fatality or near fatality who had contact with or who was in the custody of an agency which provides child welfare services. The data or information which must be disclosed includes, without limitation:

(a) A summary of the report of the abuse or neglect of the child and a factual description of the contents of the report;

(b) The date of birth and gender of the child;

(c) The date that the child suffered the fatality or near fatality;

(d) The cause of the fatality or near fatality, if such information has been determined;

(e) Whether the agency which provides child welfare services had any contact with the child or a member of the child's family or household before the fatality or near fatality and, if so:

(1) The frequency of any contact or communication with the child or a member of the child's family or household before the fatality or near fatality and the date on which the last contact or communication occurred before the fatality or near fatality;

(2) Whether the agency which provides child welfare services provided any child welfare services to the child or to a member of the child's family or household before or at the time of the fatality or near fatality;

(3) Whether the agency which provides child welfare services made any referrals for child welfare services for the child or for a member of the child's family or household before or at the time of the fatality or near fatality;

(4) Whether the agency which provides child welfare services took any other actions concerning the welfare of the child before or at the time of the fatality or near fatality; and

(5) A summary of the status of the child's case at the time of the fatality or near fatality, including, without limitation, whether the child's case was closed by the agency which provides child welfare services before the fatality or near fatality and, if so, the reasons that the case was closed; and

(f) Whether the agency which provides child welfare services, in response to the fatality or near fatality:

(1) Has provided or intends to provide child welfare services to the child or to a member of the child's family or household;

(2) Has made or intends to make a referral for child welfare services for the child or for a member of the child's family or household; and

(3) Has taken or intends to take any other action concerning the welfare and safety of the child or a member of the child's family or household.

2. The Legislative Auditor or his or her designee shall not disclose information pursuant to subsection 1 unless the person making the request has requested such information from the agency which provides child welfare services and has been denied access to such information or has not received the information in a timely manner.

3. The Legislative Auditor or his or her designee shall not disclose the following data or information pursuant to subsection 1:

(a) Except as otherwise provided in ~~subsection 3 of~~ NRS 432B.290, data or information concerning the identity of the person responsible for reporting the abuse or neglect of the child to a public agency;

(b) The name of the child who suffered a near fatality or the name of any member of the family or other person who lives in the household of the child who suffered the fatality or near fatality;

(c) A privileged communication between an attorney and client; or

(d) Information that may undermine a criminal investigation or pending criminal prosecution.

Sec. 1.8. NRS 392B.110 is hereby amended to read as follows:

392B.110 1. The legal guardian or custodian of a child may submit to the Department an application to participate in the Program if:

(a) The child has been placed in a foster home; and

(b) The child is enrolled in a public school or is not enrolled in a school because the child has not attained the age required for enrollment.

2. A legal guardian or custodian of a child, as applicable:

(a) Must include in the application the name of the public school in which the child is enrolled, if applicable, and the name of the school in which the legal guardian or custodian of the child wishes to enroll the child. The public school in which the child wishes to enroll does not have to be located in the school district in which the child resides.

(b) May include in the application a statement describing the reason for requesting that the child participate in the Program.

3. Upon receipt of an application pursuant to subsection 1, the Department shall notify the school district in which the child resides and the school district in which the child wishes to enroll, if applicable, that an application to participate in the Program has been submitted on behalf of the child.

4. The Department shall approve an application if the application satisfies the requirements of subsections 1 and 2.

5. Upon approval of an application, the Department shall provide a written statement of approval to the legal guardian or custodian of the child, as applicable, and the public school in which the child will be enrolled. Upon denial of an application, the Department shall provide a written statement of

denial to the legal guardian or custodian of the child indicating the reason for the denial.

6. In determining whether to accept or deny an application submitted pursuant to subsection 1, the Department, in coordination with the board of trustees of the school district in which the child resides and the board of trustees of the school district in which the child wishes to attend school, if applicable, shall consider the best interests of the child in continuing the child's education in the public school in which the child was enrolled before the child was placed in a foster home or in transferring to another public school within this State. Every effort must be made to enroll the child in the public school requested by the legal guardian or custodian of the child pursuant to subsection 2.

7. Neither the board of trustees of the school district in which the child resides nor the board of trustees of the school district in which the child attends school, if applicable, is required to provide transportation for the child to attend a public school which the child is not zoned to attend.

8. A child who is under the care, or in the legal or physical custody, of an agency which provides child welfare services, as defined in NRS 432B.030, is exempt from the provisions of this section and shall attend school in accordance with the federal McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. § 11301 et seq., and any regulations adopted pursuant thereto.

Sec. 2. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 2.5, 3 and 4 of this act.

Sec. 2.5. "Information maintained by an agency which provides child welfare services" means data or information concerning reports and investigations made pursuant to this chapter, including, without limitation, the name, address, date of birth, social security number and the image or likeness of any child, family member of any child and reporting party or source, whether primary or collateral.

~~Sec. 3. [1. Notwithstanding any other provision of law, the following persons or their designees shall, upon receipt of a written request complying with the provisions of subsection 2, provide to any other person listed in this subsection information or records relating to a child as described in subsection 2:~~

- ~~(a) A judge of the juvenile court;~~
- ~~(b) A master of the juvenile court;~~
- ~~(c) A director of juvenile services;~~
- ~~(d) The superintendent of a school district;~~
- ~~(e) The director or authorized representative of an agency which provides child welfare services;~~
- ~~(f) A qualified professional;~~
- ~~(g) A physician;~~
- ~~(h) The guardian ad litem for the child; and~~
- ~~(i) A person who has evaluated or treated the child for substance abuse;~~

~~1. unless providing the information or records would violate the Health Insurance Portability Accountability Act of 1996, Public Law 104-191, and applicable regulations, the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, and any regulations adopted pursuant thereto, or any other applicable provision of federal law;~~

~~2. A written request pursuant to subsection 1 must state the reason that the information or records are requested and be made for the purpose of determining the appropriate placement of a child in protective custody or the appropriate treatment or services to be provided to a child placed in protective custody;~~

~~3. The information or records which must be provided pursuant to subsection 1 include, without limitation:~~

- ~~(a) The personal identifying information of the child;~~
- ~~(b) Any assessments or evaluations of the child relating to substance abuse or mental illness, or both;~~
- ~~(c) The medical history of the child or the child's history of treatment for mental health issues or substance abuse;~~
- ~~(d) Information relating to any placement of the child outside of the child's home;~~
- ~~(e) The education records of the child, including, without limitation, any individualized education program; and~~
- ~~(f) Any records of a case brought before the juvenile court which provide information relating to:~~
 - ~~(1) The child, including, without limitation, any current or previous conditions of probation;~~
 - ~~(2) The parents of the child;~~
 - ~~(3) Any legal guardians of the child; and~~
 - ~~(4) The adult members of any current or past household of the child.~~

~~4. Any information or records provided pursuant to this section is confidential and must be provided only to those persons listed in subsection 1.~~

~~5. Any information provided pursuant to this section may not be used to deny a child access to any service for which the child would otherwise be eligible, including, without limitation:~~

- ~~(a) Educational services;~~
- ~~(b) Social services;~~
- ~~(c) Mental health services;~~
- ~~(d) Medical services; or~~
- ~~(e) Legal services.~~

~~6. For the purposes of this section, an agency which provides child welfare services shall be deemed to be the legal guardian of a child who is in the custody of the agency for the purposes of authorizing the release of information governed by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto.~~

~~7. As used in this section:~~

~~(a) "Director of juvenile services" has the meaning ascribed to it in NRS 624.080.~~

~~(b) "Education records" has the meaning ascribed to it in 20 U.S.C. § 1232g(a)(4).~~

~~(c) "Qualified professional" has the meaning ascribed to it in NRS 624.270.~~ (Deleted by amendment.)

Sec. 4. 1. A child who is in the legal and physical custody of an agency which provides child welfare services and is awaiting foster care placement shall be deemed to be homeless for the purposes of the federal McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. § 11301 et seq., and any regulations adopted pursuant thereto, unless a court of competent jurisdiction has ordered the permanent placement of the child. If a child is legally adopted or ordered by a court of competent jurisdiction to a permanent placement, the child is no longer deemed homeless for the purposes of the federal McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. § 11301 et seq., and any regulations adopted pursuant thereto.

2. For the purpose of this section, "awaiting foster care placement" means the period during which a child is removed from his or her home until he or she is legally adopted or enters a permanent placement.

Sec. 4.2. NRS 432B.010 is hereby amended to read as follows:

432B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 432B.020 to 432B.110, inclusive, and section 2.5 of this act have the meanings ascribed to them in those sections.

Sec. 4.4. NRS 432B.175 is hereby amended to read as follows:

432B.175 1. Data or information concerning reports and investigations thereof made pursuant to this chapter must be made available pursuant to this section to any member of the general public upon request if the child who is the subject of a report of abuse or neglect suffered a fatality or near fatality. Any such data and information which is known must be made available not later than 48 hours after a fatality and not later than 5 business days after a near fatality. Except as otherwise provided in subsection 2, the data or information which must be disclosed includes, without limitation:

(a) A summary of the report of abuse or neglect and a factual description of the contents of the report;

(b) The date of birth and gender of the child;

(c) The date that the child suffered the fatality or near fatality;

(d) The cause of the fatality or near fatality, if such information has been determined;

(e) Whether the agency which provides child welfare services had any contact with the child or a member of the child's family or household before the fatality or near fatality and, if so:

(1) The frequency of any contact or communication with the child or a member of the child's family or household before the fatality or near fatality

and the date on which the last contact or communication occurred before the fatality or near fatality;

(2) Whether the agency which provides child welfare services provided any child welfare services to the child or to a member of the child's family or household before or at the time of the fatality or near fatality;

(3) Whether the agency which provides child welfare services made any referrals for child welfare services for the child or for a member of the child's family or household before or at the time of the fatality or near fatality;

(4) Whether the agency which provides child welfare services took any other actions concerning the welfare of the child before or at the time of the fatality or near fatality; and

(5) A summary of the status of the child's case at the time of the fatality or near fatality, including, without limitation, whether the child's case was closed by the agency which provides child welfare services before the fatality or near fatality and, if so, the reasons that the case was closed; and

(f) Whether the agency which provides child welfare services, in response to the fatality or near fatality:

(1) Has provided or intends to provide child welfare services to the child or to a member of the child's family or household;

(2) Has made or intends to make a referral for child welfare services for the child or for a member of the child's family or household; and

(3) Has taken or intends to take any other action concerning the welfare and safety of the child or any member of the child's family or household.

2. An agency which provides child welfare services shall not disclose the following data or information pursuant to subsection 1:

(a) Except as otherwise provided in ~~subsection 3 of~~ NRS 432B.290, data or information concerning the identity of the person responsible for reporting the abuse or neglect of the child to a public agency;

(b) The name of the child who suffered a near fatality or the name of any member of the family or other person who lives in the household of the child who suffered the fatality or near fatality;

(c) A privileged communication between an attorney and client; and

(d) Information that may undermine a criminal investigation or pending criminal prosecution.

3. The Division of Child and Family Services shall adopt regulations to carry out the provisions of this section.

4. As used in this section, "near fatality" means an act that places a child in serious or critical condition as verified orally or in writing by a physician, a registered nurse or other licensed provider of health care. Such verification may be given in person or by telephone, mail, electronic mail or facsimile.

Sec. 4.6. NRS 432B.280 is hereby amended to read as follows:

432B.280 1. Except as otherwise provided in NRS 239.0115, 432B.165, 432B.175 and 439.538 and except as otherwise authorized or required pursuant to NRS 432B.290, information maintained by an agency which provides child welfare services, including, without limitation, reports

and investigations made pursuant to this chapter, ~~[as well as all records concerning these reports and investigations thereof, are]~~ is confidential.

2. Any person, law enforcement agency or public agency, institution or facility who ~~[willfully]~~ releases ~~[data]~~ or ~~[information concerning]~~ disseminates such ~~[reports and investigations,]~~ information, except:

- (a) Pursuant to a criminal prosecution relating to the abuse or neglect of a child;
- (b) As otherwise authorized pursuant to NRS 432B.165 and 432B.175;
- (c) As otherwise authorized or required pursuant to NRS 432B.290;
- (d) As otherwise authorized or required pursuant to NRS 439.538; or
- (e) As otherwise required pursuant to NRS 432B.513,

↪ is guilty of a gross misdemeanor.

Sec. 4.8. NRS 432B.290 is hereby amended to read as follows:

432B.290 1. Information maintained by an agency which provides child welfare services must be maintained by the agency which provides child welfare services as required by federal law as a condition of the allocation of federal money to this State.

2. Except as otherwise provided in ~~[subsections 2 and 3]~~ this section and NRS 432B.165, 432B.175 and 432B.513, ~~[data or]~~ information ~~[concerning reports and investigations thereof made pursuant to this chapter]~~ maintained by an agency which provides child welfare services may, at the discretion of the agency which provides child welfare services, be made available only to:

- (a) A physician, if the physician has before him or her a child who the physician has reasonable cause to believe has been abused or neglected;
- (b) A person authorized to place a child in protective custody, if the person has before him or her a child who the person has reasonable cause to believe has been abused or neglected and the person requires the information to determine whether to place the child in protective custody;
- (c) An agency, including, without limitation, an agency in another jurisdiction, responsible for or authorized to undertake the care, treatment or supervision of:

- (1) The child; or

- (2) The person responsible for the welfare of the child;

- (d) A district attorney or other law enforcement officer who requires the information in connection with an investigation or prosecution of the abuse or neglect of a child;

- (e) Except as otherwise provided in paragraph (f), a court ~~[is]~~ other than a juvenile dependency court, for in camera inspection only, unless the court determines in a written finding provided to the agency which provides child welfare services that public disclosure of the information is necessary for the determination of an issue before it;

- (f) A court as defined in NRS 159.015 for in camera inspection only, to determine whether a guardian or successor guardian of a child should be appointed pursuant to chapter 159 of NRS or NRS 432B.466 to 432B.468, inclusive;

(g) A person engaged in bona fide research or an audit, but information identifying the subjects of a report must not be made available to the person;

(h) The attorney and the guardian ad litem of the child ~~[(1)], if the information is reasonably necessary to promote the safety, permanency and well-being of the child;~~

(i) A person who files ~~for intends to file~~ a petition for the appointment of a guardian or successor guardian of a child pursuant to chapter 159 of NRS or NRS 432B.466 to 432B.468, inclusive, if the ~~identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential;~~ information is reasonably necessary to promote the safety, permanency and well-being of the child;

(j) The proposed guardian or proposed successor guardian of a child over whom a guardianship is sought pursuant to chapter 159 of NRS or NRS 432B.466 to 432B.468, inclusive, if the ~~identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential;~~ information is reasonably necessary to promote the safety, permanency and well-being of the child;

(k) A grand jury upon its determination that access to ~~[(these records)]~~ the information is necessary in the conduct of its official business;

(l) A federal, state or local governmental entity, or an agency of such an entity, or a juvenile dependency court, that needs access to the information to carry out its legal responsibilities to protect children from abuse and neglect;

(m) A person or an organization that has entered into a written agreement with an agency which provides child welfare services to provide assessments or services and that has been trained to make such assessments or provide such services;

(n) A team organized pursuant to NRS 432B.350 for the protection of a child;

(o) A team organized pursuant to NRS 432B.405 to review the death of a child;

(p) A parent or legal guardian of the child and an attorney of a parent or guardian of the child, including, without limitation, the parent or guardian of a child over whom a guardianship is sought pursuant to chapter 159 of NRS or NRS 432B.466 to 432B.468, inclusive, if the ~~identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential;~~ information is reasonably necessary to promote the safety, permanency and well-being of the child and is limited to information concerning that parent or guardian;

(q) The child over whom a guardianship is sought pursuant to chapter 159 of NRS or NRS 432B.466 to 432B.468, inclusive, if:

(1) The child is 14 years of age or older; and

(2) The ~~identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential;~~ information is reasonably necessary to promote the safety, permanency and well-being of the child;

(r) The persons *or agent of the persons* who are the subject of a report ~~if~~, *if the information is reasonably necessary to promote the safety, permanency and well-being of the child and is limited to information concerning those persons;*

(s) An agency that is authorized by law to license foster homes or facilities for children or to investigate persons applying for approval to adopt a child, if the agency has before it an application for that license or is investigating an applicant to adopt a child;

(t) Upon written consent of the parent, any officer of this State or a city or county thereof or Legislator authorized, by the agency or department having jurisdiction or by the Legislature, acting within its jurisdiction, to investigate the activities or programs of an agency which provides child welfare services if ~~it~~;

~~(1) The identity of the person making the report is kept confidential, and~~

~~(2) The~~ *the* officer, Legislator or a member of the family of the officer or Legislator is not the person alleged to have committed the abuse or neglect;

(u) The Division of Parole and Probation of the Department of Public Safety for use pursuant to NRS 176.135 in making a presentence investigation and report to the district court or pursuant to NRS 176.151 in making a general investigation and report;

(v) Any person who is required pursuant to NRS 432B.220 to make a report to an agency which provides child welfare services or to a law enforcement agency;

(w) The Rural Advisory Board to Expedite Proceedings for the Placement of Children created pursuant to NRS 432B.602 or a local advisory board to expedite proceedings for the placement of children created pursuant to NRS 432B.604;

(x) The panel established pursuant to NRS 432B.396 to evaluate agencies which provide child welfare services;

(y) An employer in accordance with subsection 3 of NRS 432.100; or

(z) A team organized or sponsored pursuant to NRS 217.475 or 228.495 to review the death of the victim of a crime that constitutes domestic violence.

~~2.~~ 3. An agency investigating a report of the abuse or neglect of a child shall, upon request, provide to a person named in the report as allegedly causing the abuse or neglect of the child:

(a) A copy of:

(1) Any statement made in writing to an investigator for the agency by the person named in the report as allegedly causing the abuse or neglect of the child; or

(2) Any recording made by the agency of any statement made orally to an investigator for the agency by the person named in the report as allegedly causing the abuse or neglect of the child; or

(b) A written summary of the allegations made against the person who is named in the report as allegedly causing the abuse or neglect of the child. The summary must not identify the person responsible for reporting the alleged abuse or neglect.

~~3. An agency which provides child welfare services shall disclose the identity of a person who makes a report or otherwise initiates an investigation pursuant to this chapter if a court, after reviewing the record in camera and determining that there is reason to believe that the person knowingly made a false report, orders the disclosure.~~ *or any collateral sources and reporting parties.*

4. Except as otherwise provided by subsection 6, before releasing any information maintained by an agency which provides child welfare services pursuant to this section, an agency which provides child welfare services shall take whatever precautions it determines are reasonably necessary to protect the identity and safety of any person who reports child abuse or neglect and to protect any other person if the agency which provides child welfare services reasonably believes that disclosure of the information would cause a specific and material harm to an investigation of the alleged abuse or neglect of a child or the life or safety of any person.

5. The provisions of this section must not be construed to require an agency which provides child welfare services to disclose information maintained by the agency which provides child welfare services if, after consultation with the attorney who represents the agency, the agency determines that such disclosure would cause a specific and material harm to a criminal investigation.

6. A person who is the subject of an unsubstantiated report of child abuse or neglect made pursuant to this chapter and who believes that the report was made in bad faith or with malicious intent may petition a district court to order the agency which provides child welfare services to release information maintained by the agency which provides child welfare services. The petition must specifically set forth the reasons supporting the belief that the report was made in bad faith or with malicious intent. The petitioner shall provide notice to the agency which provides child welfare services so that the agency may participate in the action through its counsel. The district court shall review the information which the petitioner requests to be released and the petitioner shall be allowed to present evidence in support of the petition. If the court determines that there is a reasonable question of fact as to whether the report was made in bad faith or with malicious intent and that the disclosure of the identity of the person who made the report would not be likely to endanger the life or safety of the person who made the report, the court shall provide a copy of the information to the petitioner and the original information is subject to discovery in a subsequent civil action regarding the making of the report.

7. If an agency which provides child welfare services receives any information that is deemed confidential by law, the agency which provides

child welfare services shall maintain the confidentiality of the information as prescribed by applicable law.

8. Pursuant to this section, a person may authorize the release of information maintained by an agency which provides child welfare services about himself or herself, but may not waive the confidentiality of such information concerning any other person.

9. An agency which provides child welfare services may provide a summary of the outcome of an investigation of the alleged abuse or neglect of a child to the person who reported the suspected abuse or neglect.

10. Any person, except for:

(a) ~~the subject of a report;~~

~~(b)~~ A district attorney or other law enforcement officer initiating legal proceedings; or

~~(c)~~ (b) An employee of the Division of Parole and Probation of the Department of Public Safety making a presentence investigation and report to the district court pursuant to NRS 176.135 or making a general investigation and report pursuant to NRS 176.151,

→ who is ~~given access, pursuant to subsection 1, to~~ provided with information [identifying the subjects of a report] maintained by an agency which provides child welfare services and further disseminates this information, or who makes this information public, is guilty of a gross misdemeanor.

~~[5. The Division of Child and Family Services]~~

11. An agency which provides child welfare services may charge a fee for processing costs reasonably necessary to prepare information maintained by the agency which provides child welfare services for release pursuant to this section.

12. An agency which provides child welfare services shall adopt rules or regulations to carry out the provisions of this section.

Sec. 5. 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. 189 to Senate Bill No. 31 authorizes the chief juvenile probation officers and the Chief of the Youth Parole Bureau to release certain information concerning a child, who is within the purview of the juvenile court, to other persons involved in the juvenile justice system. It also authorizes the release of information for purposes of research and oversight of an agency, department or office that provides services relating to juvenile justice. The amendment authorizes an agency that provides child welfare services to release certain information concerning reports or investigations of alleged abuse or neglect of a child to certain agencies, persons, and entities and provides for the confidentiality of such information. Finally, it authorizes an agency that provides child welfare services to charge a fee for processing costs reasonably necessary to prepare the information for release.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 84.

Bill read second time.

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

Amendment No. 368.

"SUMMARY—Revises provisions governing the compensation of members of the State Board of Equalization. (BDR 32-547)"

"AN ACT relating to the State Board of Equalization; revising provisions governing the compensation paid to members of the Board; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that each member of the State Board of Equalization is entitled to receive a salary of not more than \$80 for each day actually employed on the work of the Board. (NRS 361.375) This bill ~~replaces~~ revises the daily compensation rate ~~[with an annual salary that is commensurate with the salary paid to the Chair and members of the Nevada Tax Commission. (NRS 360.050)]~~ to provide that each member of the Board is entitled to receive a salary of not more than \$150 for each day actually employed on the work of the Board.

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

Section 1. NRS 361.375 is hereby amended to read as follows:

361.375 1. The State Board of Equalization, consisting of five members appointed by the Governor, is hereby created. The Governor shall designate one of the members to serve as Chair of the Board.

2. The Governor shall appoint:

(a) One member who is a certified public accountant or a registered public accountant.

(b) One member who is a property appraiser with a professional designation.

(c) One member who is versed in the valuation of centrally assessed properties.

(d) Two members who are versed in business generally.

3. Only three of the members may be of the same political party and no more than two may be from the same county.

4. An elected public officer or his or her deputy, employee or any person appointed by him or her to serve in another position must not be appointed to serve as a member of the State Board of Equalization.

5. After the initial terms, members serve terms of 4 years, except when appointed to fill unexpired terms. No member may serve more than two full terms consecutively.

6. Any member of the State Board of Equalization may be removed by the Governor if, in the opinion of the Governor, that member is guilty of malfeasance in office or neglect of duty.

7. ~~Each member of the [The Chair of the]~~ State Board of Equalization is entitled to receive a ~~for annual~~ salary of not more than \$150, as fixed

by the Board, for each day actually employed on the work of the Board.
~~/\$27,500./~~

8. ~~Each of the other members is entitled to receive an annual salary of \$20,000.~~

~~9.~~ While engaged in the business of the State Board of Equalization, each member and employee of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

9. ~~10.~~ A majority of the members of the State Board of Equalization constitutes a quorum, and a majority of the Board shall determine the action of the Board. The Board may adopt regulations governing the conduct of its business.

10. ~~11.~~ The State Board of Equalization shall comply with any applicable regulation adopted by the Nevada Tax Commission.

11. ~~12.~~ The staff of the State Board of Equalization must be provided by the Department and the Executive Director is the Secretary of the Board.

Sec. 2. This act becomes effective on July 1, 2013.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

Thank you, Mr. President. Amendment No. 368 to Senate Bill No. 84 changes the compensation for each member of the State Board of Equalization to not more than \$150 per day, rather than an annual salary of \$27,500 for the Chair and \$20,000 for each member.

Amendment adopted.

Senator Smith moved that Senate Bill No. 84 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. 103.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 334.

"SUMMARY—~~[Removes]~~ Revises the period of limitation for crimes relating to the sexual abuse of a child. (BDR 14-177)"

"AN ACT relating to crimes; ~~[removing]~~ revising the period of limitation for crimes relating to the sexual abuse of a child; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes certain periods of limitation for crimes relating to the sexual abuse of a child ~~[(NRS 171.085, 171.090, 171.095) This bill removes all periods of limitation for crimes relating to the sexual abuse of a child.]~~ which require that an indictment be found or an information or complaint be filed before the victim of the sexual abuse of a child is:
(1) 21 years old if the victim discovers or reasonably should have discovered

that he or she was a victim of the sexual abuse by the date on which the victim reaches 21 years of age; or (2) 28 years old if the victim does not discover and reasonably should not have discovered that he or she was a victim of the sexual abuse by the date on which the victim reaches 21 years of age. (NRS 171.095) This bill provides that an indictment must be found or an information or complaint must be filed before the victim of the sexual abuse of a child is: (1) 36 years old if the victim discovers or reasonably should have discovered that he or she was a victim of the sexual abuse by the date on which the victim reaches 36 years of age; or (2) 43 years old if the victim does not discover and reasonably should not have discovered that he or she was a victim of the sexual abuse by the date on which the victim reaches 36 years of age.

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

Section 1. ~~NRS 171.080 is hereby amended to read as follows:~~

~~171.080 There is no limitation of the time within which a prosecution for:~~

~~1. Murder must be commenced. It may be commenced at any time after the death of the person killed.~~

~~2. A violation of NRS 202.445 must be commenced. It may be commenced at any time after the violation is committed.~~

~~3. Sexual abuse of a child, as defined in NRS 432B.100, must be commenced. It may be commenced at any time after the violation has occurred.~~ (Deleted by amendment.)

Sec. 2. ~~NRS 171.090 is hereby amended to read as follows:~~

~~171.090 Except as otherwise provided in NRS 171.080, 171.095, 202.885 and 624.800, an indictment for:~~

~~1. A gross misdemeanor must be found, or an information or complaint filed, within 2 years after the commission of the offense.~~

~~2. Any other misdemeanor must be found, or an information or complaint filed, within 1 year after the commission of the offense.~~ (Deleted by amendment.)

Sec. 3. NRS 171.095 is hereby amended to read as follows:

171.095 1. Except as otherwise provided in subsection 2 and NRS 171.083 and 171.084:

(a) If a felony, gross misdemeanor or misdemeanor is committed in a secret manner, an indictment for the offense must be found, or an information or complaint filed, within the periods of limitation prescribed in NRS 171.085, 171.090 and 624.800 after the discovery of the offense, unless a longer period is allowed by paragraph (b) or (c) or the provisions of NRS 202.885.

(b) An indictment must be found, or an information or complaint filed, for any offense constituting sexual abuse of a child, as defined in NRS 432B.100, before the victim of the sexual abuse is:

(1) ~~[Twenty-one]~~ *Thirty-six* years old if the victim discovers or reasonably should have discovered that he or she was a victim of the sexual abuse by the date on which the victim reaches that age; or

(2) ~~[Twenty-eight]~~ *Forty-three* years old if the victim does not discover and reasonably should not have discovered that he or she was a victim of the sexual abuse by the date on which the victim reaches ~~[21]~~ *36* years of age.

(c) If a felony is committed pursuant to NRS 205.461 to 205.4657, inclusive, against a victim who is less than 18 years of age at the time of the commission of the offense, an indictment for the offense must be found, or an information or complaint filed, within 4 years after the victim discovers or reasonably should have discovered the offense.

2. If any indictment found, or an information or complaint filed, within the time prescribed in subsection 1 is defective so that no judgment can be given thereon, another prosecution may be instituted for the same offense within 6 months after the first is abandoned.

Sec. 4. The amendatory provisions of this act apply to a person who:

1. Committed the sexual abuse of a child, as defined in NRS 432B.100, before October 1, 2013, if the applicable period of limitation has commenced but has not yet expired on October 1, 2013.

2. Commits the sexual abuse of a child, as defined in NRS 432B.100, on or after October 1, 2013.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 334 to Senate Bill No. 103 retains the two-tiered structure concerning periods of limitation for crimes relating to the sexual abuse of a child. It also adds 15 years to each tier level, as follows: an indictment must be found or an information or complaint must be filed before the victim of child sexual abuse is: (1) 36 years old if the victim discovers or reasonably should have discovered the sexual abuse by the age of 36; and (2) 43 years old if the victim does not discover and reasonably should not have discovered the sexual abuse by 36 years of age.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 104.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 242.

"SUMMARY—Revises provisions governing parole. (BDR 16-241)"

"AN ACT relating to parole; ~~[repealing]~~ replacing the requirement for prisoners convicted of certain sexual offenses to be evaluated by a panel before their parole is granted or continued ~~[and]~~ with a requirement for such prisoners to be assessed by the Department of Corrections; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law: (1) prohibits the State Board of Parole Commissioners from granting or continuing the parole of a prisoner convicted of certain sexual

offenses unless a panel first evaluates the prisoner to determine the prisoner's likelihood to reoffend in a sexual manner; and (2) authorizes the Board to require an evaluation of such a prisoner if the evaluation may assist the Board in determining whether parole should be granted or continued. (NRS 213.1214) This bill ~~repeals~~ replaces the requirement for such evaluations, ~~to be conducted by a panel with a process that requires the~~ Department of Corrections to assess the risk of a prisoner convicted of certain sexual offenses to reoffend in a sexual manner.

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

Section 1. NRS 213.1099 is hereby amended to read as follows:

213.1099 1. Except as otherwise provided in this section and NRS ~~213.1214 and~~ 213.1215, the Board may release on parole a prisoner who is otherwise eligible for parole pursuant to NRS 213.107 to 213.157, inclusive.

2. In determining whether to release a prisoner on parole, the Board shall consider:

- (a) Whether there is a reasonable probability that the prisoner will live and remain at liberty without violating the laws;
- (b) Whether the release is incompatible with the welfare of society;
- (c) The seriousness of the offense and the history of criminal conduct of the prisoner;
- (d) The standards adopted pursuant to NRS 213.10885 and the recommendation, if any, of the Chief; and
- (e) Any documents or testimony submitted by a victim notified pursuant to NRS 213.131.

3. When a person is convicted of a felony and is punished by a sentence of imprisonment, the person remains subject to the jurisdiction of the Board from the time the person is released on parole under the provisions of this chapter until the expiration of the maximum term of imprisonment imposed by the court less any credits earned to reduce his or her sentence pursuant to chapter 209 of NRS.

4. Except as otherwise provided in NRS 213.1215, the Board may not release on parole a prisoner whose sentence to death or to life without possibility of parole has been commuted to a lesser penalty unless it finds that the prisoner has served at least 20 consecutive years in the state prison, is not under an order to be detained to answer for a crime or violation of parole or probation in another jurisdiction, and does not have a history of:

- (a) Recent misconduct in the institution, and has been recommended for parole by the Director of the Department of Corrections;
- (b) Repetitive criminal conduct;
- (c) Criminal conduct related to the use of alcohol or drugs;
- (d) Repetitive sexual deviance, violence or aggression; or
- (e) Failure in parole, probation, work release or similar programs.

5. In determining whether to release a prisoner on parole pursuant to this section, the Board shall not consider whether the prisoner will soon be eligible for release pursuant to NRS 213.1215.

6. The Board shall not release on parole an offender convicted of an offense listed in NRS 179D.097 until the Central Repository for Nevada Records of Criminal History has been provided an opportunity to give the notice required pursuant to NRS 179D.475.

Sec. 1.5. NRS 213.1214 is hereby amended to read as follows:

213.1214 1. ~~[The Board shall not grant parole to or continue the parole of a prisoner who has served, is serving or has yet to serve a sentence on his or her current term of imprisonment for having been convicted of an offense listed in subsection 8 unless a panel consisting of:~~

~~(a) The Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services or his or her designee;~~

~~(b) The Director of the Department of Corrections or his or her designee; and~~

~~(c) A psychologist licensed to practice in this State or a psychiatrist licensed to practice medicine in this State;~~

~~→ evaluates the prisoner, within 120 days before a hearing to consider granting or continuing his or her parole, using a currently accepted standard of assessment to determine the prisoner's likelihood to reoffend in a sexual manner. The panel shall provide a report of its evaluation to the Board before the hearing.~~

~~2. The Board may require the panel to conduct an evaluation of a prisoner who is a sex offender if an evaluation may assist the Board in determining whether parole should be granted or continued. The panel shall provide a report of its evaluation to the Board before the hearing to consider granting or continuing the prisoner's parole.]~~ *The Department of Corrections shall assess each prisoner who has been convicted of a sexual offense to determine the prisoner's risk to reoffend in a sexual manner using a currently accepted standard of assessment. The completed assessment must return a risk level of low, moderate or high. The Director shall ensure a completed assessment is provided to the Board before, but not sooner than 120 days before, a scheduled parole hearing.*

2. The Director shall:

(a) Ensure that any employee of the Department who completes an assessment pursuant to subsection 1 is properly trained to assess the risk of an offender to reoffend in a sexual manner.

(b) Establish a procedure to:

(1) Ensure the accuracy of each completed assessment provided to the Board; and

(2) Correct any error occurring in a completed assessment provided to the Board.

3. This section does not create a right in any prisoner to be ~~evaluated~~ assessed or ~~reevaluated~~ reassessed more frequently than the prisoner's regularly scheduled parole hearings or under a current or previous standard of assessment and does not restrict the ~~panel~~ Department from conducting additional ~~evaluations~~ assessments of a prisoner if such ~~evaluations~~ assessments may assist the Board in determining whether parole should be granted or continued. No cause of action may be brought against the State, its political subdivisions, or the agencies, boards, commissions, departments, officers or employees of the State or its political subdivisions for ~~evaluating~~ assessing, not ~~evaluating~~ assessing or considering or relying on an ~~evaluation~~ assessment of a prisoner, if such decisions or actions are made or conducted in compliance with the procedures set forth in this section.

4. ~~The panel shall adopt regulations pertaining to the evaluation of prisoners subject to the provisions of this section to determine a prisoner's risk to reoffend in a sexual manner. The regulations must be adopted in accordance with the provisions of chapter 233B of NRS and must be codified in the Nevada Administrative Code.~~

5. ~~The regulations adopted pursuant to subsection 4 must require that:~~

- ~~(a) The evaluation be based on currently accepted standards of assessment designed to determine the risk of an offender to reoffend in a sexual manner;~~
- ~~(b) The report of the evaluation contain a statement rating the prisoner as a low, moderate or high risk to reoffend in a sexual manner; and~~
- ~~(c) If the report of the evaluation varies from the standard of assessment, the panel include a written statement of any mitigating or aggravating factors which justified such deviation.~~

6. ~~The panel shall:~~

- ~~(a) Review the standards of assessment and procedures adopted by regulation at least once every 3 years; and~~
- ~~(b) Make a finding regarding the validity of the use of any standard of assessment.~~

7. ~~If the panel finds that a standard of assessment is ineffective, or another standard of assessment is more effective, in predicting whether a prisoner may reoffend in a sexual manner, the panel may discontinue the use of the current standard of assessment and adopt a new standard of assessment that is determined to be more effective.~~

8. ~~The provisions of this section apply to a prisoner convicted of any of the following offenses:~~

- ~~(a) Sexual assault pursuant to NRS 200.366;~~
- ~~(b) Statutory sexual seduction pursuant to NRS 200.368;~~
- ~~(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;~~
- ~~(d) Abuse or neglect of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation and is punished as a felony;~~
- ~~(e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.~~

- ~~(f) Incest pursuant to NRS 201.180.~~
- ~~(g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.~~
- ~~(h) Open or gross lewdness pursuant to NRS 201.210.~~
- ~~(i) Indecent or obscene exposure pursuant to NRS 201.220.~~
- ~~(j) Lewdness with a child pursuant to NRS 201.230.~~
- ~~(k) Sexual penetration of a dead human body pursuant to NRS 201.450.~~
- ~~(l) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony.~~
- ~~(m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive.~~
- ~~(n) An offense that is determined to be sexually motivated pursuant to NRS 175.547.~~
- ~~(o) Coercion or attempted coercion that is determined to be sexually motivated pursuant to NRS 207.193.~~

~~9.] *The Board shall consider an assessment prepared pursuant to this section before determining whether to grant or revoke the parole of a person convicted of a sexual offense.*~~

5. The Board may adopt by regulation the manner in which the Board will consider an ~~evaluation~~ *assessment* prepared pursuant to this section in conjunction with the standards adopted by the Board pursuant to NRS 213.10885.

~~[10. Meetings of a panel pursuant to this section must be conducted in accordance with the provisions of chapter 241 of NRS.~~

~~11.]~~ 6. As used in this section:

(a) ~~["Current term of imprisonment"]~~ "Director" means ~~one or more sentences being served concurrently or consecutively with the sentence first imposed.]~~ *the Director of the Department of Corrections.*

(b) "Reoffend in a sexual manner" means to commit ~~any]~~ *a sexual offense.* ~~[listed in subsection 8.]~~

(c) "Sex offender" means a person who, after July 1, 1956, is or has been:

- (1) Convicted of a sexual offense; or
- (2) Adjudicated delinquent or found guilty by a court having jurisdiction over juveniles of a sexual offense listed in subparagraph 19 of paragraph (d).

↪ The term includes, but is not limited to, a sexually violent predator or a nonresident sex offender who is a student or worker within this State.

(d) "Sexual offense" means any of the following offenses:

(1) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.

(2) Sexual assault pursuant to NRS 200.366.

(3) Statutory sexual seduction pursuant to NRS 200.368.

(4) Battery with intent to commit sexual assault pursuant to 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.

(12) Indecent or obscene exposure pursuant to NRS 201.220.

(13) Lewdness with a child pursuant to NRS 201.230.

(14) Sexual penetration of a dead human body pursuant to NRS 201.450.

(15) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony.

(16) An attempt or conspiracy to commit an offense listed in subparagraphs (1) to (15), inclusive.

(17) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

(18) An offense committed in another jurisdiction that, if committed in this State, would be an offense listed in this paragraph. This subparagraph includes, but is not limited to, an offense prosecuted in:

(I) A tribal court.

(II) A court of the United States or the Armed Forces of the United States.

(19) An offense of a sexual nature committed in another jurisdiction, whether or not the offense would be an offense listed in this paragraph, if the person who committed the offense resides or has resided or is or has been a student or worker in any jurisdiction in which the person is or has been required by the laws of that jurisdiction to register as a sex offender because of the offense. This subparagraph includes, but is not limited to, an offense prosecuted in:

(I) A tribal court.

(II) A court of the United States or the Armed Forces of the United States.

(III) A court having jurisdiction over juveniles.

↪ The term does not include an offense involving consensual sexual conduct if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years of age and the offender was not more than 4 years older than the victim at the time of the commission of the offense.

Sec. 2. ~~[NRS 213.1214 is hereby repealed.]~~ (Deleted by amendment.)

Sec. 3. This act becomes effective on July 1, 2013.

~~TEXT OF REPEALED SECTION~~

~~213.1214 Evaluation of prisoners by panel before grant or continuation of parole; panel to adopt standards of assessment; immunity; regulations; duties of panel; conduct of meetings of panel.~~

~~1. The Board shall not grant parole to or continue the parole of a prisoner who has served, is serving or has yet to serve a sentence on his or her current term of imprisonment for having been convicted of an offense listed in subsection 8 unless a panel consisting of:~~

~~(a) The Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services or his or her designee;~~

~~(b) The Director of the Department of Corrections or his or her designee; and~~

~~(c) A psychologist licensed to practice in this State or a psychiatrist licensed to practice medicine in this State;~~

~~↪ evaluates the prisoner, within 120 days before a hearing to consider granting or continuing his or her parole, using a currently accepted standard of assessment to determine the prisoner's likelihood to reoffend in a sexual manner. The panel shall provide a report of its evaluation to the Board before the hearing.~~

~~2. The Board may require the panel to conduct an evaluation of a prisoner who is a sex offender if an evaluation may assist the Board in determining whether parole should be granted or continued. The panel shall provide a report of its evaluation to the Board before the hearing to consider granting or continuing the prisoner's parole.~~

~~3. This section does not create a right in any prisoner to be evaluated or reevaluated more frequently than the prisoner's regularly scheduled parole hearings or under a current or previous standard of assessment and does not restrict the panel from conducting additional evaluations of a prisoner if such evaluations may assist the Board in determining whether parole should be granted or continued. No cause of action may be brought against the State, its political subdivisions, or the agencies, boards, commissions, departments, officers or employees of the State or its political subdivisions for evaluating, not evaluating or considering or relying on an evaluation of a prisoner, if such decisions or actions are made or conducted in compliance with the procedures set forth in this section.~~

~~4. The panel shall adopt regulations pertaining to the evaluation of prisoners subject to the provisions of this section to determine a prisoner's~~

~~risk to reoffend in a sexual manner. The regulations must be adopted in accordance with the provisions of chapter 233B of NRS and must be codified in the Nevada Administrative Code.~~

~~5. The regulations adopted pursuant to subsection 4 must require that:~~

~~(a) The evaluation be based on currently accepted standards of assessment designed to determine the risk of an offender to reoffend in a sexual manner;~~

~~(b) The report of the evaluation contain a statement rating the prisoner as a low, moderate or high risk to reoffend in a sexual manner; and~~

~~(c) If the report of the evaluation varies from the standard of assessment, the panel include a written statement of any mitigating or aggravating factors which justified such deviation.~~

~~6. The panel shall:~~

~~(a) Review the standards of assessment and procedures adopted by regulation at least once every 3 years; and~~

~~(b) Make a finding regarding the validity of the use of any standard of assessment.~~

~~7. If the panel finds that a standard of assessment is ineffective, or another standard of assessment is more effective, in predicting whether a prisoner may reoffend in a sexual manner, the panel may discontinue the use of the current standard of assessment and adopt a new standard of assessment that is determined to be more effective.~~

~~8. The provisions of this section apply to a prisoner convicted of any of the following offenses:~~

~~(a) Sexual assault pursuant to NRS 200.366.~~

~~(b) Statutory sexual seduction pursuant to NRS 200.368.~~

~~(c) Battery with intent to commit sexual assault pursuant to NRS 200.400.~~

~~(d) Abuse or neglect of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation and is punished as a felony.~~

~~(e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.~~

~~(f) Incest pursuant to NRS 201.180.~~

~~(g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.~~

~~(h) Open or gross lewdness pursuant to NRS 201.210.~~

~~(i) Indecent or obscene exposure pursuant to NRS 201.220.~~

~~(j) Lewdness with a child pursuant to NRS 201.230.~~

~~(k) Sexual penetration of a dead human body pursuant to NRS 201.450.~~

~~(l) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony.~~

~~(m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive.~~

~~(n) An offense that is determined to be sexually motivated pursuant to NRS 175.547.~~

~~(o) Coercion or attempted coercion that is determined to be sexually motivated pursuant to NRS 207.193.~~

~~9. The Board may adopt by regulation the manner in which the Board will consider an evaluation prepared pursuant to this section in conjunction with the standards adopted by the Board pursuant to NRS 213.10885.~~

~~10. Meetings of a panel pursuant to this section must be conducted in accordance with the provisions of chapter 241 of NRS.~~

~~11. As used in this section:~~

~~(a) "Current term of imprisonment" means one or more sentences being served concurrently or consecutively with the sentence first imposed.~~

~~(b) "Reoffend in a sexual manner" means to commit any offense listed in subsection 8.~~

~~(c) "Sex offender" means a person who, after July 1, 1956, is or has been:~~

~~(1) Convicted of a sexual offense; or~~

~~(2) Adjudicated delinquent or found guilty by a court having jurisdiction over juveniles of a sexual offense listed in subparagraph 19 of paragraph (d).~~

~~➤ The term includes, but is not limited to, a sexually violent predator or a nonresident sex offender who is a student or worker within this State.~~

~~(d) "Sexual offense" means any of the following offenses:~~

~~(1) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.~~

~~(2) Sexual assault pursuant to NRS 200.366.~~

~~(3) Statutory sexual seduction pursuant to NRS 200.368.~~

~~(4) Battery with intent to commit sexual assault pursuant to 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.~~

~~(12) Indecent or obscene exposure pursuant to NRS 201.220.~~

~~(13) Lewdness with a child pursuant to NRS 201.230.~~

~~(14) Sexual penetration of a dead human body pursuant to NRS 201.450.~~

~~(15) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony.~~

~~(16) An attempt or conspiracy to commit an offense listed in subparagraphs (1) to (15), inclusive.~~

~~(17) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.~~

~~(18) An offense committed in another jurisdiction that, if committed in this State, would be an offense listed in this paragraph. This subparagraph includes, but is not limited to, an offense prosecuted in:~~

~~(I) A tribal court.~~

~~(II) A court of the United States or the Armed Forces of the United States.~~

~~(19) An offense of a sexual nature committed in another jurisdiction, whether or not the offense would be an offense listed in this paragraph, if the person who committed the offense resides or has resided or is or has been a student or worker in any jurisdiction in which the person is or has been required by the laws of that jurisdiction to register as a sex offender because of the offense. This subparagraph includes, but is not limited to, an offense prosecuted in:~~

~~(I) A tribal court.~~

~~(II) A court of the United States or the Armed Forces of the United States.~~

~~(III) A court having jurisdiction over juveniles.~~

~~↪ The term does not include an offense involving consensual sexual conduct if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years of age and the offender was not more than 4 years older than the victim at the time of the commission of the offense.]~~

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 242 to Senate Bill No. 104 replaces the requirement for prisoners convicted of sexual offenses to be evaluated by a panel before their parole is granted or continued, with a requirement for such prisoners to be assessed by the Nevada Department of Corrections. It requires the new assessment system to determine each prisoner's risk to reoffend in a sexual manner using low-, moderate- or high-risk categories, and also requires the completed assessment to be provided to the Parole Board within 120 days before a scheduled parole hearing. The amendment further requires training for any employee of the Nevada Department of Corrections who completes the assessment, and a procedure to be established to ensure the accuracy of each completed assessment and correct any errors prior to submitting the assessment to the Parole Board. Finally, the amendment requires the Parole Board to consider the completed assessment before determining whether to grant or revoke the parole of a person convicted of a sexual offense.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Denis moved that the Senate recess until 3:00 p.m.

Motion carried.

Senate in recess at 12:30 p.m.

SENATE IN SESSION

At 3:30 p.m.

President Krolicki presiding.

Quorum present.

Senate Bill No. 107.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 546.

"SUMMARY—Restricts the use of solitary confinement and corrective room restriction on ~~persons~~ children in confinement. (BDR 5-519)"

"AN ACT relating to the administration of justice; restricting the use of solitary confinement and corrective room restriction on ~~persons~~ children who are in confinement ~~to~~ in a state, local or regional facility for the detention of children; requiring the Advisory Commission on the Administration of Justice to conduct a study concerning detention and incarceration; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1 and 2 of this bill prohibit the use of solitary confinement on a child who is detained in a state, local or regional facility for the detention of children ~~. unless: (1) the child presents a serious and immediate risk of harm to himself or herself, staff or others or to the security of the facility; and (2) all other less restrictive options have been exhausted.~~ Sections 1 and 2 ~~further prohibit the use of solitary confinement for the purpose of disciplining or punishing a child.~~ Sections 1 and 2 authorize the use of corrective room restriction on a child who is detained in a state, local or regional facility for the detention of children only if all other less-restrictive options have been exhausted and only to: (1) modify the negative behavior of the child; (2) hold the child accountable for a violation of a rule of the facility; or (3) ensure the safety of the child, the staff or others or to ensure the security of the facility. Sections 1 and 2 also: (1) specify certain actions that must be taken with respect to a child subjected to corrective room restriction; and (2) provide that if a child is ~~held in solitary confinement,~~ subjected to corrective room restriction, the period of ~~solitary confinement~~ corrective room restriction must be the minimum time required to address the negative behavior, rule violation or threat, ~~and must end if the mental or physical health of the child is compromised.~~

~~Sections 3 and 4 of this bill apply the same prohibitions and limitations on the use of solitary confinement on a person confined in a prison, jail or other detention facility, with similar exceptions.~~

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) Section 7 of this bill requires the Commission to conduct a study concerning certain aspects of detention and incarceration in this State.

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

Section 1. Chapter 62B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A local or regional facility for the detention of children shall not ~~use~~ subject a child to solitary confinement . ~~for the purpose of disciplining or punishing a child.~~

2. A child who is detained in a local or regional facility for the detention of children ~~must not~~ may be subjected to ~~solitary confinement unless:~~

~~(a) There are compelling reasons to believe that the child presents a serious and immediate threat of harm to himself or herself, staff or others or to the security of the facility; and~~

~~(b) ~~All~~ corrective room restriction only if all other less-restrictive options have been exhausted ~~and~~ and only for the purpose of:~~

~~(a) Modifying the negative behavior of the child;~~

~~(b) Holding the child accountable for a violation of a rule of the facility;~~

~~or~~

~~(c) Ensuring the safety of the child, staff or others or ensuring the security of the facility.~~

3. Any disciplinary action that results in corrective room restriction for more than 2 hours must be documented in writing and approved by a supervisor.

4. A child ~~who is held in solitary confinement~~ may be ~~held in solitary confinement~~ subjected to corrective room restriction only for the minimum time required to address the negative behavior, rule violation or threat ~~of harm~~ to the safety of the child, staff or others or to the security of the facility, ~~but only if the mental and physical health of the child is not compromised.~~

~~4.1~~ and the child must be returned to the general population of the facility as soon as reasonably possible.

5. A child who is subjected to corrective room restriction for more than 24 hours must be provided:

(a) Not less than 1 hour of out-of-room, large muscle exercise each day, including, without limitation, access to outdoor recreation if weather permits;

(b) Access to the same meals, medical and mental health treatment, the same access to contact with parents or legal guardians, and the same access to legal assistance as is provided to children in the general population of the facility; and

(c) A review of the corrective room restriction status at least once every 24 hours. If, upon review, the corrective room restriction is continued, the continuation must be documented in writing, including, without limitation, an explanation as to why no other less-restrictive option is available.

6. A local or regional facility for the detention of children shall report monthly to the Juvenile Justice Programs Office of the Division of Child and Family Services the number of children who were subjected to corrective room restriction during that month and the length of time that each child was in corrective room restriction. Any incident that resulted in the use of corrective room restriction for more than 5 days must be addressed in the monthly report, and the report must include the reason or reasons any attempt to return the child to the general population of the facility was unsuccessful.

7. As used in this section ~~f, "solitary"~~ :

(a) "Corrective room restriction" means the confinement of a child to his or her room as a disciplinary action.

(b) "Solitary confinement" means the involuntary holding of a child in total isolation from any other person, other than staff of the facility ~~and~~ or an attorney, for more than 16 ~~for more~~ hours ~~per~~ each day ~~f~~, including, without limitation, isolation from sight or sound, out of view or any form of communication outside of the cell.

Sec. 2. Chapter 63 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A facility shall not ~~use~~ subject a child to solitary confinement ~~for the purpose of disciplining or punishing a child.~~

2. A child who is detained in a facility ~~must not~~ may be subjected to ~~solitary confinement unless:~~

~~(a) There are compelling reasons to believe that the child presents a serious and immediate threat of harm to himself or herself, staff or others or to the security of the facility; and~~

~~(b) All~~ corrective room restriction only if all other less-restrictive options have been exhausted ~~f~~ and only for the purpose of:

(a) Modifying the negative behavior of the child;

(b) Holding the child accountable for a violation of a rule of the facility;

or

(c) Ensuring the safety of the child, staff or others or ensuring the security of the facility.

3. Any disciplinary action that results in corrective room restriction for more than 2 hours must be documented in writing and approved by a supervisor.

4. A child ~~who is held in solitary confinement~~ may be ~~held in solitary confinement~~ subjected to corrective room restriction only for the minimum time required to address the negative behavior, rule violation or threat ~~of harm~~ to the safety of the child, staff or others or to the security of the facility, ~~but only if the mental and physical health of the child is not compromised.~~

~~4~~ and the child must be returned to the general population of the facility as soon as reasonably possible.

5. A child who is subjected to corrective room restriction for more than 24 hours must be provided:

(a) Not less than 1 hour of out-of-room, large muscle exercise each day, including, without limitation, access to outdoor recreation if weather permits;

(b) Access to the same meals, medical and mental health treatment, the same access to contact with parents or legal guardians, and the same access to legal assistance as is provided to children in the general population of the facility; and

(c) A review of the corrective room restriction status at least once every 24 hours. If, upon review, the corrective room restriction is continued, the continuation must be documented in writing, including, without limitation, an explanation as to why no other less-restrictive option is available.

6. A facility shall report monthly to the Juvenile Justice Programs Office of the Division of Child and Family Services the number of children who were subjected to corrective room restriction during that month and the length of time that each child was in corrective room restriction. Any incident that resulted in the use of corrective room restriction for more than 5 days must be addressed in the monthly report, and the report must include the reason or reasons any attempt to return the child to the general population of the facility was unsuccessful.

7. As used in this section ~~f, "solitary"~~ :

(a) "Corrective room restriction" means the confinement of a child to his or her room as a disciplinary action.

(b) "Solitary confinement" means the involuntary holding of a child in total isolation from any other person, other than staff ~~and~~ of the facility or an attorney, for more than 16 ~~for more~~ hours ~~per~~ each day ~~f, f~~, including, without limitation, isolation from sight or sound, out of view or any form of communication outside of the cell.

~~Sec. 3. [Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The Department or a private facility or institution shall not use solitary confinement for the purpose of disciplining or punishing an offender.~~

~~2. An offender who is confined in an institution or facility of the Department or a private facility or institution must not be subjected to solitary confinement unless:~~

~~(a) There are compelling reasons to believe that the offender presents a serious and immediate threat of harm to himself or herself, staff or others or to the security of the institution or facility; and~~

~~(b) All other less restrictive options have been exhausted.~~

~~3. An offender who is held in solitary confinement may be held in solitary confinement only for the minimum time required to address the threat of harm to the offender, staff or others or to the security of the institution or facility, but only if the mental and physical health of the offender is not compromised.~~

~~4. As used in this section, "solitary confinement" means the involuntary holding of an offender in isolation from any other person, other than staff and an attorney, for 16 or more hours per day.~~ (Deleted by amendment.)

Sec. 4. [Chapter 211 of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. A sheriff, chief of police or town marshal shall not use solitary confinement for the purpose of disciplining or punishing a prisoner.~~

~~2. A prisoner who is confined in a county, city or town jail or detention facility must not be subjected to solitary confinement unless:~~

~~(a) There are compelling reasons to believe that the prisoner presents a serious and immediate threat of harm to himself or herself, staff or others or to the security of the jail or detention facility; and~~

~~(b) All other less restrictive options have been exhausted.~~

~~3. A prisoner who is held in solitary confinement may be held in solitary confinement only for the minimum time required to address the threat of harm to the prisoner, staff or others or to the security of the jail or detention facility, but only if the mental and physical health of the prisoner is not compromised.~~

~~4. As used in this section, "solitary confinement" means the involuntary holding of a prisoner in isolation from any other person, other than staff and an attorney, for 16 or more hours per day.~~ (Deleted by amendment.)

Sec. 5. [NRS 211.118 is hereby amended to read as follows:

~~211.118 As used in NRS 211.118 to 211.200, inclusive, and section 4 of this act, "public works" means the renovation, repair or cleaning of any street, drainage facility, road, sidewalk, public square, park or building, or cutting away hills, grading, putting in sewers or other work, which is authorized to be done by and for the use of any of the counties, cities or towns, and the expense of which is not to be borne exclusively by persons or property particularly benefited thereby. The term does not include any project to which the provisions of NRS 338.020 apply.] (Deleted by amendment.)~~

Sec. 6. [NRS 211.150 is hereby amended to read as follows:

~~211.150 1. [If] Except as otherwise provided in section 4 of this act, if a prisoner is disobedient or disorderly, or does not faithfully perform his or her tasks, the officers having charge of the prisoner may take action to discipline and punish the prisoner. [The action may include confinement to an individual cell separate from other prisoners for the protection of the staff of the jail and other prisoners. An officer who confines a prisoner to an individual cell for any reason shall report his or her action as soon as possible to the person in charge of the jail.]~~

~~2. A report of the number of prisoners who are performing work and the amount and type of work performed must be submitted to the person in charge of the jail on the last day of each month.] (Deleted by amendment.)~~

Sec. 7. The Advisory Commission on the Administration of Justice created pursuant to NRS 176.0123 shall, during the 2013-2014 interim,

conduct a study concerning detention and incarceration in this State. The study must include, without limitation, an evaluation of:

1. Procedures regarding placement in, and release from, administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction and solitary confinement;

2. Security threat group identification, including, without limitation, any information relating to gang activity;

3. Notification of release and release procedures;

4. Access provided to children, offenders and prisoners confined in administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement to:

(a) Mental health services;

(b) Audio and visual media for appropriate mental stimulation;

(c) Daily contact with staff;

(d) Health care services;

(e) Substance abuse programs and services;

(f) Reentry resources and transitional programs and services;

(g) Programs and services for offenders and prisoners who are veterans;

(h) Educational programming; and

(i) Other programs and services that are available to the general population;

5. The amount of specialized training provided to staff who interact with children, offenders and prisoners who are confined in administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement;

6. The number of children, offenders and prisoners confined in administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement who were referred to mental health professionals;

7. The number of children, offenders and prisoners in the general population who were referred to mental health professionals;

8. The number of children, offenders and prisoners confined in administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement who have a mental health diagnosis;

9. The number of children, offenders and prisoners in the general population who have a mental health diagnosis;

10. The number of suicides and suicide attempts during the years of 2010, 2011 and 2012 among children, offenders and prisoners who are confined in administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement;

11. The number of suicides and suicide attempts during the years of 2010, 2011 and 2012 among children, offenders and prisoners in the general population;

12. The number of reviews conducted by facilities concerning the placement of a child, offender or prisoner in administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement that resulted in the child, offender or prisoner being transferred to the general population;

13. The average length of time children, offenders and prisoners were continuously confined in administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement, categorized by age, race, sexual orientation, gender identity or expression and classification of the offense;

14. The longest and shortest length of time a child, offender or prisoner was continuously confined in administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement, categorized by age, race, sexual orientation, gender identity or expression and classification of the offense;

15. A summary of the reasons for which children, offenders and prisoners were placed in administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement;

16. The rate of recidivism among children, offenders and prisoners who were confined in administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement at any time before release or discharge;

17. The rate of recidivism among children, offenders and prisoners who were never confined in administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement;

18. The number of children, offenders and prisoners who were confined in administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement immediately before being discharged from detention, including those discharged to parole or mandatory supervision; and

19. A calculation of the cost per day of confining a child, offender and prisoner in administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 546 to Senate Bill No. 107 deletes all prohibitions and limitations on the use of solitary confinement on a person confined in a prison, jail or other detention facility. It provides that the use of a corrective room restriction on a child who is detained in a state, local or regional facility for the detention of children may only be utilized if all other less-restrictive options have been exhausted and only for specific purposes. The amendment also directs the Advisory Commission on the Administration of Justice to conduct a study concerning detention and incarceration during the 2013-2014 Interim.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 111.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 185.

"SUMMARY—Requires production of certain evidence under certain circumstances. (BDR 3-771)"

"AN ACT relating to civil actions; requiring a person who owns or controls the premises on which an injury or death allegedly occurred to produce certain evidence under certain circumstances; urging the Nevada Supreme Court to adopt certain rules of civil procedure; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[This]~~ Section 1 of this bill requires a person who owns or controls the premises on which an injury or death allegedly occurred to produce copies, if any, of any visual evidence of the incident giving rise to a claim for personal injury or death when such visual evidence is requested in writing, accompanied by an affidavit, by a claimant or a claimant's attorney. The provisions of this bill do not apply: (1) if the claimant has already commenced a civil action against the person who owns or controls the premises; ~~for~~ (2) to the release of any visual evidence which is otherwise prohibited by federal or state law ~~for~~; or (3) to the owner or lessee of a single-family residence.

Section 2 of this bill urges the Nevada Supreme Court to adopt rules of civil procedure to allow for discovery of certain evidence before the commencement of a civil action.

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

Section 1. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsection ~~2.7~~ 6, any person against whom a claim is asserted for compensation or damages for personal injury or death that allegedly occurred on any premises under the person's ownership or control shall, upon receipt of a written request ~~for~~ which contains an affidavit from the claimant or any attorney representing the claimant stating in reasonable detail the facts upon which the claim is based, including, without limitation, the precise location and time at which the injury occurred, provide to the claimant or ~~any~~ the claimant's attorney ~~representing the claimant~~ copies, if any, of any visual evidence of the alleged incident giving rise to the claim within ~~10~~ 15 judicial days after receipt of the written request.*

2. *If a person provides copies of visual evidence pursuant to subsection 1:*

(a) The person is not required to provide any such visual evidence depicting a period of time which is more than 1 hour before or 1 hour after the time specified in the affidavit.

(b) The claimant or the claimant's attorney shall reimburse the person for the reasonable costs of providing such copies of visual evidence.

~~2-7~~ 3. *A person who is requested to produce visual evidence pursuant to subsection 1 may, within 14 days after receipt of the written request, file a motion to quash the request with the district court of the county where the claim occurred and serve such motion upon the claimant or the claimant's attorney, if the request:*

- (a) Fails to contain the affidavit required pursuant to subsection 1;*
- (b) Fails to allow reasonable time for compliance;*
- (c) Requires the disclosure of privileged or other protected matter and no exception or waiver applies; or*
- (d) Subjects a person to undue burden.*

4. *Nothing in this section shall be construed to create an affirmative duty or obligation on the person who owns or controls the premises on which the personal injury or death allegedly occurred to:*

- (a) Install, operate or use any device that creates visual evidence; or*
 - (b) Retain any visual evidence except as otherwise provided by law.*
5. *Visual evidence provided to a claimant or claimant's attorney must not:*

- (a) Be used for any purpose other than to evaluate the allegations of the claimant set forth in an affidavit pursuant to subsection 1; or*
 - (b) Be disclosed by the claimant or claimant's attorney to any third party.*
6. *This section does not apply:*

(a) If the claimant has commenced a civil action against the person who owns or controls the premises on which the personal injury or death allegedly occurred.

(b) To the release of any visual evidence which is otherwise prohibited by federal or state law.

~~2-7~~ *(c) To the owner or lessee of a single-family residence.*

7. *As used in this section, "visual evidence" means any still or recorded information. The term includes, without limitation, any photograph, film, video recording or other visual image.*

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

1. Presuit discovery is an effective means of curbing frivolous litigation that overburdens our court system.

2. Under the existing Nevada Rules of Civil Procedure:

(a) Rule 27 provides that upon petition to the court, presuit depositions are authorized to perpetuate testimony.

(b) Rule 45 provides that a party or an attorney may subpoena a person:

(1) To produce and permit inspection and copying of designated books, documents or tangible things in the possession, custody or control of that person; or

(2) To permit the inspection of premises.

3. The Nevada Rules of Civil Procedure, however, do not provide a means for a party to conduct presuit discovery of books, documents or tangible things, including visual evidence.

4. Therefore, the Legislature urges the Supreme Court to adopt appropriate rules of civil procedure to authorize presuit discovery of books, documents or tangible things, including visual evidence.

Sec. 3. This act expires by limitation on June 30, 2015.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 185 to Senate Bill No. 111 requires an affidavit from the claimant or any attorney representing the claimant stating in reasonable detail the facts upon which the claim is based, including the precise location and time at which the injury occurred. It also provides that copies, if any, of the visual evidence must be provided within 15 days after receipt of the written request. It further provides that a person who is requested to produce visual evidence may, within 14 days after receipt of the written request, file a motion to quash the request under certain circumstances. The amendment urges the Nevada Supreme Court to adopt rules of civil procedure to allow for discovery of certain evidence before the commencement of a civil action. Finally, it provides a sunset of June 30, 2015, on the provisions of the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 127.

Bill read second time.

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

Amendment No. 484.

"SUMMARY—Prohibits employers from conditioning employment on a consumer credit report or other credit information. (BDR 53-453)"

"AN ACT relating to employment practices; prohibiting employers from conditioning employment on a consumer credit report or other credit information; providing certain exceptions; providing remedies and administrative penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes various unlawful employment practices. (Chapter 613 of NRS) Section 7 of this bill prohibits an employer from conditioning the employment of an employee or prospective employee on his or her consumer credit report or other credit information. Section 7 also prohibits an employer from taking certain employment actions based on the refusal of an employee or prospective employee to submit a credit report or other credit information or on the results of such a report or information. Section 7 further prohibits an employer from taking certain employment actions where an employee or prospective employee files a complaint, testifies in any legal proceeding or exercises his or her rights with respect to any violation committed by the employer. Section 7.5 of this bill provides certain exceptions to the preceding prohibitions, including, without

limitation, an exception for circumstances in which the information contained in the consumer credit report or other credit information is reasonably related to the position of employment. Section 8 of this bill establishes the civil remedies available to a person affected by a violation committed by an employer, including employment of a prospective employee, reinstatement or promotion of an employee, payment of lost wages and benefits and the award of reasonable costs and attorney's fees. Section 9 of this bill authorizes the Labor Commissioner to impose an administrative penalty against an employer for each violation and to bring a civil action against the employer.

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

Section 1. Chapter 613 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. *As used in sections 2 to 9, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Consumer credit report" means any written, oral or other communication of information by a consumer reporting agency bearing on the credit worthiness, credit standing or credit capacity of a person.*

Sec. 4. *"Consumer reporting agency" has the meaning ascribed to it in NRS 686A.640.*

Sec. 5. *"Credit information" means any information that is related to credit and derived from a consumer credit report or found on a consumer credit report. The term does not include information that is not related to credit, regardless of whether it is contained in a consumer credit report.*

Sec. 6. *"Employer" has the meaning ascribed to it in subsection 1 of NRS 613.440.*

Sec. 7. ~~It is~~ *Except as otherwise provided in section 7.5 of this act, it is unlawful for any employer in this State to:*

1. *Directly or indirectly, require, request, suggest or cause any employee or prospective employee to submit a consumer credit report or other credit information as a condition of employment;*

2. *Use, accept, refer to or inquire concerning a consumer credit report or other credit information;*

3. *Discharge, discipline, discriminate against in any manner or deny employment or promotion to, or threaten to take any such action against any employee or prospective employee:*

(a) *Who refuses, declines or fails to submit a consumer credit report or other credit information; or*

(b) *On the basis of the results of a consumer credit report or other credit information; or*

4. *Discharge, discipline, discriminate against in any manner or deny employment or promotion to, or threaten to take any such action against any employee or prospective employee who has:*

(a) Filed any complaint or instituted or caused to be instituted any legal proceeding pursuant to sections 2 to 9, inclusive, of this act;

(b) Testified or may testify in any legal proceeding instituted pursuant to sections 2 to 9, inclusive, of this act; or

(c) Exercised his or her rights, or has exercised on behalf of another person the rights afforded to him or her pursuant to sections 2 to 9, inclusive, of this act.

Sec. 7.5. An employer may request or consider a consumer credit report or other credit information for the purpose of evaluating an employee or prospective employee for employment, promotion, reassignment or retention as an employee if:

1. The employer is required or authorized, pursuant to state or federal law, to use a consumer credit report or other credit information for that purpose;

2. The employer reasonably believes that the employee or prospective employee has engaged in specific activity which may constitute a violation of state or federal law; or

3. The information contained in the consumer credit report or other credit information is reasonably related to the position for which the employee or prospective employee is being evaluated for employment, promotion, reassignment or retention as an employee. The information in the consumer credit report or other credit information shall be deemed reasonably related to such an evaluation if the duties of the position involve:

(a) The care, custody and handling of, or responsibility for, money, financial accounts, corporate credit or debit cards, or other assets;

(b) Access to trade secrets or other proprietary or confidential information;

(c) Managerial or supervisory responsibility;

(d) The direct exercise of law enforcement authority as an employee of a state or local law enforcement agency;

(e) The care, custody and handling of, or responsibility for, the personal information of another person;

(f) Access to the personal financial information of another person;

(g) Employment with a financial institution that is chartered under state or federal law, including a subsidiary or affiliate of such a financial institution; or

(h) Employment with a licensed gaming establishment, as defined in NRS 463.0169.

Sec. 8. 1. An employer who violates the provisions of sections 2 to 9, inclusive, of this act is liable to the employee or prospective employee affected by the violation. The employer is liable for any legal or equitable relief as may be appropriate, including employment of a prospective employee, reinstatement or promotion of an employee and the payment of lost wages and benefits.

2. *An action to recover the liability pursuant to subsection 1 may be maintained against the employer by an employee or prospective employee:*

(a) *For or on behalf of the employee or prospective employee; and*

(b) *On behalf of other employees or prospective employees similarly situated.*

➡ *An action must not be commenced pursuant to this section more than 3 years after the date of the alleged violation.*

3. *In any action brought pursuant to this section, the court, in its discretion, may allow the prevailing party reasonable costs, including attorney's fees.*

Sec. 9. 1. *If any person violates sections 2 to 9, inclusive, of this act, the Labor Commissioner may impose against the person an administrative penalty of not more than \$9,000 for each such violation.*

2. *In determining the amount of any administrative penalty to be imposed against the person, the Labor Commissioner shall consider the previous record of the person in terms of compliance with sections 2 to 9, inclusive, of this act and the severity of the violation. Any administrative penalty imposed against the person is in addition to any other remedy or penalty provided pursuant to this act.*

3. *The Labor Commissioner may bring a civil action pursuant to this section to restrain violations of sections 2 to 9, inclusive, of this act. A court of competent jurisdiction may issue, without bond, a temporary or permanent restraining order or injunction to require compliance with sections 2 to 9, inclusive, of this act, including any legal or equitable relief incident thereto as may be appropriate, such as employment of a prospective employee, reinstatement or promotion of an employee, and the payment of lost wages and benefits.*

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

Thank you, Mr. President. Amendment No. 484 to Senate Bill No. 127 clarifies when an employer may request or consider, for the purpose of evaluating a prospective or current employee for employment, promotion, reassignment or retention as an employee, a consumer credit report or credit history.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 152.

Bill read second time.

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

Amendment No. 215.

"SUMMARY—Revises provisions governing the administration of sales and use taxes and related taxes. (BDR 32-877)"

"AN ACT relating to taxation; making various changes governing the administration of sales and use taxes and related taxes; providing that the

right of a retailer to claim certain deductions or refunds is not affected by the assignment of a debt to certain affiliated entities, the writing off by such an entity of the debt as a bad debt and the eligibility of such an entity to deduct the bad debt under federal law; providing for the retroactive application of ~~that provision~~ those provisions under certain circumstances; requiring the Department of Taxation to adopt certain regulations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Sales and Use Tax Act provides that a retailer who is unable to collect all or part of the sales price of a sale is entitled to receive a deduction from his or her taxable sales for that bad debt. (NRS 372.368) A corresponding provision is set forth in the Local School Support Tax Law. (NRS 374.373) Section 1 of this bill provides that the right of a retailer to claim a deduction or refund under the Sales and Use Tax Act is not affected by the assignment of a debt by the retailer to an entity which is part of an affiliated group that includes the retailer ~~and~~ the writing off by the entity of the debt as a bad debt and the eligibility of the entity to deduct the bad debt under federal law. Section 1 also defines what constitutes an affiliated group. Section 2 of this bill makes corresponding changes to the Local School Support Tax Law. Section 4 of this bill provides for the retroactive application of those provisions under certain circumstances. Section 3 of this bill requires the Department of Taxation to adopt regulations necessary to carry out the provisions of this bill.

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

Section 1. NRS 372.368 is hereby amended to read as follows:

372.368 1. If a retailer is unable to collect all or part of the sales price of a sale, the retailer is entitled to receive a deduction from his or her taxable sales for that bad debt.

2. Any deduction that is claimed pursuant to this section may not include interest.

3. The amount of any deduction claimed must equal the amount of a deduction that may be claimed pursuant to *section 166 of the Internal Revenue Code*, 26 U.S.C. § 166, for that sale minus:

- (a) Any finance charge or interest charged as part of the sale;
- (b) Any sales or use tax charged on the sales price;
- (c) Any amount not paid on the sales price because the tangible personal property that was sold has remained in the possession of the retailer until the full sales price is paid;
- (d) Any expense incurred in attempting to collect the bad debt; and
- (e) The value of any property sold that has been repossessed by the retailer.

4. A bad debt may be claimed as a deduction on the return that covers the period during which the bad debt is written off in the business records of the retailer that are maintained in the ordinary course of the retailer's business

and is eligible to be claimed as a deduction pursuant to *section 166 of the Internal Revenue Code*, 26 U.S.C. § 166 , or ~~§~~ if the retailer is not required to file a federal income tax return, would be eligible to be claimed as a deduction pursuant to *section 166 of the Internal Revenue Code*, 26 U.S.C. § 166.

5. If a bad debt for which a deduction has been claimed is subsequently collected in whole or in part, the tax on the amount so collected must be reported on the return that covers the period in which the collection is made.

6. If the amount of the bad debt is greater than the amount of the taxable sales reported for the period during which the bad debt is claimed as a deduction, a claim for a refund may be filed pursuant to NRS 372.630 to 372.720, inclusive, except that the time within which the claim may be filed begins on the date on which the return that included the deduction was filed.

7. If the retailer has contracted with a certified service provider for the remittance of the tax due under this chapter, the service provider may, on behalf of the retailer, claim any deduction to which the retailer is entitled pursuant to this section. The service provider shall credit or refund the full amount of any deduction or refund received pursuant to this section to the retailer.

8. For the purposes of reporting a payment received on a bad debt for which a deduction has been claimed, the payment must first be applied to the sales price of the property sold and the tax due thereon, and then to any interest, service charge or other charge that was charged as part of the sale.

9. If the records of a retailer indicate that a bad debt may be allocated among other states that are members of the Streamlined Sales and Use Tax Agreement, the retailer may allocate the bad debt among those states.

10. *A retailer who assigns a debt to an entity which is part of an affiliated group that includes the retailer may claim any deduction or refund to which the retailer would otherwise be entitled pursuant to this section, notwithstanding ~~the~~ :*

(a) The assignment of the debt ~~is~~ to the entity;

(b) That the debt is written off as a bad debt in the business records of the entity which are maintained in the ordinary course of the entity's business; and

(c) That the bad debt is or would be eligible to be claimed by the entity as a deduction pursuant to section 166 of the Internal Revenue Code, 26 U.S.C. § 166.

11. Except as otherwise provided in subsection ~~11,~~ 12, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

(a) For the first return of any retailer which contains one or more violations, issue a letter of warning to the retailer which provides an explanation of the violation or violations contained in the return.

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations,

assess a penalty equal to the amount of the deduction claimed or \$1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the deduction claimed or \$3,000, whichever is less.

~~{11.}~~ 12. For the purposes of subsection ~~{10.}~~ 11, if the first violation of this section by any retailer was determined by the Department through an audit which covered more than one return of the retailer, the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection ~~{10.}~~

~~{2.}~~ 11.

13. As used in this section:

(a) "Affiliated group" means:

(1) *An affiliated group as defined in section 1504(a) of the Internal Revenue Code, 26 U.S.C. § 1504(a) ~~f, except that the requirements of section 1504(a)(2) of the Internal Revenue Code, 26 U.S.C. § 1504(a)(2), shall be deemed to be satisfied by the ownership of stock that possesses at least 50 percent of the total voting power, and has a value equal to at least 50 percent of the total value, of the stock of an includible corporation.~~ ; or*

(2) *A controlled group of corporations as described in section 1563(a)(2) of the Internal Revenue Code, 26 U.S.C. § 1563(a)(2) ~~. f.~~*
~~or~~

~~(3) Any combination of two or more partnerships, limited liability companies, limited liability partnerships or S corporations which have mutual ownership in an amount not less than that required of an affiliated group described in subparagraph (1), as determined pursuant to regulations adopted by the Department.~~

(b) "Bad debt" means a debt that may be deducted pursuant to section 166 of the Internal Revenue Code, 26 U.S.C. § 166.

~~{(b)}~~ (c) "Certified service provider" has the meaning ascribed to it in NRS 360B.060.

~~f (d) "Includible corporation" has the meaning ascribed to it in section 1504(b) of the Internal Revenue Code, 26 U.S.C. § 1504(b).~~

~~(e) "S corporation" has the meaning ascribed to it in section 1361(a)(1) of the Internal Revenue Code, 26 U.S.C. § 1361(a)(1).~~

Sec. 2. NRS 374.373 is hereby amended to read as follows:

374.373 1. If a retailer is unable to collect all or part of the sales price of a sale, the retailer is entitled to receive a deduction from his or her taxable sales for that bad debt.

2. Any deduction that is claimed pursuant to this section may not include interest.

3. The amount of any deduction claimed must equal the amount of a deduction that may be claimed pursuant to section 166 of the Internal Revenue Code, 26 U.S.C. § 166, for that sale minus:

- (a) Any finance charge or interest charged as part of the sale;
- (b) Any sales or use tax charged on the sales price;
- (c) Any amount not paid on the sales price because the tangible personal property that was sold has remained in the possession of the retailer until the full sales price is paid;
- (d) Any expense incurred in attempting to collect the bad debt; and
- (e) The value of any property sold that has been repossessed by the retailer.

4. A bad debt may be claimed as a deduction on the return that covers the period during which the bad debt is written off in the business records of the retailer that are maintained in the ordinary course of the retailer's business and is eligible to be claimed as a deduction pursuant to *section 166 of the Internal Revenue Code*, 26 U.S.C. § 166, or ~~§~~ if the retailer is not required to file a federal income tax return, would be eligible to be claimed as a deduction pursuant to *section 166 of the Internal Revenue Code*, 26 U.S.C. § 166.

5. If a bad debt for which a deduction has been claimed is subsequently collected in whole or in part, the tax on the amount so collected must be reported on the return that covers the period in which the collection is made.

6. If the amount of the bad debt is greater than the amount of the taxable sales reported for the period during which the bad debt is claimed as a deduction, a claim for a refund may be filed pursuant to NRS 374.635 to 374.720, inclusive, except that the time within which the claim may be filed begins on the date on which the return that included the deduction was filed.

7. If the retailer has contracted with a certified service provider for the remittance of the tax due under this chapter, the service provider may, on behalf of the retailer, claim any deduction to which the retailer is entitled pursuant to this section. The service provider shall credit or refund the full amount of any deduction or refund received pursuant to this section to the retailer.

8. For the purposes of reporting a payment received on a bad debt for which a deduction has been claimed, the payment must first be applied to the sales price of the property sold and the tax due thereon, and then to any interest, service charge or other charge that was charged as part of the sale.

9. If the records of a retailer indicate that a bad debt may be allocated among other states that are members of the Streamlined Sales and Use Tax Agreement, the retailer may allocate the bad debt among those states.

10. *A retailer who assigns a debt to an entity which is part of an affiliated group that includes the retailer may claim any deduction or refund to which the retailer would otherwise be entitled pursuant to this section, notwithstanding ~~the~~:*

- (a) The assignment of the debt ~~is~~ to the entity;*
 - (b) That the debt is written off as a bad debt in the business records of the entity which are maintained in the ordinary course of the entity's business;*
- and*

(c) That the bad debt is or would be eligible to be claimed by the entity as a deduction pursuant to section 166 of the Internal Revenue Code, 26 U.S.C. § 166.

11. Except as otherwise provided in subsection ~~{11,}~~ 12, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

(a) For the first return of any retailer which contains one or more violations, issue a letter of warning to the retailer which provides an explanation of the violation or violations contained in the return.

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the deduction claimed or \$1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the deduction claimed or \$3,000, whichever is less.

~~{11,}~~ 12. For the purposes of subsection ~~{10,}~~ 11, if the first violation of this section by any retailer was determined by the Department through an audit which covered more than one return of the retailer, the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection ~~{10,}~~

~~12,}~~ 11.

13. As used in this section:

(a) "Affiliated group" means:

(1) An affiliated group as defined in section 1504(a) of the Internal Revenue Code, 26 U.S.C. § 1504(a) ~~f, except that the requirements of section 1504(a)(2) of the Internal Revenue Code, 26 U.S.C. § 1504(a)(2), shall be deemed to be satisfied by the ownership of stock that possesses at least 50 percent of the total voting power, and has a value equal to at least 50 percent of the total value, of the stock of an includible corporation,; or~~

(2) A controlled group of corporations as described in section 1563(a)(2) of the Internal Revenue Code, 26 U.S.C. § 1563(a)(2) ~~..f~~

~~or~~

~~(3) Any combination of two or more partnerships, limited liability companies, limited liability partnerships or S corporations which have mutual ownership in an amount not less than that required of an affiliated group described in subparagraph (1), as determined pursuant to regulations adopted by the Department.~~

(b) "Bad debt" means a debt that may be deducted pursuant to section 166 of the Internal Revenue Code, 26 U.S.C. § 166.

~~{(b)}~~ (c) "Certified service provider" has the meaning ascribed to it in NRS 360B.060.

~~f (d) "Includible corporation" has the meaning ascribed to it in section 1504(b) of the Internal Revenue Code, 26 U.S.C. § 1504(b).~~

~~(e) "S corporation" has the meaning ascribed to it in section 1361(a)(1) of the Internal Revenue Code, 26 U.S.C. § 1361(a)(1).]~~

Sec. 3. The Department of Taxation shall, as soon as practicable on or after the date of passage and approval of this act, adopt such regulations as are necessary to carry out the provisions of this act.

Sec. 4. 1. Notwithstanding the provisions of subsection 2 of NRS 372.725 and subsection 2 of NRS 374.725, the provisions of NRS 372.368, as amended by section 1 of this act, and NRS 374.373, as amended by section 2 of this act, apply retroactively with respect to a bad debt that on or after January 1, 2012, was written off in the business records of a retailer, or an entity that is part of an affiliated group which includes the retailer, and that were maintained in the ordinary course of the retailer's or entity's business.

2. As used in this section, "affiliated group" has the meaning ascribed to it in subsection 13 of NRS 372.368, as amended by section 1 of this act.

Sec. 5. This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2013, for all other purposes.

Senator Smith moved the adoption of the amendment.

Remarks by Senator Smith.

Thank you, Mr. President. Amendment No. 215 to Senate Bill No. 152 revises the definition of "affiliated group" and clarifies that a retailer is authorized to claim a deduction or refund of sales tax under certain circumstances.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 164.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 290.

"SUMMARY—Revises provisions governing safe and respectful learning environments in public schools. (BDR 34-454)"

"AN ACT relating to education; requiring the State Board of Education and the board of trustees of each school district, in their respective annual reports of accountability, to provide information about the number of reported instances of bullying, cyber-bullying, harassment or intimidation; requiring each public school to ~~hold an annual assembly~~ disseminate information annually on bullying; revising the definition of "bullying"; revising provisions governing training in the prevention, identification and reporting of bullying and similar conduct; requiring training for ~~principals~~ administrators in preventing and responding to violence and suicide associated with bullying; requiring notice to the parent or guardian of any pupil allegedly involved in a reported incident of bullying or similar conduct;

requiring that certain annual reports submitted to the Attorney General also be provided to the Governor and the Legislature; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for a safe and respectful learning environment in public schools and prohibits bullying, cyber-bullying, harassment or intimidation. (NRS 388.121-388.139) Existing law requires that any instance of bullying, cyber-bullying, harassment or intimidation involving a school employee or pupil be reported to and investigated by the school's principal or his or her designee. (NRS 388.1351) If such an investigation confirms that a violation has occurred, existing law provides for the imposition of discipline and requires that statistical information about incidents resulting in the suspension or expulsion of a pupil be included in the annual reports of accountability prepared by the State Board of Education and the board of trustees of each school district. (NRS 385.3469, 385.347, 388.1351) Sections 1 and 2 of this bill require that the annual reports of accountability include information about all reported instances of bullying, cyber-bullying, harassment or intimidation, regardless of whether they result in the suspension or expulsion of a pupil.

Section 3 of this bill requires each public school to ~~hold an assembly~~ disseminate information on bullying and the facilitation of positive relations among pupils during the annual "Week of Respect" proclaimed by the Governor.

Section 4.5 of this bill revises the definition of bullying to include: (1) only repeated acts or conduct; and (2) acts or conduct that exploit an imbalance in power.

Sections 5-7 of this bill revise various provisions governing the training of all administrators, principals, teachers and other school employees on the subject of bullying, cyber-bullying, harassment and intimidation. Existing law requires the Department of Education to prescribe a policy for such training. (NRS 388.133) Section 5 requires the policy to encompass members of the boards of trustees of school districts and provide for training in methods to prevent, identify and report incidents of bullying and similar conduct. Existing law also requires the board of trustees of each school district to adopt the training policy prescribed by the Department and provide the appropriate training to employees of the district. (NRS 388.134) Section 6 requires the members of the board of trustees to receive this training and requires that newly elected trustees and new employees of the school district receive the training within ~~90~~ 180 days after the beginning of their term of office or their employment, as applicable. Existing law requires the Department to recommend certain programs of training in this area for members of the boards of trustees of school districts and school employees. (NRS 388.1342) Section 7 requires the Department to establish these programs and a program to train ~~principals~~ administrators in the prevention of and response to violence and suicide associated with bullying and similar

conduct. Section 7 also requires each ~~principal~~ administrator to complete this training ~~annually~~: (1) within 90 days after becoming an administrator; (2) at least once during any school year in which the training is revised or updated; and (3) at least once every 3 years otherwise.

Section 8 of this bill provides that a principal, or his or her designee, who receives a report of bullying, cyber-bullying, harassment or intimidation must give notice of the report to the parent or legal guardian of each pupil involved in the incident that is the subject of the report.

Existing law requires the principal of each public school to report to the board of trustees of the school district concerning the number of reports of bullying and similar conduct received during the preceding semester. The reports of each principal are compiled by the board of trustees and submitted to the Department. The Superintendent of Public Instruction, in turn, compiles the reports received from the various school districts and annually submits the compilation to the Attorney General. (NRS 388.1353, 388.1355) Section 9 of this bill clarifies that a reported violation must be included in the principal's report to the board of trustees, regardless of the outcome of the investigation into the incident. Section 10 of this bill requires that the Superintendent's compilation also be submitted to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, or to the Legislative Committee on Education if the Legislature is not in regular session.

Existing law provides immunity from liability for a pupil, school employee or volunteer who reports an incident of bullying, cyber-bullying, harassment or intimidation unless he or she acts with malice, intentional misconduct, gross negligence, or intentional or knowing violation of the law. (NRS 388.137) Where such a malicious, intentional or grossly negligent report is made, section 11 of this bill authorizes disciplinary action against the pupil or other person making the report.

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

Section 1. NRS 385.3469 is hereby amended to read as follows:

385.3469 1. The State Board shall prepare an annual report of accountability that includes, without limitation:

(a) Information on the achievement of all pupils based upon the results of the examinations administered pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(b) Except as otherwise provided in subsection 2, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(1) Pupils who are economically disadvantaged, as defined by the State Board;

(2) Pupils from major racial and ethnic groups, as defined by the State Board;

- (3) Pupils with disabilities;
- (4) Pupils who are limited English proficient; and
- (5) Pupils who are migratory children, as defined by the State Board.

(c) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(d) The percentage of all pupils who were not tested, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(e) Except as otherwise provided in subsection 2, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in paragraph (b).

(f) The most recent 3-year trend in the achievement of pupils in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(g) Information on whether each school district has made adequate yearly progress, including, without limitation, the name of each school district, if any, designated as demonstrating need for improvement pursuant to NRS 385.377 and the number of consecutive years that the school district has carried that designation.

(h) Information on whether each public school, including, without limitation, each charter school, has made:

(1) Adequate yearly progress, including, without limitation, the name of each public school, if any, designated as demonstrating need for improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(2) Progress based upon the model adopted by the Department pursuant to NRS 385.3595, if applicable for the grade level of pupils enrolled at the school.

(i) Information on the results of pupils who participated in the examinations of the National Assessment of Educational Progress required pursuant to NRS 389.012.

(j) The ratio of pupils to teachers in kindergarten and at each grade level for all elementary schools, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school, reported for each school district and for this State as a whole.

(k) The total number of persons employed by each school district in this State, including without limitation, each charter school in the district. Each such person must be reported as either an administrator, a teacher or other staff and must not be reported in more than one category. In addition to the

total number of persons employed by each school district in each category, the report must include the number of employees in each of the three categories expressed as a percentage of the total number of persons employed by the school district. As used in this paragraph:

(1) "Administrator" means a person who spends at least 50 percent of his or her work year supervising other staff or licensed personnel, or both, and who is not classified by the board of trustees of a school district as a professional-technical employee.

(2) "Other staff" means all persons who are not reported as administrators or teachers, including, without limitation:

(I) School counselors, school nurses and other employees who spend at least 50 percent of their work year providing emotional support, noninstructional guidance or medical support to pupils;

(II) Noninstructional support staff, including, without limitation, janitors, school police officers and maintenance staff; and

(III) Persons classified by the board of trustees of a school district as professional-technical employees, including, without limitation, technical employees and employees on the professional-technical pay scale.

(3) "Teacher" means a person licensed pursuant to chapter 391 of NRS who is classified by the board of trustees of a school district:

(I) As a teacher and who spends at least 50 percent of his or her work year providing instruction or discipline to pupils; or

(II) As instructional support staff, who does not hold a supervisory position and who spends not more than 50 percent of his or her work year providing instruction to pupils. Such instructional support staff includes, without limitation, librarians and persons who provide instructional support.

(I) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, information on the professional qualifications of teachers employed by the school districts and charter schools, including, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) The number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) The number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(m) The total expenditure per pupil for each school district in this State, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(n) The total statewide expenditure per pupil. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(o) For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(p) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(q) The attendance of teachers who provide instruction, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(r) Incidents involving weapons or violence, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(s) Incidents involving the use or possession of alcoholic beverages or controlled substances, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(t) The suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(u) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(v) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(w) The transiency rate of pupils, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. For the purposes of this paragraph, a pupil is not a transient if the pupil is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(x) Each source of funding for this State to be used for the system of public education.

(y) A compilation of the programs of remedial study purchased in whole or in part with money received from this State that are used in each school district, including, without limitation, each charter school in the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study.

(2) An identification of each program of remedial study, listed by subject area.

(z) The percentage of pupils who graduated from a high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(aa) The technological facilities and equipment available for educational purposes, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(bb) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) Paragraph (a) of subsection 1 of NRS 389.805; and

(II) Paragraph (b) of subsection 1 of NRS 389.805.

(2) An adult diploma.

(3) An adjusted diploma.

(4) A certificate of attendance.

(cc) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who failed to pass the high school proficiency examination.

(dd) The number of habitual truants who are reported to a school police officer or local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(ee) Information on the paraprofessionals employed at public schools in this State, including, without limitation, the charter schools in this State. The information must include:

(1) The number of paraprofessionals employed, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole; and

(2) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in programs supported with Title I money and to paraprofessionals who are not employed in programs supported with Title I money.

(ff) An identification of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(gg) A compilation of the special programs available for pupils at individual schools, listed by school and by school district, including, without limitation, each charter school in the district.

(hh) For each school district, including, without limitation, each charter school in the district and for this State as a whole, information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

(ii) *The number of violations of NRS 388.135 reported for each school district, including, without limitation, each charter school in the district, and for the State as a whole.*

(jj) The number of incidents resulting in suspension or expulsion for bullying, cyber-bullying, harassment or intimidation, reported for each school district, including, without limitation, each charter school in the district, and for the State as a whole.

2. A separate reporting for a group of pupils must not be made pursuant to this section if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe a mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

3. The annual report of accountability must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

(c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

4. On or before October 15 of each year, the State Board shall:

(a) Provide for public dissemination of the annual report of accountability by posting a copy of the report on the Internet website maintained by the Department; and

(b) Provide written notice that the report is available on the Internet website maintained by the Department. The written notice must be provided to the:

(1) Governor;

(2) Committee;

- (3) Bureau;
- (4) Board of Regents of the University of Nevada;
- (5) Board of trustees of each school district; and
- (6) Governing body of each charter school.

5. Upon the request of the Governor, an entity described in paragraph (b) of subsection 4 or a member of the general public, the State Board shall provide a portion or portions of the annual report of accountability.

6. As used in this section:

- (a) "Bullying" has the meaning ascribed to it in NRS 388.122.
- (b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.
- (c) "Harassment" has the meaning ascribed to it in NRS 388.125.
- (d) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).
- (e) "Intimidation" has the meaning ascribed to it in NRS 388.129.
- (f) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 2. NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools sponsored by the school district. The board of trustees of each school district shall report the information required by subsection 2 for each charter school sponsored by the school district. The information for charter schools must be reported separately.

2. The board of trustees of each school district shall, on or before September 30 of each year, prepare an annual report of accountability concerning:

- (a) The educational goals and objectives of the school district.
- (b) Pupil achievement for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 389.015 and 389.550 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district, including, without limitation, each charter school sponsored by the district, and each grade in which the examinations were administered:

(1) The number of pupils who took the examinations.

(2) A record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils who are enrolled in the school.

(3) Except as otherwise provided in this paragraph, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(I) Pupils who are economically disadvantaged, as defined by the State Board;

(II) Pupils from major racial and ethnic groups, as defined by the State Board;

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

(V) Pupils who are migratory children, as defined by the State Board.

(4) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(5) The percentage of pupils who were not tested.

(6) Except as otherwise provided in this paragraph, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in subparagraph (3).

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(8) Information that compares the results of pupils in the school district, including, without limitation, pupils enrolled in charter schools sponsored by the district, with the results of pupils throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(9) For each school in the district, including, without limitation, each charter school sponsored by the district, information that compares the results of pupils in the school with the results of pupils throughout the school district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(10) Information on whether each school in the district, including, without limitation, each charter school sponsored by the district, has made progress based upon the model adopted by the Department pursuant to NRS 385.3595.

➡ A separate reporting for a group of pupils must not be made pursuant to this paragraph if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe the mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

(c) The ratio of pupils to teachers in kindergarten and at each grade level for each elementary school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district,

and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

(d) The total number of persons employed for each elementary school, middle school or junior high school, and high school in the district, including, without limitation, each charter school sponsored by the district. Each such person must be reported as either an administrator, a teacher or other staff and must not be reported in more than one category. In addition to the total number of persons employed by each school in each category, the report must include the number of employees in each of the three categories for each school expressed as a percentage of the total number of persons employed by the school. As used in this paragraph:

(1) "Administrator" means a person who spends at least 50 percent of his or her work year supervising other staff or licensed personnel, or both, and who is not classified by the board of trustees of the school district as a professional-technical employee.

(2) "Other staff" means all persons who are not reported as administrators or teachers, including, without limitation:

(I) School counselors, school nurses and other employees who spend at least 50 percent of their work year providing emotional support, noninstructional guidance or medical support to pupils;

(II) Noninstructional support staff, including, without limitation, janitors, school police officers and maintenance staff; and

(III) Persons classified by the board of trustees of the school district as professional-technical employees, including, without limitation, technical employees and employees on the professional-technical pay scale.

(3) "Teacher" means a person licensed pursuant to chapter 391 of NRS who is classified by the board of trustees of the school district:

(I) As a teacher and who spends at least 50 percent of his or her work year providing instruction or discipline to pupils; or

(II) As instructional support staff, who does not hold a supervisory position and who spends not more than 50 percent of his or her work year providing instruction to pupils. Such instructional support staff includes, without limitation, librarians and persons who provide instructional support.

(e) The total number of persons employed by the school district, including without limitation, each charter school sponsored by the district. Each such person must be reported as either an administrator, a teacher or other staff and must not be reported in more than one category. In addition to the total number of persons employed by the school district in each category, the report must include the number of employees in each of the three categories expressed as a percentage of the total number of persons employed by the school district. As used in this paragraph, "administrator," "other staff" and "teacher" have the meanings ascribed to them in paragraph (d).

(f) Information on the professional qualifications of teachers employed by each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The information must include, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) The number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) The number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(g) The total expenditure per pupil for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school

district shall use its own financial analysis program in complying with this paragraph.

(h) The curriculum used by the school district, including:

(1) Any special programs for pupils at an individual school; and

(2) The curriculum used by each charter school sponsored by the district.

(i) Records of the attendance and truancy of pupils in all grades, including, without limitation:

(1) The average daily attendance of pupils, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

(2) For each elementary school, middle school and junior high school in the district, including, without limitation, each charter school sponsored by the district that provides instruction to pupils enrolled in a grade level other than high school, information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(j) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, for each such grade, for each school in the district and for the district as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(k) Records of attendance of teachers who provide instruction, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

(l) Efforts made by the school district and by each school in the district, including, without limitation, each charter school sponsored by the district, to increase:

(1) Communication with the parents of pupils enrolled in the district;

(2) The participation of parents in the educational process and activities relating to the school district and each school, including, without limitation, the existence of parent organizations and school advisory committees; and

(3) The involvement of parents and the engagement of families of pupils enrolled in the district in the education of their children.

(m) Records of incidents involving weapons or violence for each school in the district, including, without limitation, each charter school sponsored by the district.

(n) Records of incidents involving the use or possession of alcoholic beverages or controlled substances for each school in the district, including, without limitation, each charter school sponsored by the district.

(o) Records of the suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467.

(p) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

(q) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

(r) The transiency rate of pupils for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. For the purposes of this paragraph, a pupil is not transient if the pupil is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(s) Each source of funding for the school district.

(t) A compilation of the programs of remedial study that are purchased in whole or in part with money received from this State, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

(2) An identification of each program of remedial study, listed by subject area.

(u) For each high school in the district, including, without limitation, each charter school sponsored by the district, the percentage of pupils who graduated from that high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education.

(v) The technological facilities and equipment available at each school, including, without limitation, each charter school sponsored by the district, and the district's plan to incorporate educational technology at each school.

(w) For each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district, the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) Paragraph (a) of subsection 1 of NRS 389.805; and

(II) Paragraph (b) of subsection 1 of NRS 389.805.

- (2) An adult diploma.
- (3) An adjusted diploma.
- (4) A certificate of attendance.

(x) For each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district, the number and percentage of pupils who failed to pass the high school proficiency examination.

(y) The number of habitual truants who are reported to a school police officer or law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, for each school in the district and for the district as a whole.

(z) The amount and sources of money received for the training and professional development of teachers and other educational personnel for each school in the district and for the district as a whole, including, without limitation, each charter school sponsored by the district.

(aa) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

(bb) Information on whether each public school in the district, including, without limitation, each charter school sponsored by the district, has made adequate yearly progress, including, without limitation:

(1) The number and percentage of schools in the district, if any, that have been designated as needing improvement pursuant to NRS 385.3623; and

(2) The name of each school, if any, in the district that has been designated as needing improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(cc) Information on the paraprofessionals employed by each public school in the district, including, without limitation, each charter school sponsored by the district. The information must include:

(1) The number of paraprofessionals employed at the school; and

(2) The number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in positions supported with Title I money and to paraprofessionals who are not employed in positions supported with Title I money.

(dd) For each high school in the district, including, without limitation, each charter school sponsored by the district that operates as a high school, information that provides a comparison of the rate of graduation of pupils enrolled in the high school with the rate of graduation of pupils throughout the district and throughout this State. The information required by this

paragraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(ee) An identification of the appropriations made by the Legislature that are available to the school district or the schools within the district and programs approved by the Legislature to improve the academic achievement of pupils.

(ff) For each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district, information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

(gg) *The number of reported violations of NRS 388.135, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.*

(hh) The number of incidents resulting in suspension or expulsion for bullying, cyber-bullying, harassment or intimidation, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

~~[(hh)]~~ (ii) Such other information as is directed by the Superintendent of Public Instruction.

3. The State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall, on or before September 30 of each year, prepare an annual report of accountability of the charter schools sponsored by the State Public Charter School Authority or institution, as applicable, concerning the accountability information prescribed by the Department pursuant to this section. The Department, in consultation with the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school, shall prescribe by regulation the information that must be prepared by the State Public Charter School Authority and institution, as applicable, which must include, without limitation, the information contained in paragraphs (a) to ~~[(hh)]~~

(ii), inclusive, of subsection 2, as applicable to charter schools. The Department shall provide for public dissemination of the annual report of accountability prepared pursuant to this section in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the Department.

4. The records of attendance maintained by a school for purposes of paragraph (k) of subsection 2 or maintained by a charter school for purposes of the reporting required pursuant to subsection 3 must include the number of teachers who are in attendance at school and the number of teachers who are absent from school. A teacher shall be deemed in attendance if the teacher is excused from being present in the classroom by the school in which the teacher is employed for one of the following reasons:

(a) Acquisition of knowledge or skills relating to the professional development of the teacher; or

(b) Assignment of the teacher to perform duties for cocurricular or extracurricular activities of pupils.

5. The annual report of accountability prepared pursuant to subsection 2 or 3, as applicable, must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

(b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

6. The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to subsections 2 and 3 and provide the forms to the respective school districts, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school.

(b) Provide statistical information and technical assistance to the school districts, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school to ensure that the reports provide comparable information with respect to each school in each district, each charter school and among the districts and charter schools throughout this State.

(c) Consult with a representative of the:

- (1) Nevada State Education Association;
- (2) Nevada Association of School Boards;
- (3) Nevada Association of School Administrators;
- (4) Nevada Parent Teacher Association;
- (5) Budget Division of the Department of Administration;
- (6) Legislative Counsel Bureau; and
- (7) Charter School Association of Nevada,

➔ concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

7. The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher

Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

8. On or before September 30 of each year:

(a) The board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required in paragraph (i) of subsection 2.

(b) The State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall submit to each advisory board to review school attendance created in a county pursuant to NRS 392.126 the information regarding the records of the attendance and truancy of pupils enrolled in the charter school located in that county, if any, in accordance with the regulations prescribed by the Department pursuant to subsection 3.

9. On or before September 30 of each year:

(a) The board of trustees of each school district, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall provide written notice that the report required pursuant to subsection 2 or 3, as applicable, is available on the Internet website maintained by the school district, State Public Charter School Authority or institution, if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

- (1) Governor;
- (2) State Board;
- (3) Department;
- (4) Committee; and
- (5) Bureau.

(b) The board of trustees of each school district, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 or 3, as applicable, in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district, the State Public Charter School Authority or the institution, if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school sponsored by the district, the residents of the district, and the parents and guardians of pupils enrolled in schools in the district, including, without limitation, each charter school sponsored by the district. If the State Public Charter School Authority or the institution does not maintain a website, the State Public Charter School Authority or the institution, as applicable, shall otherwise provide for public dissemination of the annual report by providing a copy of the report to each

charter school it sponsors and the parents and guardians of pupils enrolled in each charter school it sponsors.

10. Upon the request of the Governor, an entity described in paragraph (a) of subsection 9 or a member of the general public, the board of trustees of a school district, the State Public Charter School Authority or a college or university within the Nevada System of Higher Education that sponsors a charter school, as applicable, shall provide a portion or portions of the report required pursuant to subsection 2 or 3, as applicable.

11. As used in this section:

(a) "Bullying" has the meaning ascribed to it in NRS 388.122.

(b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.

(c) "Harassment" has the meaning ascribed to it in NRS 388.125.

(d) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(e) "Intimidation" has the meaning ascribed to it in NRS 388.129.

(f) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 3. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

~~Each~~ The board of trustees of each school district and the governing body of each charter school shall determine the most effective manner for the delivery of information to the pupils of each public school ~~shall hold an assembly for the pupils enrolled in the school~~ during the "Week of Respect" proclaimed by the Governor each year pursuant to NRS 236.073. The ~~assembly~~ information delivered during the "Week of Respect" must focus on:

1. *Methods to prevent, identify and report incidents of bullying, cyber bullying, harassment and intimidation;*

2. *Methods to improve the school environment in a manner that will facilitate positive human relations among pupils; and*

3. *Methods to facilitate positive human relations among pupils by eliminating the use of bullying, cyber-bullying, harassment and intimidation.*

Sec. 4. NRS 388.121 is hereby amended to read as follows:

388.121 As used in NRS 388.121 to 388.139, inclusive, *and section 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 388.122 to 388.129, inclusive, have the meanings ascribed to them in those sections.

Sec. 4.5. NRS 388.122 is hereby amended to read as follows:

388.122 "Bullying" means a willful act which is written, verbal or physical, or a course of conduct on the part of one or more persons which is not authorized by law and which exposes a person ~~[one time or]~~ repeatedly and over time to one or more negative actions which is highly offensive to a reasonable person and:

1. *Is intended to cause or actually causes the person to suffer harm or serious emotional distress;*

2. Exploits an imbalance in power between the person engaging in the act or conduct and the person who is the subject of the act or conduct;

3. Places the person in reasonable fear of harm or serious emotional distress; or

~~3.~~ 4. Creates an environment which is hostile to a pupil by interfering with the education of the pupil.

Sec. 5. NRS 388.133 is hereby amended to read as follows:

388.133 1. The Department shall, in consultation with the boards of trustees of school districts, educational personnel, local associations and organizations of parents whose children are enrolled in public schools throughout this State, and individual parents and legal guardians whose children are enrolled in public schools throughout this State, prescribe by regulation a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of bullying, cyber-bullying, harassment and intimidation.

2. The policy must include, without limitation:

(a) Requirements and methods for reporting violations of NRS 388.135; and

(b) A policy for use by school districts to train *members of the board of trustees and all* administrators, principals, teachers and all other personnel employed by the board of trustees of a school district. The policy must include, without limitation:

(1) Training in the appropriate methods to facilitate positive human relations among pupils ~~[without]~~ *by eliminating* the use of bullying, cyber-bullying, harassment and intimidation so that pupils may realize their full academic and personal potential;

(2) *Training in methods to prevent, identify and report incidents of bullying, cyber-bullying, harassment and intimidation in public schools;*

(3) Methods to improve the school environment in a manner that will facilitate positive human relations among pupils; and

~~[(3)]~~ (4) Methods to teach skills to pupils so that the pupils are able to replace inappropriate behavior with positive behavior.

Sec. 6. NRS 388.134 is hereby amended to read as follows:

388.134 The board of trustees of each school district shall:

1. Adopt the policy prescribed pursuant to NRS 388.133 and the policy prescribed pursuant to subsection 2 of NRS 389.520. The board of trustees may adopt an expanded policy for one or both of the policies if each expanded policy complies with the policy prescribed pursuant to NRS 388.133 or pursuant to subsection 2 of NRS 389.520, as applicable.

2. Provide for the appropriate training of *members of the board of trustees and* all administrators, principals, teachers and all other personnel employed by the board of trustees in accordance with the policies prescribed pursuant to NRS 388.133 and pursuant to subsection 2 of NRS 389.520. *For members of the board of trustees who have not previously been elected or appointed to the board of trustees or for employees of the school district who*

have not previously been employed by the district, the training required by this subsection must be provided within ~~90~~ 180 days after the member begins his or her term of office or after the employee begins his or her employment, as applicable.

3. Post the policies adopted pursuant to subsection 1 on the Internet website maintained by the school district.

4. Ensure that the parents and legal guardians of pupils enrolled in the school district have sufficient information concerning the availability of the policies, including, without limitation, information that describes how to access the policies on the Internet website maintained by the school district. Upon the request of a parent or legal guardian, the school district shall provide the parent or legal guardian with a written copy of the policies.

5. Review the policies adopted pursuant to subsection 1 on an annual basis and update the policies if necessary. If the board of trustees of a school district updates the policies, the board of trustees must submit a copy of the updated policies to the Department within 30 days after the update.

Sec. 7. NRS 388.1342 is hereby amended to read as follows:

388.1342 1. The Department, in consultation with persons who possess knowledge and expertise in bullying, cyber-bullying, harassment and intimidation in public schools, shall:

(a) Establish a program of training on methods to prevent, identify and report incidents of bullying, cyber-bullying, harassment and intimidation in public schools for members of the State Board.

(b) ~~Recommend~~ *Establish* a program of training on methods to prevent, identify and report incidents of bullying, cyber-bullying, harassment and intimidation in public schools for members of the boards of trustees of school districts.

(c) ~~Recommend~~ *Establish* a program of training for school district *and charter school* personnel to assist those persons with carrying out their powers and duties pursuant to NRS 388.121 to 388.139, inclusive ~~[-]~~ , *and section 3 of this act.*

(d) *Establish a program of training for ~~principals~~ administrators in the prevention of violence and suicide associated with bullying, cyber-bullying, harassment and intimidation in public schools and appropriate methods to respond to incidents of violence or suicide.*

2. Each member of the State Board shall, within 1 year after the member is elected or appointed to the State Board, complete the program of training on bullying, cyber-bullying, harassment and intimidation in public schools established pursuant to paragraph (a) of subsection 1 and undergo the training at least one additional time while the person is a member of the State Board.

3. ~~Each~~ *Except as otherwise provided in NRS 388.134, each* member of a board of trustees of a school district ~~may~~ *shall*, within 1 year after the member is elected or appointed to the board of trustees, complete the program of training on bullying, cyber-bullying, harassment and intimidation

in public schools ~~[recommended]~~ *established* pursuant to paragraph (b) of subsection 1 and ~~[may]~~ undergo the training at least one additional time while the person is a member of the board of trustees.

4. Each ~~principal~~ *administrator* of a public school shall complete the program of training *established pursuant to paragraph (d) of subsection 1* ~~within~~ :

(a) Within 90 days after becoming ~~principal and annually thereafter~~ *an administrator;*

(b) Except as otherwise provided in paragraph (c), at least once every 3 years thereafter; and

(c) At least once during any school year within which the program of training is revised or updated.

5. Each program of training established ~~[and recommended]~~ pursuant to subsection 1 must, to the extent money is available, be made available on the Internet website maintained by the Department or through another provider on the Internet.

~~[5.]~~ 6. The board of trustees of a school district may allow school district personnel to attend the program ~~[recommended]~~ *established* pursuant to paragraph (c) *or (d)* of subsection 1 during regular school hours.

~~[6.]~~ 7. The Department shall review each program of training established ~~[and recommended]~~ pursuant to subsection 1 on an annual basis to ensure that the program contains current information . ~~[concerning the prevention of bullying, cyber bullying, harassment and intimidation.]~~

Sec. 8. NRS 388.1351 is hereby amended to read as follows:

388.1351 1. A teacher or other staff member who witnesses a violation of NRS 388.135 or receives information that a violation of NRS 388.135 has occurred shall verbally report the violation to the principal or his or her designee on the day on which the teacher or other staff member witnessed the violation or received information regarding the occurrence of a violation.

2. The principal or his or her designee shall initiate an investigation not later than 1 day after receiving notice of the violation pursuant to subsection 1. *The principal or the designee shall provide written notice of a reported violation of NRS 388.135 to the parent or legal guardian of each pupil involved in the reported violation. The notice must include, without limitation, a statement that the principal or the designee will be conducting an investigation into the reported violation and that the parent or legal guardian may discuss with the principal or the designee any counseling and intervention services that are available to the pupil.* The investigation must be completed within 10 days after the date on which the investigation is initiated and, if a violation is found to have occurred, include recommendations concerning the imposition of disciplinary action or other measures to be imposed as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.

3. The parent or legal guardian of a pupil involved in the reported violation of NRS 388.135 may appeal a disciplinary decision of the principal or his or her designee, made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.

Sec. 9. NRS 388.1353 is hereby amended to read as follows:

388.1353 1. On or before January 1 and June 30 of each year, the principal of each public school shall submit to the board of trustees of the school district a report on the *number of* violations of NRS 388.135 ~~[which are]~~ reported during the previous school semester ~~[]~~, *regardless of the outcome of the investigation conducted pursuant to NRS 388.1351*. The report must include, without limitation:

(a) The number of violations of NRS 388.135 occurring at the school or otherwise involving a pupil enrolled at the school which are reported during that period; and

(b) Any actions taken at the school to reduce the number of incidents of bullying, cyber-bullying, harassment and intimidation, including, without limitation, training that was offered or other policies, practices and programs that were implemented.

2. The board of trustees of each school district shall review and compile the reports submitted pursuant to subsection 1 and, on or before August 1, submit a compilation of the reports to the Department.

Sec. 10. NRS 388.1355 is hereby amended to read as follows:

388.1355 The Superintendent of Public Instruction shall:

1. Compile the reports submitted pursuant to NRS 388.1353 and prepare a written report of the compilation.

2. On or before October 1 of each year, submit the written compilation to the :

(a) Governor;

(b) Attorney General ~~[]~~; and

(c) *Director of the Legislative Counsel Bureau for transmittal to the Legislature, or to the Legislative Committee on Education created pursuant to NRS 218E.605 when the Legislature is not in regular session.*

Sec. 11. NRS 388.137 is hereby amended to read as follows:

388.137 1. No cause of action may be brought against a pupil or an employee or volunteer of a school who reports a violation of NRS 388.135 unless the person who made the report acted with malice, intentional misconduct, gross negligence, or intentional or knowing violation of the law.

2. *If a principal determines that a report of a violation of NRS 388.135 is false and that the person who made the report acted with malice, intentional misconduct, gross negligence, or intentional or knowing violation of the law, the principal may recommend the imposition of disciplinary action or other measures against the person in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.*

Sec. 12. This act becomes effective on July 1, 2013.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

Thank you, Mr. President. Amendment No. 290 makes four changes to Senate Bill No. 164. First, it adds to the definition of bullying that the act also includes an action that occurs more than once, and exploits an imbalance of power between students. Second, the amendment provides that each charter school governing body and each school district board of trustees specify the method of delivery of the objectives of the "Week of Respect." The change replaces the requirement for an assembly, as previously specified in the bill. Third, the amendment extends the period of time that new members of the board of trustees must receive training from 90 days to 180 days, as measured from the time the member began his or her term of office.

Finally, the wording of the bill is changed so that each school-based administrator, rather than "principal," in a school district is required to participate in the mandatory training specified in the bill. The administrator must have that training repeated every three years, as opposed to "annually" as specified in the bill, unless revisions were made to the program. Additionally, charter school personnel are to be included in the required training.

Amendment adopted.

Senator Parks moved that Senate Bill No. 164 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. 165.

Bill read second time.

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

Amendment No. 367.

"SUMMARY—Provides for transferable tax credits to attract film and other productions to Nevada. (BDR 32-781)"

"AN ACT relating to taxation; authorizing the Office of Economic Development to approve ~~[, and the Nevada Tax Commission to]~~ and issue ~~[,]~~ a certificate of transferable tax ~~[credit for]~~ credits to a producer that produces a qualified film or other production in this State under certain circumstances; providing for the calculation of the transferable tax ~~[credit,]~~ credits; requiring a producer that receives ~~[a]~~ transferable tax ~~[credit]~~ credits to consent to an audit by the Department of Taxation or the State Gaming Control Board, or both, and to the disclosure of the audit report to the Office and to the public with certain limited exceptions; requiring the Office to provide notice of certain hearings; requiring a producer to return any portion of ~~[a]~~ transferable tax ~~[credit]~~ credits to which he or she is not entitled; ~~[requiring the Office to establish the Advisory Committee on Film and Television Industry Transferable Tax Credits,]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 8 of this bill requires the Office of Economic Development to approve ~~[a]~~ transferable tax ~~[credit]~~ credits for a producer that produces a film, television or other media production in this State if, in addition to certain other requirements: (1) the production is in the economic interest of

this State; (2) at least 60 percent of the total qualified expenditures and production costs for the production ~~is filmed, shot, taped, recorded or otherwise produced~~, will be incurred in this State; and (3) the production costs of the qualified production exceed ~~[\$100,000.]~~ \$500,000. Upon approval of ~~the~~ transferable tax ~~credit~~ credits and a determination of the amount of ~~the~~ tax ~~credit~~ credits by the Office, section 8 requires the ~~Nevada Tax Commission~~ Office to issue to the producer ~~the~~ a certificate of transferable tax ~~credit~~ credits. Section 8 also sets forth the fees and taxes to which the transferable tax credits may be applied. Section 9 of this bill sets forth the types of qualified expenditures and production costs that may serve as a basis for ~~the~~ transferable tax ~~credit~~ credits, and sections 10-12 of this bill provide for the calculation of the transferable tax ~~credit~~ credits. Section 13 of this bill requires that, as a condition of approval, a producer must consent to: (1) an audit by the Department of Taxation or the State Gaming Control Board, or both, to determine whether the producer is in compliance with the requirements to receive ~~the~~ the transferable tax ~~credit~~ credits; and (2) the disclosure of the audit report to the Office and to the public with certain limited exceptions. Section 14 of this bill requires the Office to meet certain notice requirements before holding a hearing to approve or disapprove ~~an~~ an application for transferable tax ~~credit~~ credits. Section 16 of this bill requires a producer to repay any portion of ~~the~~ transferable tax ~~credit~~ credits to which the producer is not entitled if the producer becomes ineligible for the tax ~~credit~~ credits after receiving the tax ~~credit~~.

~~Section 17 of this bill requires the Office to establish the Advisory Committee on Film and Television Industry Transferable Tax Credits to advise the Office on the implementation of the provisions of this bill and the adoption of any regulations pursuant thereto.] credits.~~

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 the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. *As used in sections 2 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections ~~2.1~~ 2.5 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 2.5. *"Above-the-line personnel" means a producer, director, writer, actor, other than an extra, or other similar personnel whose compensation is negotiated before the start of the qualified production. The term does not include below-the-line personnel.*

Sec. 3. ~~["Local government" means any county, city, district, agency or other political subdivision of this State that receives any portion of the proceeds of a tax.] (Deleted by amendment.)~~

Sec. 3.5. *"Below-the-line personnel" means a person employed to work on a qualified production after production begins and before production is completed, including, without limitation, a best boy, boom operator, camera loader, camera operator, assistant camera operator, compositor, dialogue*

editor, film editor, assistant film editor, focus puller, Foley operator, Foley editor, gaffer, grip, key grip, lighting crew, lighting board operator, lighting technician, music editor, sound editor, sound effects editor, sound mixer, steadicam operator, first assistant camera operator, second assistant camera operator, digital imaging technician, camera operator working with a director of photography, electric best boy, grip best boy, dolly grip, rigging grip, assistant key for makeup, assistant key for hair, assistant script supervisor, set construction foreperson, lead set dresser, assistant key for wardrobe, scenic foreperson, assistant propmaster, assistant audio mixer, assistant boom person, assistant key for special effects and other similar personnel. The term does not include above-the-line personnel.

Sec. 4. "Nevada business" means a proprietorship, corporation, partnership, company, association, trust, unincorporated organization or other enterprise that ~~has~~ :

1. Has a physical location and at least one full-time equivalent employee in this State; and

2. Is licensed to transact business in this State.

Sec. 5. "Nevada resident" means a bona fide resident as that term is defined in NRS 361.015.

Sec. 6. "Producer" means a natural person or business that finances, arranges to finance or supervises the production of a qualified production.

Sec. 7. 1. "Qualified production" includes preproduction, production and postproduction and means:

- (a) A theatrical, direct-to-video or other media motion picture.
- (b) A made-for-television motion picture.
- (c) Visual effects or digital animation sequences.
- (d) A television pilot program.
- (e) Interstitial television programming.
- (f) A television, Internet or other media series, including, without limitation, a comedy, drama, miniseries, soap opera, talk show or telenovela.
- (g) A national or regional commercial or series of commercials.
- (h) An infomercial.
- (i) An interstitial advertisement.
- (j) A music video.
- (k) A documentary film or series.
- (l) Other visual media productions, including, without limitation, video games and mobile applications.

2. The term does not include:

- (a) A news, weather or current events program.
- (b) A production that is primarily produced for industrial, corporate or institutional use.
- (c) A telethon or any production that solicits money, other than a production which is produced for national distribution.
- (d) A political advertisement.
- (e) A sporting event.

(f) A gala or awards show.

(g) Any other type of production that is excluded by regulations adopted by the Office of Economic Development pursuant to section 8 of this act.

Sec. 8. 1. A producer of a qualified production that is produced in this State in whole or in part may apply to the Office of Economic Development for a certificate of eligibility for transferable tax ~~for credit~~ credits for any qualified expenditures ~~for~~ and production costs identified in section 9 of this act. The transferable tax credits may be applied to:

(a) Any tax imposed by chapters 363A and 363B of NRS;

(b) Any tax imposed by chapter 368A of NRS;

(c) The gaming license fees imposed by the provisions of NRS 463.370;

(d) Any tax imposed pursuant to chapter 680B of NRS; or

(e) Any combination of the fees and taxes described in paragraphs (a) to (d), inclusive.

2. The Office shall approve an application for a certificate of eligibility for transferable tax ~~for credit~~ credits if the Office finds that the producer of the qualified production qualifies for the transferable tax ~~for credit~~ credits pursuant to subsection 3 and shall calculate the estimated amount of the transferable tax ~~for credit~~ credits pursuant to sections 10, 11 and 12 of this act.

3. To be eligible for ~~for~~ transferable tax ~~for credit~~ credits pursuant to this section, a producer must:

(a) Submit an application that meets the requirements of subsection 4;

(b) Provide proof satisfactory to the Office that the qualified production is in the economic interest of the State;

(c) Meet the consent requirements of subsection 1 of section 13 of this act;

(d) Provide proof satisfactory to the Office that 50 percent or more of the funding for the qualified production has been placed in an escrow account or trust account for the benefit of the qualified production;

(e) ~~{Film, shoot, tape record or otherwise produce}~~ Provide proof satisfactory to the Office that at least 60 percent of the total qualified expenditures and production costs for the qualified production, including preproduction and postproduction, will be incurred in this State;

(f) At the completion of the qualified production, provide the Office with an audit of the qualified production that includes an itemized report of qualified expenditures and production costs which:

(1) Shows that the qualified production incurred qualified expenditures and production costs in this State of ~~{ \$100,000 }~~ \$500,000 or more; and

(2) Is certified by an independent certified public accountant in this State who is approved by the Office; ~~and~~

(g) Pay the cost of the audit required by paragraph (f); and

(h) Meet any other requirements prescribed by regulation pursuant to this section.

4. An application submitted pursuant to subsection 3 must contain:

(a) A script, storyboard or synopsis of the qualified production;

- (b) The names of the producer, director and proposed cast;
- (c) An estimated timeline to complete the qualified production;
- (d) A detailed budget for the entire production, including projected expenses incurred outside of Nevada;
- (e) Details regarding the financing of the project, including, without limitation, any information relating to a binding financing commitment, loan application, commitment letter or investment letter;
- (f) An insurance certificate, binder or quote for general liability insurance of \$1,000,000 or more;
- (g) The business address of the producer, which must be an address in this State;
- (h) Proof that the qualified production meets any applicable requirements relating to workers' compensation insurance;
- (i) Proof that the producer has secured all licenses required to do business in each location in this State at which the qualified production will be produced; and
- (j) Any other information required by regulations adopted by the Office pursuant to subsection 8.

5. If the Office approves an application for a certificate of eligibility for ~~for~~ transferable tax ~~credit~~ credits pursuant to this section, the Office shall immediately forward a copy of the certificate of eligibility which identifies the estimated amount of the tax ~~credit~~ credits available pursuant to section 10 of this act to:

- (a) The applicant;
- (b) The Department; and
- (c) The ~~Nevada Tax Commission; and~~
- ~~(d) If the credit is for a tax imposed by a local government, to the appropriate governing body.~~ State Gaming Control Board.

6. ~~Upon~~ Within 14 business days after receipt of ~~a certificate of eligibility~~ an audit provided by the producer pursuant to paragraph (f) of subsection 3, the ~~Nevada Tax Commission~~ Office shall determine whether to certify the audit and make a final determination of whether a certificate of transferable tax credits will be issued. If the Office certifies the audit and determines that all other requirements for the transferable tax credits have been met, the Office shall notify the producer that the transferable tax credits will be issued. Within 30 days after the receipt of the notice, the producer shall make an irrevocable declaration of the amount of transferable tax credits that will be applied to each fee or tax set forth in subsection 1, thereby accounting for all of the credits which will be issued. Upon receipt of the declaration, the Office shall issue to the eligible producer a certificate of transferable tax ~~credit~~ credits in the amount approved by the Office ~~for~~ for the fees or taxes included in the declaration of the producer. The producer shall notify the Office upon transferring any of the transferable tax credits. The Office shall notify the Department and the State Gaming Control Board of all transferable tax credits issued.

segregated by each fee or tax set forth in subsection 1, and the amount of any transferable tax credits transferred.

7. An applicant for ~~for~~ transferable tax ~~credit~~ credits pursuant to this section shall, upon the request of the Executive Director of the Office, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 3.

8. The Office:

(a) Shall adopt regulations prescribing:

(1) Any additional requirements to receive ~~for~~ transferable tax ~~credit~~ credits;

(2) Any additional qualified expenditures or production costs that may serve as the basis for ~~for~~ transferable tax ~~credit~~ credits pursuant to section 9 of this act;

(3) Any additional information that must be included with an application pursuant to subsection 4;

(4) The application review process;

(5) Any type of qualified production which, due to obscene or sexually explicit material, is not eligible for ~~for~~ transferable tax ~~credit~~ credits; and

(6) The requirements for notice pursuant to section 14 of this act; and

(b) May adopt any other regulations that are necessary to carry out the provisions of sections 2 to 17, inclusive, of this act.

9. The Nevada Tax Commission and the Nevada Gaming Commission:

(a) Shall adopt regulations prescribing the manner in which ~~for~~ transferable tax ~~credit~~ credits:

~~(1) Is issued by the Commission;~~

~~(2) May be used, applied or transferred, in whole or in part, by a producer or third party recipient; and~~

~~(3) Expires; and credits will be administered.~~

(b) May adopt any other regulations that are necessary to carry out the provisions of sections 2 to 17, inclusive, of this act.

Sec. 9. 1. Qualified expenditures and production costs that may serve as a basis for ~~for~~ transferable tax ~~credit~~ credits issued pursuant to section 8 of this act must be ~~incurred in Nevada~~ purchases of tangible personal property or services from a Nevada business on or after the date on which an applicant submits an application for the transferable tax ~~credit~~ credits, must be customary and reasonable and must relate to:

(a) Set construction and operation;

(b) Wardrobe and makeup;

(c) Photography, sound and lighting;

(d) Filming, film processing and film editing;

(e) The rental or leasing of facilities, equipment and vehicles;

(f) Food and lodging;

(g) Editing, sound mixing, special effects, visual effects and other postproduction services;

(h) The payroll for Nevada residents or other personnel who provided services in this State;

(i) Payment for goods or services provided by a Nevada business;

(j) The design, construction, improvement or repair of property, infrastructure, equipment or a production or postproduction facility;

(k) State and local government taxes ~~that~~ to the extent not included as part of another cost reported pursuant to this section;

(l) Fees paid to a producer who is a Nevada resident; and

(m) Any other transaction, service or activity authorized in regulations adopted by the Office of Economic Development pursuant to section 8 of this act.

2. Expenditures and costs:

(a) Related to:

(1) The acquisition, transfer or use of ~~that~~ transferable tax ~~credits~~ credits;

(2) Marketing and distribution;

(3) Financing, depreciation and amortization;

(4) The payment of any profits as a result of the qualified production; ~~and~~

(5) The payment for the cost of the audit required by section 8 of this act; and

(6) The payment for any goods or services that are not directly attributable to the qualified production;

(b) For which reimbursement is received, or for which reimbursement is reasonably expected to be received;

(c) Which provide a pass-through benefit to a person who is not a Nevada resident; ~~and~~ or

(d) Which have been previously claimed as a basis for ~~that~~ transferable tax ~~credits~~ credits.

~~are~~ are not eligible to serve as a basis for that transferable tax credits issued pursuant to section 8 of this act.

Sec. 10. 1. Except as otherwise provided in subsection 3 and sections 11 and 12 of this act, the base amount of ~~that~~ transferable tax ~~credits~~ credits issued to an eligible producer pursuant to section 8 of this act must equal ~~that~~ 20 percent of the cumulative qualified expenditures and production costs.

2. Except as otherwise provided in subsection 3 and section 12 of this act, in addition to the base amount calculated pursuant to subsection 1, ~~that~~ transferable tax ~~credits~~ credits issued to an eligible producer pursuant to section 8 of this act must include ~~that~~ credits in an amount equal to:

(a) An additional 2 percent of the cumulative qualified expenditures and production costs if more than 50 percent of the below-the-line ~~personnel~~ members of the qualified production are Nevada residents; and

(b) An additional 2 percent of the cumulative qualified expenditures and production costs if more than 50 percent of the filming days of the qualified

production occurred in a county in this State in which, in each of the 2 years immediately preceding the date of application, qualified productions incurred less than \$10,000,000 of direct expenditures.

3. The Office may:

(a) Reduce the cumulative amount of ~~for~~ transferable tax ~~credit~~ credits that ~~is~~ are calculated pursuant to this section by an amount equal to any damages incurred by the State or any political subdivision of the State as a result of a qualified production that is produced in this State; or

(b) Withhold the transferable tax ~~credit~~ credits, in whole or in part, until any pending legal action in this State against a producer or involving a qualified production is resolved.

Sec. 11. 1. In calculating the base amount of ~~for~~ transferable tax ~~credit~~ credits pursuant to subsection 1 of section 10 of this act:

~~1. Qualified expenditures attributable to the payment of persons who are not Nevada residents but are designated as~~

(a) Wages and salaries, including fringe benefits, paid to above-the-line personnel ~~pursuant to the regulations adopted by the Office of Economic Development pursuant to section 8 of this act~~ must be included in the calculation at a rate of ~~20~~ 17 percent.

~~2. Qualified expenditures attributable to the payment of persons who are not Nevada residents but are designated as~~

(b) Wages and salaries, including fringe benefits, paid to below-the-line personnel ~~pursuant to the regulations adopted by the Office of Economic Development pursuant to section 8 of this act~~:

~~(a)~~ (1) For the period beginning January 1, 2014, and ending December 31, 2015, must be included in the calculation at a rate of ~~20~~ 17 percent.

~~(b)~~ (2) For the period beginning January 1, 2016, and ending December 31, 2016, must be included in the calculation at a rate of ~~15~~ 12 percent.

~~(c)~~ (3) For the period beginning January 1, 2017, and ending December 31, 2017, must be included in the calculation at a rate of ~~10~~ 7 percent.

~~(d)~~ (4) For the period beginning January 1, 2018, and ending December 31, 2018, must be included in the calculation at a rate of ~~5~~ 2 percent.

~~(e)~~ (5) On or after January 1, 2019, must not be included in the calculation.

2. As used in this section, "fringe benefits" means employee expenses paid by an employer for the use of a person's services, including, without limitation, payments made to a governmental entity, union dues, health insurance premiums, payments to a pension plan and payments for workers' compensation insurance.

Sec. 12. 1. Except as otherwise provided in this subsection, the Office of Economic Development shall not approve any application for ~~for~~

transferable tax ~~for credit~~ credits if approval of the application would cause the total amount of transferable tax credits approved pursuant to section 8 of this act for the current fiscal year to exceed ~~the \$50,000,000~~ \$35,000,000. If the Office does not approve ~~the \$50,000,000~~ \$35,000,000 of transferable tax credits during any fiscal year, the remaining amount of transferable tax credits ~~may~~ must be carried forward and made available for approval ~~in future~~ during the immediately following 2 fiscal years.

2. The ~~amount of a~~ transferable tax ~~for credit~~ credits issued to any producer for any qualified production pursuant to section 8 of this act ~~must~~ :

- (a) Must not exceed ~~the \$5,000,000~~ a total amount of \$6,000,000; and
- (b) Expire 4 years after the date on which the transferable tax credits are issued to the producer.

3. For the purposes of calculating qualified expenditures and production costs:

(a) The compensation payable to all producers who are Nevada residents must not exceed 10 percent of the portion of the total budget of the qualified production ~~for~~ that was expended in or attributable to any expenses incurred in this State.

(b) The compensation payable to all producers who are not Nevada residents must not exceed 5 percent of the portion of the total budget of the qualified production ~~for~~ that was expended in or attributable to any expenses incurred in this State.

(c) The compensation payable to any employee, independent contractor or any other person paid a wage or salary as compensation for providing labor services on the production of the qualified production must not exceed \$1,000,000.

Sec. 13. 1. As a condition of approval, a producer that applies for ~~a~~ transferable tax ~~for credit~~ credits pursuant to section 8 of this act must consent to:

(a) An audit by the Department or the State Gaming Control Board, or both, depending upon the fees or taxes for which transferable tax credits are issued, to determine whether the producer is in compliance with the requirements for the transferable tax ~~for credit~~ credits; and

(b) The disclosure of the audit report in the manner set forth in this section.

2. If the Department or the State Gaming Control Board conducts an audit of a producer to determine whether the producer is in compliance with the requirements for ~~a~~ transferable tax ~~for credit~~ credits, the Department or the Board shall, upon request, provide the audit report to the Office of Economic Development.

3. Until a producer has exhausted all appeals to the Department and the Nevada Tax Commission, or the State Gaming Control Board and the Nevada Gaming Commission, as applicable, relating to an audit, the information contained in the audit report provided to the Office:

- (a) Is confidential and proprietary information of the producer;
- (b) Is not a public record; and
- (c) Must not be disclosed to any person who is not an employee of the Office unless the producer consents to the disclosure.

4. After a producer has exhausted all appeals to the Department and the Nevada Tax Commission, or the State Gaming Control Board and the Nevada Gaming Commission, as applicable, relating to an audit:

- (a) The audit report provided to the Office is a public record; and
- (b) Upon request by any person, the Executive Director of the Office shall disclose the audit report to the person who made the request, except for any information in the audit report that is not disclosed pursuant to subsection 5.

5. Before the Executive Director discloses an audit report to the public, a producer may submit a request to the Executive Director to protect from disclosure any information in the audit report which, under generally accepted business practices, would be considered a trade secret or other confidential or proprietary information of the producer. After consulting with the producer, the Executive Director shall determine whether to disclose the information. The decision of the Executive Director is final and is not subject to judicial review.

6. If the Executive Director does not disclose information in an audit report pursuant to subsection 5, the information:

- (a) Must be redacted by the Executive Director before the audit report is disclosed to the public; and
- (b) Must not be disclosed to any person who is not an employee of the Office unless the producer consents to the disclosure.

Sec. 14. 1. An application for a certificate of eligibility for transferable tax ~~for credit~~ credits submitted pursuant to section 8 of this act must be submitted not earlier than 90 days before the date of commencement of principal photography of the qualified production ~~for~~, if any. The Office of Economic Development shall prescribe by regulation the procedure for determining the date of commencement of qualified productions that do not include photography for the purposes of this section.

2. If the Office of Economic Development receives an application for ~~for~~ transferable tax ~~for credit~~ credits pursuant to section 8 of this act, the Office shall, not later than 30 days before a hearing on the application, provide notice of the hearing to:

- (a) The applicant;
- (b) The Department; and
- (c) ~~The governing body of any local government that could be affected by the decision of the Office.~~ State Gaming Control Board.

3. The notice required by this section must set forth the date, time and location of the hearing on the application. The date of the hearing must be not later than 45 days after the Office receives the completed application.

4. The Office shall issue a decision on the application not later than 30 days after the conclusion of the hearing on the application.

5. The producer of a qualified production shall submit all accountings and other required information to the Office and the Department not later than 30 days after completion of the qualified production. Production of the qualified production must be completed within 1 year after the date of commencement of principal photography. If the Office or the Department determines that information submitted pursuant to this subsection is incomplete, the producer shall, not later than 30 days after receiving notice that the information is incomplete, provide to the Office or the Department, as applicable, all additional information required by the Office or the Department.

6. The Office shall give priority to the approval and processing of an application submitted by the producer of a qualified production that promotes tourism in the State of Nevada.

Sec. 15. ~~[An application for a transferable tax credit approved pursuant to section 8 of this act may be amended for a period of 1 year after the date of issuance of the transferable tax credit.] (Deleted by amendment.)~~

Sec. 16. 1. A producer that is found to have submitted any false statement, representation or certification in any document submitted for the purpose of obtaining transferable tax credits or who otherwise becomes ineligible for ~~for~~ transferable tax ~~credit~~ credits after receiving the transferable tax ~~credit~~ credits pursuant to section 8 of this act shall repay to the Department or the ~~[appropriate local government]~~ State Gaming Control Board, as applicable, any portion of the transferable tax ~~credit~~ credits to which the producer is not entitled.

2. Transferable tax credits purchased in good faith are not subject to forfeiture unless the transferee submitted fraudulent information in connection with the purchase.

Sec. 17. ~~[1.] The Office of Economic Development shall ~~establish the Advisory Committee on Film and Television Industry Transferable Tax Credits, consisting of the following nine members appointed by the Office:~~~~

- ~~(a) Three members who are representatives of local governments;~~
- ~~(b) Three members who represent Nevada businesses involved in the film and television industry; and~~
- ~~(c) Three members who are representatives of labor unions whose members perform work related to the film and television industry.~~

~~2. Each member of the Advisory Committee serves a term of 2 years and may be reappointed. A vacancy in the membership of any member must be filled in the same manner as the original appointment.~~

~~3. The Chair of the Advisory Committee must be selected annually by the members from among the members appointed to the Advisory Committee pursuant to paragraph (a) of subsection 1.~~

~~4. The Advisory Committee shall meet at least once annually and at the call of the Chair.~~

~~5. The Advisory Committee shall advise the Office in carrying out the provisions of sections 2 to 17, inclusive, of this act and the adoption and carrying out of any regulations pursuant thereto.~~

~~6. The members of the Advisory Committee serve without compensation.~~

~~7. The Office shall provide administrative support to the Advisory Committee.~~ 7. on or before October 1 of each year, prepare and submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature an annual report which includes, for the immediately preceding fiscal year:

1. The number of applications submitted for transferable tax credits;

2. The number of qualified productions for which transferable tax credits were approved;

3. The amount of transferable tax credits approved;

4. The amount of transferable tax credits used;

5. The amount of transferable tax credits transferred;

6. The amount of transferable tax credits taken against each allowable fee or tax, including the actual amount used and outstanding, in total and for each qualified production;

7. The total amount of the qualified expenses and production costs incurred by each qualified production and the portion of those expenses and costs that were incurred in Nevada;

8. The number of persons in Nevada employed by each qualified production and the amount of wages paid to those persons; and

9. The period during which each qualified production was in Nevada and employed persons in Nevada.

Sec. 18. The Office of Economic Development, the Nevada Gaming Commission and the Nevada Tax Commission shall each ~~[, in consultation with the other,]~~ adopt such regulations as are ~~[necessary]~~ respectively required to implement the provisions of sections 2 to 17, inclusive, of this act on or before December 31, 2013.

Sec. 19. This act becomes effective upon passage and approval for the purposes of adopting regulations and ~~[making initial appointments to the Advisory Committee on Film and Television Industry Transferable Tax Credits established pursuant to section 17 of this act,]~~ performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and on January 1, 2014, for all other purposes.

Senator Ford moved the adoption of the amendment.

Remarks by Senator Ford.

Thank you, Mr. President. Amendment No. 367 to Senate Bill No. 165 adds various provisions related to the administration of the transferrable film tax credits, reduces the amount of credits that may be granted, and requires the Office of Economic Development to provide annual statistical reports regarding the film tax credits issued and used. The amendment clarifies that the film tax credits are not issued until after the production has been completed and all qualified expenses incurred in Nevada have been verified through an audit. The amendment specifies that the film tax credits will expire four years after issuance and can only be applied

against the Modified Business Tax, the Live Entertainment Tax, the Gaming Percentage Fee Tax, the Insurance Premium Tax or any combination of these taxes.

Amendment No. 367 to Senate Bill No. 165 reduces the maximum amount of film tax credits that may be granted by the Office of Economic Development in each fiscal year, from \$50 million to \$35 million. It increases the minimum production costs that must be incurred in Nevada in order to qualify for the film tax credits, from \$100,000 to \$500,000. This act becomes effective upon passage and approval for the purposes of adopting regulations and performing any preparatory administrative tasks necessary to carry out the provisions of the act; and on January 1, 2014, for all other purposes.

Amendment adopted.

Senator Ford moved that Senate Bill No. 165 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. 179.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 238.

"SUMMARY—Makes various changes to provisions governing public safety. (BDR 43-79)"

"AN ACT relating to public safety; enhancing the penalty for certain traffic violations which occur in school zones or school crossing zones; authorizing certain governing bodies and the Department of Transportation to designate pedestrian safety zones in certain circumstances; providing for enhanced penalties for certain traffic violations in pedestrian safety zones; revising provisions relating to pedestrians and crosswalks; authorizing the imposition by a court of mandatory attendance in a pedestrian, bicycle and traffic safety course for the driver of a vehicle found guilty of certain traffic violations; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a driver who is convicted of a violation of a speed limit or of certain other traffic violations is subject to a doubling of the penalty if the violation occurs in a highway construction zone when workers are present. (NRS 484B.130) Existing law also provides that certain maximum speeds are in effect in school zones and school crossing zones at certain times. (NRS 484B.363) Sections ~~1 and 7~~ 2 and 24 of this bill provide that a driver is subject to a doubling of the penalty for a violation of a speed limit or of certain other traffic violations if the violation occurs in a school zone or a school crossing zone at a time when the statutory speed limits for such zones are in effect. Section ~~7~~ 24 also makes it unlawful for a driver to make a U-turn or pass another vehicle in a school zone or a school crossing zone when the school speed limit is in effect. Finally, section ~~7~~ 24 requires that the sign posted to mark the beginning of each school zone and

school crossing zone newly include a designation that fines may be ~~doubled~~ higher when the speed limit is in effect.

Section 1 of this bill authorizes the governing body of a local government or the Department of Transportation to designate pedestrian safety zones on a highway if certain findings are made. Section 1 also provides that a person who is convicted of a violation of a speed limit or of certain other violations is subject to a doubling of the penalty if the violation occurs in a pedestrian safety zone. Sections 3-13, 17, 18, 20-22, 25-28 and 30-32 of this bill make conforming changes to indicate the possibility of the enhanced penalty.

Existing law requires the driver of a vehicle to yield the right-of-way to a pedestrian in a crosswalk under certain circumstances when the pedestrian is on the half of the highway upon which the vehicle is traveling, and when a pedestrian is lawfully in a crosswalk or intersection that is controlled by traffic lights. (NRS 484B.283, 484B.307) Section ~~13~~ 15 of this bill requires a driver to stop for such a pedestrian, specifies that the requirement applies to both marked and unmarked crosswalks, expands the requirement to when a pedestrian is within one lane of the half of the highway upon which the vehicle is traveling and defines the term "half of the highway" to mean the entire width of all the traffic lanes which convey traffic in the same direction, including any paved shoulder. Section ~~13~~ 15 also authorizes a court, upon the conviction of the driver of a motor vehicle for violating certain crosswalk requirements, to order the driver to attend a course of pedestrian, bicycle and traffic safety ~~and~~ and to lower the amount of any fine imposed if the person attends such a course. Section 15 further provides that a person who resides more than 50 miles from the nearest location where such a course is offered may be exempted from attending the course. Section ~~15~~ 19 of this bill requires a driver to stop for a pedestrian who is lawfully in a crosswalk or an intersection that is controlled by traffic lights.

Existing law requires a pedestrian to yield the right-of-way to vehicles when the pedestrian is crossing a highway outside of a marked or unmarked crosswalk, and when crossing a highway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided. Existing law also prohibits a pedestrian from crossing a highway outside of a marked crosswalk when the pedestrian is between adjacent intersections at which traffic-control devices are in operation. (NRS 484B.287) Section ~~14~~ 16 of this bill eliminates the requirement for a pedestrian to yield the right-of-way to vehicles when crossing where a pedestrian tunnel or overhead pedestrian crossing has been provided. Section ~~14~~ 16 also revises the prohibition on a pedestrian crossing outside of a marked crosswalk between adjacent intersections to forbid a pedestrian from crossing outside of a marked or unmarked crosswalk if the pedestrian is within ~~200~~ 250 feet of a marked or unmarked crosswalk. Section ~~14~~ 16 also requires a pedestrian to cross a highway at a right angle to the edge of the highway or, when a right angle is not possible or practicable, by the shortest route to the opposite side.

Existing law provides that driving a vehicle in willful or wanton disregard of the safety of persons or property constitutes reckless driving, and provides for the imposition of certain fines and terms of imprisonment on a driver who is found guilty of reckless driving. (NRS 484B.653) Section ~~18~~ 29 of this bill authorizes a court to order a driver found guilty of reckless driving under certain circumstances to, in addition to the required fine or term of imprisonment, attend a course of pedestrian, bicycle and traffic safety if the reckless driving involved the safety of pedestrians or persons riding bicycles. Section 29 further provides that a person who resides more than 50 miles from the nearest location where such a course is offered may be exempted from attending the course.

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

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

1. Except as otherwise provided in subsections 2 and 4, a person who is convicted of a violation of a speed limit, or of NRS 484B.150, 484B.163, 484B.165, 484B.200 to 484B.217, inclusive, 484B.223, 484B.227, 484B.280, 484B.283, 484B.287, 484B.300, 484B.303, 484B.307, 484B.317, 484B.320, 484B.327, 484B.403, 484B.600, 484B.603, 484B.650, 484B.653, 484B.657, 484C.110 or 484C.120, that occurred in an area designated as a pedestrian safety zone shall be punished by imprisonment or by a fine, or both, for a term or an amount equal to and in addition to the term of imprisonment or amount of the fine, or both, that the court imposes for the primary offense. Any term of imprisonment imposed pursuant to this subsection runs consecutively with the sentence prescribed by the court for the crime. This subsection does not create a separate offense, but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

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

3. A governmental entity that designates a pedestrian safety zone shall cause to be erected:

(a) A sign located before the beginning of the zone which provides notice that higher fines may apply in pedestrian safety zones;

(b) A sign to mark the beginning of the pedestrian safety zone; and

(c) A sign to mark the end of the pedestrian safety zone.

4. A person who would otherwise be subject to an additional penalty pursuant to this section is not relieved of any criminal liability because signs are not erected as required by subsection 3 if the violation results in injury to any pedestrian in the pedestrian safety zone.

5. The governing body of a local government or the Department of Transportation may designate a pedestrian safety zone on a highway if the governing body or the Department of Transportation:

(a) Makes findings as to the necessity and appropriateness of a pedestrian safety zone, including, without limitation, circumstances on or near a highway which make an area of the highway dangerous for pedestrians; and

(b) Comply with the requirements of subsection 3, NRS 484A.430 and 484A.440.

~~[Section 1.]~~ Sec. 2. NRS 484B.130 is hereby amended to read as follows:

484B.130 1. Except as otherwise provided in subsections ~~[2.]~~ 5, 9 and ~~[6.]~~ 11, a person who is convicted of a violation of a speed limit, or of NRS 484B.150, 484B.163, 484B.165, 484B.200 to 484B.217, inclusive, 484B.223, 484B.227, 484B.300, 484B.303, 484B.317, 484B.320, 484B.327, 484B.330, ~~484B.363~~, 484B.403, 484B.587, 484B.600, 484B.603, 484B.650, 484B.653, 484B.657, 484C.110 or 484C.120 ~~[.]~~ is subject to the additional penalty set forth in subsection 4 if that violation occurred ~~[.]~~

~~(a)]~~ as described in subsection 2 or 3.

2. For the purposes of subsection 1, the additional penalty set forth in subsection 4 applies when the violation occurs:

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

(b) At a time when the workers who are performing construction, maintenance or repair of the highway or other work are present, or when the effects of the act may be aggravated because of the condition of the highway caused by construction, maintenance or repair, including, without limitation, reduction in lane width, reduction in the number of lanes, shifting of lanes from the designated alignment and uneven or temporary surfaces, including, without limitation, modifications to road beds, cement-treated bases, chip seals and other similar conditions. ~~[.]~~

~~[.]~~ 3. For the purposes of subsection 1, the additional penalty set forth in subsection 4 applies when the violation occurs:

(a) In an area designated as a school zone or a school crossing zone in accordance with NRS 484B.363; and

(b) When the speed limits required by NRS 484B.363 are in effect.

4. Except as otherwise provided in sections 5, 9 and 11, a person convicted of a violation pursuant to subsection 1 shall be punished by imprisonment or by a fine, or both, for a term or an amount equal to and in addition to the term of imprisonment or amount of the fine, or both, that the court imposes for the primary offense. Any term of imprisonment imposed pursuant to this subsection runs consecutively with the sentence prescribed by the court for the crime. This subsection does not create a separate offense, but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[2.]~~ 5. The additional penalty imposed pursuant to subsection ~~[4.]~~ 4 must not exceed a total of \$1,000, 6 months of imprisonment or 120 hours of community service.

~~[3.]~~ 6. Except as otherwise provided in subsection ~~[5.]~~ 8, a governmental entity that designates an area or authorizes the designation of an area as a

temporary traffic control zone in which construction, maintenance or repair of a highway or other work is conducted, or the person with whom the governmental entity contracts to provide such service, shall cause to be erected:

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

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

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

~~{4.}~~ 7. A person who otherwise would be subject to an additional penalty pursuant to ~~{this section}~~ subsection 2 is not relieved of any criminal liability because signs are not erected as required by subsection ~~{3}~~ 6 if the violation results in injury to any person performing highway construction or maintenance or other work in the temporary traffic control zone or in damage to property in an amount equal to \$1,000 or more.

~~{5.}~~ 8. The requirements of subsection ~~{3}~~ 6 do not apply to an area designated as a temporary traffic control zone:

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

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

~~{6.}~~ 9. A person who would otherwise be subject to an additional penalty pursuant to ~~{this section}~~ subsection 2 is not subject to an additional penalty if the violation occurred in a temporary traffic control zone for which signs are not erected pursuant to subsection ~~{5.}~~ 8, unless the violation results in injury to any person performing highway construction or maintenance or other work in the temporary traffic control zone or in damage to property in an amount equal to \$1,000 or more.

10. *A person who otherwise would be subject to an additional penalty pursuant to subsection 3 is not relieved of any criminal liability because the school zone or school crossing zone is not marked in accordance with NRS 484B.363 if the violation results in injury to any person in the school zone or school crossing zone or in damage to property in an amount equal to \$1,000 or more.*

11. *A person who otherwise would be subject to an additional penalty pursuant to subsection 3 is not subject to an additional penalty if the violation occurred in a school zone or a school crossing zone which is not marked in accordance with NRS 484B.363 unless the violation results in injury to any person in the school zone or school crossing zone or in damage to property in an amount equal to \$1,000 or more.*

Sec. 3. NRS 484B.150 is hereby amended to read as follows:

484B.150 1. It is unlawful for a person to drink an alcoholic beverage while the person is driving or in actual physical control of a motor vehicle upon a highway.

2. Except as otherwise provided in this subsection, it is unlawful for a person to have an open container of an alcoholic beverage within the passenger area of a motor vehicle while the motor vehicle is upon a highway. This subsection does not apply to a motor vehicle which is designed, maintained or used primarily for the transportation of persons for compensation, or to the living quarters of a house coach or house trailer.

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

4. As used in this section:

(a) "Alcoholic beverage" has the meaning ascribed to it in NRS 202.015.

(b) "Open container" means a container which has been opened or the seal of which has been broken.

(c) "Passenger area" means that area of a vehicle which is designed for the seating of the driver or a passenger.

Sec. 4. NRS 484B.163 is hereby amended to read as follows:

484B.163 1. A person shall not drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

2. A passenger in a vehicle shall not ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with the driver's control over the driving mechanism of the vehicle.

3. Except as otherwise provided in NRS 484D.440, a vehicle must not be operated upon any highway unless the driver's vision through any required glass equipment is normal.

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

Sec. 5. NRS 484B.165 is hereby amended to read as follows:

484B.165 1. Except as otherwise provided in this section, a person shall not, while operating a motor vehicle on a highway in this State:

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

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

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

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

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

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

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

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

(f) An employee or contractor of a public utility who uses a handheld wireless communications device:

(1) That has been provided by the public utility; and

(2) While responding to a dispatch by the public utility to respond to an emergency, including, without limitation, a response to a power outage or an interruption in utility service.

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

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

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

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

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

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

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

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

8. As used in this section:

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

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

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

(b) "Public utility" means a supplier of electricity or natural gas or a provider of telecommunications service for public use who is subject to regulation by the Public Utilities Commission of Nevada.

Sec. 6. NRS 484B.200 is hereby amended to read as follows:

484B.200 1. Upon all highways of sufficient width a vehicle must be driven upon the right half of the highway, except as follows:

(a) When overtaking and passing another vehicle proceeding in the same direction under the laws governing such movements;

(b) When the right half of the highway is closed to traffic;

(c) Upon a highway divided into three lanes for traffic under the laws applicable thereon;

(d) Upon a highway designated and posted for one-way traffic; or

(e) When the highway is not of sufficient width.

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

Sec. 7. NRS 484B.203 is hereby amended to read as follows:

484B.203 1. Drivers of vehicles proceeding in opposite directions shall pass each other keeping to the right, and upon highways having width for not more than one line of traffic in each direction, each driver shall give to the other at least one-half of the paved portion of the highway as nearly as possible.

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

Sec. 8. NRS 484B.207 is hereby amended to read as follows:

484B.207 1. The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the highway until safely clear of the overtaken vehicle.

2. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle upon observing the overtaking vehicle or hearing a signal.

The driver of an overtaken vehicle shall not increase the speed of the vehicle until completely passed by the overtaking vehicle.

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

Sec. 9. NRS 484B.210 is hereby amended to read as follows:

484B.210 1. The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(a) When the driver of the vehicle overtaken is making or signaling to make a left turn.

(b) Upon a highway with unobstructed pavement which is not occupied by parked vehicles and which is of sufficient width for two or more lines of moving vehicles in each direction.

(c) Upon a highway with unobstructed pavement which is not marked as a traffic lane and which is not occupied by parked vehicles, if the vehicle that is overtaking and passing another vehicle:

(1) Does not travel more than 200 feet in the section of pavement not marked as a traffic lane; or

(2) While being driven in the section of pavement not marked as a traffic lane, does not travel through an intersection or past any private way that is used to enter or exit the highway.

(d) Upon any highway on which traffic is restricted to one direction of movement, where the highway is free from obstructions and of sufficient width for two or more lines of moving vehicles.

2. The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety.

3. The driver of a vehicle shall not overtake and pass another vehicle upon the right when such movement requires driving off the paved portion of the highway.

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

Sec. 10. NRS 484B.213 is hereby amended to read as follows:

484B.213 1. A vehicle must not be driven to the left side of the center of a two-lane, two-directional highway and overtaking and passing another vehicle proceeding in the same direction, unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.

2. A vehicle must not be driven to the left side of the highway at any time:

(a) When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within such distance as to create a

hazard in the event another vehicle might approach from the opposite direction.

(b) When approaching within 100 feet or traversing any intersection or railroad grade crossing.

(c) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel.

3. Subsection 2 does not apply upon a one-way highway.

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

Sec. 11. NRS 484B.217 is hereby amended to read as follows:

484B.217 1. The Department of Transportation with respect to highways constructed under the authority of chapter 408 of NRS, and local authorities with respect to highways under their jurisdiction, may determine those zones of highways where overtaking and passing to the left or making a left-hand turn would be hazardous, and may by the erection of official traffic-control devices indicate such zones. When such devices are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.

2. Except as otherwise provided in subsections 3 and 4, a driver shall not drive on the left side of the highway within such zone or drive across or on the left side of any pavement striping designed to mark such zone throughout its length.

3. A driver may drive across a pavement striping marking such zone to an adjoining highway if the driver has first given the appropriate turn signal and there will be no impediment to oncoming or following traffic.

4. Except where otherwise provided, a driver may drive across a pavement striping marking such a zone to make a left-hand turn if the driver has first given the appropriate turn signal in compliance with NRS 484B.413, if it is safe and if it would not be an impediment to oncoming or following traffic.

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

Sec. 12. NRS 484B.223 is hereby amended to read as follows:

484B.223 1. If a highway has two or more clearly marked lanes for traffic traveling in one direction, vehicles must:

(a) Be driven as nearly as practicable entirely within a single lane; and

(b) Not be moved from that lane until the driver has given the appropriate turn signal and ascertained that such movement can be made with safety.

2. Upon a highway which has been divided into three clearly marked lanes, a vehicle must not be driven in the extreme left lane at any time. A vehicle on such a highway must not be driven in the center lane except:

(a) When overtaking and passing another vehicle where the highway is clearly visible and the center lane is clear of traffic for a safe distance;

(b) In preparation for a left turn; or
 (c) When the center lane is allocated exclusively to traffic moving in the direction in which the vehicle is proceeding and a sign is posted to give notice of such allocation.

3. If a highway has been designed to provide a single center lane to be used only for turning by traffic moving in both directions, the following rules apply:

(a) A vehicle may be driven in the center turn lane only for the purpose of making a left-hand turn onto or from the highway.

(b) A vehicle must not travel more than 200 feet in a center turn lane before making a left-hand turn from the highway.

(c) A vehicle must not travel more than 50 feet in a center turn lane after making a left-hand turn onto the highway before merging with traffic.

4. If a highway has been designed to provide a single right lane to be used only for turning, a vehicle must:

(a) Be driven in the right turn lane only for the purpose of making a right turn; and

(b) While being driven in the right turn lane, not travel through an intersection.

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

Sec. 13. NRS 484B.227 is hereby amended to read as follows:

484B.227 1. Every vehicle driven upon a divided highway must be driven only upon the right-hand roadway and must not be driven over, across or within any dividing space, barrier or section or make any left turn, semicircular turn or U-turn, except through an opening in the barrier or dividing section or space or at a crossover or intersection established by a public authority.

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

~~[Sec. 2.]~~ Sec. 14. NRS 484B.280 is hereby amended to read as follows:

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

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

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

(c) Exercise proper caution upon observing a pedestrian:

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

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

(3) In or near a *school zone or a school crossing zone* marked in accordance with NRS 484B.363 or a marked or unmarked crosswalk ~~[] in accordance with NRS 484B.283.~~

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

3. A person who violates any provision of subsection 1 may be subject to the additional penalty set forth in section 1 of this act.

~~[Sec. 3.]~~ Sec. 15. NRS 484B.283 is hereby amended to read as follows:

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

(a) When official traffic-control ~~[devices]~~ *signals* are not in place or not in operation, the driver of a vehicle shall ~~[yield the right of way, slowing down or stopping if need be so to yield, to]~~ *stop* for a pedestrian crossing the highway within a *marked or unmarked* crosswalk when the pedestrian is upon *or within one traffic lane of* the half of the highway upon which the vehicle is traveling ~~[, or when the pedestrian is approaching so closely from the opposite half of the highway as to be in danger.]~~ *or onto which the vehicle is about to turn.*

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

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

(d) Whenever signals exhibiting the words "Walk" or "Don't Walk" *or symbols indicating "Walk" or "Don't Walk"* are in place, such signals indicate as follows:

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

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

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

(4) Whenever a signal system provides a signal phase for the stopping of all vehicular traffic and the exclusive movement of pedestrians, and "Walk" and "Don't Walk" indications control pedestrian movement,

pedestrians may cross in any direction between corners of the intersection offering the shortest route within the boundaries of the intersection when the "Walk" indication is exhibited, and when signals and other official traffic control devices direct pedestrian movement in the manner provided in this section and in NRS 484B.307.

2. *The requirements of paragraph (a) of subsection 1 do not apply:*

(a) *At a marked or unmarked crosswalk where the movement of traffic is being directed by a police officer; or*

(b) *Where otherwise prohibited by local ordinance or regulation.*

3. ~~4.~~ Except as otherwise provided in subsection 4, if the driver of a motor vehicle or a pedestrian violates paragraph (a) or (c) of subsection 1, the court may, in addition to any fine imposed, order the driver or pedestrian to attend, at the driver's or pedestrian's own expense, a course of pedestrian, bicycle and traffic safety approved by the Department. The court may lower the amount of any fine imposed if the driver or pedestrian attends such a course.

4. The driver of a motor vehicle or a pedestrian who violates paragraph (a) or (c) of subsection 1 may be exempted from attending a course of pedestrian, bicycle and traffic safety pursuant to subsection 3 if he or she lives more than 50 miles from the nearest location where such a course is offered.

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

6. A person who violates any provision of subsection 1 may be subject to the additional penalty set forth in section 1 of this act.

~~5.7~~ 7. For the purposes of this section, "half of the highway" means the entire width of all the traffic lanes which are conveying traffic in the same direction of travel, including any paved shoulder.

~~Sec. 4.~~ Sec. 16. NRS 484B.287 is hereby amended to read as follows:

484B.287 1. Except as provided in NRS 484B.290:

~~1.1~~ (a) Every pedestrian crossing a highway at any point other than within a marked crosswalk or within an unmarked crosswalk ~~at an intersection~~ shall yield the right-of-way to all vehicles upon the highway.

~~2.1~~ (b) Any pedestrian crossing a highway ~~at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the highway.~~ shall cross at a right angle to the edge of the highway, or by the shortest route to the opposite side of the highway where a right angle is not possible or practicable except as otherwise provided in ~~subsections 4 and 5.~~

~~3.1~~ ~~Between adjacent intersections at which official traffic control devices are in operation pedestrians shall not cross at any place except in a marked crosswalk.~~

~~[4.]~~ paragraphs (d) and (e).

(c) A pedestrian who is within ~~200~~ 250 feet of a marked crosswalk or an unmarked crosswalk ~~at an intersection~~ shall not cross the highway outside of the marked or unmarked crosswalk. A pedestrian who is more than 250 feet from a marked or unmarked crosswalk may cross a highway in accordance with paragraphs (a) and (b).

(d) A pedestrian shall not cross an intersection diagonally unless authorized by official traffic-control devices.

~~[5.]~~ (e) When authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

2. A person who violates any provision of this section may be subject to the additional penalty set forth in section 1 of this act.

Sec. 17. NRS 484B.300 is hereby amended to read as follows:

484B.300 1. It is unlawful for any driver to disobey the instructions of any official traffic-control device placed in accordance with the provisions of chapters 484A to 484E, inclusive, of NRS, unless at the time otherwise directed by a police officer.

2. No provision of chapters 484A to 484E, inclusive, of NRS for which such devices are required may be enforced against an alleged violator if at the time and place of the alleged violation the device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular provision of chapters 484A to 484E, inclusive, of NRS does not state that such devices are required, the provision is effective even though no devices are erected or in place.

3. Whenever devices are placed in position approximately conforming to the requirements of chapters 484A to 484E, inclusive, of NRS, such devices are presumed to have been so placed by the official act or direction of a public authority, unless the contrary is established by competent evidence.

4. Any device placed pursuant to the provisions of chapters 484A to 484E, inclusive, of NRS and purporting to conform to the lawful requirements pertaining to such devices is presumed to comply with the requirements of chapters 484A to 484E, inclusive, of NRS unless the contrary is established by competent evidence.

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

Sec. 18. NRS 484B.303 is hereby amended to read as follows:

484B.303 1. Whenever official traffic-control devices are erected indicating that no right or left turn is permitted, it is unlawful for any driver of a vehicle to disobey the directions of any such devices.

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

~~[Sec. 5.]~~ Sec. 19. NRS 484B.307 is hereby amended to read as follows:

484B.307 1. Whenever traffic is controlled by official traffic-control devices exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination as declared in the manual and specifications adopted by the Department of Transportation, only the colors green, yellow and red may be used, except for special pedestrian-control devices carrying a word *or symbol* legend as provided in NRS 484B.283. The lights, arrows and combinations thereof indicate and apply to drivers of vehicles and pedestrians as provided in this section.

2. When the signal is circular green alone:

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless another device at the place prohibits either or both such turns. Such vehicular traffic, including vehicles turning right or left, must yield the right-of-way to other vehicles and ~~to~~ *stop for* pedestrians lawfully within the intersection or an adjacent crosswalk at the time the signal is exhibited.

(b) Pedestrians facing such a signal may proceed across the highway within any marked or unmarked crosswalk, unless directed otherwise by another device as provided in NRS 484B.283.

3. Where the signal is circular green with a green turn arrow:

(a) Vehicular traffic facing the signal may proceed to make the movement indicated by the green turn arrow or such other movement as is permitted by the circular green signal, but the traffic must ~~[yield the right-of-way to]~~ *stop for* pedestrians lawfully within an adjacent crosswalk and *yield the right of way* to other traffic lawfully using the intersection at the time the signal is exhibited. Drivers turning in the direction of the arrow when displayed with the circular green are thereby advised that so long as a turn arrow is illuminated, oncoming or opposing traffic simultaneously faces a steady red signal.

(b) Pedestrians facing such a signal may proceed across the highway within any marked or unmarked crosswalk, unless directed otherwise by another device as provided in NRS 484B.283.

4. Where the signal is a green turn arrow alone:

(a) Vehicular traffic facing the signal may proceed only in the direction indicated by the arrow signal so long as the arrow is illuminated, but the traffic must ~~[yield the right-of-way to]~~ *stop for* pedestrians lawfully within the adjacent crosswalk and *yield the right-of-way* to other traffic lawfully using the intersection.

(b) Pedestrians facing such a signal shall not enter the highway until permitted to proceed by another device as provided in NRS 484B.283.

5. Where the signal is a green straight-through arrow alone:

(a) Vehicular traffic facing the signal may proceed straight through, but must not turn right or left. Such vehicular traffic must yield the right-of-way

to other vehicles and ~~to~~ stop for pedestrians lawfully within the intersection or an adjacent crosswalk at the time the signal is exhibited.

(b) Pedestrians facing such a signal may proceed across the highway within the appropriate marked or unmarked crosswalk, unless directed otherwise by another device as provided in NRS 484B.283.

6. Where the signal is a steady yellow signal alone:

(a) Vehicular traffic facing the signal is thereby warned that the related green movement is being terminated or that a steady red indication will be exhibited immediately thereafter, and such vehicular traffic must not enter the intersection when the red signal is exhibited.

(b) Pedestrians facing such a signal, unless otherwise directed by another device as provided in NRS 484B.283, are thereby advised that there is insufficient time to cross the highway.

7. *Where the signal is a flashing yellow turn arrow, displayed alone or in combination with another signal:*

(a) Vehicular traffic facing the signal is permitted to cautiously enter the intersection only to make the movement indicated by the arrow signal, or other such movement as is permitted by other signal indications displayed at the same time. Such vehicular traffic must stop for pedestrians lawfully within the intersection or an adjacent crosswalk and yield the right-of-way to other traffic lawfully within the intersection.

(b) Pedestrians facing such a signal, unless otherwise directed by another device as provided in NRS 484B.283, are thereby advised that there may be insufficient time to cross the highway, but may proceed across the highway within the appropriate marked or unmarked crosswalk.

8. Where the signal is a steady red signal alone:

(a) Vehicular traffic facing the signal must stop before entering the crosswalk on the nearest side of the intersection where the sign or pavement marking indicates where the stop must be made, or in the absence of any such crosswalk, sign or marking, then before entering the intersection, and, except as provided in paragraph (c), must remain stopped or standing until the green signal is shown.

(b) Pedestrians facing such a signal shall not enter the highway, unless permitted to proceed by another device as provided in NRS 484B.283.

(c) After complying with the requirement to stop, vehicular traffic facing such a signal and situated on the extreme right of the highway may proceed into the intersection for a right turn only when the intersecting highway is two-directional or one-way to the right, or vehicular traffic facing such a signal and situated on the extreme left of a one-way highway may proceed into the intersection for a left turn only when the intersecting highway is one-way to the left, but must ~~yield the right-of-way to~~ stop for pedestrians and *yield the right-of-way to* other traffic proceeding as directed by the signal at the intersection.

(d) Vehicular traffic facing the signal may not proceed on or through any private or public property to enter the intersecting street where traffic is not facing a red signal to avoid the red signal.

~~{8-}~~ 9. Where the signal is a steady red with a green turn arrow:

(a) Vehicular traffic facing the signal may enter the intersection only to make the movement indicated by the green turn arrow, but must ~~yield the right of way to~~ stop for pedestrians lawfully within an adjacent crosswalk and *yield the right-of-way* to other traffic lawfully using the intersection. Drivers turning in the direction of the arrow are thereby advised that so long as the turn arrow is illuminated, oncoming or opposing traffic simultaneously faces a steady red signal.

(b) Pedestrians facing such a signal shall not enter the highway, unless permitted to proceed by another device as provided in NRS 484B.283.

~~{9-}~~ 10. If a signal is erected and maintained at a place other than an intersection, the provisions of this section are applicable except as to those provisions which by their nature can have no application. Any stop required must be made at a sign or pavement marking indicating where the stop must be made, but in the absence of any such device the stop must be made at the signal.

~~{10-}~~ 11. Whenever signals are placed over the individual lanes of a highway, the signals indicate, and apply to drivers of vehicles, as follows:

(a) A downward-pointing green arrow means that a driver facing the signal may drive in any lane over which the green signal is shown.

(b) A red "X" symbol means a driver facing the signal must not enter or drive in any lane over which the red signal is shown.

~~{11-}~~ 12. A local authority shall not adopt an ordinance or regulation or take any other action that prohibits vehicular traffic from crossing an intersection when:

(a) The red signal is exhibited; and

(b) The vehicular traffic in question had already completely entered the intersection before the red signal was exhibited. For the purposes of this paragraph, a vehicle shall be considered to have "completely entered" an intersection when all portions of the vehicle have crossed the limit line or other point of demarcation behind which vehicular traffic must stop when a red signal is displayed.

13. A person who violates any provision of this section may be subject to the additional penalty set forth in section 1 of this act.

Sec. 20. NRS 484B.317 is hereby amended to read as follows:

484B.317 1. A person shall not, without lawful authority, attempt to or alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insigne thereon, or any other part thereof.

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

Sec. 21. NRS 484B.320 is hereby amended to read as follows:

484B.320 1. Except as otherwise provided in this section:

(a) A person shall not operate a vehicle on the highways of this State if the vehicle is equipped with any device or mechanism, including, without limitation, a mobile transmitter, that is capable of interfering with or altering the signal of a traffic-control signal.

(b) A person shall not operate any device or mechanism, including, without limitation, a mobile transmitter, that is capable of interfering with or altering the signal of a traffic-control signal.

2. Except as otherwise provided in this subsection, a person shall not in this State sell or offer for sale any device or mechanism, including, without limitation, a mobile transmitter, that is capable of interfering with or altering the signal of a traffic-control signal. The provisions of this subsection do not prohibit a person from selling or offering for sale:

(a) To a provider of mass transit, a signal prioritization device; or

(b) To a response agency, a signal preemption device or a signal prioritization device, or both.

3. A police officer:

(a) Shall, without a warrant, seize any device or mechanism, including, without limitation, a mobile transmitter, that is capable of interfering with or altering the signal of a traffic-control signal; or

(b) May, without a warrant, seize and take possession of a vehicle equipped with any device or mechanism that is capable of interfering with or altering the signal of a traffic-control signal, including, without limitation, a mobile transmitter, if the device or mechanism cannot be removed from the motor vehicle by the police officer, and may cause the vehicle to be towed and impounded until:

(1) The device or mechanism is removed from the vehicle; and

(2) The owner claims the vehicle by paying the cost of the towing and impoundment.

4. Neither the police officer nor the governmental entity which employs the officer is civilly liable for any damage to a vehicle seized pursuant to the provisions of paragraph (b) of subsection 3 that occurs after the vehicle is seized but before the towing process begins.

5. Except as otherwise provided in subsection 9, the presence of any device or mechanism, including, without limitation, a mobile transmitter, that is capable of interfering with or altering the signal of a traffic-control signal in or on a vehicle on the highways of this State constitutes prima facie evidence of a violation of this section. The State need not prove that the device or mechanism in question was in an operative condition or being operated.

6. A person who violates the provisions of subsection 1 or 2 is guilty of a misdemeanor.

7. A person who violates any provision of subsection 1 or 2 may be subject to ~~the~~ any additional penalty set forth in NRS 484B.130 ~~or~~ section 1 of this act.

8. A provider of mass transit shall not operate or cause to be operated a signal prioritization device in such a manner as to impede or interfere with the use by response agencies of signal preemption devices.

9. The provisions of this section do not:

(a) Except as otherwise provided in subsection 8, prohibit a provider of mass transit from acquiring, possessing or operating a signal prioritization device.

(b) Prohibit a response agency from acquiring, possessing or operating a signal preemption device or a signal prioritization device, or both.

10. As used in this section:

(a) "Mobile transmitter" means a device or mechanism that is:

(1) Portable, installed within a vehicle or capable of being installed within a vehicle; and

(2) Designed to affect or alter, through the emission or transmission of sound, infrared light, strobe light or any other audible, visual or electronic method, the normal operation of a traffic-control signal.

➡ The term includes, without limitation, a signal preemption device and a signal prioritization device.

(b) "Provider of mass transit" means a governmental entity or a contractor of a governmental entity which operates, in whole or in part:

(1) A public transit system, as that term is defined in NRS 377A.016; or

(2) A system of public transportation referred to in NRS 277A.270.

(c) "Response agency" means an agency of this State or of a political subdivision of this State that provides services related to law enforcement, firefighting, emergency medical care or public safety. The term includes a nonprofit organization or private company that, as authorized pursuant to chapter 450B of NRS:

(1) Provides ambulance service; or

(2) Provides intermediate or advanced medical care to sick or injured persons at the scene of an emergency or while transporting those persons to a medical facility.

(d) "Signal preemption device" means a mobile transmitter that, when activated and when a vehicle equipped with such a device approaches an intersection controlled by a traffic-control signal, causes:

(1) The signal, in the direction of travel of the vehicle, to remain green if the signal is already displaying a green light;

(2) The signal, in the direction of travel of the vehicle, to change from red to green if the signal is displaying a red light;

(3) The signal, in other directions of travel, to remain red or change to red, as applicable, to prevent other vehicles from entering the intersection; and

(4) The applicable functions described in subparagraphs (1), (2) and (3) to continue until such time as the vehicle equipped with the device is clear of the intersection.

(e) "Signal prioritization device" means a mobile transmitter that, when activated and when a vehicle equipped with such a device approaches an intersection controlled by a traffic-control signal, causes:

(1) The signal, in the direction of travel of the vehicle, to display a green light a few seconds sooner than the green light would otherwise be displayed;

(2) The signal, in the direction of travel of the vehicle, to display a green light for a few seconds longer than the green light would otherwise be displayed; or

(3) The functions described in both subparagraphs (1) and (2).

(f) "Traffic-control signal" means a traffic-control signal, as defined in NRS 484A.290, which is capable of receiving and responding to an emission or transmission from a mobile transmitter.

Sec. 22. NRS 484B.327 is hereby amended to read as follows:

484B.327 1. It is unlawful for any person to remove any barrier or sign stating that a highway is closed to traffic.

2. It is unlawful to pass over a highway that is marked, signed or barricaded to indicate that it is closed to traffic. A person who violates any provision of this subsection may be subject to ~~the~~ any additional penalty set forth in NRS 484B.130 ~~or section 1 of this act.~~

~~[Sec. 6.]~~ *Sec. 23. NRS 484B.330 is hereby amended to read as follows:*

484B.330 1. It is unlawful for a driver of a vehicle to fail or refuse to comply with any signal of an authorized flagger serving in a traffic control capacity in a clearly marked area of highway construction or maintenance or any other area which has been designated as a temporary traffic control zone.

2. A district attorney shall prosecute all violations of subsection 1 which occur in his or her jurisdiction and which result in injury to any person performing highway construction or maintenance or performing other work within an area designated as a temporary traffic control zone unless the district attorney has good cause for not prosecuting the violation. In addition to any other penalty, if a driver violates any provision of subsection 1 and the violation results in injury to any person performing highway construction or maintenance or performing other work within an area designated as a temporary traffic control zone, or in damage to property in an amount of not less than \$1,000, the driver shall be punished by a fine of not less than \$1,000 or more than \$2,000, and ordered to perform 120 hours of community service.

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

4. As used in this section, "authorized flagger serving in a traffic control capacity" means:

(a) An employee of the Department of Transportation or of a contractor performing highway construction or maintenance or performing other work within an area designated as a temporary traffic control zone for the Department of Transportation while the employee is carrying out the duties of his or her employment;

(b) An employee of any other governmental entity or of a contractor performing highway construction or maintenance or performing other work within an area designated as a temporary traffic control zone for the governmental entity while the employee is carrying out the duties of his or her employment; or

(c) Any other person employed by a private entity performing highway construction or maintenance or performing other work within an area designated as a temporary traffic control zone while the person is carrying out the duties of his or her employment if the person has satisfactorily completed training as a flagger approved or recognized by the Department of Transportation.

~~[Sec. 7.]~~ Sec. 24. NRS 484B.363 is hereby amended to read as follows:

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

(a) On a day on which school is not in session;

(b) During the period from a half hour after school is no longer in operation to a half hour before school is next in operation;

(c) If the zone is designated by an operational speed limit beacon, during the hours when the pupils of the school are in class and the yellow lights of the speed limit beacon are not flashing in the manner which indicates that the speed limit is in effect; or

(d) If the zone is not designated by an operational speed limit beacon, during the times when the sign designating the school zone indicates that the speed limit is not in effect.

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

(a) On a day on which school is not in session;

(b) During the period from a half hour after school is no longer in operation to a half hour before school is next in operation;

(c) If the zone is designated by an operational speed limit beacon, during the hours when the pupils of the school are in class and the yellow lights of the speed limit beacon are not flashing in the manner which indicates that the speed limit is in effect; or

(d) If the zone is not designated by an operational speed limit beacon, during the times when the sign designating the school zone indicates that the speed limit is not in effect.

3. *The driver of a vehicle shall not make a U-turn in an area designated as a school zone or school crossing zone except:*

(a) On a day on which school is not in session;

(b) During the period from a half hour after school is no longer in operation to a half hour before school is next in operation;

(c) If the zone is designated by an operational speed limit beacon, during the hours when the pupils of the school are in class and the yellow lights of the speed limit beacon are not flashing in the manner which indicates that the speed limit is in effect; or

(d) If the zone is not designated by an operational speed limit beacon, during the times when the sign designating the school zone or school crossing zone indicates that the speed limit is not in effect.

4. The driver of a vehicle shall not overtake and pass another vehicle traveling in the same direction in an area designated as a school zone or school crossing zone except:

(a) On a day on which school is not in session;

(b) During the period from a half hour after school is no longer in operation to a half hour before school is next in operation;

(c) If the zone is designated by an operational speed limit beacon, during the hours when the pupils of the school are in class and the yellow lights of the speed limit beacon are not flashing in the manner which indicates that the speed limit is in effect; or

(d) If the zone is not designated by an operational speed limit beacon, during the times when the sign designating the school zone or school crossing zone indicates that the speed limit is not in effect.

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

~~{4.}~~ 6. Each such governing body and the Department *of Transportation* shall provide signs to mark the beginning and end of each school zone and school crossing zone which it respectively designates. Each sign marking the beginning of such a zone must include :

(a) ~~{Include a}~~ A designation of the hours when the speed limit is in effect or that the speed limit is in effect when children are present ~~{-~~

~~5.}~~ ; and

(b) ~~{State "DOUBLE PENALTIES IN SCHOOL ZONES" to indicate a double penalty may be imposed pursuant to NRS 484B.130.}~~ A statement which satisfies the requirements of NRS 484A.430 and provides notice that higher fines may apply in school zones.

7. With respect to each school zone and school crossing zone in a school district, the superintendent of the school district or his or her designee, in conjunction with the Department of Transportation and the governing body of the local government that designated the school zone or school crossing zone and after consulting with the principal of the school and the agency that is responsible for enforcing the speed limit in the zone, shall determine the times when the speed limit is in effect.

~~{6.}~~ 8. A person who violates any provision of subsections 1 to 4, inclusive, may be subject to ~~the~~ any additional penalty set forth in NRS 484B.130 ~~or section 1 of this act.~~

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

~~{7.}~~ 10. As used in this section, "speed limit beacon" means a device which is used in conjunction with a sign and equipped with two or more yellow lights that flash alternately to indicate when the speed limit in a school zone or school crossing zone is in effect.

Sec. 25. NRS 484B.403 is hereby amended to read as follows:

484B.403 1. A U-turn may be made on any road where the turn can be made with safety, except as prohibited by this section and by the provisions of NRS 484B.227, ~~484B.363~~ and 484B.407.

2. If an official traffic-control device indicates that a U-turn is prohibited, the driver shall obey the directions of the device.

3. The driver of a vehicle shall not make a U-turn in a business district, except at an intersection or on a divided highway where an appropriate opening or crossing place exists.

4. Notwithstanding the foregoing provisions of this section, local authorities and the Department of Transportation may prohibit U-turns at any location within their respective jurisdictions.

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

Sec. 26. NRS 484B.600 is hereby amended to read as follows:

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

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

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

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

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

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

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

Sec. 27. NRS 484B.603 is hereby amended to read as follows:

484B.603 1. The fact that the speed of a vehicle is lower than the prescribed limits does not relieve a driver from the duty to decrease speed when approaching and crossing an intersection, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding highway, or when special hazards exist or may exist with respect to pedestrians or other traffic, or by reason of weather or other highway conditions, and speed must be decreased as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering a highway in compliance with legal requirements and the duty of all persons to use due care.

2. Any person who fails to use due care as required by subsection 1 may be subject to ~~the~~ any additional penalty set forth in NRS 484B.130 ~~or~~ section 1 of this act.

Sec. 28. NRS 484B.650 is hereby amended to read as follows:

484B.650 1. A driver commits an offense of aggressive driving if, during any single, continuous period of driving within the course of 1 mile, the driver does all the following, in any sequence:

(a) Commits one or more acts of speeding in violation of NRS 484B.363 or 484B.600.

(b) Commits two or more of the following acts, in any combination, or commits any of the following acts more than once:

(1) Failing to obey an official traffic-control device in violation of NRS 484B.300.

(2) Overtaking and passing another vehicle upon the right by driving off the paved portion of the highway in violation of NRS 484B.210.

(3) Improper or unsafe driving upon a highway that has marked lanes for traffic in violation of NRS 484B.223.

(4) Following another vehicle too closely in violation of NRS 484B.127.

(5) Failing to yield the right-of-way in violation of any provision of NRS 484B.250 to 484B.267, inclusive.

(c) Creates an immediate hazard, regardless of its duration, to another vehicle or to another person, whether or not the other person is riding in or upon the vehicle of the driver or any other vehicle.

2. A driver may be prosecuted and convicted of an offense of aggressive driving in violation of subsection 1 whether or not the driver is prosecuted or convicted for committing any of the acts described in paragraphs (a) and (b) of subsection 1.

3. A driver who commits an offense of aggressive driving in violation of subsection 1 is guilty of a misdemeanor and:

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

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

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

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

(1) By a fine of not less than \$1,000 but not more than \$1,500; or
(2) By both fine and imprisonment in the county jail for not more than 6 months.

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

(1) By a fine of not less than \$1,500 but not more than \$2,000; or
(2) By both fine and imprisonment in the county jail for not more than 6 months.

4. In addition to any other penalty pursuant to subsection 3:

(a) For the first offense within 2 years, the court shall order the driver to attend, at the driver's own expense, a course of traffic safety approved by the Department and may issue an order suspending the driver's license of the driver for a period of not more than 30 days.

(b) For a second or subsequent offense within 2 years, the court shall issue an order revoking the driver's license of the driver for a period of 1 year.

5. To determine whether the provisions of paragraph (a) or (b) of subsection 4 apply to one or more offenses of aggressive driving, the court shall use the date on which each offense of aggressive driving was committed.

6. If the driver is already the subject of any other order suspending or revoking his or her driver's license, the court shall order the additional period of suspension or revocation, as appropriate, to apply consecutively with the previous order.

7. If the court issues an order suspending or revoking the driver's license of the driver pursuant to this section, the court shall require the driver to surrender to the court all driver's licenses then held by the driver. The court shall, within 5 days after issuing the order, forward the driver's licenses and a copy of the order to the Department.

8. If the driver successfully completes a course of traffic safety ordered pursuant to this section, the Department shall cancel three demerit points from his or her driving record in accordance with NRS 483.448 or 483.475, as appropriate, unless the driver would not otherwise be entitled to have those demerit points cancelled pursuant to the provisions of that section.

9. This section does not preclude the suspension or revocation of the driver's license of the driver, or the suspension of the future driving privileges of a person, pursuant to any other provision of law.

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

~~[Sec. 8.]~~ Sec. 29. NRS 484B.653 is hereby amended to read as follows:

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

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

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

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

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

2. If, while violating the provisions of subsections 1 to 5, inclusive, of NRS 484B.270, NRS 484B.280, paragraph (a) or (c) of subsection 1 of NRS 484B.283, NRS 484B.350, ~~subsection 1 or 2~~ subsections 1 to 4, inclusive, of NRS 484B.363 or subsection 1 of NRS 484B.600, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian or a person riding a bicycle, the violation constitutes reckless driving.

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

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

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

(2) By both fine and imprisonment in the county jail for not more than 6 months ~~[-]~~,

↪ *and may be ordered to attend, at the driver's own expense, a course of pedestrian, bicycle and traffic safety approved by the Department if the violation involved the safety of pedestrians or persons riding bicycles. The driver may be exempted from attending such a course if he or she resides more than 50 miles from the nearest location where such a course is offered.*

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

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

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

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

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

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

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

(a) For the first offense:

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

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

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

(b) For the second offense:

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

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

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

(c) For the third and each subsequent offense:

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

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

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

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

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

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

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

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

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

7. A person who violates any provision of this section may be subject to ~~the~~ any additional penalty set forth in NRS 484B.130 or section 1 of this act unless the person is subject to the penalty provided pursuant to subsection 4 of NRS 484B.550.

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

Sec. 30. NRS 484B.657 is hereby amended to read as follows:

484B.657 1. A person who, while driving or in actual physical control of any vehicle, proximately causes the death of another person through an act or omission that constitutes simple negligence is guilty of vehicular manslaughter and shall be punished for a misdemeanor.

2. A person who commits an offense of vehicular manslaughter may be subject to ~~the~~ any additional penalty set forth in NRS 484B.130 ~~or~~ or section 1 of this act.

3. Upon the conviction of a person for a violation of the provisions of subsection 1, the court shall notify the Department of the conviction.

4. Upon receipt of notification from a court pursuant to subsection 3, the Department shall cause an entry of the conviction to be made upon the driving record of the person so convicted.

Sec. 31. NRS 484C.110 is hereby amended to read as follows:

484C.110 1. It is unlawful for any person who:

(a) Is under the influence of intoxicating liquor;
(b) Has a concentration of alcohol of 0.08 or more in his or her blood or breath; or

(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his or her blood or breath,

↪ to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access.

2. It is unlawful for any person who:

(a) Is under the influence of a controlled substance;
(b) Is under the combined influence of intoxicating liquor and a controlled substance; or

(c) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely driving or exercising actual physical control of a vehicle,

↪ to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access. The fact that any person charged with a violation of this subsection is or has been entitled to use that drug under the laws of this State is not a defense against any charge of violating this subsection.

3. It is unlawful for any person to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access with an amount of a prohibited substance in his or her blood or urine that is equal to or greater than:

Prohibited substance	Urine Nanograms per milliliter	Blood Nanograms per milliliter
(a) Amphetamine	500	100
(b) Cocaine	150	50
(c) Cocaine metabolite	150	50
(d) Heroin	2,000	50
(e) Heroin metabolite:		
(1) Morphine	2,000	50
(2) 6-monoacetyl morphine	10	10
(f) Lysergic acid diethylamide	25	10
(g) Marijuana	10	2

(h)	Marijuana metabolite	15	5
(i)	Methamphetamine	500	100
(j)	Phencyclidine	25	10

4. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his or her blood or breath was tested, to cause the defendant to have a concentration of alcohol of 0.08 or more in his or her blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

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

Sec. 32. NRS 484C.120 is hereby amended to read as follows:

484C.120 1. It is unlawful for any person who:

- (a) Is under the influence of intoxicating liquor;
- (b) Has a concentration of alcohol of 0.04 or more but less than 0.08 in his or her blood or breath; or
- (c) Is found by measurement within 2 hours after driving or being in actual physical control of a commercial motor vehicle to have a concentration of alcohol of 0.04 or more but less than 0.08 in his or her blood or breath,

↪ to drive or be in actual physical control of a commercial motor vehicle on a highway or on premises to which the public has access.

2. It is unlawful for any person who:

- (a) Is under the influence of a controlled substance;
- (b) Is under the combined influence of intoxicating liquor and a controlled substance; or

(c) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely driving or exercising actual physical control of a commercial motor vehicle,

↪ to drive or be in actual physical control of a commercial motor vehicle on a highway or on premises to which the public has access. The fact that any person charged with a violation of this subsection is or has been entitled to use that drug under the laws of this State is not a defense against any charge of violating this subsection.

3. It is unlawful for any person to drive or be in actual physical control of a commercial motor vehicle on a highway or on premises to which the public has access with an amount of a prohibited substance in his or her blood or urine that is equal to or greater than:

Prohibited substance	Urine	Blood
	Nanograms per milliliter	Nanograms per milliliter
(a) Amphetamine	500	100
(b) Cocaine	150	50
(c) Cocaine metabolite	150	50
(d) Heroin	2,000	50
(e) Heroin metabolite:		
(1) Morphine	2,000	50
(2) 6-monoacetyl morphine	10	10
(f) Lysergic acid diethylamide	25	10
(g) Marijuana	10	2
(h) Marijuana metabolite	15	5
(i) Methamphetamine	500	100
(j) Phencyclidine	25	10

4. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the commercial motor vehicle, and before his or her blood or breath was tested, to cause the defendant to have a concentration of alcohol of 0.04 or more in his or her blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

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

6. As used in this section:

(a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(1) Has a gross combination weight rating of 26,001 or more pounds which includes a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

(2) Has a gross vehicle weight rating of 26,001 or more pounds;

(3) Is designed to transport 16 or more passengers, including the driver;

or

(4) Regardless of size, is used in the transportation of materials which are considered to be hazardous for the purposes of the federal Hazardous Materials Transportation Act, 49 U.S.C. §§ 5101 et. seq., and for which the display of identifying placards is required pursuant to 49 C.F.R. Part 172, Subpart F.

(b) The phrase "concentration of alcohol of 0.04 or more but less than 0.08 in his or her blood or breath" means 0.04 gram or more but less than 0.08 gram of alcohol per 100 milliliters of the blood of a person or per 210 liters of his or her breath.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

Thank you, Mr. President. Amendment No. 238 to Senate Bill No. 179 establishes pedestrian safety zones with provisions similar to work or school zones. The amendment provides courts with the ability to require pedestrians to attend a course of pedestrian, bicycle and traffic safety for a violation of traffic laws. The court also has the ability to lower the amount of the fine if the defendant attends a course.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 283.

Bill read second time.

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

Amendment No. 513.

"SUMMARY—Revises provisions relating to the Commission on Ethics. (BDR 23-103)"

"AN ACT relating to ethics in government; ~~prohibiting the Commission on Ethics from taking action on a request for an opinion concerning a public officer or employee who is a candidate for elected office under certain circumstances;~~ revising provisions governing factors which must be considered by the Commission on Ethics in the disposition of certain requests for opinions; requiring the Commission to consider certain factors before imposing a civil penalty for a violation of the Nevada Ethics in Government Law; providing that a finding of a willful violation of the Nevada Ethics in Government Law requires a finding by the Commission that the person acted in bad faith or with ill will, evil intent, ~~for~~ malice ~~or~~ or reckless disregard, and with knowledge of the prohibition against the act or omission; ~~authorizing the Commission to impose civil penalties and amounts equal to attorney's fees and other costs under certain circumstances;~~ requiring an affirmative vote by two-thirds of the Commission for the finding of a willful violation of the Nevada Ethics in Government Law; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Nevada Ethics in Government Law establishes certain provisions governing ethics in government which are applicable to public officers and public employees. (Chapter 281A of NRS) The Commission on Ethics has jurisdiction to investigate and take appropriate action regarding an alleged violation of the Nevada Ethics in Government Law. (NRS 281A.280)

~~f Sections 2 and 7 of this bill prohibit the Commission from accepting a request for an opinion concerning the applicability of the Nevada Ethics in Government Law, investigating the facts or circumstances relating to such a~~

~~request, or rendering an opinion concerning a public officer or public employee who is a candidate for public office during the period beginning 120 days before the election and ending on the date of the election.]~~

Section 3 of this bill requires the Commission, when disposing of a request for an opinion by stipulation, agreed settlement or consent order, to treat comparable situations in a comparable manner and ensure that the disposition of a request for an opinion bears a reasonable relationship to the severity of the violation or alleged violation of the Nevada Ethics in Government Law.

Sections 5 and 6 of this bill revise the definitions of the terms "intentionally" and "knowingly," respectively, to provide that a willful violation of the Nevada Ethics in Government Law requires proof that a person acted or failed to act in bad faith or with ill will, evil intent, ~~for~~ malice ~~or~~ or reckless disregard, and with knowledge of the statutory prohibition against the act or omission. Section 8 of this bill provides that an act or omission may be found to be a willful violation of the Nevada Ethics in Government Law only by an affirmative vote of two-thirds of the Commission.

Section 4 of this bill requires the Commission to consider a variety of factors when determining the amount of any civil penalty imposed for a willful violation of the Nevada Ethics in Government Law. ~~[Section 8 authorizes the Commission to impose a civil penalty on a person who requests an opinion if the Commission determines that the request was clearly frivolous or vexatious or brought solely for harassment. Section 8 also authorizes the Commission to assess an amount equal to certain attorney's fees and costs against a person who requests an opinion if the Commission determines that there is not just and sufficient cause for the Commission to render an opinion in the matter.]~~

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

Section 1. Chapter 281A of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ~~[1. The Commission shall not accept a request for an opinion submitted pursuant to subsection 2 of NRS 281A.140 or render an opinion pursuant to such a request, and the Executive Director shall not investigate the facts and circumstances relating to any such request, concerning a public officer or employee who is a candidate at a special, primary or general election during the period beginning 120 days before the special, primary or general election and ending on the date of:~~

- ~~(a) The special election;~~
- ~~(b) The primary election, if the candidate is defeated in that election; or~~
- ~~(c) The general election;~~

~~→ as applicable.~~

~~2. The limitations period set forth in NRS 281A.280 for the commencement of any proceeding is tolled during the period described in~~

~~subsection 1 for any proceeding concerning a public officer or employee described in that subsection.] (Deleted by amendment.)~~

Sec. 3. *In any matter in which the Commission disposes of a request for an opinion by stipulation, agreed settlement or consent order, the Commission shall treat comparable situations in a comparable manner and shall ensure that the disposition of the request for an opinion bears a reasonable relationship to the severity of the violation or alleged violation.*

Sec. 4. *In determining the amount of any civil penalty to be imposed on a public officer or employee pursuant to NRS 281A.480, the Commission shall consider:*

1. *The seriousness of the violation, including, without limitation, the nature, circumstances, extent and gravity of the violation;*

2. *The number and history of previous warnings issued to or violations of the provisions of this chapter by the public officer or employee;*

3. *The cost to the Commission to conduct the investigation and any hearing relating to the violation;*

4. *Any mitigating factors, including, without limitation, any self-reporting, prompt correction of the violation, any attempts to rectify the violation before any complaint is filed and any cooperation by the public officer or employee or former public officer or employee in resolving the complaint;*

5. *Any restitution or reimbursement paid to parties affected by the violation;*

6. *The extent of any financial gain resulting from the violation; and*

7. *Any other matter justice may require.*

Sec. 5. NRS 281A.105 is hereby amended to read as follows:

281A.105 "Intentionally" means voluntarily or deliberately, rather than accidentally or inadvertently. The term ~~[does not require]~~ *requires* proof of bad faith, ill will, evil intent, ~~for~~ malice ~~or~~ *or reckless disregard.*

Sec. 6. NRS 281A.115 is hereby amended to read as follows:

281A.115 "Knowingly" imports a knowledge that the facts exist which constitute the act or omission, and ~~[does not require]~~ *requires* knowledge of the prohibition against the act or omission. Knowledge of any particular fact may be inferred from the knowledge of such other facts as should put an ordinarily prudent person upon inquiry.

Sec. 7. ~~[NRS 281A.440 is hereby amended to read as follows:~~

~~281A.440 Except as otherwise provided in section 2 of this act:~~

~~1. The Commission shall render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances within 45 days after receiving a request, on a form prescribed by the Commission, from a public officer or employee who is seeking guidance on questions which directly relate to the propriety of the requester's own past, present or future conduct as an officer or employee, unless the public officer or employee waives the time limit. The public officer or employee may also request the Commission to hold a public hearing~~

~~regarding the requested opinion. If a requested opinion relates to the propriety of the requester's own present or future conduct, the opinion of the Commission is:~~

- ~~(a) Binding upon the requester as to the requester's future conduct; and~~
- ~~(b) Final and subject to judicial review pursuant to NRS 233B.130, except that a proceeding regarding this review must be held in closed court without admittance of persons other than those necessary to the proceeding, unless this right to confidential proceedings is waived by the requester.~~

~~2. The Commission may render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances:~~

- ~~(a) Upon request from a specialized or local ethics committee;~~
- ~~(b) Except as otherwise provided in this subsection, upon request from a person, if the requester submits:~~

- ~~(1) The request on a form prescribed by the Commission; and~~
- ~~(2) All related evidence deemed necessary by the Executive Director and the investigatory panel to make a determination of whether there is just and sufficient cause to render an opinion in the matter.~~

~~(c) Upon the Commission's own motion regarding the propriety of conduct by a public officer or employee. The Commission shall not initiate proceedings pursuant to this paragraph based solely upon an anonymous complaint.~~

~~4. The Commission shall not render an opinion interpreting the statutory ethical standards or apply those standards to a given set of facts and circumstances if the request is submitted by a person who is incarcerated in a correctional facility in this State.~~

~~3. Upon receipt of a request for an opinion by the Commission or upon the motion of the Commission pursuant to subsection 2, the Executive Director shall investigate the facts and circumstances relating to the request to determine whether there is just and sufficient cause for the Commission to render an opinion in the matter. The Executive Director shall notify the public officer or employee who is the subject of the request and provide the public officer or employee an opportunity to submit to the Executive Director a response to the allegations against the public officer or employee within 30 days after the date on which the public officer or employee received the notice of the request. The purpose of the response is to provide the Executive Director with any information relevant to the request which the public officer or employee believes may assist the Executive Director and the investigatory panel in conducting the investigation. The public officer or employee is not required in the response or in any proceeding before the investigatory panel to assert, claim or raise any objection or defense, in law or fact, to the allegations against the public officer or employee and no objection or defense, in law or fact, is waived, abandoned or barred by the failure to assert, claim or raise it in the response or in any proceeding before the investigatory panel.~~

~~4. The Executive Director shall complete the investigation and present a recommendation relating to just and sufficient cause to the investigatory panel within 70 days after the receipt of or the motion of the Commission for the request, unless the public officer or employee waives this time limit. If, after the investigation, the Executive Director determines that there is just and sufficient cause for the Commission to render an opinion in the matter, the Executive Director shall state such a recommendation in writing, including, without limitation, the specific evidence that supports the Executive Director's recommendation. If, after the investigation, the Executive Director determines that there is not just and sufficient cause for the Commission to render an opinion in the matter, the Executive Director shall state such a recommendation in writing, including, without limitation, the specific reasons for the Executive Director's recommendation.~~

~~5. Within 15 days after the Executive Director has provided the Executive Director's recommendation in the matter to the investigatory panel, the investigatory panel shall make a final determination regarding whether there is just and sufficient cause for the Commission to render an opinion in the matter, unless the public officer or employee waives this time limit. The investigatory panel shall not determine that there is just and sufficient cause for the Commission to render an opinion in the matter unless the Executive Director has provided the public officer or employee an opportunity to respond to the allegations against the public officer or employee as required by subsection 3. The investigatory panel shall cause a record of its proceedings in each matter to be kept, and such a record must remain confidential until the investigatory panel determines whether there is just and sufficient cause for the Commission to render an opinion in the matter.~~

~~6. If the investigatory panel determines that there is just and sufficient cause for the Commission to render an opinion in the matter, the Commission shall hold a hearing and render an opinion in the matter within 60 days after the determination of just and sufficient cause by the investigatory panel, unless the public officer or employee waives this time limit.~~

~~7. Each request for an opinion that a public officer or employee submits to the Commission pursuant to subsection 1, each opinion rendered by the Commission in response to such a request and any motion, determination, evidence or record of a hearing relating to such a request are confidential unless the public officer or employee who requested the opinion:~~

~~(a) Acts in contravention of the opinion, in which case the Commission may disclose the request for the opinion, the contents of the opinion and any motion, evidence or record of a hearing related thereto;~~

~~(b) Discloses the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto; or~~

~~(c) Requests the Commission to disclose the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto.~~

~~8. Except as otherwise provided in this subsection, each document in the possession of the Commission or its staff that is related to a request for an opinion regarding a public officer or employee submitted to or initiated by the Commission pursuant to subsection 2, including, without limitation, the Commission's copy of the request and all materials and information gathered in an investigation of the request, is confidential until the investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter. The public officer or employee who is the subject of a request for an opinion submitted or initiated pursuant to subsection 2 may in writing authorize the Commission to make its files, material and information which are related to the request publicly available.~~

~~9. Except as otherwise provided in paragraphs (a) and (b), the proceedings of the investigatory panel are confidential until the investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter. A person who:~~

~~(a) Requests an opinion from the Commission pursuant to paragraph (b) of subsection 2 may:~~

~~(1) At any time, reveal to a third party the alleged conduct of a public officer or employee underlying the request that the person filed with the Commission or the substance of testimony, if any, that the person gave before the Commission;~~

~~(2) After the investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter, reveal to a third party the fact that the person requested an opinion from the Commission;~~

~~(b) Gives testimony before the Commission may:~~

~~(1) At any time, reveal to a third party the substance of testimony that the person gave before the Commission;~~

~~(2) After the investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter, reveal to a third party the fact that the person gave testimony before the Commission;~~

~~10. Whenever the Commission holds a hearing pursuant to this section, the Commission shall:~~

~~(a) Notify the person about whom the opinion was requested of the place and time of the Commission's hearing on the matter;~~

~~(b) Allow the person to be represented by counsel; and~~

~~(c) Allow the person to hear the evidence presented to the Commission and to respond and present evidence on the person's own behalf.~~

~~11. The Commission's hearing may be held no sooner than 10 days after the notice is given unless the person agrees to a shorter time.~~

~~11. If a person who is not a party to a hearing before the Commission, including, without limitation, a person who has requested an opinion pursuant to paragraph (a) or (b) of subsection 2, wishes to ask a question of a witness at the hearing, the person must submit the question to the Executive Director in writing. The Executive Director may submit the question to the Commission if the Executive Director deems the question relevant and~~

~~appropriate. This subsection does not require the Commission to ask any question submitted by a person who is not a party to the proceeding.~~

~~12. If a person who requests an opinion pursuant to subsection 1 or 2 does not:~~

~~(a) Submit all necessary information to the Commission; and~~

~~(b) Declare by oath or affirmation that the person will testify truthfully;~~

~~the Commission may decline to render an opinion.~~

~~13. For good cause shown, the Commission may take testimony from a person by telephone or video conference.~~

~~14. For the purposes of NRS 41.032, the members of the Commission and its employees shall be deemed to be exercising or performing a discretionary function or duty when taking an action related to the rendering of an opinion pursuant to this section.~~

~~15. A meeting or hearing that the Commission or the investigatory panel holds to receive information or evidence concerning the propriety of the conduct of a public officer or employee pursuant to this section and the deliberations of the Commission and the investigatory panel on such information or evidence are not subject to the provisions of chapter 241 of NRS.] (Deleted by amendment.)~~

Sec. 8. NRS 281A.480 is hereby amended to read as follows:

281A.480 1. In addition to any other penalties provided by law ~~[,]~~ *and in accordance with the provisions of section 4 of this act*, the Commission may impose on a public officer or employee or former public officer or employee civil penalties:

(a) Not to exceed \$5,000 for a first willful violation of this chapter;

(b) Not to exceed \$10,000 for a separate act or event that constitutes a second willful violation of this chapter; and

(c) Not to exceed \$25,000 for a separate act or event that constitutes a third willful violation of this chapter.

2. In addition to any other penalties provided by law, the Commission may ~~impose~~, *upon its own motion or upon the motion of the person about whom an opinion was requested pursuant to NRS 281A.440* ~~the~~

~~(a) Impose~~, *impose* a civil penalty not to exceed \$5,000 and assess an amount equal to the amount of attorney's fees and costs actually and reasonably incurred by the person about whom an opinion was requested pursuant to NRS 281A.440 against a person who prevents, ~~the~~

~~(1) Files a request for an opinion pursuant to NRS 281A.440 which the Commission determines was clearly frivolous or vexatious or brought solely for harassment; or~~

~~(2) Prevents,~~ *interferes with or attempts to prevent or interfere with the discovery or investigation of a violation of this chapter.*

~~f (b) Assess an amount equal to the amount of attorney's fees and costs actually and reasonably incurred by the person about whom an opinion was requested pursuant to NRS 281A.440 against a person who requested the opinion if, after the investigation required by subsection 4 of NRS 281A.440,~~

~~an investigatory panel of the Commission determines that there is not just and sufficient cause for the Commission to render an opinion in the matter.]~~

3. If the Commission finds that a violation of a provision of this chapter by a public officer or employee or former public officer or employee has resulted in the realization of a financial benefit by the current or former public officer or employee or another person, the Commission may, in addition to any other penalties provided by law, require the current or former public officer or employee to pay a civil penalty of not more than twice the amount so realized.

4. In addition to any other penalties provided by law, if a proceeding results in an opinion that:

(a) One or more willful violations of this chapter have been committed by a State Legislator removable from office only through expulsion by the State Legislator's own House pursuant to Section 6 of Article 4 of the Nevada Constitution, the Commission shall:

(1) If the State Legislator is a member of the Senate, submit the opinion to the Majority Leader of the Senate or, if the Majority Leader of the Senate is the subject of the opinion or the person who requested the opinion, to the President pro Tempore of the Senate; or

(2) If the State Legislator is a member of the Assembly, submit the opinion to the Speaker of the Assembly or, if the Speaker of the Assembly is the subject of the opinion or the person who requested the opinion, to the Speaker pro Tempore of the Assembly.

(b) One or more willful violations of this chapter have been committed by a state officer removable from office only through impeachment pursuant to Article 7 of the Nevada Constitution, the Commission shall submit the opinion to the Speaker of the Assembly and the Majority Leader of the Senate or, if the Speaker of the Assembly or the Majority Leader of the Senate is the person who requested the opinion, to the Speaker pro Tempore of the Assembly or the President pro Tempore of the Senate, as appropriate.

(c) One or more willful violations of this chapter have been committed by a public officer other than a public officer described in paragraphs (a) and (b), the willful violations shall be deemed to be malfeasance in office for the purposes of NRS 283.440 and the Commission:

(1) May file a complaint in the appropriate court for removal of the public officer pursuant to NRS 283.440 when the public officer is found in the opinion to have committed fewer than three willful violations of this chapter.

(2) Shall file a complaint in the appropriate court for removal of the public officer pursuant to NRS 283.440 when the public officer is found in the opinion to have committed three or more willful violations of this chapter.

➡ This paragraph grants an exclusive right to the Commission, and no other person may file a complaint against the public officer pursuant to NRS 283.440 based on any violation found in the opinion.

5. An action taken by a public officer or employee or former public officer or employee relating to this chapter *may be found to be a willful violation of a provision of this chapter only by an affirmative vote of two thirds of the Commission. Without limiting the provisions of NRS 281A.105, 281A.115 or 281A.170, an action taken by a public officer or employee or former public officer or employee is not a willful violation of a provision of ~~those sections~~ this chapter* if the public officer or employee establishes by sufficient evidence that the public officer or employee satisfied all of the following requirements:

(a) The public officer or employee relied in good faith upon the advice of the legal counsel retained by the public body which the public officer represents or by the employer of the public employee ~~for upon the manual published by the Commission pursuant to NRS 281A.290,1; and~~

(b) The public officer or employee ~~was unable, through no fault of the public officer or employee, to obtain an opinion from the Commission before the action was taken; and~~

~~(c) The public officer or employee~~ took action that was not contrary to a prior published opinion issued by the Commission.

6. In addition to any other penalties provided by law, a public employee who commits a willful violation of this chapter is subject to disciplinary proceedings by the employer of the public employee and must be referred for action in accordance to the applicable provisions governing the employment of the public employee.

7. The provisions of this chapter do not abrogate or decrease the effect of the provisions of the Nevada Revised Statutes which define crimes or prescribe punishments with respect to the conduct of public officers or employees. If the Commission finds that a public officer or employee has committed a willful violation of this chapter which it believes may also constitute a criminal offense, the Commission shall refer the matter to the Attorney General or the district attorney, as appropriate, for a determination of whether a crime has been committed that warrants prosecution.

8. The imposition of a civil penalty pursuant to subsection 1, 2 or 3 is a final decision for the purposes of judicial review pursuant to NRS 233B.130.

9. A finding by the Commission that a public officer or employee has violated any provision of this chapter must be supported by a preponderance of the evidence unless a greater burden is otherwise prescribed by law.

Sec. 9. This act becomes effective on July 1, 2013.

Senator Spearman moved the adoption of the amendment.

Remarks by Senator Spearman.

Thank you, Mr. President. Amendment No. 513 to Senate Bill No. 283 removes from the bill Sections 2 and 7, which relate to requests for opinions and investigations concerning any candidate within 120 days of an election. It also revises the definition of "intentionally" to require proof of bad faith or intent and adds "reckless disregard" to describe the intentional act. The amendment deletes proposed new language relating to frivolous requests and to authorizing the Commission on Ethics to assess attorney's fees and other costs incurred.

Finally, the amendment deletes existing language providing that a public officer or employee did not commit a willful violation, if the individual relied on Commission on Ethics publications or was unable to obtain an opinion from the Commission on Ethics.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 325.

Bill read second time.

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

Amendment No. 217.

"SUMMARY—Revises provisions relating to elections. (BDR 24-953)"

"AN ACT relating to elections; requiring an explanation of an advisory question placed on the ballot by the governing body of a county or city to be written in easily understood language; requiring that every initiative, referendum or question placed on the ballot include a digest; eliminating certain obsolete provisions; requiring the governing bodies of certain counties and cities to appoint committees to prepare arguments for and against approval of advisory questions; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires, for every constitutional amendment or other statewide measure submitted to a vote of the people, a condensation and explanation of the measure to be prepared for inclusion with the ballot. The condensation and explanation must be written in easily understood language and be of reasonable length. (NRS 218D.810, 293.250) Sections 1 and 6 of this bill require the explanation to also include a digest that provides a concise and clear summary of any existing laws directly related to the measure and a summary of how the measure adds to, changes or repeals such existing laws. If a constitutional amendment or statewide measure creates, generates, increases or decreases any public revenue in any form, the first paragraph of the digest must include a statement indicating so.

Existing law authorizes the governing body of a political subdivision to submit a ballot question to the voters of the political subdivision and the governing body of a city or county to submit an advisory question to the voters of the city or county. In both cases, the governing body must provide an explanation of the question. (NRS 293.481, 293.482) Sections 2 and 3 of this bill require the explanation to be written in easily understood language and to include a digest. The digest must include a clear and concise summary of any existing laws directly related to the question and a summary of how the question adds to, changes or repeals such existing laws. If a question regarding a measure creates, generates, increases or decreases any public revenue in any form, the first paragraph of the digest must include a statement indicating so.

Under existing law, if an initiative, referendum or other question is placed on the ballot in a county whose population is 45,000 or more (currently Carson City and Clark, Elko, Douglas, Lyon and Washoe Counties) by the board of county commissioners of the county or by the governing body of certain entities within the county, the board of county commissioners must appoint a committee of persons who favor approval of the measure and a committee of persons who oppose approval of the measure to prepare arguments advocating or opposing, respectively, approval of the measure for inclusion in the sample ballot. (NRS 295.121) Existing law imposes an identical requirement on the city council of any city whose population is 15,000 or more (currently Boulder City, Carson City, Elko, Fernley, Henderson, Las Vegas, Mesquite, North Las Vegas, Reno and Sparks). (NRS 295.217) Sections 4 and 5 of this bill: (1) apply these requirements to all counties and cities; and (2) clarify that the requirement to appoint such committees applies when the question on the ballot is an advisory question. Sections 2-3.6 of this bill eliminate obsolete provisions regarding the provision, by the governing body of certain political subdivisions, public or quasi-public corporations or certain other local agencies, of arguments for and against questions on the ballot.

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

Section 1. NRS 293.250 is hereby amended to read as follows:

293.250 1. Except as otherwise provided in chapter 293D of NRS, the Secretary of State shall, in a manner consistent with the election laws of this State, prescribe:

(a) The form of all ballots, absent ballots, diagrams, sample ballots, certificates, notices, declarations, applications to register to vote, lists, applications, registers, rosters, statements and abstracts required by the election laws of this State.

(b) The procedures to be followed and the requirements of a system established pursuant to NRS 293.506 for using a computer to register voters and to keep records of registration.

2. Except as otherwise provided in chapter 293D of NRS, the Secretary of State shall prescribe with respect to the matter to be printed on every kind of ballot:

(a) The placement and listing of all offices, candidates and measures upon which voting is statewide, which must be uniform throughout the State.

(b) The listing of all other candidates required to file with the Secretary of State, and the order of listing all offices, candidates and measures upon which voting is not statewide, from which each county or city clerk shall prepare appropriate ballot forms for use in any election in his or her county.

3. The Secretary of State shall place the condensation of each proposed constitutional amendment or statewide measure near the spaces or devices for indicating the voter's choice.

4. The fiscal note for, explanation of, arguments for and against, and rebuttals to such arguments of each proposed constitutional amendment or statewide measure must be included on all sample ballots.

5. The condensations and explanations for constitutional amendments and statewide measures proposed by initiative or referendum must be prepared by the Secretary of State, upon consultation with the Attorney General. The arguments and rebuttals for or against constitutional amendments and statewide measures proposed by initiative or referendum must be prepared in the manner set forth in NRS 293.252. The fiscal notes for constitutional amendments and statewide measures proposed by initiative or referendum must be prepared by the Secretary of State, upon consultation with the Fiscal Analysis Division of the Legislative Counsel Bureau. The condensations, explanations, arguments, rebuttals and fiscal notes must be in easily understood language and of reasonable length, and whenever feasible must be completed by August 1 of the year in which the general election is to be held. *The explanations must include a digest. The digest must include a concise and clear summary of any existing laws directly related to the constitutional amendment or statewide measure and a summary of how the constitutional amendment or statewide measure adds to, changes or repeals such existing laws. For a constitutional amendment or statewide measure that creates, generates, increases or decreases any public revenue in any form, the first paragraph of the digest must include a statement that the constitutional amendment or statewide measure creates, generates, increases or decreases, as applicable, public revenue.*

6. The names of candidates for township and legislative or special district offices must be printed only on the ballots furnished to voters of that township or district.

7. A county clerk:

(a) May divide paper ballots into two sheets in a manner which provides a clear understanding and grouping of all measures and candidates.

(b) Shall prescribe the color or colors of the ballots and voting receipts used in any election which the clerk is required to conduct.

Sec. 2. NRS 293.481 is hereby amended to read as follows:

293.481 1. Except as otherwise provided in subsection ~~[2,]~~ 3, every governing body of a political subdivision, public or quasi-public corporation, or other local agency authorized by law to submit questions to the qualified electors or registered voters of a designated territory, when the governing body decides to submit a question:

(a) At a general election, shall provide to each county clerk within the designated territory on or before the third Monday in July preceding the election:

(1) A copy of the question, including an explanation of the question;
and

(2) ~~[Except as otherwise provided in NRS 295.121 or 295.217, arguments] [Arguments for and against the question] [-] [that are prepared pursuant to NRS 295.121 or 295.217, as applicable; and~~

~~(3)]~~ A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(b) At a primary election, shall provide to each county clerk within the designated territory on or before the second Friday after the first Monday in March preceding the election:

(1) A copy of the question, including an explanation of the question;
and

(2) ~~[Arguments for and against the question; and~~

~~(3)]~~ A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(c) At any election other than a primary or general election at which the county clerk gives notice of the election or otherwise performs duties in connection therewith other than the registration of electors and the making of records of registered voters available for the election, shall provide to each county clerk at least 60 days before the election:

(1) A copy of the question, including an explanation of the question;
and

(2) ~~[Arguments for and against the question; and~~

~~(3)]~~ A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(d) At any city election at which the city clerk gives notice of the election or otherwise performs duties in connection therewith, shall provide to the city clerk at least 60 days before the election:

(1) A copy of the question, including an explanation of the question;
and

(2) ~~[Arguments for and against the question; and~~

~~(3)]~~ A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

2. *An explanation of a question required to be provided to a county clerk pursuant to subsection 1 must be written in easily understood language and include a digest. The digest must include a concise and clear summary of any existing laws directly related to the measure proposed by the question and a summary of how the measure proposed by the question adds to, changes or repeals such existing laws. For a measure that creates, generates, increases*

or decreases any public revenue in any form, the first paragraph of the digest must include a statement that the measure creates, generates, increases or decreases, as applicable, public revenue.

3. A question may be submitted after the dates specified in subsection 1 if the question is expressly privileged or required to be submitted pursuant to the provisions of Article 19 of the Constitution of the State of Nevada, or pursuant to the provisions of chapter 295 of NRS or any other statute except NRS 293.482, 354.59817, 354.5982, 387.3285 or 387.3287 or any statute that authorizes the governing body to issue bonds upon the approval of the voters.

~~{3.}~~ 4. A question that is submitted pursuant to subsection 1 may be withdrawn if the governing body provides notification to each of the county or city clerks within the designated territory of its decision to withdraw the particular question on or before the same dates specified for submission pursuant to paragraph (a), (b), (c) or (d) of subsection 1, as appropriate.

~~{4.}~~ 5. A county or city clerk:

(a) Shall assign a unique identification number to a question submitted pursuant to this section; and

(b) May charge any political subdivision, public or quasi-public corporation, or other local agency which submits a question a reasonable fee sufficient to pay for the increased costs incurred in including the question, explanation, arguments and description of the anticipated financial effect on the ballot.

Sec. 3. NRS 293.482 is hereby amended to read as follows:

293.482 1. The governing body of a county or city may, at any general election or general city election, ask the advice of the registered voters within its jurisdiction on any question which it has under consideration. No other political subdivision, public or quasi-public corporation, or other local agency may ask the advice of the registered voters within its jurisdiction on any question which it has under consideration.

2. To place an advisory question on the ballot at a general election or general city election, the governing body of a county or city must:

(a) Adopt a resolution that:

(1) Sets forth:

(I) The question, in language indicating clearly that the question is advisory only. ~~{5.}~~

(II) An explanation of the question ~~{5.}~~ *that is written in easily understood language and includes a digest. The digest must include a concise and clear summary of any existing laws related to the measure proposed by the question and a summary of how the measure proposed by the question adds to, changes or repeals such existing laws. For a measure that creates, generates, increases or decreases any public revenue in any form, the first paragraph of the digest must include a statement that the measure creates, generates, increases or decreases, as applicable, public revenue.*

(III) ~~[Except as otherwise provided in NRS 295.121 and 295.217, arguments] [Arguments for and against the question] [; and] [that are prepared pursuant to NRS 295.121 or 295.217, as applicable]~~

~~(IV)~~ A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared by the governing body in accordance with subsection 4. ~~[; and]~~

(2) States that the result of the voting on the question does not place any legal requirement on the governing body, any member of the governing body or any officer of the political subdivision. ~~[; and]~~

(b) Comply with the requirements of paragraph (a) or (d) of subsection 1 of NRS 293.481.

3. A governing body may, at any general election, ask the advice of the registered voters of part of its territory if:

(a) The advisory question to be submitted affects only that part of its territory; and

(b) The resolution adopted pursuant to subsection 2 sets forth the boundaries of the area in which the advice of the registered voters will be asked.

4. With respect to a description of the anticipated financial effect that is required in connection with an advisory question:

(a) If, in the advisory question, the governing body seeks advice on whether bonds should be issued, the description must include any information that is required by law to be included on the sample ballot pursuant to the provisions of law that govern the procedure for issuance of the applicable type of bond.

(b) If, in the advisory question, the governing body seeks advice on whether a limitation upon revenue from taxes ad valorem should be exceeded, the description must include any information that is required by law to be included on the sample ballot pursuant to the provisions of law that govern the procedure for exceeding that limitation.

(c) If, in the advisory question, the governing body seeks advice on whether a tax other than a property tax described in paragraph (b) should be levied, the description must:

(1) Identify the average annual cost that is expected to be incurred by the affected taxpayers if the tax were to be levied;

(2) Specify the period over which the tax is proposed to be levied;

(3) Disclose whether, in connection with the levy of the tax, revenue bonds are to be sold which will be backed by the full faith and credit of the assessed value of the applicable local government; and

(4) If applicable, specify whether, in connection with or following the levy of the tax, additional expenses are expected to be incurred to pay for the operation or maintenance of any program or service to be provided from the proceeds of the tax or to pay for the operation or maintenance of any building, equipment, facility, machinery, property, structure, vehicle or other

thing of value to be purchased, improved or repaired with the proceeds of the tax.

(d) If, in the advisory question, the governing body seeks advice on whether a fee should be imposed, the description must:

(1) Identify the average annual cost that is expected to be incurred by the affected users if the fee were to be imposed;

(2) Specify the period over which the fee is proposed to be imposed; and

(3) If applicable, specify whether, in connection with or following the imposition of the fee, additional expenses are expected to be incurred to pay for the program or service to be provided from the proceeds of the fee or to pay for the operation or maintenance of any building, equipment, facility, machinery, property, structure, vehicle or other thing of value to be purchased, improved or repaired with the proceeds of the fee.

(e) If, in the advisory question, the governing body seeks advice on whether the applicable local government should incur an expense, the description must:

(1) Identify the source of revenue that will be used to pay the expense;

(2) Disclose whether it is expected that the incurring of the expense will require the levy or imposition of a new tax or fee or the increase of an existing tax or fee; and

(3) If a tax or fee is proposed to be levied or imposed or increased to pay the expense, contain the information required pursuant to paragraph (c) or (d), as applicable.

5. On the sample ballot for the general election or general city election, each advisory question must appear:

(a) With a title in substantially the following form: "Advisory Ballot Question No."; and

(b) With its explanation, arguments and description of the anticipated financial effect.

6. The Committee on Local Government Finance shall prepare sample advisory ballot questions to demonstrate, for each situation enumerated in paragraphs (a) to (e), inclusive, of subsection 4, examples of the manner in which descriptions of the anticipated financial effect should be prepared.

Sec. 3.3. NRS 293.565 is hereby amended to read as follows:

293.565 1. Except as otherwise provided in subsection 3, sample ballots must include:

(a) If applicable, the statement required by NRS 293.267;

(b) The fiscal note or description of anticipated financial effect, as provided pursuant to NRS 218D.810, 293.250, 293.481, 293.482, 295.015 or 295.095 for each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(c) An explanation, as provided pursuant to NRS 218D.810, 293.250, 293.481, 293.482 or 295.121, of each proposed constitutional amendment,

statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(d) Arguments for and against each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question, and rebuttals to each argument, as provided pursuant to NRS 218D.810, 293.250, 293.252, ~~293.481, 293.482~~ or 295.121; and

(e) The full text of each proposed constitutional amendment.

2. If, pursuant to the provisions of NRS 293.2565, the word "Incumbent" must appear on the ballot next to the name of the candidate who is the incumbent, the word "Incumbent" must appear on the sample ballot next to the name of the candidate who is the incumbent.

3. Sample ballots that are mailed to registered voters may be printed without the full text of each proposed constitutional amendment if:

(a) The cost of printing the sample ballots would be significantly reduced if the full text of each proposed constitutional amendment were not included;

(b) The county clerk ensures that a sample ballot that includes the full text of each proposed constitutional amendment is provided at no charge to each registered voter who requests such a sample ballot; and

(c) The sample ballots provided to each polling place include the full text of each proposed constitutional amendment.

4. Before the period for early voting for any election begins, the county clerk shall cause to be mailed to each registered voter in the county a sample ballot for his or her precinct, with a notice informing the voter of the location of his or her polling place. If the location of the polling place has changed since the last election:

(a) The county clerk shall mail a notice of the change to each registered voter in the county not sooner than 10 days before mailing the sample ballots; or

(b) The sample ballot must also include a notice in bold type immediately above the location which states:

NOTICE: THE LOCATION OF YOUR POLLING PLACE
HAS CHANGED SINCE THE LAST ELECTION

5. Except as otherwise provided in subsection 6, a sample ballot required to be mailed pursuant to this section must:

(a) Be printed in at least 12-point type; and

(b) Include on the front page, in a separate box created by bold lines, a notice printed in at least 20-point bold type that states:

NOTICE: TO RECEIVE A SAMPLE BALLOT IN
LARGE TYPE, CALL (Insert appropriate telephone number)

6. A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

7. The sample ballot mailed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in

any other manner, must be printed in at least 14-point type, or larger when practicable.

8. If a person requests a sample ballot in large type, the county clerk shall ensure that all future sample ballots mailed to that person from the county are in large type.

9. The county clerk shall include in each sample ballot a statement indicating that the county clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his or her polling place and provide reasonable assistance to the voter in casting his or her vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the county clerk has provided pursuant to subsection 4 of NRS 293.2955 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the county clerk shall include in the sample ballot a statement indicating:

- (a) The addresses of such centralized voting locations;
- (b) The types of specially equipped voting devices available at such centralized voting locations; and
- (c) That a voter who is elderly or disabled may cast his or her ballot at such a centralized voting location rather than at his or her regularly designated polling place.

10. The cost of mailing sample ballots for any election other than a primary or general election must be borne by the political subdivision holding the election.

Sec. 3.6. NRS 293C.530 is hereby amended to read as follows:

293C.530 1. Before the period for early voting for any election begins, the city clerk shall cause to be mailed to each registered voter in the city a sample ballot for his or her precinct, with a notice informing the voter of the location of his or her polling place. If the location of the polling place has changed since the last election:

- (a) The city clerk shall mail a notice of the change to each registered voter in the city not sooner than 10 days before mailing the sample ballots; or
- (b) The sample ballot must also include a notice in bold type immediately above the location which states:

NOTICE: THE LOCATION OF YOUR POLLING PLACE
HAS CHANGED SINCE THE LAST ELECTION

2. Except as otherwise provided in subsection 4, a sample ballot required to be mailed pursuant to this section must:

- (a) Be printed in at least 12-point type;
- (b) Include the description of the anticipated financial effect and explanation of each citywide measure and advisory question, including arguments for and against the measure or question, as required pursuant to NRS ~~(293.481, 293.482)~~ 295.205 or 295.217; and
- (c) Include on the front page, in a separate box created by bold lines, a notice printed in at least 20-point bold type that states:

NOTICE: TO RECEIVE A SAMPLE BALLOT IN
LARGE TYPE, CALL (Insert appropriate telephone number)

3. The word "Incumbent" must appear on the sample ballot next to the name of the candidate who is the incumbent, if required pursuant to NRS 293.2565.

4. A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

5. The sample ballot mailed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be printed in at least 14-point type, or larger when practicable.

6. If a person requests a sample ballot in large type, the city clerk shall ensure that all future sample ballots mailed to that person from the city are in large type.

7. The city clerk shall include in each sample ballot a statement indicating that the city clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his or her polling place and provide reasonable assistance to the voter in casting his or her vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the city clerk has provided pursuant to subsection 4 of NRS 293C.281 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the city clerk shall include in the sample ballot a statement indicating:

(a) The addresses of such centralized voting locations;

(b) The types of specially equipped voting devices available at such centralized voting locations; and

(c) That a voter who is elderly or disabled may cast his or her ballot at such a centralized voting location rather than at the voter's regularly designated polling place.

8. The cost of mailing sample ballots for a city election must be borne by the city holding the election.

Sec. 4. NRS 295.121 is hereby amended to read as follows:

295.121 1. ~~{In a county whose population is 45,000 or more, for}~~
For each initiative, referendum, *advisory question* or other question to be placed on the ballot by:

(a) The board, including, without limitation, pursuant to NRS 293.482, 295.115 or 295.160;

(b) The governing body of a school district, public library or water district authorized by law to submit questions to some or all of the qualified electors or registered voters of the county; or

(c) A metropolitan police committee on fiscal affairs authorized by law to submit questions to some or all of the qualified electors or registered voters of the county,

↪ the board shall, in consultation with the county clerk pursuant to subsection 5, appoint two committees. Except as otherwise provided in subsection 2, one committee must be composed of three persons who favor approval by the voters of the initiative, referendum or other question and the other committee must be composed of three persons who oppose approval by the voters of the initiative, referendum or other question.

2. If, after consulting with the county clerk pursuant to subsection 5, the board is unable to appoint three persons who are willing to serve on a committee, the board may appoint fewer than three persons to that committee, but the board must appoint at least one person to each committee appointed pursuant to this section.

3. With respect to a committee appointed pursuant to this section:

(a) A person may not serve simultaneously on the committee that favors approval by the voters of an initiative, referendum or other question and the committee that opposes approval by the voters of that initiative, referendum or other question.

(b) Members of the committee serve without compensation.

(c) The term of office for each member commences upon appointment and expires upon the publication of the sample ballot containing the initiative, referendum or other question.

4. The county clerk may establish and maintain a list of the persons who have expressed an interest in serving on a committee appointed pursuant to this section. The county clerk, after exercising due diligence to locate persons who favor approval by the voters of an initiative, referendum or other question to be placed on the ballot or who oppose approval by the voters of an initiative, referendum or other question to be placed on the ballot, may use the names on a list established pursuant to this subsection to:

(a) Make recommendations pursuant to subsection 5; and

(b) Appoint members to a committee pursuant to subsection 6.

5. Before the board appoints a committee pursuant to this section, the county clerk shall:

(a) Recommend to the board persons to be appointed to the committee; and

(b) Consider recommending pursuant to paragraph (a):

(1) Any person who has expressed an interest in serving on the committee; and

(2) A person who is a member of an organization that has expressed an interest in having a member of the organization serve on the committee.

6. If the board ~~[of a county whose population is 45,000 or more]~~ fails to appoint a committee as required pursuant to this section, the county clerk shall, in consultation with the district attorney, prepare an argument advocating approval by the voters of the initiative, referendum or other question and an argument opposing approval by the voters of the initiative, referendum or other question. Each argument prepared by the county clerk must satisfy the requirements of paragraph (f) of subsection 7 and any rules

or regulations adopted by the county clerk pursuant to subsection 8. The county clerk shall not prepare the rebuttal of the arguments required pursuant to paragraph (e) of subsection 7.

7. A committee appointed pursuant to this section:

- (a) Shall elect a chair for the committee;
- (b) Shall meet and conduct its affairs as necessary to fulfill the requirements of this section;
- (c) May seek and consider comments from the general public;
- (d) Shall prepare an argument either advocating or opposing approval by the voters of the initiative, referendum or other question, based on whether the members were appointed to advocate or oppose approval by the voters of the initiative, referendum or other question;
- (e) Shall prepare a rebuttal to the argument prepared by the other committee appointed pursuant to this section;
- (f) Shall address in the argument and rebuttal prepared pursuant to paragraphs (d) and (e):

(1) The anticipated financial effect of the initiative, referendum or other question;

(2) The environmental impact of the initiative, referendum or other question; and

(3) The impact of the initiative, referendum or other question on the public health, safety and welfare; and

(g) Shall submit the argument and rebuttal prepared pursuant to paragraphs (d), (e) and (f) to the county clerk not later than the date prescribed by the county clerk pursuant to subsection 8.

8. The county clerk ~~{of a county whose population is 45,000 or more}~~ shall provide, by rule or regulation:

(a) The maximum permissible length of an argument or rebuttal prepared pursuant to this section; and

(b) The date by which an argument or rebuttal prepared pursuant to this section must be submitted by the committee to the county clerk.

9. Upon receipt of an argument or rebuttal prepared pursuant to this section, the county clerk:

(a) May consult with persons who are generally recognized by a national or statewide organization as having expertise in the field or area to which the initiative, referendum or other question pertains; and

(b) Shall reject each statement in the argument or rebuttal that the county clerk believes is libelous or factually inaccurate.

➡ The decision of the county clerk to reject a statement pursuant to this subsection is a final decision for purposes of judicial review. Not later than 5 days after the county clerk rejects a statement pursuant to this subsection, the committee may appeal that rejection by filing a complaint in district court. The court shall set the matter for hearing not later than 3 days after the complaint is filed and shall give priority to such a complaint over all other matters pending with the court, except for criminal proceedings.

10. The county clerk shall place in the sample ballot provided to the registered voters of the county each argument and rebuttal prepared pursuant to this section, containing all statements that were not rejected pursuant to subsection 9. The county clerk may revise the language submitted by the committee so that it is clear, concise and suitable for incorporation in the sample ballot, but shall not alter the meaning or effect without the consent of the committee.

11. ~~{In a county whose population is less than 45,000:~~

~~(a) The board may appoint committees pursuant to this section.~~

~~(b) If the board appoints committees pursuant to this section, the county clerk shall provide for rules or regulations pursuant to subsection 8.~~

~~12.}~~ Except as otherwise provided in this subsection, if a question is to be placed on the ballot by an entity described in paragraph (b) or (c) of subsection 1, the entity must provide a copy and explanation of the question to the county clerk at least 30 days earlier than the date required for the submission of such documents pursuant to subsection 1 of NRS 293.481. This subsection does not apply to a question if the date that the question must be submitted to the county clerk is governed by subsection ~~{2}~~ 3 of NRS 293.481.

~~{13.}~~ 12. The provisions of chapter 241 of NRS do not apply to any consultations, deliberations, hearings or meetings conducted pursuant to this section.

Sec. 5. NRS 295.217 is hereby amended to read as follows:

295.217 1. ~~{In a city whose population is 15,000 or more, for}~~ For each initiative, referendum, *advisory question* or other question to be placed on the ballot by the:

(a) Council, including, without limitation, pursuant to NRS 293.482 or 295.215; or

(b) Governing body of a public library or water district authorized by law to submit questions to some or all of the qualified electors or registered voters of the city,

➡ the council shall, in consultation pursuant to subsection 5 with the city clerk or other city officer authorized to perform the duties of the city clerk, appoint two committees. Except as otherwise provided in subsection 2, one committee must be composed of three persons who favor approval by the voters of the initiative, referendum or other question and the other committee must be composed of three persons who oppose approval by the voters of the initiative, referendum or other question.

2. If, after consulting with the city clerk pursuant to subsection 5, the council is unable to appoint three persons willing to serve on a committee, the council may appoint fewer than three persons to that committee, but the council must appoint at least one person to each committee appointed pursuant to this section.

3. With respect to a committee appointed pursuant to this section:

(a) A person may not serve simultaneously on the committee that favors approval by the voters of an initiative, referendum or other question and the committee that opposes approval by the voters of that initiative, referendum or other question.

(b) Members of the committee serve without compensation.

(c) The term of office for each member commences upon appointment and expires upon the publication of the sample ballot containing the initiative, referendum or other question.

4. The city clerk may establish and maintain a list of the persons who have expressed an interest in serving on a committee appointed pursuant to this section. The city clerk, after exercising due diligence to locate persons who favor approval by the voters of an initiative, referendum or other question to be placed on the ballot or who oppose approval by the voters of an initiative, referendum or other question to be placed on the ballot, may use the names on a list established pursuant to this subsection to:

(a) Make recommendations pursuant to subsection 5; and

(b) Appoint members to a committee pursuant to subsection 6.

5. Before the council appoints a committee pursuant to this section, the city clerk shall:

(a) Recommend to the council persons to be appointed to the committee; and

(b) Consider recommending pursuant to paragraph (a):

(1) Any person who has expressed an interest in serving on the committee; and

(2) A person who is a member of an organization that has expressed an interest in having a member of the organization serve on the committee.

6. If the council ~~[of a city whose population is 15,000 or more]~~ fails to appoint a committee as required pursuant to this section, the city clerk shall, in consultation with the city attorney, prepare an argument advocating approval by the voters of the initiative, referendum or other question and an argument opposing approval by the voters of the initiative, referendum or other question. Each argument prepared by the city clerk must satisfy the requirements of paragraph (f) of subsection 7 and any rules or regulations adopted by the city clerk pursuant to subsection 8. The city clerk shall not prepare the rebuttal of the arguments required pursuant to paragraph (e) of subsection 7.

7. A committee appointed pursuant to this section:

(a) Shall elect a chair for the committee;

(b) Shall meet and conduct its affairs as necessary to fulfill the requirements of this section;

(c) May seek and consider comments from the general public;

(d) Shall prepare an argument either advocating or opposing approval by the voters of the initiative, referendum or other question, based on whether the members were appointed to advocate or oppose approval by the voters of the initiative, referendum or other question;

(e) Shall prepare a rebuttal to the argument prepared by the other committee appointed pursuant to this section;

(f) Shall address in the argument and rebuttal prepared pursuant to paragraphs (d) and (e):

(1) The anticipated financial effect of the initiative, referendum or other question;

(2) The environmental impact of the initiative, referendum or other question; and

(3) The impact of the initiative, referendum or other question on the public health, safety and welfare; and

(g) Shall submit the argument and rebuttal prepared pursuant to paragraphs (d), (e) and (f) to the city clerk not later than the date prescribed by the city clerk pursuant to subsection 8.

8. The city clerk ~~[of a city whose population is 15,000 or more]~~ shall provide, by rule or regulation:

(a) The maximum permissible length of an argument or rebuttal prepared pursuant to this section; and

(b) The date by which an argument or rebuttal prepared pursuant to this section must be submitted by the committee to the city clerk.

9. Upon receipt of an argument or rebuttal prepared pursuant to this section, the city clerk:

(a) May consult with persons who are generally recognized by a national or statewide organization as having expertise in the field or area to which the initiative, referendum or other question pertains; and

(b) Shall reject each statement in the argument or rebuttal that the city clerk believes is libelous or factually inaccurate.

↪ The decision of the city clerk to reject a statement pursuant to this subsection is a final decision for purposes of judicial review. Not later than 5 days after the city clerk rejects a statement pursuant to this subsection, the committee may appeal that rejection by filing a complaint in district court. The court shall set the matter for hearing not later than 3 days after the complaint is filed and shall give priority to such a complaint over all other matters pending with the court, except for criminal proceedings.

10. The city clerk shall place in the sample ballot provided to the registered voters of the city each argument and rebuttal prepared pursuant to this section, containing all statements that were not rejected pursuant to subsection 9. The city clerk may revise the language submitted by the committee so that it is clear, concise and suitable for incorporation in the sample ballot, but shall not alter the meaning or effect without the consent of the committee.

11. ~~[In a city whose population is less than 15,000:~~

~~(a) The council may appoint committees pursuant to this section.~~

~~(b) If the council appoints committees pursuant to this section, the city clerk shall provide for rules or regulations pursuant to subsection 8.~~

~~12.]~~ If a question is to be placed on the ballot by an entity described in paragraph (b) of subsection 1, the entity must provide a copy and explanation of the question to the city clerk at least 30 days earlier than the date required for the submission of such documents pursuant to subsection 1 of NRS 293.481. This subsection does not apply to a question if the date that the question must be submitted to the city clerk is governed by subsection ~~2]~~ 3 of NRS 293.481.

Sec. 6. NRS 218D.810 is hereby amended to read as follows:

218D.810 1. As used in this section, "first committee of reference" means the committee to which a bill or joint resolution was first referred in the House in which it was introduced.

2. Upon request from the first committee of reference, the Legal, Research and Fiscal Analysis Divisions shall prepare, for any proposed constitutional amendment or statewide measure which, if approved by the Legislature, would be submitted to a vote of the people:

(a) A condensation of the proposal into a question to be placed on the ballot;

(b) An explanation of the proposal, including arguments for and against the proposal;

(c) If the Legislature rejects a statewide measure proposed by initiative, proposes a different measure on the same subject which the Governor approves and includes the measure on the ballot with the statewide measure proposed by initiative, rebuttals to each argument for and against the proposal; and

(d) A fiscal note for the proposal, including an explanation of any anticipated financial effects on state and local governments.

3. The condensation, explanation, arguments, rebuttals and fiscal note must be of reasonable length and written in easily understood language. *The explanation must include a digest. The digest must include a concise and clear summary of any existing laws directly relating to the constitutional amendment or statewide measure and a summary of how the constitutional amendment or statewide measure adds to, changes or repeals such existing laws. For a constitutional amendment or statewide measure that creates, generates, increases or decreases any public revenue in any form, the first paragraph of the digest must include a statement that the constitutional amendment or statewide measure creates, generates, increases or decreases, as applicable, public revenue.*

4. After the bill or joint resolution has been approved by both Houses, the first committee of reference shall request the preparation of the condensation, explanation, arguments, rebuttals and fiscal note, if it has not already done so, and shall review the draft and approve such changes as it deems necessary.

5. The first committee of reference shall submit the condensation, explanation, arguments, rebuttals and fiscal note, in the form of a simple resolution, to the members of the House in which the proposed constitutional

amendment or statewide measure was introduced. After that resolution is approved, it must be entered in the journal in its entirety and the enrolled resolution delivered to the Secretary of State to accompany the bill or joint resolution to which it relates.

6. If the Legislature adjourns before the procedures set forth in subsections 4 and 5 have been completed, the Legislative Commission shall review, revise and approve the condensation, explanation, arguments, rebuttals and fiscal note for delivery to the Secretary of State on or before July 1 of the year in which the general election is to be held.

7. In the case of a joint resolution which proposes a constitutional amendment, the condensation, explanation, arguments, rebuttals and fiscal note must be treated in the same manner when the proposal is before the Legislature for its second approval as when the proposal was first approved.

8. The Legislative Counsel Bureau shall distribute copies of the condensations, explanations, arguments, rebuttals and fiscal notes to Legislators, public libraries, newspapers and broadcasters.

Sec. 7. This act becomes effective on July 1, 2013.

Senator Spearman moved the adoption of the amendment.

Remarks by Senator Spearman.

Thank you, Mr. President. Senate Bill No. 325 relates to ballot questions. Amendment No. 217 to Senate Bill No. 325 makes technical changes to existing statutes to recognize that, at the local level, ballot language presenting arguments for and against ballot questions are provided by committees, not the governing bodies of the political subdivisions. It also provides that if a ballot question affects public revenue in any form, the first paragraph of the digest, required by the bill, must include a statement indicating so.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 329.

Bill read second time.

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

Amendment No. 489.

"SUMMARY—Creates the Account for Clean Energy Loans. (BDR 58-861)"

"AN ACT relating to energy; creating the Account for Clean Energy Loans; providing, with limited exceptions, that money in the Account must be distributed to ~~local governments~~ energy improvement programs for the purpose of making below-market rate loans for clean energy improvements to residential real property; setting forth the duties and powers of the Director of the Office of Energy with respect to the Account; setting forth the duties and powers of ~~a local government~~ an energy improvement program that makes loans of money distributed to the ~~local government~~ energy improvement program from the Account; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 6 of this bill establishes the Account for Clean Energy Loans administered by the Director of the Office of Energy, money from which is to be used only to distribute money to ~~[local governments]~~ energy improvement programs that are established and administered by certain local governments, nonprofit corporations and financial institutions to make loans to qualified borrowers for clean energy improvements to primary residences owned by those qualified borrowers. Section 7 of this bill requires the Director to adopt certain regulations concerning the energy improvement programs and the use of money in the Account and authorizes the Director to adopt any other regulations necessary to carry out sections ~~[2-8]~~ 2-8.5 of this bill. Section 8 of this bill provides limitations on the use of the money in the Account and authorizes ~~[a local government]~~ certain local governments, nonprofit corporations and financial institutions to apply to the Director for a distribution of money from the Account for the purpose of making the loans authorized by section 6. Section 8.5 of this bill requires certain qualified third parties to comply with the Open Meeting Law in establishing and administering energy improvement programs approved by the Director.

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

Section 1. Chapter 701 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~[8]~~ 8.5, inclusive, of this act.

Sec. 2. *As used in sections 2 to ~~[8]~~ 8.5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 ~~[, 4 and 5]~~ to 5.5, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Clean energy improvement" means any repair of or addition or improvement to residential real property which reduces the consumption of ~~[electricity]~~ energy at the property or which uses ~~[electricity]~~ energy generated from renewable energy to meet all or a portion of the demand for ~~[electricity]~~ energy at the property.*

Sec. 4. *"Construction" means the erection, building, acquisition, alteration, remodeling, improvement or extension of a clean energy improvement and the inspection and supervision of such activities and includes, without limitation:*

1. *Any preliminary planning to determine the feasibility of a clean energy improvement; and*

2. *Any other activities reasonably necessary for the completion of a clean energy improvement.*

Sec. 4.5. *"Energy improvement program" means a program established and administered by a qualified third party and designed, intended or used to make below-market rate loans to qualified borrowers for clean energy improvements to primary residences owned by those qualified borrowers.*

Sec. 5. *"Qualified borrower" means a person who is the owner of a primary residence and who satisfies the criteria established by the Director pursuant to section ~~[8]~~ 7 of this act.*

Sec. 5.5. "Qualified third party" means a local government, nonprofit corporation or financial institution that establishes and administers an energy improvement program approved by the Director.

Sec. 6. 1. The Account for Clean Energy Loans is hereby created in the State General Fund. The Director shall administer the Account.

2. Except as otherwise provided in section 8 of this act, the money in the Account may be used only to provide money to ~~local governments~~ an energy improvement program to make below-market rate loans at a rate not lower than 3 percent to qualified borrowers for clean energy improvements to primary residences owned by those qualified borrowers.

3. Any money provided for the purposes of sections 2 to ~~8.7~~ 8.5, inclusive, of this act by gift, grant, donation or legislative appropriation and any money from a source identified by the Director pursuant to subsection 2 of section 7 of this act must be deposited in the State Treasury for credit to the Account. The interest and income earned on money in the Account for Clean Energy Loans must be credited to the Account.

4. All money remitted to the State by a ~~local government~~ qualified third party pursuant to section 8 of this act must be deposited in the State Treasury for credit to the Account.

5. All claims against the Account must be paid as other claims against the State are paid.

6. The faith of the State is hereby pledged that the money in the Account will not be used for purposes other than those authorized by sections 2 to ~~8.7~~ 8.5, inclusive, of this act.

Sec. 7. 1. The Director shall adopt regulations establishing:

(a) The criteria for approving one or more qualified third parties to establish and administer energy improvement programs in this State.

(b) The eligibility requirements for an energy improvement program to apply for and receive distributions of money from the Account for Clean Energy Loans.

(c) The eligibility requirements for applicants for loans of money distributed to ~~local governments~~ energy improvement programs from the Account ~~for Clean Energy Loans~~.

~~(b)~~ (d) One or more maximum annual rates of interest, which must be below-market rates ~~1.7~~ but which must not be lower than 3 percent, applicable to loans of money distributed to ~~local governments~~ energy improvement programs from the Account.

~~(c)~~ (e) Such other terms and conditions applicable to loans of money distributed to ~~local governments~~ energy improvement programs from the Account as the Director determines are necessary.

2. In addition to any money available through gift, grant, donation or legislative appropriation to carry out the purposes of sections 2 to 8.5, inclusive, of this act, the Director shall identify any other source of money which may, in the opinion of the Director, be used to fund the Account.

3. The Director may:

(a) Prepare and enter into agreements with the Federal Government for the acceptance of grants of money for the purposes of sections 2 to ~~8.7~~ 8.5, inclusive, of this act.

(b) Enter into agreements or cooperate with third parties to provide for enhanced leveraging of money in the Account, additional financing mechanisms or any other program or combination of programs for the purpose of expanding the scope of financial assistance available from the Account.

(c) Bind the Office of Energy to terms of any agreements entered into pursuant to paragraphs (a) or (b).

(d) Accept gifts, grants and donations from any source for the purpose of carrying out the provisions of sections 2 to 8.5, inclusive, of this act.

(e) Adopt such other regulations as are necessary to carry out the provisions of sections 2 to ~~8.7~~ 8.5, inclusive, of this act.

~~2.7~~ 4. The Director shall not distribute any money in the Account or commit such money for expenditure for the purposes set forth in sections 2 to ~~8.7~~ 8.5, inclusive, of this act without first obtaining the approval of the Legislature or the Interim Finance Committee if the Legislature is not in session.

Sec. 8. 1. Except as otherwise provided in subsection 5, money in the Account for Clean Energy Loans, including repayments of principal and interest on loans, and interest and income earned on money in the Account, may only be distributed, upon application by a ~~local government, to a local government~~ qualified third party, to the qualified third party and may be used by the ~~local government~~ qualified third party only to make loans at a rate established by the Director pursuant to paragraph ~~(b)~~ (d) of subsection 1 of section 7 of this act to a qualified borrower for the construction of a clean energy improvement to the primary residence of the qualified borrower.

2. ~~A local government~~ qualified third party may:

(a) Apply to the Director for a distribution of money from the Account to make loans to qualified borrowers for the construction of clean energy improvements.

(b) Make a loan to a qualified borrower in accordance with the regulations adopted by the Director pursuant to section 7 of this act.

3. ~~A local government~~ qualified third party shall, before approving an applicant for a loan of money distributed to the ~~local government~~ qualified third party from the Account, consider whether the applicant has received or is eligible to receive from any ~~other~~ governmental entity any money or other financial incentive, including, without limitation, any grant, loan, tax credit or abatement of any tax for the purpose of financing in whole or in part the clean energy improvement of the applicant.

4. ~~A local government~~ qualified third party that makes a loan of money distributed to the ~~local government~~ qualified third party from the Account to a qualified borrower shall remit payments of principal and interest

received from the qualified borrower to the Director for deposit in the State Treasury for credit to the Account.

5. The Director may use the interest earned on money in the Account and the interest earned on loans made by a ~~local government~~ qualified third party of money distributed from the Account to defray, in whole or in part, the costs and expenses of administering the Account and to carry out the purposes of sections 2 to ~~8.7~~ 8.5, inclusive, of this act.

Sec. 8.5. In establishing and administering an energy improvement program approved by the Director, a qualified third party that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), must comply with the provisions of chapter 241 of NRS.

Sec. 9. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On October 1, 2013, for all other purposes.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 489 to Senate Bill No. 329 replaces “electricity” with “energy” and defines “energy improvement program” and “qualified third party.” It also requires the Director of the Office of Energy to include in the regulations the criteria for approving a qualified third party and the eligibility requirements for an energy improvement program to apply for and receive money from the Account for Clean Energy Loans. The amendment authorizes a qualified third party to apply to the Director of the Office of Energy for a distribution of money for the purpose of making the loans. Finally, it requires a qualified third party to comply with the Open Meeting Law in establishing and administering energy improvement programs approved by the Director of the Office of Energy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 359.

Bill read second time.

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

Amendment No. 491.

"SUMMARY—Revises the duties of the Silver State Health Insurance Exchange. (BDR 57-906)"

"AN ACT relating to insurance; revising the duties of the Silver State Health Insurance Exchange; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Silver State Health Insurance Exchange, a state-based health insurance exchange, in order to facilitate the purchase and sale of qualified health plans in this State. (NRS 695I.210) This bill adds to the duties of the Silver State Health Insurance Exchange the duty , to the

extent feasible, to direct marketing for its qualified health plans primarily to uninsured and underinsured qualified individuals and qualified small employers that do not provide or offer health insurance to their employees.

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

Section 1. NRS 695I.210 is hereby amended to read as follows:

695I.210 1. The Exchange shall:

- (a) Create and administer a state-based health insurance exchange;
- (b) Facilitate the purchase and sale of qualified health plans;
- (c) Provide for the establishment of a program to assist qualified small employers in Nevada in facilitating the enrollment of their employees in qualified health plans offered in the small group market;
- (d) Make only qualified health plans available to qualified individuals and qualified small employers on or after January 1, 2014; ~~{and}~~
- (e) Unless the Federal Act is repealed or is held to be unconstitutional or otherwise invalid or unlawful, perform all duties that are required of the Exchange to implement the requirements of the Federal Act ~~{-}~~; and
- (f) ~~{Direct}~~ *To the extent feasible, direct marketing for qualified health plans primarily to uninsured and underinsured qualified individuals and qualified small employers that do not provide or offer health insurance to their employees.*

2. The Exchange may:

- (a) Enter into contracts with any person, including, without limitation, a local government, a political subdivision of a local government and a governmental agency, to assist in carrying out the duties and powers of the Exchange or the Board; and
- (b) Apply for and accept any gift, donation, bequest, grant or other source of money to carry out the duties and powers of the Exchange or the Board.

3. The Exchange is subject to the provisions of chapter 333 of NRS.

Senator Roberson moved the adoption of the amendment.

Remarks by Senator Roberson.

Thank you, Mr. President. Amendment No. 491 to Senate Bill No. 359 clarifies that the Silver State Health Insurance Exchange must direct marketing to qualified health plans, primarily to the uninsured or underinsured qualified individuals and qualified small employers that do not provide or offer health insurance to their employees.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 387.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 403.

"SUMMARY—Revises provisions concerning the insuring and registering of motor vehicles. (BDR 43-452)"

"AN ACT relating to motor vehicles; revising provisions governing the registration in this State of motor vehicles by residents and nonresidents; setting forth that reinstatement fees and fines imposed for failure to maintain motor vehicle liability insurance must be imposed on a per-policy basis and not a per-vehicle basis; ~~providing a grace period of 24 hours before the Department of Motor Vehicles may impose a reinstatement fee, fine, suspension or other penalty against a person for allowing a policy of motor vehicle liability insurance to lapse; requiring the Department to create an appeal process;~~ authorizing judicial review for the imposition of any penalties imposed by the Department of Motor Vehicles against a person for allowing a policy of motor vehicle liability insurance to lapse; requiring certain policies of insurance to remain in effect until the end of the day upon which the policy is terminated; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a person is required to register his or her motor vehicle in this State within 30 days after becoming a resident, and certain persons who are nonresidents are required to register their motor vehicles in this State if they conduct certain activities in this State. (NRS 482.385) Section 1 of this bill returns the period within which a motor vehicle must be registered by a new resident from 30 days to 60 days and eliminates the requirement that a nonresident register his or her motor vehicle in this State unless the vehicle is furnished to a resident operator or is used in this State for a gainful purpose. Section 1 also provides that if a resident of another state who is a seasonal resident of this State commutes into this State for part-time employment, such activity does not require the vehicle to be registered in this State.

Under existing law, a registered owner who failed to have motor vehicle liability insurance on the date specified by the Department of Motor Vehicles is required to pay to the Department a registration reinstatement fee and, depending on the length of the lapse in coverage, an additional fine. (NRS 482.557) Section 2 of this bill states that any such fees and fines must be imposed on a per-policy basis and not on a per-vehicle basis, such that the lapse of a policy covering multiple vehicles would not result in multiple fees or fines.

Existing law requires that each motor vehicle which is registered in this State or required to be registered in this State be covered by a policy of motor vehicle liability insurance. (NRS 485.185) Under existing law, a lapse in motor vehicle liability insurance coverage may be cause for the imposition of: (1) a suspension of motor vehicle registration; (2) a registration reinstatement fee; and (3) a penal fine. (NRS 482.557, 485.187, 485.317) ~~Section 4 of this bill requires the Department of Motor Vehicles to forgive a lapse of motor vehicle liability insurance coverage, and to not impose a fee, fine, suspension or other penalty against the owner of the motor vehicle, if the owner ensures that the motor vehicle is covered by a new or renewed~~

~~policy of insurance within 24 hours after the previous policy expired or was terminated.]~~ Section 5 of this bill requires ~~the Department to create an administrative appeal process so~~ that if the Department imposes a penalty against a person for failing to ensure that a motor vehicle is covered by a policy of liability insurance, the person may appeal the imposition of that penalty.

~~[Existing law regulates the provisions of and coverage provided by policies of insurance against liability arising out of the ownership, maintenance or use of any motor vehicle. (See, e.g., NRS 690B.017 and 690B.020) Section 8 of this bill requires such a policy to remain in effect until the last minute of the day upon the date of cancellation, termination or other discontinuance of the policy.]~~

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

Section 1. NRS 482.385 is hereby amended to read as follows:

482.385 1. Except as otherwise provided in ~~[subsections]~~ *subsection 5* and ~~[7 and]~~ NRS 482.390, a nonresident owner of a vehicle of a type subject to registration pursuant to the provisions of this chapter, owning any vehicle which has been registered for the current year in the state, country or other place of which the owner is a resident and which at all times when operated in this State has displayed upon it the registration license plate issued for the vehicle in the place of residence of the owner, may operate or permit the operation of the vehicle within this State without its registration in this State pursuant to the provisions of this chapter and without the payment of any registration fees to this State. ~~[-~~

~~(a) For a period of not more than 30 days in the aggregate in any 1 calendar year; and~~

~~(b) Notwithstanding the provisions of paragraph (a), during any period in which the owner is:~~

~~(1) On active duty in the military service of the United States;~~

~~(2) An out of state student;~~

~~(3) Registered as a student at a college or university located outside this State and who is in the State for a period of not more than 6 months to participate in a work study program for which the student earns academic credits from the college or university; or~~

~~(4) A migrant or seasonal farm worker.]~~

2. This section does not:

(a) Prohibit the use of manufacturers', distributors' or dealers' license plates issued by any state or country by any nonresident in the operation of any vehicle on the public highways of this State.

(b) Require registration of vehicles of a type subject to registration pursuant to the provisions of this chapter operated by nonresident common motor carriers of persons or property, contract motor carriers of persons or property, or private motor carriers of property as stated in NRS 482.390.

(c) Require registration of a vehicle operated by a border state employee.

3. ~~{Except as otherwise provided in subsection 5, when}~~ When a person, formerly a nonresident, becomes a resident of this State, the person shall:

- (a) Within ~~{30}~~ 60 days after becoming a resident; or
- (b) At the time he or she obtains a driver's license,

↪ whichever occurs earlier, apply for the registration of each vehicle the person owns which is operated in this State. When a person, formerly a nonresident, applies for a driver's license in this State, the Department shall inform the person of the requirements imposed by this subsection and of the penalties that may be imposed for failure to comply with the provisions of this subsection.

~~{4.}~~ A citation may be issued pursuant to *this* subsection ~~{1, 3 or 5}~~ only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense. The Department shall maintain or cause to be maintained a list or other record of persons who fail to comply with the provisions of *this* subsection ~~{3}~~ and shall, at least once each month, provide a copy of that list or record to the Department of Public Safety.

~~{5. Except as otherwise provided in this subsection, a resident or nonresident owner of a vehicle of a type subject to registration pursuant to the provisions of this chapter who engages in a trade, profession or occupation or accepts gainful employment in this State or who enrolls his or her children in a public school in this State shall, within 30 days after the commencement of such employment or enrollment, apply for the registration of each vehicle the person owns which is operated in this State. The provisions of this subsection do not apply to a nonresident who is:~~

~~(a) On active duty in the military service of the United States;~~

~~(b) An out of state student;~~

~~(c) Registered as a student at a college or university located outside this State and who is in the State for a period of not more than 6 months to participate in a work study program for which the student earns academic credits from the college or university; or~~

~~(d) A migrant or seasonal farm worker.~~

~~6.}~~ 4. A person who violates the provisions of subsection ~~{1,}~~ 3 ~~{or 5}~~ is guilty of a misdemeanor and, except as otherwise provided in this subsection, shall be punished by a fine of \$1,000. The fine imposed pursuant to this subsection is in addition to any fine or penalty imposed for the other alleged violation or offense for which the vehicle was halted or its driver arrested pursuant to subsection ~~{4.}~~ 3. The fine imposed pursuant to this subsection may be reduced to not less than \$200 if the person presents evidence at the time of the hearing that the person has registered the vehicle pursuant to this chapter.

~~{7.}~~ 5. Any resident operating upon a highway of this State a motor vehicle which is owned by a nonresident and which is furnished to the resident operator for his or her continuous use within this State, shall cause that vehicle to be registered within ~~{30}~~ 60 days after beginning its operation within this State.

~~{8-}~~ 6. A person registering a vehicle pursuant to the provisions of subsection ~~{1-}~~ 3, 5 ~~{-}~~ or 7 ~~{or 9}~~ or pursuant to NRS 482.390:

(a) Must be assessed the registration fees and governmental services tax, as required by the provisions of this chapter and chapter 371 of NRS; and

(b) Must not be allowed credit on those taxes and fees for the unused months of the previous registration.

~~{9-}~~ 7. If a vehicle is used in this State for a gainful purpose, the owner shall immediately apply to the Department for registration, except as otherwise provided in NRS 482.390, 482.395 and 706.801 to 706.861, inclusive.

~~{10-}~~ 8. An owner registering a vehicle pursuant to the provisions of this section shall surrender the existing nonresident license plates and registration certificates to the Department for cancellation.

~~{11-}~~ 9. A vehicle may be cited for a violation of this section regardless of whether it is in operation or is parked on a highway, in a public parking lot or on private property which is open to the public if, after communicating with the owner or operator of the vehicle, the peace officer issuing the citation determines that:

(a) The owner of the vehicle is a resident of this State; *or*

(b) The vehicle is used in this State for a gainful purpose. ~~{-}~~

~~(c) Except as otherwise provided in paragraph (b) of subsection 1, the owner of the vehicle is a nonresident and has operated the vehicle in this State for more than 30 days in the aggregate in any 1 calendar year; or~~

~~(d) The owner of the vehicle is a nonresident required to register the vehicle pursuant to subsection 5-}~~

↪ As used in this subsection, "peace officer" includes a constable.

10. *Nothing in this section requires an owner of a motor vehicle who is a resident of another state but a seasonal resident of this State to register the vehicle in this State on the basis that the owner uses the vehicle to commute to seasonal or part-time employment in this State, provided that the vehicle itself is not used in the performance of such employment. As used in this subsection, "part-time employment" means employment for fewer than 1,000 hours in a calendar year, irrespective of the number of hours worked in a particular week or month.*

Sec. 2. NRS 482.557 is hereby amended to read as follows:

482.557 1. Except as otherwise provided in subsection 7 of NRS 485.317, ~~[and section 4 of this act]~~ if a registered owner failed to have insurance on the date specified by the Department pursuant to NRS 485.317:

(a) For a first offense, the registered owner shall pay to the Department a registration reinstatement fee of \$250, and if the period during which insurance coverage lapsed was:

(1) At least 31 days but not more than 90 days, pay to the Department a fine of \$250.

(2) At least 91 days but not more than 180 days:

(I) Pay to the Department a fine of \$500; and

(II) File and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated.

(3) More than 180 days:

(I) Pay to the Department a fine of \$1,000; and

(II) File and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated.

(b) For a second offense, the registered owner shall pay to the Department a registration reinstatement fee of \$500, and if the period during which insurance coverage lapsed was:

(1) At least 31 days but not more than 90 days, pay to the Department a fine of \$500.

(2) At least 91 days but not more than 180 days:

(I) Pay to the Department a fine of \$500; and

(II) File and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated.

(3) More than 180 days:

(I) Pay to the Department a fine of \$1,000; and

(II) File and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated.

(c) For a third or subsequent offense:

(1) The driver's license of the registered owner must be suspended for a period to be determined by regulation of the Department but not less than 30 days;

(2) The registered owner shall file and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated; and

(3) The registered owner shall pay to the Department a registration reinstatement fee of \$750, and if the period during which insurance coverage lapsed was:

(I) At least 31 days but not more than 90 days, pay to the Department a fine of \$500.

(II) At least 91 days but not more than 180 days, pay to the Department a fine of \$750.

(III) More than 180 days, pay to the Department a fine of \$1,000.

2. *Notwithstanding any other provision of this section, if a registered owner failed to have insurance on the date specified by the Department pursuant to NRS 485.317, any fee or fine imposed pursuant to this section for a lapse in insurance coverage must be imposed only one time per lapse in coverage, irrespective of the number of vehicles covered under the applicable policy of insurance.*

3. *A reinstatement fee or fine imposed pursuant to this section may be appealed in accordance with section 5 of this act.*

4. As used in this section, "certificate of financial responsibility" has the meaning ascribed to it in NRS 485.028.

Sec. 3. ~~[Chapter 485 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.] (Deleted by amendment.)~~

Sec. 4. ~~[If the owner of a motor vehicle that is required to be covered by a policy of liability insurance pursuant to NRS 485.185 ensures that the motor vehicle is covered by a new or renewed policy of liability insurance within 24 hours after the previous policy of liability insurance covering the motor vehicle expired or was terminated, the Department:~~

- ~~1. Shall forgive the owner for the lapse in coverage; and~~
- ~~2. Shall not impose against the owner any reinstatement fee, fine, suspension or other penalty.] (Deleted by amendment.)~~

Sec. 5. Chapter 485 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[1. The Department shall establish an administrative appeal process for handling grievances arising from the imposition by] Any person against whom the Department ~~has~~ imposed a reinstatement fee, fine, suspension or other penalty ~~against a person who failed, or is alleged to have failed,~~ for failure to ensure that his or her motor vehicle was covered by a policy of liability insurance in violation of law.]~~

~~2. The process that the Department is required to establish pursuant to subsection 1 must include, at a minimum:~~

~~(a) Notice and an opportunity to be heard before a hearing officer of the Department; and~~

~~(b) If aggrieved by the decision of a hearing officer, an opportunity to appeal that decision to a court of competent jurisdiction.~~

~~3. The Department may adopt regulations to carry out the provisions of this section.] is entitled to judicial review of the imposition in the manner provided by chapter 233B of NRS.~~

Sec. 6. NRS 485.187 is hereby amended to read as follows:

485.187 1. Except as otherwise provided in subsection 5, the owner of a motor vehicle shall not:

(a) Operate the motor vehicle, if it is registered or required to be registered in this State, without having insurance as required by NRS 485.185.

(b) Operate or knowingly permit the operation of the motor vehicle without having evidence of insurance of the operator or the vehicle in the vehicle.

(c) Fail or refuse to surrender, upon demand, to a peace officer or to an authorized representative of the Department the evidence of insurance.

(d) Knowingly permit the operation of the motor vehicle in violation of subsection 3 of NRS 485.186.

2. A person shall not operate the motor vehicle of another person unless the person who will operate the motor vehicle:

(a) First ensures that the required evidence of insurance is present in the motor vehicle; or

(b) Has his or her own evidence of insurance which covers that person as the operator of the motor vehicle.

3. Except as otherwise provided in subsection 4, any person who violates subsection 1 or 2 is guilty of a misdemeanor. Except as otherwise provided in this subsection, in addition to any other penalty, a person sentenced pursuant to this subsection shall be punished by a fine of not less than \$600 nor more than \$1,000 for each violation. The fine must be reduced to \$100 for the first violation if the person obtains a motor vehicle liability policy by the time of sentencing, unless:

(a) The person has registered the vehicle as part of a fleet of vehicles pursuant to subsection 5 of NRS 482.215; or

(b) The person has been issued a certificate of self-insurance pursuant to NRS 485.380.

4. A court:

(a) Shall not find a person guilty or fine a person for a violation of paragraph (a), (b) or (c) of subsection 1 or for a violation of subsection 2 if the person presents evidence to the court that the insurance required by NRS 485.185 was in effect at the time demand was made for it.

(b) Except as otherwise provided in paragraph (a), may impose a fine of not more than \$1,000 for a violation of paragraph (a), (b) or (c) of subsection 1, and suspend the balance of the fine on the condition that the person presents proof to the court each month for 12 months that the insurance required by NRS 485.185 is currently in effect.

5. The provisions of paragraphs (b) and (c) of subsection 1 do not apply if the motor vehicle in question displays a valid permit issued by the Department pursuant to subsection 1 or 2 of NRS 482.3955, or NRS 482.396 or 482.3965 authorizing the movement or operation of that vehicle within the State for a limited time.

6. *A fine or penalty imposed pursuant to this section may be appealed in accordance with section 5 of this act.*

Sec. 7. NRS 485.317 is hereby amended to read as follows:

485.317 1. The Department shall verify that each motor vehicle which is registered in this State is covered by a policy of liability insurance as required by NRS 485.185.

2. Except as otherwise provided in this subsection, the Department may use any information to verify whether a motor vehicle is covered by a policy of liability insurance as required by NRS 485.185. The Department may not use the name of the owner of a motor vehicle as the primary means of verifying that a motor vehicle is covered by a policy of liability insurance.

3. If the Department is unable to verify that a motor vehicle is covered by a policy of liability insurance as required by NRS 485.185, the Department shall send a request for information by first-class mail to the registered owner of the motor vehicle. The owner shall submit all the information which is

requested to the Department within 15 days after the date on which the request for information was mailed by the Department. If the Department does not receive the requested information within 15 days after it mailed the request to the owner, the Department shall send to the owner a notice of suspension of registration by certified mail. The notice must inform the owner that unless the Department is able to verify that the motor vehicle is covered by a policy of liability insurance as required by NRS 485.185 within 10 days after the date on which the notice was sent by the Department, the owner's registration will be suspended pursuant to subsection 4.

4. The Department shall suspend the registration and require the return to the Department of the license plates of any vehicle for which the Department cannot verify the coverage of liability insurance required by NRS 485.185.

5. Except as otherwise provided in subsection 6, the Department shall reinstate the registration of the vehicle and reissue the license plates only upon verification of current insurance and compliance with the requirements for reinstatement of registration prescribed in paragraph (a) of subsection 6 of NRS 482.480.

6. If a registered owner proves to the satisfaction of the Department that the vehicle was a dormant vehicle during the period in which the information provided pursuant to NRS 485.314 indicated that there was no insurance for the vehicle, the Department shall reinstate the registration and, if applicable, reissue the license plates. If such an owner of a dormant vehicle failed to cancel the registration for the vehicle in accordance with subsection 3 of NRS 485.320, the Department shall not reinstate the registration or reissue the license plates unless the owner pays the fee set forth in paragraph (b) of subsection 6 of NRS 482.480.

7. If the Department suspends the registration of a motor vehicle pursuant to subsection 4 because the registered owner of the motor vehicle failed to have insurance on the date specified in the form for verification, and if the registered owner, in accordance with regulations adopted by the Department, proves to the satisfaction of the Department that the owner was unable to comply with the provisions of NRS 485.185 on that date because of extenuating circumstances, the Department may:

(a) Reinstate the registration of the motor vehicle and reissue the license plates upon payment by the registered owner of a fee of \$50, which must be deposited in the Account for Verification of Insurance created by subsection 6 of NRS 482.480; or

(b) Rescind the suspension of the registration without the payment of a fee.

➡ The Department shall adopt regulations to carry out the provisions of this subsection.

8. *The suspension of the registration of a motor vehicle pursuant to this section may be appealed in accordance with section 5 of this act.*

Sec. 8. ~~[Chapter 690B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~If for any reason, including, without limitation, compliance with a request by the policyholder, an insurer cancels, terminates or otherwise does not renew a policy of insurance against liability arising out of the ownership, maintenance or use of a motor vehicle delivered or issued for delivery in this State, the policy must remain in effect for all purposes through the last minute of the day on the date of cancellation, termination or other discontinuance of the policy.~~ (Deleted by amendment.)

Sec. 9. ~~[A policy of insurance that is subject to the provisions of chapter 690B of NRS and that is delivered, issued for delivery or renewed on or after the effective date of this act has the legal effect of including the coverage required by section 8 of this act, and any provision of the policy or renewal thereof that is in conflict with that section is void.]~~ (Deleted by amendment.)

Sec. 10. This act becomes effective ~~[upon passage and approval.]~~ on January 1, 2015.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

Thank you, Mr. President. Amendment No. 403 to Senate Bill No. 387 removes provisions allowing for a 24-hour grace period following a lapse in insurance coverage. It replaces a proposed appeal process with an existing appeal process provided in Chapter 233B of Nevada Revised Statutes for failure to maintain liability insurance. The amendment removes the requirement that automobile insurance policies remain in effect through the last minute of the day on the date of cancellation, termination or other discontinuance, and it extends the effective date to January 1, 2015.

Amendment adopted.

Senator Parks moved that Senate Bill No. 387 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. 400.

Bill read second time.

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

Amendment No. 365.

"SUMMARY—Revises provisions governing the taxation of mines and mining claims and provides for the taxation of certain items relating to mines, mining claims ~~[, mineral deposits]~~ and extracted minerals. (BDR 32-620)"

"AN ACT relating to taxes; contingently revising provisions governing the taxation of mines and mining claims; revising the definition of "personal property" for purposes of taxation to ~~[exclude]~~ remove the exception for certain ores, quartzes and minerals; providing that the taxable value of property must ~~[include]~~ exclude the value of any mineral deposit in its natural state attached to the ~~[property; providing that a mineral deposit attached to real property is not intangible property.]~~ land; revising provisions

relating to the taxation under certain circumstances of certain property otherwise exempted from taxation; removing the existing exemption of unpatented mines and mining claims from property taxes; deleting certain provisions governing the assessment of patented mines and mining claims; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 5 of Article 10 of the Nevada Constitution provides for a tax upon the net proceeds of mines which is separate from the tax imposed on all other property. Senate Joint Resolution No. 15, proposed by the 76th Session of the Legislature in 2011 and agreed to and passed by the 77th Session of the Legislature in 2013, proposes to repeal the constitutional provision establishing a separate tax on the net proceeds of mines. This bill revises certain provisions governing the taxes imposed on mines and mining claims contingent upon approval and ratification of the provisions of Senate Joint Resolution No. 15 by the voters at the general election on November 4, 2014.

Existing law governing property taxes excepts from the definition of "personal property" any gold-bearing and silver-bearing ores, quartz or minerals from which gold or silver is extracted. (NRS 361.030) Section 3 of this bill removes this exception. Section 3.5 of this bill exempts mines and mining claims from existing law which provides that when any real estate or portion of real estate which is exempt from taxation is leased, loaned or otherwise made available and used in connection with a business conducted for profit or as a residence, or both, the property is subject to taxation to the extent the portion of the property leased or used and the percentage of time that the property is leased or used can be segregated and identified. Section 4 of this bill provides that in determining the taxable value of property, the value of any mineral deposit in its natural state attached to the ~~property~~ land must be ~~included in~~ excluded from the computation of the taxable value of the property. ~~[Section 5 of this bill provides that for the purpose of computing the taxable value of certain otherwise exempt property used in a business conducted for profit, the period of use of such property includes all times during which a person owns a mining claim and has the exclusive right to the beneficial use of the property to explore for and produce or remove minerals from the property and the right to exclude others from the same beneficial use of the property. Section 6 of this bill provides that any mineral deposit in its natural state attached to the real property is not intangible personal property exempted from taxation.]~~

Section 23 of this bill: (1) removes the existing exemption of unpatented mines and mining claims from property taxes; and (2) deletes certain provisions governing the assessment of patented mines and mining claims. Sections 10-22 of this bill revise provisions relating to assessed valuation consistent with the contingent repeal of Section 5 of Article 10 of the Nevada Constitution.

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

Section 1. NRS 360.690 is hereby amended to read as follows:

360.690 1. Except as otherwise provided in NRS 360.730, the Executive Director shall estimate monthly the amount each local government, special district and enterprise district will receive from the Account pursuant to the provisions of this section.

2. The Executive Director shall establish a base monthly allocation for each local government, special district and enterprise district by dividing the amount determined pursuant to NRS 360.680 for each local government, special district and enterprise district by 12, and the State Treasurer shall, except as otherwise provided in subsections 3 to 8, inclusive, remit monthly that amount to each local government, special district and enterprise district.

3. If, after making the allocation to each enterprise district for the month, the Executive Director determines there is not sufficient money available in the county's subaccount in the Account to allocate to each local government and special district the base monthly allocation determined pursuant to subsection 2, he or she shall prorate the money in the county's subaccount and allocate to each local government and special district an amount equal to its proportionate percentage of the total amount of the base monthly allocations determined pursuant to subsection 2 for all local governments and special districts within the county. The State Treasurer shall remit that amount to the local government or special district.

4. Except as otherwise provided in subsections 5 to 8, inclusive, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, he or she shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency, ~~but excluding the portion attributable to the net proceeds of minerals,~~ over the year in which the allocation is made, as projected by the Department, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments

and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by the average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency, ~~but excluding the portion attributable to the net proceeds of minerals,~~ over the year in which the allocation is made, as projected by the Department, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

➡ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

5. Except as otherwise provided in subsection 6 or 7, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district and that ~~the average amount over the 5 fiscal years immediately preceding the year in which the allocation is made of the assessed valuation of taxable property which is attributable to the net proceeds of minerals in the county is equal to at least \$50,000,000 or that the average percentage of change in population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9, is a negative figure or that the average amount over the 5 fiscal years immediately preceding the year in which the allocation is made of the assessed valuation of taxable property which is attributable to the net proceeds of minerals in the county is equal to at least \$50,000,000 and~~ the average percentage of change in population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9, is a negative figure, the Executive Director shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which

the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency , ~~[but excluding the portion attributable to the net proceeds of minerals,]~~ over the year in which the allocation is made, as projected by the Department, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency , ~~[but excluding the portion attributable to the net proceeds of minerals,]~~ over the year in which the allocation is made, as projected by the Department, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

➡ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

6. Except as otherwise provided in subsection 8, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, that the sum of the average percentage of change in population and the average percentage of change in the assessed valuation of taxable property, as calculated pursuant to subparagraph (1) of paragraph (a) of subsection 4 for each of those local governments, is a negative figure, and that the average change in the assessed valuation of the taxable property in each of those special districts, as calculated pursuant to subparagraph (1) of paragraph (b) of subsection 4, is a negative figure, he or she shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency , ~~{but excluding the portion attributable to the net proceeds of minerals,}~~ over the year in which the allocation is made, as projected by the Department, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency , ~~{but excluding the portion attributable to the net proceeds of minerals,}~~ over the year in which the allocation is made, as projected by the Department, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

➡ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

7. Except as otherwise provided in subsection 8, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, that the sum of the average percentage of change in population and the average percentage of change in the assessed valuation of taxable property, as calculated pursuant to subparagraph (1) of paragraph (a) of subsection 4 for each of those local governments, is a negative figure, and that the average change in the assessed valuation of the taxable property in

any of those special districts, as calculated pursuant to subparagraph (1) of paragraph (b) of subsection 4, is a positive figure, he or she shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency, ~~{but excluding the portion attributable to the net proceeds of minerals,}~~ over the year in which the allocation is made, as projected by the Department, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency, ~~{but excluding the portion attributable to the net proceeds of minerals,}~~ over the year in which the allocation is made, as projected by the Department, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

➡ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

8. The Executive Director shall not allocate any amount to a local government or special district pursuant to subsection 4, 5, 6 or 7 unless the amount distributed and allocated to each of the local governments and special districts in the county in each preceding month of the fiscal year in which the allocation is to be made was at least equal to the base monthly allocation determined pursuant to subsection 2. If the amounts distributed to the local governments and special districts in the county for the preceding months of the fiscal year in which the allocation is to be made were less than the base monthly allocation determined pursuant to subsection 2 and the Executive Director determines there is money remaining in the county's subaccount in the Account after the distribution for the month has been made, he or she shall:

(a) Determine the amount by which the base monthly allocations determined pursuant to subsection 2 for each local government and special district in the county for the preceding months of the fiscal year in which the allocation is to be made exceeds the amounts actually received by the local governments and special districts in the county for the same period; and

(b) Compare the amount determined pursuant to paragraph (a) to the amount of money remaining in the county's subaccount in the Account to determine which amount is greater.

➔ If the Executive Director determines that the amount determined pursuant to paragraph (a) is greater, he or she shall allocate the money remaining in the county's subaccount in the Account pursuant to the provisions of subsection 3. If the Executive Director determines that the amount of money remaining in the county's subaccount in the Account is greater, he or she shall first allocate the money necessary for each local government and special district to receive the base monthly allocation determined pursuant to subsection 2 and the State Treasurer shall remit that money so allocated. The Executive Director shall allocate any additional money in the county's subaccount in the Account pursuant to the provisions of subsection 4, 5, 6 or 7, as appropriate.

9. The percentage changes in population calculated pursuant to subsections 4 to 7, inclusive, must:

(a) Except as otherwise provided in paragraph (c), if the Bureau of the Census of the United States Department of Commerce issues population totals that conflict with the totals certified by the Governor pursuant to NRS 360.285, be an estimate of the change in population for the calendar year, based upon the population totals issued by the Bureau of the Census.

(b) If a new method of determining population is established pursuant to NRS 360.283, be adjusted in a manner that will result in the percentage change being based on population determined pursuant to the new method for both the fiscal year in which the allocation is made and the fiscal year immediately preceding the year in which the allocation is made.

(c) If a local government files a formal appeal with the Bureau of the Census concerning the population total of the local government issued by the

Bureau of the Census, be calculated using the population total certified by the Governor pursuant to NRS 360.285 until the appeal is resolved. If additional money is allocated to the local government because the population total certified by the Governor is greater than the population total issued by the Bureau of the Census, the State Treasurer shall deposit that additional money in a separate interest-bearing account. Upon resolution of the appeal, if the population total finally determined pursuant to the appeal is:

(1) Equal to or less than the population total initially issued by the Bureau of the Census, the State Treasurer shall transfer the total amount in the separate interest-bearing account, including interest but excluding any administrative fees, to the Local Government Tax Distribution Account for allocation among the local governments in the county pursuant to subsection 4, 5, 6 or 7, as appropriate.

(2) Greater than the population total initially issued by the Bureau of the Census, the Executive Director shall calculate the amount that would have been allocated to the local government pursuant to subsection 4, 5, 6 or 7, as appropriate, if the population total finally determined pursuant to the appeal had been used and the State Treasurer shall remit to the local government an amount equal to the difference between the amount actually distributed and the amount calculated pursuant to this subparagraph or the total amount in the separate interest-bearing account, including interest but excluding any administrative fees, whichever is less.

10. On or before February 15 of each year, the Executive Director shall provide to each local government, special district and enterprise district a preliminary estimate of the revenue it will receive from the Account for that fiscal year.

11. On or before March 15 of each year, the Executive Director shall:

(a) Make an estimate of the receipts from each tax included in the Account on an accrual basis for the next fiscal year in accordance with generally accepted accounting principles, including an estimate for each county of the receipts from each tax included in the Account; and

(b) Provide to each local government, special district and enterprise district an estimate of the amount that local government, special district or enterprise district would receive based upon the estimate made pursuant to paragraph (a) and calculated pursuant to the provisions of this section.

12. A local government, special district or enterprise district may use the estimate provided by the Executive Director pursuant to subsection 11 in the preparation of its budget.

Sec. 2. NRS 360.695 is hereby amended to read as follows:

360.695 1. If the population and assessed valuation of the taxable property ~~[, except any assessed valuation attributable to the net proceeds of minerals,]~~ within a local government or special district has decreased in each of the 3 fiscal years immediately preceding the current fiscal year, the Executive Director shall review the amount allocated to the local government or special district from the Account pursuant to NRS 360.680, to determine

whether to adjust the allocation. The local government or special district may submit information to assist the Executive Director in making a determination. If the Executive Director determines that an adjustment to the allocation of the local government or special district is necessary, the Executive Director shall submit his or her findings on the matter to the Committee on Local Government Finance.

2. The Committee on Local Government Finance shall review the findings submitted by the Executive Director pursuant to subsection 1. If the Committee determines that an adjustment to the amount allocated to the local government or special district pursuant to NRS 360.680 is appropriate, the Committee shall submit a recommendation to the Nevada Tax Commission that sets forth the amount of the recommended adjustment. If the Committee determines that the adjustment is not appropriate, that decision is not subject to review by the Nevada Tax Commission.

3. The Nevada Tax Commission shall schedule a public hearing within 30 days after the Committee on Local Government Finance submits its recommendation. The Nevada Tax Commission shall provide public notice of the hearing at least 10 days before the date on which the hearing will be held. The Executive Director shall provide copies of all documents relevant to the adjustment recommended by the Committee on Local Government Finance to the governing body of each local government and special district that is located in the same county as the local government or special district that is subject to the recommended adjustment.

4. If, after the public hearing, the Nevada Tax Commission determines that the recommended adjustment is appropriate, it shall order the Executive Director to adjust the amount allocated to the local government or special district pursuant to NRS 360.680.

Sec. 3. NRS 361.030 is hereby amended to read as follows:

361.030 ~~{1-}~~ "Personal property" means:

~~{(a)}~~ 1. All household and kitchen furniture.
~~{(b)}~~ 2. All law, medical and miscellaneous libraries.
~~{(c)}~~ 3. All goods, wares and merchandise.
~~{(d)}~~ 4. All chattels of every kind and description, except vehicles as defined in NRS 371.020.

~~{(e)}~~ 5. Stocks of goods on hand.

~~{(f)}~~ 6. Any vehicle not included in the definition of vehicle in NRS 371.020.

~~{(g)}~~ 7. All locomotives, cars, rolling stock and other personal property used in operating any railroad within the State.

~~{(h)}~~ 8. All machines and machinery, all works and improvements, all steamers, vessels and watercraft of every kind and name navigating or used upon the waters of any river or lake within this State or having a general depot or terminus within this State.

~~[(i)]~~ 9. The money, property and effects of every kind, except real estate, of all banks, banking institutions or firms, bankers, moneylenders and brokers.

~~[(i)]~~ 10. All property of whatever kind or nature, except vehicles as defined in NRS 371.020, not included in the term "real estate" as that term is defined in NRS 361.035.

~~[2. Gold bearing and silver bearing ores, quartz or minerals from which gold or silver is extracted, when in the hands of the producers thereof, shall not mean, not be taken to mean, nor be listed and assessed under the term "personal property" as used in this section, but are specially excepted therefrom, and shall be listed, assessed and taxed as provided by law.]~~

Sec. 3.5. NRS 361.157 is hereby amended to read as follows:

361.157 1. When any real estate or portion of real estate which for any reason is exempt from taxation is leased, loaned or otherwise made available to and used by a natural person, association, partnership or corporation in connection with a business conducted for profit or as a residence, or both, the leasehold interest, possessory interest, beneficial interest or beneficial use of the lessee or user of the property is subject to taxation to the extent the:

(a) Portion of the property leased or used; and

(b) Percentage of time during the fiscal year that the property is leased by the lessee or used by the user, in accordance with NRS 361.2275,
➡ can be segregated and identified. The taxable value of the interest or use must be determined in the manner provided in subsection 3 of NRS 361.227 and in accordance with NRS 361.2275.

2. Subsection 1 does not apply to:

(a) Property located upon a public airport, park, market or fairground, or any property owned by a public airport, unless the property owned by the public airport is not located upon the public airport and the property is leased, loaned or otherwise made available for purposes other than for the purposes of a public airport, including, without limitation, residential, commercial or industrial purposes;

(b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;

(c) Property of any state-supported educational institution, except any part of such property located within a tax increment area created pursuant to NRS 278C.155;

(d) Property leased or otherwise made available to and used by a natural person, private association, private corporation, municipal corporation, quasi-municipal corporation or a political subdivision under the provisions of the Taylor Grazing Act or by the United States Forest Service or the Bureau of Reclamation of the United States Department of the Interior;

(e) Property of any Indian or of any Indian tribe, band or community which is held in trust by the United States or subject to a restriction against alienation by the United States;

(f) Vending stand locations and facilities operated by persons who are blind under the auspices of the Bureau of Services to Persons Who Are Blind or Visually Impaired of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation, whether or not the property is owned by the federal, state or a local government;

(g) Leases held by a natural person, corporation, association, municipal corporation, quasi-municipal corporation or political subdivision for development of geothermal resources, but only for resources which have not been put into commercial production;

(h) The use of exempt property that is leased, loaned or made available to a public officer or employee, incident to or in the course of public employment;

(i) A parsonage owned by a recognized religious society or corporation when used exclusively as a parsonage;

(j) Property owned by a charitable or religious organization all, or a portion, of which is made available to and is used as a residence by a natural person in connection with carrying out the activities of the organization;

(k) Property owned by a governmental entity and used to provide shelter at a reduced rate to elderly persons or persons having low incomes;

(l) The occasional rental of meeting rooms or similar facilities for periods of less than 30 consecutive days;

(m) The use of exempt property to provide day care for children if the day care is provided by a nonprofit organization; ~~for~~

(n) Any lease, easement, operating agreement, license, permit or right of entry for any exempt state property granted by the Department or the Regional Transportation Commission of Southern Nevada pursuant to section 45 of the Boulder City Bypass Toll Road Demonstration Project Act ~~to~~; *or*

(o) A mine or mining claim.

3. Taxes must be assessed to lessees or users of exempt real estate and collected in the same manner as taxes assessed to owners of other real estate, except that taxes due under this section do not become a lien against the property. When due, the taxes constitute a debt due from the lessee or user to the county for which the taxes were assessed and, if unpaid, are recoverable by the county in the proper court of the county.

Sec. 4. NRS 361.227 is hereby amended to read as follows:

361.227 1. Any person determining the taxable value of real property shall appraise:

(a) The full cash value of:

(1) Vacant land by considering the uses to which it may lawfully be put, any legal or physical restrictions upon those uses, the character of the terrain, and the uses of other land in the vicinity.

(2) Improved land consistently with the use to which the improvements are being put.

(b) Any improvements made on the land by subtracting from the cost of replacement of the improvements all applicable depreciation and obsolescence. Depreciation of an improvement made on real property must be calculated at 1.5 percent of the cost of replacement for each year of adjusted actual age of the improvement, up to a maximum of 50 years.

2. The unit of appraisal must be a single parcel unless:

(a) The location of the improvements causes two or more parcels to function as a single parcel;

(b) The parcel is one of a group of contiguous parcels which qualifies for valuation as a subdivision pursuant to the regulations of the Nevada Tax Commission; or

(c) In the professional judgment of the person determining the taxable value, the parcel is one of a group of parcels which should be valued as a collective unit.

3. The taxable value of a leasehold interest, possessory interest, beneficial interest or beneficial use for the purpose of NRS 361.157 or 361.159 must be determined in the same manner as the taxable value of the property would otherwise be determined if the lessee or user of the property was the owner of the property and it was not exempt from taxation, except that the taxable value so determined must be reduced by a percentage of the taxable value that is equal to the:

(a) Percentage of the property that is not actually leased by the lessee or used by the user during the fiscal year; and

(b) Percentage of time that the property is not actually leased by the lessee or used by the user during the fiscal year, which must be determined in accordance with NRS 361.2275.

4. The taxable value of other taxable personal property, except a mobile or manufactured home, must be determined by subtracting from the cost of replacement of the property all applicable depreciation and obsolescence. Depreciation of a billboard must be calculated at 1.5 percent of the cost of replacement for each year after the year of acquisition of the billboard, up to a maximum of 50 years.

5. *In determining the taxable value of property, the value of any mineral deposit in its natural state attached to the ~~property~~ land must be ~~included~~ ~~not~~ excluded from the computation of the taxable value of the property.*

6. The computed taxable value of any property must not exceed its full cash value. Each person determining the taxable value of property shall reduce it if necessary to comply with this requirement. A person determining whether taxable value exceeds that full cash value or whether obsolescence is a factor in valuation may consider:

(a) Comparative sales, based on prices actually paid in market transactions.

(b) A summation of the estimated full cash value of the land and contributory value of the improvements.

(c) Capitalization of the fair economic income expectancy or fair economic rent, or an analysis of the discounted cash flow.

↪ A county assessor is required to make the reduction prescribed in this subsection if the owner calls to his or her attention the facts warranting it, if the county assessor discovers those facts during physical reappraisal of the property or if the county assessor is otherwise aware of those facts.

~~{6.}~~ 7. The Nevada Tax Commission shall, by regulation, establish:

(a) Standards for determining the cost of replacement of improvements of various kinds.

(b) Standards for determining the cost of replacement of personal property of various kinds. The standards must include a separate index of factors for application to the acquisition cost of a billboard to determine its replacement cost.

(c) Schedules of depreciation for personal property based on its estimated life.

(d) Criteria for the valuation of two or more parcels as a subdivision.

~~{7.}~~ 8. In determining, for the purpose of computing taxable value, the cost of replacement of:

(a) Any personal property, the cost of all improvements of the personal property, including any additions to or renovations of the personal property, but excluding routine maintenance and repairs, must be added to the cost of acquisition of the personal property.

(b) An improvement made on land, a county assessor may use any final representations of the improvement prepared by the architect or builder of the improvement, including, without limitation, any final building plans, drawings, sketches and surveys, and any specifications included in such representations, as a basis for establishing any relevant measurements of size or quantity.

~~{8.}~~ 9. The county assessor shall, upon the request of the owner, furnish within 15 days to the owner a copy of the most recent appraisal of the property, including, without limitation, copies of any sales data, materials presented on appeal to the county board of equalization or State Board of Equalization and other materials used to determine or defend the taxable value of the property.

~~{9.}~~ 10. The provisions of this section do not apply to property which is assessed pursuant to NRS 361.320.

Sec. 5. ~~{NRS 361.2275 is hereby amended to read as follows:~~

~~361.2275 1. For purposes of NRS 361.157, 361.159 and 361.227, except as otherwise provided in subsection 2, property is leased or used by a natural person or entity at all times the natural person or entity has possession of, claim to or right to the possession of the property that is independent, durable and exclusive of rights held by others in the property, other than the rights held by the owner [..], including at all times during which the natural person or entity owns a mining claim and has exclusive right to the beneficial use of the property to explore for and produce or remove minerals from the~~

~~property and the right to exclude others from the same beneficial use of the property.~~

~~2. Property is not leased or used by a natural person or entity who possesses or occupies the property solely for the purpose of holding the property for another natural person or entity.~~

~~3. As used in this section:~~

~~(a) "Durable" means for a determinable period with a reasonable certainty that the use, possession or claim with respect to the property will continue for that period.~~

~~(b) "Exclusive" means the enjoyment of a beneficial use of property, together with the ability to exclude from occupancy persons or entities other than the owner who may interfere with that enjoyment.~~

~~(c) "Independent" means the ability to exercise authority and exert control over the management or operation of the property pursuant to the terms and provisions of the contract with the owner. A possession or use is independent if the possession or use of the property is sufficiently autonomous under the terms and provisions of the contract with the owner to constitute more than a mere agency.} (Deleted by amendment.)~~

Sec. 6. ~~{NRS 361.228 is hereby amended to read as follows:~~

~~361.228 1. All intangible personal property is exempt from taxation, including, without limitation:~~

~~(a) Shares of stock, bonds, mortgages, notes, bank deposits, book accounts such as an acquisition adjustment and credits, and securities and choses in action of like character; and~~

~~(b) Goodwill, customer lists, contracts and contract rights, patents, trademarks, trade names, custom computer programs, copyrights, trade secrets, franchises and licenses.~~

~~2. The value of intangible personal property must not enhance or be reflected in the value of real property or tangible personal property.~~

~~3. The attributes of real property, such as zoning, location, water rights, any mineral deposit in its natural state attached to the real property, view and geographic features, are not intangible personal property and must be considered in valuing the real property, if appropriate.} (Deleted by amendment.)~~

Sec. 7. NRS 361.2285 is hereby amended to read as follows:

361.2285 The Nevada Tax Commission shall adopt regulations which:

1. Provide for the creation of a simple, easily understood form which may be completed by the owner of any real property used to conduct a business and used to:

(a) Compute and determine the value of the property using the income approach and to compare that value to the existing taxable value of the property to determine the existence of any obsolescence; and

(b) Apply to the appropriate county assessor or board of equalization for computation of the taxable value of the property in accordance with subsection ~~{5}~~ 6 of NRS 361.227.

2. Clearly set forth the methodology for applying the income approach to valuation for tax purposes of real property used to conduct a business to determine whether obsolescence is a factor. The methodology must be described in a manner that may be easily understood by the owners of such property.

3. Will make available to the owner of any real property used to conduct a business information that will allow the owner to apply the income approach to establish the full cash value of the property for the purpose of comparing that value to the taxable value established by the county assessor.

Sec. 8. NRS 361.390 is hereby amended to read as follows:

361.390 Each county assessor shall:

1. File with or cause to be filed with the Secretary of the State Board of Equalization, on or before March 10 of each year, the tax roll, or a true copy thereof, of his or her county for the current year as corrected by the county board of equalization.

2. Prepare and file with the Department on or before January 31, March 5 and October 31 of each year, a segregation report showing the assessed values for each taxing entity within the county on a form prescribed by the Department. The assessor shall make projections of assessed value for the current fiscal year and the upcoming fiscal year regarding real and personal property for which the taxable value is determined by the assessor. The Department shall make any projections required for the upcoming fiscal year regarding ~~the net proceeds of minerals and~~ any property for which the taxable value is determined by the Nevada Tax Commission.

3. Prepare and file with the Department on or before May 5 for the unsecured roll, on or before August 10 for the secured roll, and on or before October 31 for the unsecured roll and the secured roll, a statistical report showing values for all categories of property on a form prescribed by the Department.

Sec. 9. NRS 361.405 is hereby amended to read as follows:

361.405 1. The Secretary of the State Board of Equalization forthwith shall certify any change made by the Board in the assessed valuation of any property in whole or in part to the county auditor of the county where the property is assessed, and whenever the valuation of any property is raised, the Secretary of the State Board of Equalization shall forward by certified mail to the property owner or owners affected, notice of the increased valuation.

2. As soon as changes resulting from cases having a substantial effect on tax revenues have been certified to the county auditor by the Secretary of the State Board of Equalization, the county auditor shall:

(a) Enter all such changes and the value of any construction work in progress ~~and net proceeds of minerals~~ which were certified to him or her by the Department, on the assessment roll before the delivery thereof to the tax receiver.

(b) Add up the valuations and enter the total valuation of each kind of property and the total valuation of all property on the assessment roll.

(c) Certify the results to the board of county commissioners and the Department.

3. ~~[The board of county commissioners shall not levy a tax on the net proceeds of minerals added to the assessed valuation pursuant to paragraph (a) of subsection 2, but, except as otherwise provided by specific statute, the net proceeds of minerals must be included in the assessed valuation of the taxable property of the county and all local governments in the county for the determination of the rate of tax and all other purposes for which assessed valuation is used.]~~

4.] As soon as changes resulting from cases having less than a substantial effect on tax revenue have been certified to the county tax receiver by the Secretary of the State Board of Equalization, the county tax receiver shall adjust the assessment roll or the tax statement or make a tax refund, as directed by the State Board of Equalization.

Sec. 10. NRS 377B.170 is hereby amended to read as follows:

377B.170 1. In a county whose population is 700,000 or more and in which a water authority exists, the water authority shall enter into an interlocal agreement with a city or town located in the county whose territory is not within the boundaries of the area served by the water authority or with a public entity in the county which provides water or wastewater services and which is not a member of the water authority to provide a distribution from the infrastructure fund of the water authority to the city, town or public entity after the city, town or public entity has filed with the water authority a detailed plan for acquiring, establishing, constructing, improving or equipping, or any combination thereof, a water or wastewater facility.

2. Such a city, town or public entity may request annually from the infrastructure fund of the water authority an amount of the proceeds of the tax for infrastructure received annually by the water authority that is equal to the proportion that the assessed valuation of taxable property within the boundaries of the city or town or the area served by the public entity ~~[, except any assessed valuation attributable to the net proceeds of minerals,]~~ bears to the total assessed valuation of taxable property within the county . ~~[, except any assessed valuation attributable to the net proceeds of minerals.]~~ If the boundaries of such a city or town overlap with the boundaries of a public entity in such a county which provides water or wastewater services and which is not a member of the water authority, the water authority shall apportion equally between the city or town and the public entity the distribution from the infrastructure fund attributable to the assessed valuation in the area where the boundaries overlap.

3. The water authority shall not unreasonably refuse a request from such a city, town or public entity for a distribution from the infrastructure fund pursuant to the provisions of this section.

Sec. 11. NRS 349.238 is hereby amended to read as follows:

349.238 1. There must be levied annually a special tax on all property, both real and personal, subject to taxation within the boundaries of the State of Nevada, fully sufficient ~~{together with the revenue which will result from application of the rate to the net proceeds of minerals,}~~ without regard to any statutory limitations now or hereafter existing, to pay the interest on the general obligation state securities and to pay and retire the securities as provided in the State Securities Law and in any act supplemental hereto. The amount of money to be raised by the tax must be included in the annual estimate or budget for each county in the state for each year for which the tax is hereby required to be levied. The tax must be levied and collected in the same manner and at the same time as other taxes are levied and collected.

2. The proceeds thereof levied to pay interest on the securities must be kept by the State Treasurer in a special fund, separate and apart from all other funds, and the proceeds of the tax levied to pay the principal of the securities must be kept by the Treasurer in a special fund, separate and apart from all other funds. The two special funds must be used for no other purpose than the payment of the interest on the securities and the principal thereof, respectively, when due.

Sec. 12. NRS 350.592 is hereby amended to read as follows:

350.592 1. There must be levied annually in due season a special tax on all property, both real and personal, subject to taxation within the boundaries of the municipality, fully sufficient ~~{together with the revenue which will result from application of the rate to the net proceeds of minerals,}~~ without regard to any statutory or charter tax limitations other than the limitation set forth in NRS 361.453, to pay the interest on the general obligation municipal securities and to pay and retire the securities as provided in the Local Government Securities Law and in any act supplemental hereto. The amount of money to be raised by the tax must be included in the annual estimate or budget for each county within the state for each year for which the tax is hereby required to be levied. The tax must be levied and collected in the same manner and at the same time as other taxes are levied and collected.

2. The proceeds thereof levied to pay interest on the securities must be kept by the treasurer in a special fund, separate and apart from all other funds, and the proceeds of the tax levied to pay the principal of the securities must be kept by the treasurer in a special fund, separate and apart from all other funds. The two special funds must be used for no other purpose than the payment of the interest on the securities and the principal thereof, respectively, when due; but, except as prevented by any contractual limitations imposed upon the municipality by proceedings appertaining to its outstanding securities, the municipality may provide for a consolidated debt service fund to pay principal of and interest on outstanding securities, when due.

Sec. 13. NRS 354.59811 is hereby amended to read as follows:

354.59811 1. Except as otherwise provided in NRS 244.377, 278C.260, 354.59813, 354.59815, 354.59818, 354.5982, 354.5987, 354.705, 354.723, 450.425, 450.760, 540A.265 and 543.600, for each fiscal year beginning on or after July 1, 1989, the maximum amount of money that a local government, except a school district, a district to provide a telephone number for emergencies or a redevelopment agency, may receive from taxes ad valorem, other than those ~~[attributable to the net proceeds of minerals or those]~~ levied for the payment of bonded indebtedness and interest thereon incurred as general long-term debt of the issuer, or for the payment of obligations issued to pay the cost of a water project pursuant to NRS 349.950, or for the payment of obligations under a capital lease executed before April 30, 1981, must be calculated as follows:

(a) The rate must be set so that when applied to the current fiscal year's assessed valuation of all property which was on the preceding fiscal year's assessment roll, together with the assessed valuation of property on the central assessment roll which was allocated to the local government, but excluding any ~~[assessed valuation attributable to the net proceeds of minerals]~~ assessed valuation attributable to a redevelopment area and assessed valuation of a fire protection district attributable to real property which is transferred from private ownership to public ownership for the purpose of conservation, it will produce 106 percent of the maximum revenue allowable from taxes ad valorem for the preceding fiscal year, except that the rate so determined must not be less than the rate allowed for the previous fiscal year, except for any decrease attributable to the imposition of a tax pursuant to NRS 354.59813 in the previous year.

(b) This rate must then be applied to the total assessed valuation, excluding ~~[the assessed valuation attributable to the net proceeds of minerals and]~~ the assessed valuation of a fire protection district attributable to real property which is transferred from private ownership to public ownership for the purpose of conservation, but including new real property, possessory interests and mobile homes, for the current fiscal year to determine the allowed revenue from taxes ad valorem for the local government.

2. As used in this section, "general long-term debt" does not include debt created for medium-term obligations pursuant to NRS 350.087 to 350.095, inclusive.

Sec. 14. NRS 354.59813 is hereby amended to read as follows:

354.59813 1. In addition to the allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811, if the estimate of the revenue available from the supplemental city-county relief tax to the county as determined by the Executive Director of the Department of Taxation pursuant to the provisions of subsection 11 of NRS 360.690 is less than the amount of money that would be generated by applying a tax rate of \$1.15 per \$100 of assessed valuation to the assessed valuation of the county, ~~[except any assessed valuation attributable to the net proceeds of minerals]~~, the governing body of each local government may levy an additional tax ad

valorem for operating purposes. The total tax levied by the governing body of a local government pursuant to this section must not exceed a rate calculated to produce revenue equal to the difference between the:

(a) Amount of revenue from supplemental city-county relief tax estimated to be received by the county pursuant to subsection 11 of NRS 360.690; and

(b) The tax that the county would have been estimated to receive if the estimate for the total revenue available from the tax was equal to the amount of money that would be generated by applying a tax rate of \$1.15 per \$100 of assessed valuation to the assessed valuation of the county,

↪ multiplied by the proportion determined for the local government pursuant to subparagraph (2) of paragraph (a) of subsection 4 of NRS 360.690, subparagraph (2) of paragraph (a) of subsection 6 of NRS 360.690 or subparagraph (2) of paragraph (a) of subsection 7 of NRS 360.690, as appropriate.

2. Any additional taxes ad valorem levied as a result of the application of this section must not be included in the base from which the allowed revenue from taxes ad valorem for the next subsequent year is computed.

3. As used in this section, "local government" has the meaning ascribed to it in NRS 360.640.

Sec. 15. NRS 354.598747 is hereby amended to read as follows:

354.598747 1. To calculate the amount to be distributed pursuant to the provisions of NRS 360.680 and 360.690 from a county's subaccount in the Local Government Tax Distribution Account to a local government, special district or enterprise district after it assumes the functions of another local government, special district or enterprise district:

(a) Except as otherwise provided in this section, the Executive Director of the Department of Taxation shall:

(1) Add the amounts calculated pursuant to subsection 1 or 2 of NRS 360.680 for each local government, special district or enterprise district and allocate the combined amount to the local government, special district or enterprise district that assumes the functions; and

(2) If applicable, add the average change in population and average change in the assessed valuation of taxable property that would otherwise be allowed to the local government or special district whose functions are assumed, including the assessed valuation attributable to a redevelopment agency, ~~but excluding the portion attributable to the net proceeds of minerals,~~ pursuant to subsection 4, 5, 6 or 7 of NRS 360.690, as appropriate, to the average change in population and average change in assessed valuation for the local government, special district or enterprise district that assumes the functions.

(b) If two or more local governments, special districts or enterprise districts assume the functions of another local government, special district or enterprise district, the additional revenue must be divided among the local governments, special districts or enterprise districts that assume the functions on the basis of the proportionate costs of the functions assumed.

↪ The Nevada Tax Commission shall not allow any increase in the allowed revenue from the taxes contained in the county's subaccount in the Local Government Tax Distribution Account if the increase would result in a decrease in revenue of any local government, special district or enterprise district in the county that does not assume those functions. If more than one local government, special district or enterprise district assumes the functions, the Nevada Tax Commission shall determine the appropriate amounts calculated pursuant to subparagraphs (1) and (2) of paragraph (a).

2. If a city disincorporates, the board of county commissioners of the county in which the city is located must determine the amount the unincorporated town created by the disincorporation will receive pursuant to the provisions of NRS 360.600 to 360.740, inclusive.

3. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in NRS 360.620.

(b) "Local government" has the meaning ascribed to it in NRS 360.640.

(c) "Special district" has the meaning ascribed to it in NRS 360.650.

Sec. 16. NRS 380.130 is hereby amended to read as follows:

380.130 1. Whenever it appears to the board of county commissioners of any county having a law library that for any reason any debt incurred in the purchase and establishment of the library has not been fully paid or materially reduced with the money provided by the provisions of NRS 380.110, within the period of 5 years immediately preceding, the board of county commissioners may, at the next annual tax levy, levy a special tax upon all taxable property within the county, both real and personal, sufficient ~~[, together with the revenue which will result from application of the rate to the net proceeds of minerals,]~~ to raise a sum which will discharge any such indebtedness, but no more. The money must be placed in the law library fund in the county treasury and must be used for the payment of the indebtedness and for no other purpose.

2. In lieu of the levy of a special tax as provided in subsection 1, the board of county commissioners of any county having a law library may, in the discretion of the board of county commissioners, transfer from the general funds of the county to the law library fund a sufficient sum of money to pay any debts incurred in the purchase and establishment and maintenance of the library, which has not been fully paid or materially reduced with the money provided by the provisions of NRS 380.110, within the period of 5 years immediately preceding March 1, 1959.

Sec. 17. NRS 387.1235 is hereby amended to read as follows:

387.1235 ~~[1. — Except as otherwise provided in subsection 2, local]~~

Local funds available are the sum of:

~~[(a)]~~ 1. The amount of one-third of the tax collected pursuant to subsection 1 of NRS 387.195 for the school district for the concurrent school year; and

~~[(b)]~~ 2. The proceeds of the local school support tax imposed by chapter 374 of NRS, excluding any amounts required to be remitted pursuant

to NRS 360.850 and 360.855. The Department of Taxation shall furnish an estimate of these proceeds to the Superintendent of Public Instruction on or before July 15 for the fiscal year then begun, and the Superintendent shall adjust the final apportionment of the current school year to reflect any difference between the estimate and actual receipts.

~~{2. The amount computed under subsection 1 that is attributable to any assessed valuation attributable to the net proceeds of minerals must be held in reserve and may not be considered as local funds available until the succeeding fiscal year.}~~

Sec. 18. NRS 387.195 is hereby amended to read as follows:

387.195 1. Each board of county commissioners shall levy a tax of 75 cents on each \$100 of assessed valuation of taxable property within the county for the support of the public schools within the county school district.

2. ~~{The tax collected pursuant to subsection 1 on any assessed valuation attributable to the net proceeds of minerals must not be considered as available to pay liabilities of the fiscal year in which the tax is collected but must be deferred for use in the subsequent fiscal year. The annual budget for the school district must only consider as an available source the tax on the net proceeds of minerals which was collected in the prior year.}~~

~~3.}~~ In addition to any tax levied in accordance with subsection 1, each board of county commissioners shall levy a tax for the payment of interest and redemption of outstanding bonds of the county school district.

~~{4.}~~ 3. The tax collected pursuant to subsection 1 and any interest earned from the investment of the proceeds of that tax must be credited to the county's school district fund.

~~{5.}~~ 4. The tax collected pursuant to subsection ~~{3}~~ 2 and any interest earned from the investment of the proceeds of that tax must be credited to the county school district's debt service fund.

Sec. 19. NRS 450.660 is hereby amended to read as follows:

450.660 1. At the time of making the levy of county taxes for that year, each board of trustees shall levy a tax sufficient ~~{, together with the revenue which will result from application of the rate to the net proceeds of minerals,}~~ to raise the amount so budgeted upon any real and personal property that is subject to taxation within the boundaries of the district. Any tax levied on interstate or intercounty telephone lines, power lines and other public utility lines pursuant to this section must be based upon valuations as established by the Nevada Tax Commission pursuant to the provisions of NRS 361.315 to 361.330, inclusive.

2. When levied, the tax must be:

(a) Entered upon the assessment rolls of each county that is included within the district; and

(b) Collected in the same manner as state and county taxes.

3. When the tax is collected it must be:

(a) Placed in the treasury of the county in which the district hospital is located;

- (b) Credited to the current expense fund of the district; and
- (c) Used only for the purpose for which it was raised.

Sec. 20. NRS 474.190 is hereby amended to read as follows:

474.190 1. Subject to the provisions of subsection 3, the board of directors of each county fire protection district shall prepare annual budgets in accordance with NRS 354.470 to 354.626, inclusive.

2. The budget of a district must be based on estimates of the amount of money that will be needed to defray the expenses of the district and to meet unforeseen emergencies and the amount of a fire protection tax sufficient ~~[, together with the revenue which will result from application of the rate to the net proceeds of minerals,]~~ to raise such sums.

3. The amount of money to be raised for the purpose of establishing, equipping and maintaining the district with fire-fighting facilities must not in any 1 year exceed 1 percent of the assessed value of the property described in NRS 474.200 . ~~[and any net proceeds of minerals derived from within the boundaries of the district.]~~

Sec. 21. NRS 474.510 is hereby amended to read as follows:

474.510 1. The board of fire commissioners shall prepare an annual budget in accordance with the provisions of NRS 354.470 to 354.626, inclusive, for each district organized in accordance with NRS 474.460.

2. Each budget must be based on estimates of the amount of money which will be needed to defray the expenses of the district and to meet unforeseen emergencies and the amount of a fire protection tax sufficient ~~[, together with the revenue which will result from application of the rate to the net proceeds of minerals,]~~ to raise such sums.

3. At the time of making the levy of county taxes for the year, the board of county commissioners shall levy the tax provided by subsection 2, upon all property, both real and personal, subject to taxation within the boundaries of the district. Any tax levied on interstate or intercounty telephone lines, power lines and other public utility lines as authorized in this section must be based upon valuations established by the Nevada Tax Commission pursuant to the provisions of NRS 361.315 to 361.330, inclusive.

4. The amount of tax to be collected for the purposes of this section must not exceed, in any 1 year, 1 percent of the value of the property described in subsection 3 . ~~[and any net proceeds of minerals derived from within the boundaries of the district.]~~

5. If levied, the tax must be entered upon the assessment roll and collected in the same manner as state and county taxes. Taxes may be paid in four approximately equal installments at the times specified in NRS 361.483, and the same penalties as specified in NRS 361.483 must be added for failure to pay the taxes.

6. For the purposes of NRS 474.460 to 474.540, inclusive, the treasurer of the district shall keep two separate funds for each district, one to be known as the district fire protection operating fund and one to be known as the district emergency fund. The money collected to defray the expenses of any

district organized pursuant to NRS 474.460 must be deposited in the district fire protection operating fund, and the money collected to meet unforeseen emergencies must be deposited in the district emergency fund. The district emergency fund must be used solely for emergencies and must not be used for regular operating expenses. The money deposited in the district emergency fund must not exceed the sum of \$1,000,000. Any interest earned on the money in the district emergency fund that causes the balance in that fund to exceed \$1,000,000 must be credited to the district fire protection operating fund.

7. For the purposes of subsection 6, an emergency includes, without limitation, any event that:

(a) Causes widespread or severe damage to property or injury to or the death of persons within the district;

(b) As determined by the district fire chief, requires immediate action to protect the health, safety and welfare of persons who reside within the district; and

(c) Requires the district to provide money to obtain a matching grant from an agency of the Federal Government to repair damage caused by a natural disaster that occurred within the district.

Sec. 22. NRS 514A.060 is hereby amended to read as follows:

514A.060 Notwithstanding any other provision of law, the Commission shall provide oversight of compliance with Nevada law relating to the activities of each state agency, board, bureau, commission, department or division with respect to the taxation, operation, safety and environmental regulation of mines and mining in this State, including, without limitation, the activities of:

1. The Nevada Tax Commission and the Department of Taxation in the taxation of the net proceeds of minerals pursuant to chapter 362 of NRS . ~~[and Section 5 of Article 10 of the Nevada Constitution.]~~

2. The Division of Industrial Relations of the Department of Business and Industry in administering the provisions of chapter 512 of NRS concerning the safe and healthful working conditions at mines.

3. The Commission on Mineral Resources and the Division of Minerals of the Commission in the administration of the provisions of chapters 513 and 522 of NRS concerning the conduct of mining operations and operations for the production of oil, gas and geothermal energy in the State.

4. The Bureau of Mines and Geology of the State of Nevada in the Public Service Division of the Nevada System of Higher Education in its administration of the provisions of chapter 514 of NRS.

5. The Division of Environmental Protection of the State Department of Conservation and Natural Resources in its administration of the provisions of chapter 519A of NRS concerning the reclamation of mined land, areas of exploration and former areas of mining or exploration.

Sec. 23. NRS 361.075, 362.030, 362.040, 362.050, 362.060, 362.070, 362.090 and 362.095 are hereby repealed.

Sec. 24. This act becomes effective on January 1, 2015, if and only if the provisions of Senate Joint Resolution No. 15, proposed by the 76th Session of the Legislature and agreed to and passed by the 77th Session of the Legislature, are approved and ratified by the voters at the general election on November 4, 2014.

LEADLINES OF REPEALED SECTIONS

361.075 Exemption of unpatented mines and mining claims.

362.030 County assessor to assess surface of patented mines and mining claims; exceptions.

362.040 Exclusion of assessment from roll.

362.050 Affidavit of labor: Requirement for exemption of surface of patented mine or mining claim from taxation; form and contents.

362.060 Who may make affidavit.

362.070 Contiguous patented mines or mining claims: Performance of work on one mine.

362.090 One affidavit may be recorded for labor on several patented mines or mining claims.

362.095 Method of taxation of patented mine or mining claim used for purpose other than mining or agriculture.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 365 to Senate Bill No. 400 provides that a mine or mining claim, under certain circumstances, is not subject to provisions of current law that require taxes to be paid on property that is otherwise exempt, pursuant to Section 157 of Chapter 361 of *Nevada Revised Statutes*. It also provides that the value of any mineral deposit in its natural state attached to the land must be excluded from the taxable value of the property. The amendment deletes provisions included in the bill, as introduced, for mining claims and their beneficial use of the property regarding treatment for property tax purposes and requiring mineral deposits in their natural state in the land not to be classified as intangible personal property exempt from taxable property. This act becomes effective on January 1, 2015, if and only if the provisions of Senate Joint Resolution No. 15, proposed by the 76th Session of the Legislature and agreed to and passed by the 77th Session of the Legislature, are approved and ratified by the voters at the general election on November 4, 2014.

Amendment adopted.

Senator Smith moved that Senate Bill No. 400 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. 422.

Bill read second time.

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

Amendment No. 492.

"SUMMARY—Establishes a civil cause of action against certain employers who condition certain employment on a noncompete clause. (BDR 3-1110)"

"AN ACT relating to actions concerning persons; establishing a civil cause of action for a violation of certain employment practices; prohibiting certain employers from conditioning certain employment on an employee or potential employee agreeing to a noncompete clause; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for civil actions and proceedings in particular cases concerning persons. (Chapter 41 of NRS) Existing law also establishes various unlawful employment practices. (Chapter 613 of NRS) Section 2 of this bill: (1) prohibits a broadcast employer from conditioning the employment of an on-air employee or prospective on-air employee on his or her agreeing to a noncompete clause; and (2) prohibits a broadcast employer from taking certain employment actions based on the refusal of the on-air employee or prospective on-air employee to agree to a noncompete clause. Section 1 of this bill establishes a civil cause of action against a broadcast employer who violates any provision of section 2 of this bill.

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

Section 1. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

A person who has suffered an injury or damages as the proximate result of a violation of the provisions of section 2 of this act may bring a civil cause of action for the recovery of the person's actual damages, costs and reasonable attorney's fees and for any punitive damages that the facts may warrant.

Sec. 2. Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:

It is unlawful for any broadcast employer in this State to:

1. *Directly or indirectly require, request, suggest or cause any on-air employee or prospective on-air employee to agree to a noncompete clause as a condition of employment; or*

2. *Discharge, discipline, discriminate against in any manner or deny employment or promotion to, or threaten to take any such action against, any on-air employee or prospective on-air employee who:*

(a) Refuses, declines or fails to agree to a noncompete clause;

(b) Has filed any complaint or instituted or caused to be instituted any legal proceeding pursuant to this section;

(c) Has testified or may testify in any legal proceeding instituted pursuant to this section; or

(d) Has exercised his or her rights, or has exercised on behalf of another person the rights afforded to him or her, pursuant to this section.

3. *As used in this section:*

(a) "Broadcast employer" means an employer operating as a radio station, television station, cable television system or other radio network, television network or video service network.

(b) "Noncompete clause" means a clause in an employment contract that prohibits an employee or prospective employee from working in a specific geographic area for a specific period at the conclusion of his or her current employment.

(c) "On-air employee" means an employee who performs live or prerecorded on-camera or audio announcing duties for a broadcast employer, including, without limitation, a news reporter, news anchor, disc jockey or radio talk show host.

Senator Segerblom moved the adoption of the amendment.

Remarks by Senator Segerblom.

Thank you, Mr. President. Amendment No. 492 to Senate Bill No. 422 makes clear that the bill applies only to an employee or prospective employee of a broadcast employer who is, or seeks to become, an "on-air" employee.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 454.

Bill read second time.

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

Amendment No. 322.

"SUMMARY—Makes various changes relating to the Silver State Health Insurance Exchange. (BDR 57-1167)"

"AN ACT relating to the Silver State Health Insurance Exchange; creating the Silver State Health Insurance Exchange Account in the State General Fund; requiring money received by the Exchange and the Executive Director of the Exchange to be deposited in the Account and not to revert to the State General Fund; authorizing insurers to deduct certain fees from certain ~~[premiums]~~ premium written and ~~[compensation]~~ consideration received by the insurers before paying the premium tax on the ~~[premiums]~~ premium and ~~[compensation]~~ consideration; authorizing the Exchange to offer ~~[supplemental]~~ certain coverage ~~[under]~~ services, contracts ~~[or]~~ and policies ~~relating to qualified health plans or other employer benefits;~~ revising requirements relating to the members of the Board of Directors of the Exchange and the duties of the Board; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

In 2011, the Legislature created the Silver State Health Insurance Exchange to provide services relating to the purchase and sale of health insurance by residents and certain employers in this State. (Chapter 695I of NRS) The Exchange is required to create and administer a state-based health insurance exchange, facilitate the purchase and sale of qualified health plans, provide for the establishment of a program to help certain small employers in Nevada in facilitating the enrollment of employees in qualified health plans, and perform all other duties that are

required of it pursuant to the federal Patient Protection and Affordable Care Act, the federal Health Care and Education Reconciliation Act of 2010 and any amendments to or regulations or guidance issued pursuant to those acts. (NRS 695I.210; Pub. L. No. 111-148, Pub. L. No. 111-152) Section 2 of this bill provides for: (1) the creation of the Silver State Health Insurance Exchange Account; and (2) money received by the Exchange or the Executive Director of the Exchange to be deposited in the Account and not to revert to the State General Fund at the end of each fiscal year. Section 4 of this bill authorizes the Exchange to offer certain contracts or policies which provide dental or vision benefits, as well as supplemental coverage to qualified individuals under contracts or policies relating to qualified health plans or other employer benefits. Sections ~~5-7~~ 5 and 7 of this bill revise the requirements governing appointment to and removal from the Board of Directors of the Exchange and the requirements governing the duties of the Board.

Existing law provides for each insurer that transacts business in this State to pay a tax on his or her net direct premiums and net direct considerations. (NRS 680B.027) Sections 3 and 8 of this bill authorize insurers to deduct fees imposed by the Exchange before paying this tax on any ~~[premiums]~~ premium written or [compensation] consideration received by the insurers for qualified health plans offered ~~[by]~~ on the Exchange.

Section 9 of this bill repeals unused definitions relating to the Exchange.

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

Section 1. Chapter 695I of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *There is hereby created in the State General Fund the Silver State Health Insurance Exchange Account, to be administered by the Executive Director. Any money received by the Exchange or the Executive Director pursuant to this chapter or any regulations adopted pursuant thereto must be deposited in the Account. The purposes of the Account are:*

- (a) To ensure stability in the ongoing operations of the Exchange;*
- (b) To facilitate the use by the Exchange of interest and income earned on the money in the Account to reduce fees related to qualified health plans; and*
- (c) For such other purposes related to the Exchange or the operations of the Exchange as the Board determines to be necessary and appropriate.*

2. *The money in the Account must be invested as the money in other state accounts is invested. Claims against the Account must be paid as other claims against the State are paid.*

3. *Except as otherwise provided in this subsection, the Account is a continuing account, without reversion, and any money remaining in the Account at the end of the fiscal year must be carried over to the next fiscal year. Any amount advanced to the Exchange pursuant to NRS 695I.510 must be repaid as required by 695I.510.*

4. Except as otherwise provided in this subsection, the interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account. For the purposes of this subsection, the money in the Account does not include any amount advanced to the Exchange pursuant to NRS 695I.510.

5. The interest and income earned on the money in the Account must be used to reduce fees related to qualified health plans.

6. The Exchange may accept gifts, grants and donations from any source for deposit in the Account.

Sec. 3. 1. If an insurer ~~receives premiums~~ writes premium or ~~other compensation~~ receives consideration for qualified health plans offered ~~by~~ on the Exchange, the portion of the ~~premiums~~ premium and ~~other compensation~~ consideration which is subject to the tax imposed pursuant to NRS 680B.027 is the total amount of the ~~premiums~~ premium written and ~~other compensation~~ consideration received by the insurer, reduced by the total amount of any fees required to be paid by the insurer to the Exchange pursuant to this chapter or any regulations adopted pursuant thereto ~~for~~ for the privilege of offering qualified health plans on the Exchange.

2. If the total amount of fees described in subsection 1 is greater than the total amount of ~~premiums~~ premium and ~~other compensation~~ consideration described in subsection 1, no portion of the ~~premiums~~ premium and ~~other compensation~~ consideration described in subsection 1 is subject to the tax imposed pursuant to NRS 680B.027.

3. Except as otherwise provided in this section, the tax imposed pursuant to NRS 680B.027 applies to any premium written or ~~other compensation~~ consideration received by an insurer ~~receives~~ for a qualified health plan offered by the Exchange.

Sec. 4. NRS 695I.210 is hereby amended to read as follows:

695I.210 1. The Exchange shall:

(a) Create and administer a state-based health insurance exchange;

(b) Facilitate the purchase and sale of qualified health plans;

(c) Provide for the establishment of a program to assist qualified small employers in Nevada in facilitating the enrollment of their employees in qualified health plans offered in the small group market;

(d) Make ~~only~~ qualified health plans available to qualified individuals and qualified small employers on or after January 1, 2014; and

(e) Unless the Federal Act is repealed or is held to be unconstitutional or otherwise invalid or unlawful, perform all duties that are required of the Exchange to implement the requirements of the Federal Act.

2. The Exchange may:

(a) Enter into contracts with any person, including, without limitation, a local government, a political subdivision of a local government and a governmental agency, to assist in carrying out the duties and powers of the Exchange or the Board; ~~and~~

(b) Apply for and accept any gift, donation, bequest, grant or other source of money to carry out the duties and powers of the Exchange or the Board ~~[-]~~ ; ~~and~~

(c) Offer contracts or policies which provide dental or vision benefits to qualified individuals and qualified small employers; and

(d) Offer coverage or services through the Exchange to any qualified individual under a contract or policy which is:

(1) Supplemental to a qualified health plan; and

(2) Related to the qualified individual's qualified health plan or other benefit provided by the qualified individual's employer.

~~→ Contracts or policies [which the Exchange may offer] offered through the Exchange pursuant to this paragraph [include, without limitation, contracts or policies providing pediatric dental benefits or vision benefits.] which are regulated pursuant to this title must be approved by the Commissioner.~~

3. The Exchange is subject to the provisions of chapter 333 of NRS.

Sec. 5. NRS 695I.300 is hereby amended to read as follows:

695I.300 1. The governing authority of the Exchange is the Board, consisting of seven voting members and three ex officio nonvoting members.

2. Subject to the provisions of subsections 3, 4 and 5:

(a) The Governor shall appoint five voting members of the Board;

(b) The Senate Majority Leader shall appoint one voting member of the Board; and

(c) The Speaker of the Assembly shall appoint one voting member of the Board.

3. Each voting member of the Board must have:

(a) Expertise in the individual or small employer health insurance market;

(b) Expertise in health care administration, health care financing or health information technology;

(c) Expertise in the administration of health care delivery systems;

(d) Experience as a consumer who would benefit from services provided by the Exchange; or

(e) Experience as a consumer advocate, including, without limitation, experience in consumer outreach and education for those who would benefit from services provided by the Exchange.

4. When making an appointment pursuant to subsection 2 ~~[-the]~~ :

(a) *The Governor shall make at least one appointment pursuant to paragraph (a) of subsection 2 in a manner so that at all times at least one voting member of the Board has the experience described in paragraph (d) or (e) of subsection 3; and*

(b) *Except as otherwise provided in paragraph (a), the Governor, the Majority Leader and the Speaker of the Assembly shall consider the collective expertise and experience of the voting members of the Board and shall attempt to make each appointment so that:*

~~[(a)]~~ (1) The areas of expertise and experience described in subsection 3 are collectively represented by the voting members of the Board; and

~~[(b)]~~ (2) The voting members of the Board represent a range and diversity of skills, knowledge, experience and geographic and stakeholder perspectives.

5. A voting member of the Board may not be a Legislator or hold any elective office in State Government.

6. While serving on the Board, a voting member may not be in any way affiliated with a health insurer, including, without limitation, being an employee of, consultant to or member of the board of directors of a health insurer, having an ownership interest in a health insurer or otherwise being a representative of a health insurer.

7. The following are ex officio nonvoting members of the Board who shall assist the voting members of the Board by providing advice and expertise:

(a) The Director of the Department of Health and Human Services, or his or her designee;

(b) The Director of the Department of Business and Industry, or his or her designee; and

(c) The Director of the Department of Administration, or his or her designee.

Sec. 6. ~~NRS 695I.310 is hereby amended to read as follows:~~

~~695I.310 1. After the initial terms, the term of each voting member of the Board is 3 years.~~

~~2. A voting member of the Board may be reappointed to the Board.~~

~~3. [The] Except as otherwise provided in this subsection, the appointing authority who appoints a voting member of the Board may remove that voting member if the voting member neglects his or her duty or commits misfeasance, malfeasance or nonfeasance in office. The Governor may remove and replace a voting member of the Board appointed pursuant to paragraph (a) of subsection 2 of NRS 695I.300 if necessary so that at all times at least one voting member of the Board has the experience described in paragraph (d) or (e) of subsection 3 of NRS 695I.300.~~

~~4. A vacancy on the Board in the position of a voting member must be filled in the same manner as the original appointment.~~

~~5. Upon the expiration of his or her term of office, a voting member of the Board may continue to serve until he or she is reappointed or a person is appointed as a successor.] (Deleted by amendment.)~~

Sec. 7. NRS 695I.370 is hereby amended to read as follows:

695I.370 1. The Board shall:

(a) Adopt bylaws setting forth its procedures and governing its operations;

(b) On or before June 30 and December 31 of each year, submit a written fiscal and operational report to the Governor and the Legislature, which must include, without limitation, any recommendations concerning the Exchange;

(c) On or before December 31 of each year, prepare a report for the public summarizing the activities of the Board and the contributions of the Exchange to the health of the residents of Nevada during the previous year;

- (d) Provide for an annual audit of its functions and operations;
- (e) ~~{Submit}~~ *Ensure that* all reports required by federal law *are submitted as required* to the appropriate federal agency and in a timely manner; and
- (f) If the Federal Act is repealed or is held unconstitutional or otherwise invalid or unlawful, define by regulation "qualified health plan" for the purposes of this act.

2. The Board may:

- (a) Adopt regulations to carry out the duties and powers of the Exchange;
- (b) Prepare special reports concerning the Exchange for the Governor, the Legislature and the public; and
- (c) Contract for the services of such legal, professional, technical and operational personnel and consultants as the execution of its duties and powers and the operation of the Exchange may require.

3. The Board is subject to Legislative and Executive Branch audits.

Sec. 8. NRS 680B.027 is hereby amended to read as follows:

680B.027 1. Except as otherwise provided in NRS 680B.033, 680B.0353, 680B.050 and 690C.110, *and section 3 of this act*, for the privilege of transacting business in this State, each insurer shall pay to the Department of Taxation a tax upon his or her net direct premiums and net direct considerations written at the rate of 3.5 percent.

2. The tax must be paid in the manner required by NRS 680B.030 and 680B.032.

3. The Commissioner or the Executive Director of the Department of Taxation may require at any time verified supplemental statements with reference to any matter pertinent to the proper assessment of the tax.

Sec. 9. NRS 695I.060 and 695I.070 are hereby repealed.

Sec. 10. 1. This section and section 4 of this act become effective upon passage and approval.

2. Sections 1, 2, 3 and 5 to 9, inclusive, of this act become effective on July 1, 2013.

TEXT OF REPEALED SECTIONS

695I.060 "Medical facility" defined. "Medical facility" has the meaning ascribed to it in NRS 449.0151.

695I.070 "Provider of health care" defined. "Provider of health care" has the meaning ascribed to it in NRS 629.031.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

Thank you, Mr. President. Amendment No. 322 to Senate Bill No. 454 adds a provision that any right of first refusal must be conditioned upon the same terms the judgment creditor or the beneficiary of the deed of trust intends to accept in a subsequent sale of the real property.

Amendment adopted.

Senator Smith moved that Senate Bill No. 454 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. 504.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 526.

"SUMMARY—Enacts provisions providing English Language Learning for Our Students. (BDR 34-1099)"

"AN ACT relating to education; revising provisions governing the count of pupils for apportionment purposes; requiring a teacher who is employed at a school where a certain percentage of the pupils are limited English proficient to hold an endorsement to teach English as a second language; requiring the regional training programs for the professional development of teachers and administrators to provide training which is designed to improve instruction to pupils who are limited English proficient; requiring the Board of Trustees of the Clark County School District and the Board of Trustees of the Washoe County School District to adopt pilot programs for the establishment of reading skills development centers; requiring the Teachers and Leaders Council of Nevada to make recommendations for certain revisions to the statewide performance evaluation system; requiring the board of trustees of each school district to make adjustments to its professional development programs as necessary to place priority on professional development for teachers and administrators employed at public schools with a certain percentage of pupils who are limited English proficient; making appropriations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State Board of Education is required to establish a program to teach the English language to pupils who are limited English proficient. (NRS 388.405) Section 2 of this bill sets forth the Legislature's declaration and intent with respect to providing high-quality instruction to pupils who are limited English proficient. Section 1 of this bill requires a school district to disaggregate from the count of pupils for apportionment purposes those pupils who are enrolled in a program to teach the English language to pupils who are limited English proficient. (NRS 387.123)

Under existing law, the Commission on Professional Standards in Education is required to adopt regulations prescribing the qualifications for the licensure and endorsement of teachers. (NRS 391.019) Section 3 of this bill ~~requires~~ encourages a teacher to hold an endorsement to teach English as a second language if the teacher is employed at a school where more than 25 percent of the pupils are limited English proficient ~~and~~ and requires a teacher to hold such an endorsement if the teacher is employed at a school where more than 50 percent of the pupils are limited English proficient. Section 4 of this bill requires the Commission to adopt regulations prescribing the endorsement. Section 13.5 of this bill makes the endorsement requirement in section 3 applicable to each teacher who begins employment at such a school on or after July 1, 2013 and to teachers employed at such a school on or after July 1, 2015. Section 13.5 exempts a teacher at such a

school before that date if the teacher receives a designation of "highly effective" on his or her performance evaluation during the 2014-2015 school year.

Existing law creates three regional training programs for the professional development of teachers and administrators and prescribes the requirements of training by the regional training programs. (NRS 391.512, 391.544) Section 5 of this bill requires the regional training programs to provide training for teachers and other licensed educational personnel who provide instruction to pupils who are limited English proficient or who work at public schools where more than 25 percent of the pupils are limited English proficient, which is designed to improve the instruction to those pupils. ~~[Section]~~ Sections 6 and 6.5 of this bill ~~[makes an appropriation]~~ make appropriations to the Account for Programs for Innovation and the Prevention of Remediation for distribution to the three school districts that serve as fiscal agents for the regional training programs for each regional training program to provide the training required by ~~[section]~~ sections 3 and 5.

Section 7 of this bill makes an appropriation to the Account for Programs for Innovation and the Prevention of Remediation for distribution by the Department of Education to the school districts based upon the percentage of pupils enrolled in the school district who are limited English proficient. Each school district that receives an allocation of money shall use the money to: (1) hire educational personnel who are specialists at providing instruction to pupils who are limited English proficient; (2) provide summer school free of charge to certain pupils who are limited English proficient; (3) create or expand prekindergarten programs for children who are limited English proficient; and (4) acquire and implement tools and assessments designed to support the learning of children who are limited English proficient.

Section 8 of this bill makes an appropriation to the Account for Programs for Innovation and the Prevention of Remediation for *school districts to provide full-day kindergarten in Title I schools that are receiving money pursuant to 42 U.S.C. §§ 1751 et seq. and in other at-risk schools that are currently providing full-day kindergarten with money appropriated by the Legislature for that purpose. A school district that receives an allocation of money shall use the money to provide full-day kindergarten in those schools at a ratio of 15 pupils per licensed teacher.*

Section 9 of this bill requires the Board of Trustees of the Clark County School District, in cooperation with the University of Nevada, Las Vegas, and the Board of Trustees of the Washoe County School District, in cooperation with the University of Nevada, Reno, to adopt pilot programs for the establishment of reading skills development centers at certain high-risk schools located within those School Districts. Section 9 also requires the Clark County School District to implement the pilot program beginning with the 2013-2014 school year and requires the Washoe County School District to implement the pilot program beginning with the 2014-2015 school year.

Sections 10-13 of this bill, respectively, make appropriations from the State Supplemental School Support Account to: (1) the Board of Trustees of the Clark County School District; (2) the University of Nevada, Las Vegas; (3) the Board of Trustees of the Washoe County School District; and (4) the University of Nevada, Reno. Such appropriations are for the establishment, operation and support of the reading skills development centers.

Section 14 of this bill requires representatives of the Clark County School District, the Washoe County School District, the University of Nevada, Las Vegas, and the University of Nevada, Reno, to report to each standing committee having primary jurisdiction over matters relating to K-12 public education at the beginning of the 78th Session of the Nevada Legislature on the results of the pilot programs.

Existing law creates the Teachers and Leaders Council of Nevada to make recommendations to the State Board of Education for the establishment of the statewide performance evaluation system for teachers and administrators. (NRS 391.455, 391.465) Section 15 of this bill requires the Council to make recommendations to the State Board and the Legislature on methods to evaluate teachers and other licensed educational personnel who provide instruction to pupils who are limited English proficient on the effectiveness of the instruction to those pupils.

Section 16 of this bill requires the board of trustees of each school district, during the 2013-2105 biennium, to review the provision of professional development offered by or through the school district and make such adjustments as are necessary to place priority on professional development for teachers and administrators at public schools where more than 25 percent of the pupils enrolled in the school are limited English proficient.

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

Section 1. NRS 387.123 is hereby amended to read as follows:

387.123 1. The count of pupils for apportionment purposes includes all pupils who are enrolled in programs of instruction of the school district, including, without limitation, a program of distance education provided by the school district, pupils who reside in the county in which the school district is located and are enrolled in any charter school, including, without limitation, a program of distance education provided by a charter school, and pupils who are enrolled in a university school for profoundly gifted pupils located in the county, for:

(a) Pupils in the kindergarten department.

(b) Pupils in grades 1 to 12, inclusive.

(c) Pupils not included under paragraph (a) or (b) who are receiving special education pursuant to the provisions of NRS 388.440 to 388.520, inclusive.

(d) Pupils who reside in the county and are enrolled part-time in a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive.

(e) Children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570.

(f) Pupils who are enrolled in classes pursuant to subsection 4 of NRS 386.560 and pupils who are enrolled in classes pursuant to subsection 5 of NRS 386.580.

(g) Pupils who are enrolled in classes pursuant to subsection 3 of NRS 392.070.

(h) Pupils who are enrolled in classes and taking courses necessary to receive a high school diploma, excluding those pupils who are included in paragraphs (d), (f) and (g).

2. *A school district shall disaggregate from the count of pupils pursuant to subsection 1 the count of pupils who participate in the program established pursuant to NRS 388.405 to teach the English language to pupils who are limited English proficient.*

3. The State Board shall establish uniform regulations for counting enrollment, *including, without limitation, disaggregating the count of pupils pursuant to subsection 2*, and calculating the average daily attendance of pupils. In establishing such regulations for the public schools, the State Board:

(a) Shall divide the school year into 10 school months, each containing 20 or fewer school days, or its equivalent for those public schools operating under an alternative schedule authorized pursuant to NRS 388.090.

(b) May divide the pupils in grades 1 to 12, inclusive, into categories composed respectively of those enrolled in elementary schools and those enrolled in secondary schools.

(c) Shall prohibit the counting of any pupil specified in subsection 1 more than once.

~~{3-}~~ 4. Except as otherwise provided in subsection ~~{4}~~ 5 and NRS 388.700, the State Board shall establish by regulation the maximum pupil-teacher ratio in each grade, and for each subject matter wherever different subjects are taught in separate classes, for each school district of this State which is consistent with:

(a) The maintenance of an acceptable standard of instruction;

(b) The conditions prevailing in the school district with respect to the number and distribution of pupils in each grade; and

(c) Methods of instruction used, which may include educational television, team teaching or new teaching systems or techniques.

➡ If the Superintendent of Public Instruction finds that any school district is maintaining one or more classes whose pupil-teacher ratio exceeds the applicable maximum, and unless the Superintendent finds that the board of trustees of the school district has made every reasonable effort in good faith to comply with the applicable standard, the Superintendent shall, with the approval of the State Board, reduce the count of pupils for apportionment purposes by the percentage which the number of pupils attending those

classes is of the total number of pupils in the district, and the State Board may direct the Superintendent to withhold the quarterly apportionment entirely.

~~{4-}~~ 5. The provisions of subsection ~~{3}~~ 4 do not apply to a charter school, a university school for profoundly gifted pupils or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive.

Sec. 2. NRS 388.405 is hereby amended to read as follows:

388.405 1. *The Legislature finds and declares that:*

(a) *It is the public policy of this State to provide every child enrolled in a public school with high-quality instruction.*

(b) *Children who are limited English proficient benefit from instruction that is designed to address the academic needs of those children.*

(c) *It is the intent of the Legislature that children who are limited English proficient be provided with services and instruction which is designed to address the academic needs of such children so that those children attain proficiency in the English language and improve their overall academic achievement and proficiency.*

2. The State Board shall:

~~{1-}~~ (a) Establish a program to teach the English language to pupils who are limited English proficient.

~~{2-}~~ (b) Adopt regulations to carry out the program. The regulations must prescribe the procedure by which a school district may obtain a waiver from the requirements of the program.

~~{3-}~~ (c) Submit all evaluations required pursuant to 20 U.S.C. §§ 6801 et seq. and the regulations adopted pursuant thereto regarding the programs for pupils who are limited English proficient carried out pursuant to that provision of federal law to the:

~~{(a)}~~ (1) Governor;

~~{(b)}~~ (2) Committee;

~~{(c)}~~ (3) Bureau; and

~~{(d)}~~ (4) Board of trustees of each school district.

Sec. 3. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

1. It is hereby declared to be the policy of this State that teachers employed at public schools where more than 25 percent of the pupils are limited English proficient are encouraged to hold an endorsement to teach English as a second language issued by the Superintendent of Public Instruction.

2. A teacher must hold an endorsement to teach English as a second language issued by the Superintendent of Public Instruction to be employed at a public school where more than ~~25~~ 50 percent of the pupils are limited English proficient.

Sec. 4. NRS 391.019 is hereby amended to read as follows:

391.019 1. Except as otherwise provided in NRS 391.027, the Commission shall adopt regulations:

(a) Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses. The regulations:

(1) Must include, without limitation, the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure which provides that the required education and training may be provided by any qualified provider which has been approved by the Commission, including, without limitation, institutions of higher education and other providers that operate independently of an institution of higher education. The regulations adopted pursuant to this subparagraph must:

(I) Establish the requirements for approval as a qualified provider;

(II) Require a qualified provider to be selective in its acceptance of students;

(III) Require a qualified provider to provide supervised, school-based experiences and ongoing support for its students, such as mentoring and coaching;

(IV) Significantly limit the amount of course work required or provide for the waiver of required course work for students who achieve certain scores on tests;

(V) Allow for the completion in 2 years or less of the education and training required under the alternative route to licensure;

(VI) Provide that a person who has completed the education and training required under the alternative route to licensure and who has satisfied all other requirements for licensure may apply for a regular license pursuant to sub-subparagraph (VII) regardless of whether the person has received an offer of employment from a school district, charter school or private school; and

(VII) Upon the completion by a person of the education and training required under the alternative route to licensure and the satisfaction of all other requirements for licensure, provide for the issuance of a regular license to the person pursuant to the provisions of this chapter and the regulations adopted pursuant to this chapter.

(2) Must not prescribe qualifications which are more stringent than the qualifications set forth in NRS 391.0315 for a licensed teacher who applies for an additional license in accordance with that section.

(b) Identifying fields of specialization in teaching which require the specialized training of teachers.

(c) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization ~~[-]~~, *including, without limitation, an endorsement to teach English as a second language, which must require at least 15 semester hours of credit in the applicable courses of study.*

(d) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

(e) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being registered with the Aging and Disability Services Division of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.

(f) Requiring teachers and other educational personnel to be registered with the Aging and Disability Services Division pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:

(1) Provide instruction or other educational services; and

(2) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

(g) Providing for the issuance and renewal of a special qualifications license to an applicant who holds a bachelor's degree, a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

(1) At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

(2) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

↪ An applicant for licensure pursuant to this paragraph who holds a bachelor's degree must submit proof of participation in a program of student teaching or mentoring or agree to participate in a program of mentoring or courses of pedagogy for the first 2 years of the applicant's employment as a teacher with a school district or charter school.

(h) Requiring an applicant for a special qualifications license to:

(1) Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

(2) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the bachelor's degree, master's degree or doctoral degree held by the applicant.

(i) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the bachelor's degree, master's degree or doctoral degree held by that person.

(j) Providing for the issuance and renewal of a special qualifications license to an applicant who:

(1) Holds a bachelor's degree or a graduate degree from an accredited college or university in the field for which the applicant will be providing instruction;

(2) Is not licensed to teach public school in another state;

(3) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

(4) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of the applicant's employment as a teacher with a school district or charter school if the applicant holds a graduate degree or, if the applicant holds a bachelor's degree, submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring or courses of pedagogy for the first 2 years of his or her employment as a teacher with a school district or charter school.

➡ An applicant for licensure pursuant to this paragraph is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

(k) Prescribing course work on parental involvement and family engagement. The Commission shall work in cooperation with the Office of Parental Involvement and Family Engagement created by NRS 385.630 in developing the regulations required by this paragraph.

2. Except as otherwise provided in NRS 391.027, the Commission may adopt such other regulations as it deems necessary for its own government or to carry out its duties.

3. Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the Commission.

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

4. A person who is licensed pursuant to paragraph (g) or (j) of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if the person is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

Sec. 5. NRS 391.544 is hereby amended to read as follows:

391.544 1. Based upon the assessment of needs for training within the region and priorities of training adopted by the governing body pursuant to NRS 391.540, each regional training program must provide:

(a) Training for teachers and other licensed educational personnel in the:

(1) Standards established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520;

(2) Curriculum and instruction required for the common core state standards adopted by the State Board;

(3) Curriculum and instruction recommended by the Teachers and Leaders Council of Nevada; and

(4) Culturally relevant pedagogy, taking into account cultural diversity and demographic differences throughout this State.

(b) Through the Nevada Early Literacy Intervention Program established for the regional training program, training for teachers who teach kindergarten and grades 1, 2 or 3 on methods to teach fundamental reading skills, including, without limitation:

(1) Phonemic awareness;

(2) Phonics;

(3) Vocabulary;

(4) Fluency;

(5) Comprehension; and

(6) Motivation.

(c) *For those teachers and other licensed educational personnel who provide instruction to pupils who are limited English proficient or who work at a public school where more than 25 percent of the pupils are limited English proficient, training which is designed to improve the instruction to those pupils.*

(d) At least one of the following types of training:

(1) Training for teachers and school administrators in the assessment and measurement of pupil achievement and the effective methods to analyze the test results and scores of pupils to improve the achievement and proficiency of pupils.

(2) Training for teachers in specific content areas to enable the teachers to provide a higher level of instruction in their respective fields of teaching. Such training must include instruction in effective methods to teach in a content area provided by teachers who are considered masters in that content area.

(3) In addition to the training provided pursuant to paragraph (b) of subsection 1, training for teachers in the methods to teach basic skills to pupils, such as providing instruction in reading with the use of phonics and providing instruction in basic skills of mathematics computation.

~~[(d)]~~ (e) In accordance with the program established by the Statewide Council pursuant to paragraph (b) of subsection 2 of NRS 391.520 training for:

(1) Teachers on how to engage parents and families, including, without limitation, disengaged families, in the education of their children and to build the capacity of parents and families to support the learning and academic achievement of their children.

(2) Training for teachers and paraprofessionals on working with parent liaisons in public schools to carry out strategies and practices for effective parental involvement and family engagement.

2. The training required pursuant to subsection 1 must:

(a) Include the activities set forth in 20 U.S.C. § 7801(34), as deemed appropriate by the governing body for the type of training offered.

(b) Include appropriate procedures to ensure follow-up training for teachers and administrators who have received training through the program.

(c) Incorporate training that addresses the educational needs of:

(1) Pupils with disabilities who participate in programs of special education; and

(2) Pupils who are limited English proficient.

3. The governing body of each regional training program shall prepare and maintain a list that identifies programs for the professional development of teachers and administrators that successfully incorporate:

(a) The standards of content and performance established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520;

(b) Fundamental reading skills; and

(c) Other training listed in subsection 1.

↪ The governing body shall provide a copy of the list on an annual basis to school districts for dissemination to teachers and administrators.

4. A regional training program may include model classrooms that demonstrate the use of educational technology for teaching and learning.

5. A regional training program may contract with the board of trustees of a school district that is served by the regional training program as set forth in NRS 391.512 to provide professional development to the teachers and administrators employed by the school district that is in addition to the training required by this section. Any training provided pursuant to this subsection must include the activities set forth in 20 U.S.C. § 7801(34), as deemed appropriate by the governing body for the type of training offered.

6. To the extent money is available from legislative appropriation or otherwise, a regional training program may provide training to paraprofessionals.

Sec. 6. 1. *There is hereby appropriated from the State General Fund to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379 the following sums:*

For the Fiscal Year 2013-2014\$400,000

For the Fiscal Year 2014-2015\$400,000

2. *The Department of Education shall distribute the money appropriated by subsection 1 to the Board of Trustees of the Clark County School District, the Board of Trustees of the Elko County School District and the Board of Trustees of the Washoe County School District, which serve as fiscal agents for the regional training programs for the professional development of teachers and administrators as prescribed by NRS 391.512. The distribution*

to each fiscal agent must be based upon the number of teachers and other licensed educational personnel in the school districts within the primary jurisdiction of the regional training program who provide instruction to pupils who are limited English proficient or work at a public school where more than 25 percent of the pupils are limited English proficient.

3. The money distributed to each fiscal agent of a regional training program for the professional development of teachers and administrators must be used for the regional training program to provide professional development to teachers and other licensed educational personnel who provide instruction to pupils who are limited English proficient or who work at a public school where more than 25 percent of the pupils are limited English proficient, which is designed to improve the instruction to those pupils required by NRS 391.544, as amended by section 5 of this act.

Sec. 6.5. 1. There is hereby appropriated from the State General Fund to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379 the following sums:

For the Fiscal Year 2013-2014.....\$1,743,750

For the Fiscal Year 2014-2015.....\$1,743,750

2. The Department of Education shall distribute the money appropriated by subsection 1 to the Board of Trustees of the Clark County School District, the Board of Trustees of the Elko County School District and the Board of Trustees of the Washoe County School District, which serve as fiscal agents for the regional training programs for the professional development of teachers and administrators as prescribed by NRS 391.512. The distribution to each fiscal agent must be based upon the number of teachers and other licensed educational personnel in the school districts within the primary jurisdiction of the regional training program who work at a public school where more than 50 percent of the pupils are limited English proficient.

3. The money distributed to each fiscal agent of a regional training program for the professional development of teachers and administrators must be used for the regional training program to provide professional development to assist teachers and other licensed educational personnel who work at a public school where more than 50 percent of the pupils are limited English proficient to obtain an endorsement to teach English as a second language. A regional training program must give preference to teachers and other licensed educational personnel who teach in kindergarten through grade 3.

Sec. 7. 1. There is hereby appropriated from the State General Fund to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379 the following sums:

For the Fiscal Year 2013-2014.....\$14,255,000

For the Fiscal Year 2014-2015.....\$14,255,000

2. The Department of Education shall distribute the money appropriated by subsection 1 to the school districts based upon the number of pupils who

are limited English proficient in each school district. A school district that receives an allocation of money shall use the money to:

(a) Hire educational personnel who are specialists at providing instruction to pupils who are limited English proficient in the public schools within the school district;

(b) Provide summer school free of charge to pupils who are enrolled in public schools where more than 50 percent of the pupils are limited English proficient;

(c) Create or expand high-quality, developmentally appropriate prekindergarten programs for children who reside within the school district and who are limited English proficient;

(d) Acquire and implement empirically proven assessment tools to determine the reading level of children who are limited English proficient in prekindergarten through grade 2; and

(e) Acquire and implement the use of empirically proven technology-based tools, such as software designed to support the learning of children who are limited English proficient.

3. If the needs of a school district that receives an allocation of money pursuant to this section exceed available funding, the school district shall give priority to those public schools within the school district with the highest proportion of pupils who are limited English proficient.

4. *Each school district that receives an allocation of money pursuant to this section shall evaluate the success of the use of the money on supporting the learning of children who are limited English proficient, including, without limitation:*

(a) A description of how the money was used by the school district, as set forth in paragraphs (a) ~~through~~ to (e), inclusive, of subsection 1; and

(b) The achievement results of the children and, if available, data based upon the academic growth of the children.

5. *Each school district shall submit the results of the evaluation conducted pursuant to subsection 4 to the Department of Education. On or before January 1, 2015, the Department of Education shall compile the evaluations received and submit a written report, including, without limitation, recommendations for continuing or expanding programs for pupils who are limited English proficient, to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the 78th Session of the Nevada Legislature.*

Sec. 8. 1. There is hereby appropriated from the State General Fund to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379 the following sums:

For the Fiscal Year 2013-2014 \$42,058,463

For the Fiscal Year 2014-2015 \$42,903,135

2. The Department of Education shall distribute the appropriation made by subsection 1 to school districts to provide full-day kindergarten in Title I schools that are receiving money pursuant to 42 U.S.C. §§ 1751 et seq. and

in other at-risk schools that are currently providing full-day kindergarten with money appropriated by the Legislature for that purpose. A school district that receives an allocation of money pursuant to this section shall provide full-day kindergarten in those schools at a ratio of 15 pupils per licensed teacher.

Sec. 9. 1. The Board of Trustees of the Clark County School District, in cooperation with the University of Nevada, Las Vegas, shall adopt a pilot program for the establishment of reading skills development centers at high risk schools located within the School District, as designated by the Board of Trustees. The pilot program must be implemented beginning with the 2013-2014 school year.

2. The Board of Trustees of the Washoe County School District, in cooperation with the University of Nevada, Reno, shall adopt a pilot program for the establishment of reading skills development centers at high-risk schools located within the School District, as designated by the Board of Trustees. The pilot program must be implemented beginning with the 2014-2015 school year.

3. Each reading skills development center established pursuant to this section must:

(a) Provide support to each designated high-risk school in the assessment of reading and literacy problems and language acquisition barriers for pupils in kindergarten and grades 1, 2 and 3.

(b) Provide instructional intervention to enable those pupils to overcome such problems and barriers by the completion of grade 3.

4. The Board of Trustees of the Clark County School District, in cooperation with the University of Nevada, Las Vegas, and the Board of Trustees of the Washoe County School District, in cooperation with the University of Nevada, Reno, shall provide, on-site at each designated high-risk school, professional development programs in reading, literacy and the acquisition of a second language for administrators, teachers and other educational personnel employed by the high-risk school.

Sec. 10. 1. Notwithstanding any conflicting provisions of NRS 387.191, there is hereby appropriated from the State Supplemental School Support Account created by NRS 387.191 to the Board of Trustees of the Clark County School District:

(a) For the Fiscal Year 2013-2014, the sum of \$3,300,000 for the establishment and operation of reading skills development centers at 11 high risk schools located within the School District, as designated by the Board of Trustees in accordance with subsection 1 of section 9 of this act.

(b) For the Fiscal Year 2014-2015, the sum of \$4,800,000 for:

(1) The establishment and operation of reading skills development centers at 5 high-risk schools located within the School District, as designated by the Board of Trustees in accordance with subsection 1 of section 9 of this act; and

(2) The operation of the reading skills development centers established pursuant to paragraph (a).

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2014, and September 18, 2015, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State Supplemental School Support Account on or before September 19, 2014, and September 18, 2015, respectively.

Sec. 11. 1. Notwithstanding any conflicting provisions of NRS 387.191, there is hereby appropriated from the State Supplemental School Support Account created by NRS 387.191 to the University of Nevada, Las Vegas, to provide support to the Clark County School District in carrying out the provisions of section 9 of this act:

For the Fiscal Year 2013-2014.....	\$1,100,000
For the Fiscal Year 2014-2015.....	\$1,600,000

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2014, and September 18, 2015, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State Supplemental School Support Account on or before September 19, 2014, and September 18, 2015, respectively.

Sec. 12. 1. Notwithstanding any conflicting provisions of NRS 387.191, there is hereby appropriated from the State Supplemental School Support Account created by NRS 387.191 to the Board of Trustees of the Washoe County School District the sum of \$1,500,000 for the Fiscal Year 2014-2015, for the establishment and operation of reading skills development centers at five high-risk schools located within the School District, as designated by the Board of Trustees in accordance with subsection 2 of section 9 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2015, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2015, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted

or transferred, and must be reverted to the State Supplemental School Support Account on or before September 18, 2015.

Sec. 13. 1. Notwithstanding any conflicting provisions of NRS 387.191, there is hereby appropriated from the State Supplemental School Support Account created by NRS 387.191 to the University of Nevada, Reno, the sum of \$550,000 for the Fiscal Year 2014-2015, which must be used to provide support to the Washoe County School District in carrying out the provisions of section 9 of this act, notwithstanding any conflicting provisions of NRS 387.191.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2015, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2015, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State Supplemental School Support Account on or before September 18, 2015.

Sec. 13.5. The provisions of section 3 of this act:

1. Apply to all teachers who begin employment on or after July 1, 2013, at a public school where more than 50 percent of the pupils are limited English proficient.

2. Except as otherwise provided in subsection 3, apply to all teachers employed on or after July 1, 2015, at a public school where more than 50 percent of the pupils are limited English proficient.

3. Do not apply to a teacher who is employed on or before June 30, 2015, at a public school where more than 50 percent of the pupils are limited English proficient if the teacher receives a designation of "highly effective" on his or her performance evaluation for the 2014-2015 school year.

Sec. 14. Representatives of the Clark County School District, the Washoe County School District, the University of Nevada, Las Vegas, and the University of Nevada, Reno, shall report to each standing committee of the Legislature with primary jurisdiction over matters relating to K-12 public education at the beginning of the 78th Session of the Nevada Legislature the results of the pilot programs in improving:

1. Reading and literacy problems and language acquisition barriers for pupils in kindergarten and grades 1, 2 and 3.

2. Instructional intervention to enable those pupils to overcome such problems and barriers.

3. Professional development in reading, literacy and the acquisition of a second language.

Sec. 15. During the 2013-2014 interim, the Teachers and Leaders Council of Nevada created by NRS 391.455 shall review methods to evaluate teachers and other licensed educational personnel who provide instruction to pupils who are limited English proficient on the effectiveness of the

instruction to those pupils. On or before January 1, 2015, the Teachers and Leaders Council shall submit its recommendations for appropriate revisions to the statewide performance evaluation system established pursuant to NRS 391.465, to the State Board of Education and to the Director of the Legislative Counsel Bureau for transmittal to the 78th Session of the Nevada Legislature.

Sec. 16. During the 2013-2015 biennium, the board of trustees of each school district shall review the provision of professional development offered by or through the school district, other than the professional development offered by the regional training programs for the professional development of teachers and administrators, and make such adjustments to the professional development as necessary to place priority on professional development for teachers and administrators at public schools where more than 25 percent of the pupils enrolled in the school are limited English proficient.

Sec. 17. This act becomes effective on July 1, 2013.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

Thank you, Mr. President. Amendment No. 526 makes several changes to Senate Bill No. 504. First, the amendment adds a new appropriation in the amount of \$1,743,750 for each year of the coming biennium sufficient to fund training and course credit for approximately 3,100 applicants wishing to obtain a teaching license endorsement for Teaching English as a Second Language. The applicants for training will be from schools with greater than 50 percent English Language Learning population. Preference would be given to teachers in kindergarten through third grade.

Amendment No. 526 to Senate Bill No. 504 also revises the bill to require the Teaching English as a Second Language endorsement in schools with greater than 50 percent English Language Learning students and encourages it in schools with greater than 25 percent English Language Learning students. It modifies the requirement that a teacher have a Teaching English as a Second Language endorsement to work in a school with greater than 50 percent English Language Learning population. This provision will apply only to those teachers newly hired or newly assigned following the effective date of the bill; full compliance is shifted to July 1, 2015—this delay will allow teachers currently at the school to obtain the endorsement.

Finally, the amendment waives the Teaching English as a Second Language certification requirement for teachers rated as “highly effective” for the 2014-2015 school year.

Amendment adopted.

Senator Smith moved that Senate Bill No. 504 be re-referred to the Committee on Finance upon return from reprint.

Motion carried.

Bill ordered reprinted, engrossed and to the Committee on Finance.

GENERAL FILE AND THIRD READING

Senate Bill No. 36.

Bill read third time.

Remarks by Senator Atkinson.

Thank you, Mr. President. Senate Bill No. 36 establishes provisions to collect money owed for the repayment of fraudulently-obtained benefits or to recover amounts owed to the Employment Security Division of the Department of Employment, Training and Rehabilitation by persons who commit unemployment insurance fraud. The bill adds as a condition for unemployment benefits that a person must have been unemployed and otherwise eligible for benefits for a waiting period of one week within the person’s current benefit year, during which

no benefits were paid. Finally, the measure provides that if a transferring employer is liable to the Employment Security Division for unpaid contributions, interest or forfeits, a percentage of that liability must also be transferred to the successor employer. This bill is effective upon passage and approval. I urge your support.

Roll call on Senate Bill No. 36:

YEAS—20.

NAYS—Woodhouse.

Senate Bill No. 36 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 41.

Bill read third time.

Remarks by Senator Atkinson.

Thank you, Mr. President. Senate Bill No. 41 provides that a small-scale provider of last resort may file with the Public Utilities Commission of Nevada a proposed change in any schedule of rates or services using a letter of advice in lieu of an application if: (1) the applicant demonstrates that the proposed change in schedule is required by, or directly related to, a regulation or order of the Federal Communications Commission; and (2) files the letter of advice not later than five years after the Public Utilities Commission of Nevada has issued a final order on a general rate application. A provider may request a waiver of the five-year period.

A commercial mobile radio service provider who seeks to merge with, directly or indirectly, acquire or obtain control of a public utility doing business in Nevada is exempt, in certain circumstances. Senate Bill No. 41 makes changes concerning lifeline and tribal link up provided by small-scale providers of last resort. This bill is effective upon passage and approval. I urge your support.

Roll call on Senate Bill No. 41:

YEAS—21.

NAYS—None.

Senate Bill No. 41 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 74.

Bill read third time.

Remarks by Senators Segerblom, Kieckhefer and Goicoechea.

SENATOR SEGERBLOM:

Thank you, Mr. President. Senate Bill No. 74 provides for reduced fees for public copying. We met with State agencies, local government entities and the Press Association and worked out a compromise. When the Press and other interested parties request copies, they are not charged an exorbitant amount. It sets a standard for all agencies throughout the State which is beneficial.

SENATOR KIECKHEFER:

Thank you, Mr. President. I have a question about the bill. I have been on both sides of this as a reporter. I have made public records requests, and when I was in the Department of Health and Human Services, I fulfilled those requests. Sometimes, the fulfillment of those public records requests takes a long time—it took days sometimes. I am concerned that Senate Bill No. 74 could, potentially, take away the ability of a department or a local government to charge for the time associated with fulfilling such requests.

Can governments still charge for the time required for these extraordinary requests? And also, how do you bill when documents are ultimately provided electronically rather than by the page?

SENATOR SEGERBLOM:

Thank you, Mr. President. Under the extraordinary efforts described, entities can charge for their time, within reason. With respect to electronic documents, there is no charge. We are encouraging everyone to go to an electronic format. Problems happen with old records where paper records have to be retrieved. If that gets cumbersome, they can charge for the effort.

SENATOR GOICOECHEA:

Thank you, Mr. President. I rise in opposition to Senate Bill No. 74. I know my colleague worked hard on the bill and the amendment, but it remains an extremely cumbersome bill. In the smaller, rural counties that do not have the capability to go electronic, their records and archives may be in a shed out back filled with boxes of papers. Saying they have the ability to retrieve those records and they can charge for it, it is not enough. You can shut down whole departments in some of the counties with this. Again, I oppose the bill.

Roll call on Senate Bill No. 74:

YEAS—14.

NAYS—Brower, Cegavske, Goicoechea, Gustavson, Hardy, Roberson, Settelmeyer—7.

Senate Bill No. 74 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 140.

Bill read third time.

Remarks by Senator Hutchison and Atkinson.

SENATOR HUTCHISON:

Thank you, Mr. President. I rise in support—and to encourage your support—of Senate Bill No. 140 which relates to attorney's fees.

Senate Bill No. 140 provides for the statutory creation, perfection and attachment of a “retaining lien” for attorney's fees by providing that the rights under such a lien may be adjudicated by a court at the request of the attorney having the lien, or any party who has been served with notice of the lien. Senate Bill No. 140 also provides that in any civil action, the lien attaches to any file or other property properly left in the possession of the attorney by the client. The measure clarifies that the lien attaches the originals and the copies of the attorney's file if the original documents received from the client have been returned to the client.

Finally, the measure clarifies that a lien for attorney's fees must not be construed as inconsistent with the attorney's professional responsibilities to the client. This bill is effective on July 1, 2013. The provisions apply to any fee for services rendered by an attorney before, on, or after the effective date of this measure.

Senate Bill No. 140 passed out of the Senate Committee on Judiciary unanimously. I encourage your support.

SENATOR ATKINSON:

Thank you, Mr. President. To my colleague from Senate District No. 6: does this arbitrarily allow attorneys to increase fees without any due diligence?

SENATOR HUTCHISON:

Thank you, Mr. President. I want to thank my esteemed colleague from Senate District No. 4 for his thoughtful and provocative question. There is not anything in Senate Bill No. 140 that would violate that general rule.

Roll call on Senate Bill No. 140:

YEAS—21.

NAYS—None.

Senate Bill No. 140 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senator Denis moved that the Senate recess subject to the call of the Chair. Motion carried.

Senate in recess at 4:31 p.m.

SENATE IN SESSION

At 4:35 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that Senate Bill No. 229 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 192.

Bill read third time.

Remarks by Senators Hutchison, Segerblom, Spearman and Ford.

SENATOR HUTCHISON:

Thank you, Mr. President. I rise in support of Senate Bill No. 192, the Nevada Preservation of Religious Freedom Act. Nevada will join 28 other states that have enacted similar legislation. It is modeled after the federal legislation, the Religious Freedom Restoration Act. It passed with overwhelming bipartisan support and was signed into law by President Clinton in 1993.

The Nevada Preservation of Religious Freedom Act prohibits a governmental entity from substantially burdening the exercise of religion of a person unless the entity demonstrates that the burden furthers a compelling governmental interest and is the least restrictive means of furthering that interest. Senate Bill No. 192 authorizes a person whose exercise of religion has been substantially burdened to bring or defend an action in court and to obtain appropriate relief.

Senate Bill No. 192 provides that the provisions of the Act apply to all State and local laws and ordinances whether enacted before, on or after the measure goes into effect. However, it does not restrict the Nevada Legislature from enacting State laws that affect religion if the law explicitly makes the provisions of this bill inapplicable to the new law. In addition, the provisions do not apply to, or affect the decision of, a governmental entity to grant or deny to religious organizations any appropriation or other money or benefit, or any tax exemption or other type of tax relief. This measure does not establish or eliminate any claim or defense in a civil or criminal action brought under a federal or State civil rights law.

Senate Bill No. 192 clarifies that provisions protect the acts of religious organizations regarding the employment, education or volunteer service of a person who performs any religious duties for a religious organization, such as spreading or teaching faith, performing devotional services or participating in internal governance of the religious organization. This bill passed out of the Senate Committee on Judiciary and I urge your support.

SENATOR SEGERBLOM:

Thank you, Mr. President. I rise in support of Senate Bill No. 192. It is important that we recognize that there are certain fundamental rights that we all support, one of which is religious freedom. Another is the freedom to marry anyone we choose. I find it hypocritical for someone to support this bill for religious rights but to then say that two people who love each other are not allowed to be married.

SENATOR SPEARMAN:

Thank you, Mr. President. With all due respect to my esteemed colleagues, I cannot support Senate Bill No. 192 because it reminds me of a time when people used religion to justify slavery. Slavery was sanctioned by laws similar to this.

SENATOR FORD:

Thank you, Mr. President. While I support the efforts of my colleagues from Senate Districts Nos. 6 and 8 to be as accommodating as possible to me and other members of this Body, I must regretfully rise in opposition to this Senate Bill No. 192. It is not because I am opposed to religious liberty; indeed, I was one of the original co-sponsors of this bill.

At the time of my earlier assessment, however, and although I had requested information from the opponents to the bill that women's reproductive rights could be challenged in ways they have argued, I had not received any proof of those contentions. But a memorandum I received late Tuesday afternoon from the Legislative Counsel Bureau revealed that the concern that I originally believed was unfounded was, indeed, founded on some very real case law.

I have several concerns. I will offer this Body a non-exhaustive list of examples. One of my concerns relates to access to reproductive healthcare in areas where doctors and/or pharmacists may be few in number and how Senate Bill No. 192, otherwise known as the Religious Freedom Restoration Act, would impact a woman's right to make decisions regarding her own reproductive rights. I believe it improperly burdensome, for example, to require a woman who may live in a more isolated part of our State to have to travel to Las Vegas or Reno to exercise her constitutional rights regarding reproduction simply because the doctor or pharmacist refuse to prescribe or fill a prescription for, for example, the morning-after pill. Under the United States Supreme Court's current analysis, which states that neutral laws of general applicability generally survive challenges under the First Amendment to the *United States Constitution*, the above scenario is not likely to occur; under the Religious Freedom Restoration Act, it very well may.

I do sometimes disagree with the United States Supreme Court, but in view of the potential conflict of two very important constitutional rights—the First Amendment's freedom of religion and the Fifth Amendment's and the Fourteenth Amendment's reproductive rights accorded to women—I fear that passage of Senate Bill No. 192 has the potential of not only jeopardizing many laws and regulations already on our books to the extent they were to be amended subsequent to the enactment of this law; but also creating new constitutional tensions.

For example, Section 753 of Chapter 639 of *Nevada Administrative Code* disallows a pharmacist from refusing to fill a prescription based on a religious belief. Therefore, under our current law, a pharmacist is required to fill prescriptions for birth control and the morning-after pill, and our law would most assuredly withstand a constitutional attack under the current standard. It is uncertain whether it would survive under the heightened standard that Religious Freedom Restoration Act seeks to impose. I'm not comfortable with that.

As another example, Section 475 of Chapter 632 and Section 160 of Chapter 450 of *Nevada Revised Statutes*, construed together, provide that hospitals can require doctors to perform abortions in medical emergencies. Under current United States Supreme Court precedent, those laws would likely be upheld. Under Religious Freedom Restoration Act, who knows. Again, I am not comfortable with that uncertainty.

Most would agree that time is of the essence in most decisions concerning the exercise of reproductive rights. I cannot, in good conscience, support legislation that has the potential to undermine and negatively impact a woman's right in this regard. In my view, passing Senate Bill No. 192 can lead to new lawsuits that may very well end with conflicting decisions from several courts, thereby mudding the waters even more. Again, I'm just not comfortable with that.

Finally, Mr. President, although I will vote no on Senate Bill No. 192, I want to again thank my colleagues from Senate Districts Nos. 6 and 8 for working with me to this point.

Another concern I have with the Senate Bill No. 192 was voiced by those opposing it at the hearing, that the bill could potentially be used as an end-run around our State's anti-discrimination laws. Appreciating my concerns, the sponsors willingly and at my request, adopted language adopted from Texas' version of Religious Freedom Restoration Act that adequately addresses this issue. That is, as I read and understand this bill, its enactment would not thereby allow violations of our laws prohibiting discrimination, whether that be discrimination on the basis of race, gender, sexual orientation, gender expression or otherwise. I commend the sponsors for this. Nonetheless, I urge a "no" vote for the many reasons I have just stated. Thank you, Mr. President, for indulging me.

Senator Denis moved that Senate Bill No. 192 be taken from the General File and placed on the Secretary's Desk.

Motion carried.

Senate Bill No. 269.

Bill read third time.

Remarks by Senator Ford.

Thank you, Mr. President. Senate Bill No. 269 requires students to attend school in order to obtain and keep a driver's license. The measure sets forth reporting requirements for tracking habitual truants and provides that school principals or their designees supply a written statement verifying pupil attendance. Sanctions related to the driving privilege are imposed for those deemed to be habitual truants. The bill also specifies the process for suspending a license or learner's permit and establishes a review and appeals process for license suspensions.

Finally, the measure specifies the process the Department of Motor Vehicles must follow to issue driver's licenses and permits under the provisions of the bill. The bill is effective on January 1, 2015.

Roll call on Senate Bill No. 269:

YEAS—21.

NAYS—None.

Senate Bill No. 269 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that Senate Bills Nos. 314, 317, 318, 343, 381, 420, 428, 429, 449, 450, 456, 493 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Denis moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 4:49 p.m.

SENATE IN SESSION

At 5:05 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Education, to which was referred Senate Bill No. 391, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Education, to which was referred Senate Bill No. 255, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and re-refer to the Committee on Finance.

JOYCE WOODHOUSE, *Chair*

Mr. President:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 112, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Health and Human Services, to which was referred Senate Bill No. 362, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and re-refer to the Committee on Finance.

JUSTIN C. JONES, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 141, 243, 278, 280, 321, 424, 425, 441, 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 Bill No. 246, 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 Revenue and Economic Development, to which were referred Senate Bills Nos. 172, 209, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RUBEN J. KIHUEN, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that Senate Bills Nos. 88, 112, 141, 170, 172, 208, 209, 211, 217, 224, 228, 243, 246, 255, 267, 278, 280, 286, 297, 307, 312, 321, 362, 391, 409, 410, 414, 421, 424, 425, 441, 448, 453, 463, 478, 496, 503, 504, just reported out of Committee, be immediately placed on the Second Reading File for this legislative day.

Motion carried.

Senator Hardy moved that Senate Bill No. 92 be taken from the Secretary's Desk and placed on the General File for the next legislative day.

Motion carried.

Senator Atkinson moved that Senate Bill No. 496 be taken from the Second Reading File and placed on the Secretary's Desk.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 88.

Bill read second time.

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

Amendment No. 482.

"SUMMARY—~~[Increases notice required before insurer cancels policy of motor vehicle insurance.]~~ Authorizes the Department of Motor Vehicles to waive certain fines under certain circumstances. (BDR ~~[57-109]~~ 43-109)"

"AN ACT relating to ~~[insurance; increasing the notice an insurance company or carrier is required to provide to an insured party or]~~ motor vehicles; authorizing the Department of Motor Vehicles ~~[, as applicable, before cancelling a policy of motor vehicle insurance;]~~ to waive certain fines required to reinstate the registration of a motor vehicle under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, ~~[an insurer]~~ if the Department of Motor Vehicles cannot verify that a motor vehicle is covered by a policy of liability insurance, the Department is required to ~~[provide to the insured party certain notice of the insurer's intent to cancel certain insurance policies before the cancellation of the policy. (NRS 485.2092, 686A.460, 687B.320) Sections 1, 2 and 5 of this bill require an insurer to provide to the insured party notice of the insurer's intent to cancel any motor vehicle insurance policy at least 14 days before the cancellation of that policy. Sections 3 and 4 of this bill increase from 10 to 14 days the notice an insurer is required to provide to the Department of Motor Vehicles before cancelling a motor vehicle liability policy, to keep this requirement uniform with the notice insurers are required to provide to insured parties before cancelling a motor vehicle liability policy. (NRS 483.740, 485.308)]~~ suspend the registration of and require the return of the license plates of that vehicle. (NRS 485.317) If the registration of a vehicle is suspended, the registered owner of the vehicle is required to pay a fee before that suspension is rescinded. (NRS 482.480, 482.557) Registered owners whose coverage has lapsed for at least 31 days are also required to pay a fine. (NRS 482.557) The Department is currently authorized to waive the fee if the registered owner of the vehicle can prove to the satisfaction of the Department that he or she could not maintain insurance or cancel his or her registration because of extenuating circumstances. (NRS 485.317) This bill authorizes the Department to also waive the fine if the registered owner of the vehicle can prove to the satisfaction of the Department that he or she could not maintain insurance or cancel his or her registration because of extenuating circumstances and that the vehicle was a dormant vehicle during the period in which the information provided pursuant to NRS 485.314 indicated that there was no insurance for the vehicle.

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

Section 1. ~~[NRS 686A.460 is hereby amended to read as follows:~~

~~686A.460 1. When an agreement contains a power of attorney enabling the company, in the name of the insured, to cancel any insurance policy listed in the agreement, the insurance policy must not be cancelled by the company unless it is cancelled in accordance with this section.~~

~~2. A company shall mail written notice of its intent to cancel an insurance policy because of a default in payment under an agreement to the insured at the last known address of the insured as indicated in the records of the company and to the agent who submitted the agreement at least 14 days before the cancellation of a motor vehicle insurance policy or at least 10 days before the cancellation [...] of all other insurance policies. If the default is cured within this 14 day or 10 day period, as applicable, the company shall not cancel the insurance policy.~~

~~3. If the default is not cured within the 14 day or 10 day period, as applicable, the company may cancel the policy if it mails to the insured at the last known address of the insured as indicated in the records of the company and to the insurer a notice of cancellation which must include the effective date of cancellation. The policy must be cancelled as if the notice of cancellation had been submitted by the insured, but without requiring the return of the policy.~~

~~4. No insurance policy may be cancelled for nonpayment of a charge for a late payment.~~

~~5. This section does not authorize the cancellation of an insurance policy without giving any other notice required by law or satisfying other conditions for cancellation.~~

~~6. A company shall not impose or collect a fee for the cancellation of a policy or agreement.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 687B.320 is hereby amended to read as follows:~~

~~687B.320 1. Except as otherwise provided in subsection 3, no insurance policy that has been in effect for at least 70 days or that has been renewed may be cancelled by the insurer before the expiration of the agreed term or 1 year from the effective date of the policy or renewal, whichever occurs first, except on any one of the following grounds:~~

~~(a) Failure to pay a premium when due;~~

~~(b) Conviction of the insured of a crime arising out of acts increasing the hazard insured against;~~

~~(c) Discovery of fraud or material misrepresentation in the obtaining of the policy or in the presentation of a claim thereunder;~~

~~(d) Discovery of:~~

~~(1) An act or omission; or~~

~~(2) A violation of any condition of the policy;~~

~~which occurred after the first effective date of the current policy and substantially and materially increases the hazard insured against;~~

~~(e) A material change in the nature or extent of the risk, occurring after the first effective date of the current policy, which causes the risk of loss to be substantially and materially increased beyond that contemplated at the time the policy was issued or last renewed;~~

~~(f) A determination by the Commissioner that continuation of the insurer's present volume of premiums would jeopardize the insurer's solvency or be hazardous to the interests of policyholders of the insurer, its creditors or the public; or~~

~~(g) A determination by the Commissioner that the continuation of the policy would violate, or place the insurer in violation of, any provision of the Code.~~

~~2. No cancellation under subsection 1 is effective until [in].~~

~~(a) In the case of paragraph (a) of subsection 1 [at].~~

~~(1) At least 14 days after the notice is delivered or mailed to the policyholder with regard to a motor vehicle insurance policy; and~~

~~(2) At least 10 days after the notice is delivered or mailed to the policyholder with regard to all other insurance policies; and [in]~~

~~(b) In the case of any other paragraph of subsection 1, at least 30 days after the notice is delivered or mailed to the policyholder.~~

~~3. The provisions of this section do not apply to a policy of industrial insurance. (Deleted by amendment.)~~

Sec. 3. ~~[NRS 483.740 is hereby amended to read as follows:~~

~~483.740 1. A person operating a school for training drivers shall maintain liability insurance on motor vehicles used in driving instruction, insuring the liability of the driving school, the driving instructor and any person taking instruction, in at least the following amounts:~~

~~(a) For bodily injury to or death of one person in any one accident, \$100,000;~~

~~(b) For bodily injury to or death of two or more persons in any one accident, \$300,000; and~~

~~(c) For damage to property of others in any one accident, \$50,000.~~

~~2. Evidence of the insurance coverage in the form of a certificate from the insurance carrier must be filed with the Department. The certificate must stipulate that the insurance may not be cancelled except upon [10] 14 days' written notice to the Department. (Deleted by amendment.)~~

Sec. 4. ~~[NRS 485.308 is hereby amended to read as follows:~~

~~485.308 1. Proof of financial responsibility may be furnished by filing with the Department the written certificate of any insurance carrier authorized to do business in this State certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. The certificate must specify its effective date and:~~

~~(a) If the policy is an owner's policy of liability insurance, designate by appropriate reference all motor vehicles covered by it; or~~

~~(b) If the policy is an operator's policy of liability insurance, designate the person covered.~~

~~2. The Department may authorize the filing of the certificates described in subsection 1 by electronic transmission or any other means deemed appropriate by the Department.~~

~~3. An insurance carrier that certifies the existence of a motor vehicle liability policy pursuant to subsection 1, must notify the Department at least [10] 11 days before the cancellation or termination of the policy. (Deleted by amendment.)~~

~~Sec. 5. NRS 485.3092 is hereby amended to read as follows:~~

~~485.3092 When an insurance carrier has issued a motor vehicle liability policy, the insurance so issued must not be cancelled or terminated until at least [10] 11 days after a notice of cancellation or termination of the insurance has been mailed first class or delivered to the insured and, if the insurance carrier has certified the policy under NRS 485.308 or 485.309, a notice has also been filed in the office of the Department. A policy subsequently procured and certified, on the effective date of its certification, terminates the insurance previously certified with respect to any motor vehicle designated or the person named as the insured operator in both certificates. If the effective date of the termination is within 3 years after the date of reinstatement of a license, registration or privilege, the Department shall suspend the license and registration or privilege. (Deleted by amendment.)~~

~~Sec. 5.5. NRS 485.317 is hereby amended to read as follows:~~

~~485.317 1. The Department shall verify that each motor vehicle which is registered in this State is covered by a policy of liability insurance as required by NRS 485.185.~~

~~2. Except as otherwise provided in this subsection, the Department may use any information to verify whether a motor vehicle is covered by a policy of liability insurance as required by NRS 485.185. The Department may not use the name of the owner of a motor vehicle as the primary means of verifying that a motor vehicle is covered by a policy of liability insurance.~~

~~3. If the Department is unable to verify that a motor vehicle is covered by a policy of liability insurance as required by NRS 485.185, the Department shall send a request for information by first-class mail to the registered owner of the motor vehicle. The owner shall submit all the information which is requested to the Department within 15 days after the date on which the request for information was mailed by the Department. If the Department does not receive the requested information within 15 days after it mailed the request to the owner, the Department shall send to the owner a notice of suspension of registration by certified mail. The notice must inform the owner that unless the Department is able to verify that the motor vehicle is covered by a policy of liability insurance as required by NRS 485.185 within 10 days after the date on which the notice was sent by the Department, the owner's registration will be suspended pursuant to subsection 4.~~

4. The Department shall suspend the registration and require the return to the Department of the license plates of any vehicle for which the Department cannot verify the coverage of liability insurance required by NRS 485.185.

5. Except as otherwise provided in subsection 6, the Department shall reinstate the registration of the vehicle and reissue the license plates only upon verification of current insurance and compliance with the requirements for reinstatement of registration prescribed in paragraph (a) of subsection 6 of NRS 482.480.

6. If a registered owner proves to the satisfaction of the Department that the vehicle was a dormant vehicle during the period in which the information provided pursuant to NRS 485.314 indicated that there was no insurance for the vehicle, the Department shall reinstate the registration and, if applicable, reissue the license plates. ~~It~~ Except as otherwise provided in subsection 7, if such an owner of a dormant vehicle failed to cancel the registration for the vehicle in accordance with subsection 3 of NRS 485.320, the Department shall not reinstate the registration or reissue the license plates unless the owner pays the fee set forth in paragraph (b) of subsection 6 of NRS 482.480.

7. If the Department suspends the registration of a motor vehicle pursuant to subsection 4 because the registered owner of the motor vehicle failed to have insurance on the date specified in the form for verification, and if the registered owner, in accordance with regulations adopted by the Department, proves to the satisfaction of the Department that the owner was unable to comply with the provisions of NRS 485.185 on that date because of extenuating circumstances, the Department may:

(a) Reinstate the registration of the motor vehicle and reissue the license plates upon payment by the registered owner of a fee of \$50, which must be deposited in the Account for Verification of Insurance created by subsection 6 of NRS 482.480; or

(b) Rescind the suspension of the registration without the payment of a fee ~~It~~ and, if the registered owner proves to the satisfaction of the Department that the vehicle was a dormant vehicle during the period in which the information provided pursuant to NRS 485.314 indicated that there was no insurance for the vehicle, without the payment of any fine prescribed by NRS 482.557.

➡ The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 6. 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. 482 to Senate Bill No. 88 deletes all of the provisions of the bill. It allows the Department of Motor Vehicles to remove the suspension of the registration of any motor vehicle for which the Department of Motor Vehicles cannot verify liability insurance without requiring the owner of the vehicle to pay a fee or administrative fine if the registered owner of the vehicles proves to the satisfaction of the Department of Motor Vehicles that the vehicle was dormant during the period in which the Department of Motor Vehicles was unable to verify the insurance coverage.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 112.

Bill read second time.

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

Amendment No. 380.

"SUMMARY—~~[Revises certain provisions relating to health care.]~~
Requires the Legislative Committee on Health Care to consider the manner in which certain provisions relating to licensing of certain offices of physicians and facilities that provide health care have been carried out.
(BDR ~~[40-441])~~ S-441)"

"AN ACT relating to health care; ~~[exempting certain imaging facilities from certain permitting provisions;]~~ requiring the Legislative Committee on Health Care to consider the manner in which certain provisions relating to the licensing of certain offices of physicians and facilities that provide health care have been carried out; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Existing law]~~ Assembly Bill No. 123 of the 76th Session of the Nevada Legislature, codified at NRS 449.435 to 449.448, inclusive, requires an office of a physician or a facility that provides health care, other than a medical facility, to obtain a permit before offering services of general anesthesia, conscious sedation or deep sedation. (NRS 449.442, 630.373, 633.694) To obtain such a permit, an office of a physician or a facility that provides health care is required to submit an application, pay a fee and undergo an on-site inspection. (NRS 449.443, 449.446) To continue providing services of general anesthesia, conscious sedation or deep sedation, an office of a physician or a facility that provides health care, other than a medical facility, is required to renew its permit annually. (NRS 449.443, 449.444) The Health Division of the Department of Health and Human Services is required to conduct annual inspections of each office of a physician and facility that provides health care and is authorized to take certain disciplinary actions for violations. (NRS 449.446, 449.447) The State Board of Health is required to adopt regulations to carry out these provisions. (NRS 449.448) This bill
~~[exempts from the requirement to obtain such a permit a diagnostic imaging center at which medication is administered solely to relieve a patient's anxiety and to induce only a state of conscious sedation.]~~ requires the Legislative Committee on Health Care to consider the manner in which these provisions have been carried out as part of its review of health care during the 2013-2015 legislative interim.

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

Section 1. ~~[NRS 449.441 is hereby amended to read as follows:~~

~~449.441 1. The provisions of NRS 449.425 to 449.448, inclusive, do not apply to [an]—~~

~~(a) 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;~~

~~(b) A diagnostic imaging center if:~~

~~(1) The diagnostic imaging center administers medication to a patient solely to relieve the patient's anxiety; and~~

~~(2) The medication that the diagnostic imaging center administers to the patient is administered in a dosage sufficient only to induce in the patient a controlled state of conscious sedation.~~

~~2. As used in this section, "diagnostic imaging center" means a stand-alone facility that produces images:~~

~~(a) On an outpatient basis;~~

~~(b) Which are used for medical diagnosis;~~

~~(c) Which are not customarily or routinely provided in the office of a physician; and~~

~~(d) Using one or more imaging techniques or forms of technology, including, without limitation:~~

~~(1) Computerized axial tomography;~~

~~(2) Fluoroscopy;~~

~~(3) Magnetic resonance imaging;~~

~~(4) Positron emission tomography;~~

~~(5) Sonography;~~

~~(6) X-ray services; or~~

~~(7) Other imaging techniques or technologies.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 630.373 is hereby amended to read as follows:~~

~~630.373 1. [A] Except as otherwise provided in subsection 2, a physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered:~~

~~(a) In an office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.425 to 449.448, inclusive;~~

~~(b) In a facility which holds a permit pursuant to NRS 449.425 to 449.448, inclusive;~~

~~(c) In a medical facility as that term is defined in NRS 449.0151; or~~

~~(d) Outside of this State.~~

~~2. The provisions of this section do not apply to services performed at a diagnostic imaging center that is exempt from the provisions of NRS 449.435 to 449.448, inclusive, pursuant to paragraph (b) of subsection 1 of NRS 449.441.~~

~~3. 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) "Diagnostic imaging center" has the meaning ascribed to it in NRS 449.441.~~

~~(d) "General anesthesia" has the meaning ascribed to it in NRS 449.438.]~~
(Deleted by amendment.)

Sec. 3. ~~[NRS 633.694 is hereby amended to read as follows:~~

~~633.694 1. [An] Except as otherwise provided in subsection 2, an osteopathic physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered:~~

~~(a) In an office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive;~~

~~(b) In a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive;~~

~~(c) In a medical facility as that term is defined in NRS 449.0151; or~~

~~(d) Outside of this State.~~

~~2. The provisions of this section do not apply to services performed at a diagnostic imaging center that is exempt from the provisions of NRS 449.435 to 449.448, inclusive, pursuant to paragraph (b) of subsection 1 of NRS 449.441.~~

~~3. 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) "Diagnostic imaging center" has the meaning ascribed to it in NRS 449.441.~~

~~(d) "General anesthesia" has the meaning ascribed to it in NRS 449.438.]~~
(Deleted by amendment.)

Sec. 3.5. As part of its review of health care during the 2013-2015 legislative interim, the Legislative Committee on Health Care shall consider the manner in which the provisions of Assembly Bill No. 123 of the 76th Session of the Nevada Legislature, chapter 386, Statutes of Nevada 2011, have been carried out.

Sec. 4. 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. 380 to Senate Bill No. 112 requires the Legislative Committee on Health Care to study, during the 2013-2015 Legislative Interim, the implementation of Chapter 386 of *Statutes of Nevada 2011*, which relates to the issuing of a

permit for a physician or health care facility to provide anesthesia and sedation services. The amendment further strikes all other provisions of the original bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 141.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 500.

"SUMMARY—Revises provisions governing the dissemination of records of criminal history. (BDR 14-881)"

"AN ACT relating to records of criminal history; requiring an agency of criminal justice to disseminate records of criminal history to ~~the Nevada Court Appointed Special Advocates Association and any of its local~~ court appointed special ~~advocates~~ advocate programs in certain smaller counties under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires an agency of criminal justice, upon request, to disseminate records of criminal history to certain persons and governmental entities. (NRS 179A.100) This bill requires an agency of criminal justice to disseminate a record of criminal history to ~~the Nevada Court Appointed Special Advocates Association and any of its local~~ a court appointed special ~~advocates programs~~ advocate program in a county whose population is less than 100,000, (currently counties other than Clark and Washoe Counties) as needed to ensure the safety of a child for whom a special advocate has been appointed.

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

Section 1. NRS 179A.100 is hereby amended to read as follows:

179A.100 1. The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:

(a) Any which reflect records of conviction only; and
(b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.

2. Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:

(a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.

(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.

(c) Reported to the Central Repository.

3. An agency of criminal justice shall disseminate to a prospective employer, upon request, records of criminal history concerning a prospective employee or volunteer which are the result of a name-based inquiry and which:

- (a) Reflect convictions only; or
- (b) Pertain to an incident for which the prospective employee or volunteer is currently within the system of criminal justice, including parole or probation.

4. In addition to any other information to which an employer is entitled or authorized to receive from a name-based inquiry, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information contained in a record of registration concerning an employee, prospective employee, volunteer or prospective volunteer who is a sex offender or an offender convicted of a crime against a child, regardless of whether the employee, prospective employee, volunteer or prospective volunteer gives written consent to the release of that information. The Central Repository shall disseminate such information in a manner that does not reveal the name of an individual victim of an offense or the information described in subsection 7 of NRS 179B.250. A request for information pursuant to this subsection must conform to the requirements of the Central Repository and must include:

- (a) The name and address of the employer, and the name and signature of the person or entity requesting the information on behalf of the employer;
- (b) The name and address of the employer's facility in which the employee, prospective employee, volunteer or prospective volunteer is employed or volunteers or is seeking to become employed or volunteer; and
- (c) The name and other identifying information of the employee, prospective employee, volunteer or prospective volunteer.

5. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information described in subsection 4 of NRS 179A.190 concerning an employee, prospective employee, volunteer or prospective volunteer who gives written consent to the release of that information if the employer submits a request in the manner set forth in NRS 179A.200 for obtaining a notice of information. The Central Repository shall search for and disseminate such information in the manner set forth in NRS 179A.210 for the dissemination of a notice of information.

6. Except as otherwise provided in subsection 5, the provisions of NRS 179A.180 to 179A.240, inclusive, do not apply to an employer who requests information and to whom such information is disseminated pursuant to subsections 4 and 5.

7. Records of criminal history must be disseminated by an agency of criminal justice, upon request, to the following persons or governmental entities:

(a) The person who is the subject of the record of criminal history for the purposes of NRS 179A.150.

(b) The person who is the subject of the record of criminal history when the subject is a party in a judicial, administrative, licensing, disciplinary or other proceeding to which the information is relevant.

(c) The State Gaming Control Board.

(d) The State Board of Nursing.

(e) The Private Investigator's Licensing Board to investigate an applicant for a license.

(f) A public administrator to carry out the duties as prescribed in chapter 253 of NRS.

(g) A public guardian to investigate a ward or proposed ward or persons who may have knowledge of assets belonging to a ward or proposed ward.

(h) Any agency of criminal justice of the United States or of another state or the District of Columbia.

(i) Any public utility subject to the jurisdiction of the Public Utilities Commission of Nevada when the information is necessary to conduct a security investigation of an employee or prospective employee or to protect the public health, safety or welfare.

(j) Persons and agencies authorized by statute, ordinance, executive order, court rule, court decision or court order as construed by appropriate state or local officers or agencies.

(k) Any person or governmental entity which has entered into a contract to provide services to an agency of criminal justice relating to the administration of criminal justice, if authorized by the contract, and if the contract also specifies that the information will be used only for stated purposes and that it will be otherwise confidential in accordance with state and federal law and regulation.

(l) Any reporter for the electronic or printed media in a professional capacity for communication to the public.

(m) Prospective employers if the person who is the subject of the information has given written consent to the release of that information by the agency which maintains it.

(n) For the express purpose of research, evaluative or statistical programs pursuant to an agreement with an agency of criminal justice.

(o) An agency which provides child welfare services, as defined in NRS 432B.030.

(p) The Division of Welfare and Supportive Services of the Department of Health and Human Services or its designated representative, as needed to ensure the safety of investigators and caseworkers.

(q) The Aging and Disability Services Division of the Department of Health and Human Services or its designated representative, as needed to ensure the safety of investigators and caseworkers.

(r) An agency of this or any other state or the Federal Government that is conducting activities pursuant to Part D of Subchapter IV of Chapter 7 of Title 42 of the Social Security Act, 42 U.S.C. §§ 651 et seq.

(s) The State Disaster Identification Team of the Division of Emergency Management of the Department.

(t) The Commissioner of Insurance.

(u) The Board of Medical Examiners.

(v) The State Board of Osteopathic Medicine.

(w) The Board of Massage Therapists and its Executive Director.

(x) ~~[The Nevada Court Appointed Special Advocates Association and any of the local]~~ A court appointed special advocates programs of the Nevada Court Appointed Special Advocates Association,] advocate program in a county whose population is less than 100,000, as needed to ensure the safety of a child for whom a special advocate has been appointed ~~for~~ by a court.

8. Agencies of criminal justice in this State which receive information from sources outside this State concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the provisions of this chapter.

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. 500 to Senate Bill No. 141 deletes provisions relating to the Nevada Court Appointed Special Advocates Association. It also clarifies that the dissemination of records is to a court appointed special advocate program in a county whose population is less than 100,000, currently counties other than Clark and Washoe Counties.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 170.

Bill read second time.

The following amendment was proposed by the Committee on Transportation.

Amendment No. 434.

"SUMMARY—Revises provisions governing the charges for storage of motor vehicles that are imposed by body shops. (BDR 43-582)"

"AN ACT relating to body shops; authorizing a body shop to impose certain charges for storage of a motor vehicle; requiring that body shops include rates for storage of vehicles in written estimates; requiring that body shops notify certain registered owners of a motor vehicle of charges for storage; revising provisions governing information that body shops are required to submit to the Department of Motor Vehicles; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a body shop may charge for storage of a motor vehicle if the owner or insurer of the motor vehicle elects to take possession of the motor vehicle instead of authorizing certain repairs and fails to take possession within 24 hours after that election. (NRS 487.6881) Section 2 of this bill authorizes a body shop, under certain circumstances, to impose a charge for storage of a motor vehicle that is in the possession of the body shop ~~[(1) before the body shop receives authorization to repair the vehicle; and (2) not less than 24 hours after the person authorizing the repairs has been notified that the repairs are complete.]~~ for repairs. Section 2 also provides that any such charge for storage of a motor vehicle must not exceed an amount that is one and one-half times the average prevailing rate for storage charged by body shops in the same geographic area, as determined by the Department of Motor Vehicles, except that a body shop may request a hearing by the Department to show good cause as to why the body shop should be allowed to impose a charge which exceeds that limit.

Under existing law, a body shop must complete an on-line survey to report certain information, including the labor rate charged by the body shop, to the Department of Motor Vehicles within 60 days immediately preceding the date of submission of the application for renewal of the license of the body shop. (NRS 487.685) Section 5 of this bill requires that a body shop also report to the Department in the on-line survey the ~~(daily)~~ rate charged by the body shop for storage of vehicles, if any, including both an indoor vehicle storage rate and an outdoor vehicle storage rate, if those rates differ. Section 6 of this bill requires the Department to calculate and post the prevailing storage rates for each specific geographic area in a report that must be made available to the public on-line. (NRS 487.686)

Existing law requires a body shop to provide to a person requesting or authorizing the repair of a motor vehicle a written estimate or statement indicating the total charge for the repair, including the charge for labor and all parts and accessories necessary to perform the work. (NRS 487.6875) Existing law also requires a body shop to display in its place of business a sign setting forth various rights of the customer, including the right to receive a written estimate of charges for repairs made to the vehicle which exceed \$50. (NRS 487.6871) Section 9 of this bill requires that the person requesting or authorizing the repair is also entitled to receive from the body shop a written statement of charges for storage of the vehicle, if any, which could exceed \$50. Section 7 of this bill provides that the sign in a body shop which is required to set forth the various rights of the customer must also include language stating that the customer is entitled to receive a written statement of charges for storage of the vehicle, if any, which could exceed \$50. Section 7 also requires such signs to display the Internet address of the Division of Compliance Enforcement of the Department of Motor Vehicles and the telephone number of the closest office of the Division.

Section 3 of this bill provides that if a motor vehicle is towed to a body shop at the request of someone other than the registered owner or an authorized agent of the owner, the body shop which receives the motor vehicle must ~~[provide notice, return receipt requested, to]~~ make reasonable attempts to notify the registered owner of the motor vehicle ~~[, which notice must include]~~ of the location of the ~~[body shop and certain other information, including the storage fee, if any, charged by the body shop.]~~ vehicle. Section 3 further provides that the body shop may ~~[not]~~ impose a charge for storage of such a motor vehicle ~~[until it receives the return receipt from the registered owner of the vehicle.]~~

Sections 12-14 of this bill provide for injunctive relief, civil penalties and a criminal misdemeanor penalty for violations of the provisions of this bill.

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

Section 1. Chapter 487 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. Except as otherwise provided in NRS 487.6881, ~~and section 3 of this act,~~ a body shop may impose a reasonable charge for storage of a motor vehicle that is in the possession of the body shop ~~;~~*

*~~(a) Before the body shop receives authorization to repair the vehicle; and~~
(b) ~~Not less than 24 hours after the person authorizing the repairs has been notified that the repairs are complete;~~ except that no such charge may be imposed:*

(a) For any day when the motor vehicle is being repaired, inspected, test driven or otherwise worked on by the body shop;

(b) For any day when the motor vehicle is being inspected, test driven, reviewed or otherwise worked on by the insurer of the motor vehicle or by the body shop at the request of the insurer of the vehicle;

(c) For 24 hours after the person who authorized the repair of the motor vehicle has been notified that the repairs are completed; and

(d) For any day that the motor vehicle is not being repaired, inspected, test driven, reviewed or otherwise worked on due to a delay caused by anyone other than the owner of the motor vehicle, except that if the delay is due to the failure of the insurer to respond to a request by the body shop for inspection, authorization or other service by the insurer, a storage charge may be imposed 24 hours after the body shop made the request of the insurer.

2. Except as otherwise provided in subsection 3, the rate charged by a body shop for storage of a motor vehicle pursuant to subsection 1 shall be deemed reasonable if it does not exceed an amount equal to one and one-half times the prevailing storage rates for the specific geographic area in which the body shop is located, as made available to the public pursuant to NRS 487.686.

3. A body shop that wishes to impose a charge for storage of a motor vehicle which exceeds the amount allowable pursuant to subsection 2 may

petition the Department in writing for a hearing. The Department shall conduct a hearing within 30 days after receipt of the petition, or as soon thereafter as is practicable, and if practicable must be conducted in the county where the body shop is located. The scope of the hearing must be limited to evidence presented by the body shop of good cause to impose a charge for storage of a motor vehicle which exceeds the amount otherwise allowable pursuant to subsection 2. The hearing officer shall render his or her determination not later than 10 days after the date of the hearing. The decision of the hearing officer pursuant to this subsection is a final decision for purposes of judicial review.

Sec. 3. 1. If a motor vehicle is towed to a body shop at the request of someone other than the registered owner of the motor vehicle, the body shop shall ~~+~~

~~(a) If the motor vehicle is registered in this State, notify the registered owner of the motor vehicle by certified mail, return receipt requested, not later than 3 days after receiving the motor vehicle;~~

~~(1) Of the location of the body shop where the motor vehicle is being stored;~~

~~(2) Whether the storage is inside a locked building, in a secured, fenced area or in an unsecured, open area;~~

~~(3) Of the charge for storing the motor vehicle, if any;~~

~~(4) Of the date and time the motor vehicle was received by the body shop;~~

~~(5) Of the actions that the registered owner of the motor vehicle may take to incur the lowest possible liability in accrued storage charges; and~~

~~(6) That the charge for storing the motor vehicle will not begin to accrue until the return receipt signed by the registered owner is received by the body shop.~~

~~(b) If the motor vehicle is not registered in this State, make every reasonable attempt and~~ use all resources reasonably necessary, as evidenced by written documentation, to obtain the identity of the owner and any other necessary information from the agency charged with the registration of the motor vehicle in this or any other state and ~~send to~~ notify the registered owner ~~[the notice described in paragraph (a)].~~

~~(c) Not impose a charge for storage of the motor vehicle until the return receipt required by subsection 1 is signed by the registered owner and received by the body shop.~~ of the location of the vehicle.

2. Any charge imposed for storage of a motor vehicle pursuant to this section must meet the requirements of section 2 of this act.

Sec. 4. NRS 487.530 is hereby amended to read as follows:

487.530 As used in NRS 487.530 to 487.690, inclusive, and sections 2 and 3 of this act, unless the context otherwise requires, the words and terms defined in NRS 487.532 to 487.553, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NRS 487.685 is hereby amended to read as follows:

487.685 1. A body shop licensed in this State must complete an on-line survey within 60 days immediately preceding the date of the submission of the application for renewal of the license of the body shop.

2. The Department shall conduct the survey by providing a form on its website or other Internet site to be completed by each body shop and submitted electronically to the Department.

3. Each survey must include, without limitation:

- (a) The name and address of the body shop;
- (b) The labor rate charged by the body shop; ~~{and}~~
- (c) *The vehicle storage rate charged by the body shop, if any, both for indoor storage and outdoor storage, if those rates differ; and*
- (d) Any other information the Department deems necessary.

4. The information obtained from each survey must be available to the public on-line not more than 30 days after the renewal of the body shop's license.

Sec. 6. NRS 487.686 is hereby amended to read as follows:

487.686 1. The Department must compile the results of each survey completed pursuant to NRS 487.685 in a report which must be made available to the public on-line. The report must include, without limitation:

- (a) The names and addresses of all body shops that complete the survey;
- (b) ~~{The prevailing labor rate for}~~ *For* body shops in a specific geographic area as established by the Department ~~{; and}~~ :

- (1) *The prevailing labor rate;*
- (2) *The prevailing indoor vehicle storage rate; and*
- (3) *The prevailing outdoor vehicle storage rate; and*

(c) Any other information the Department deems necessary.

2. As used in this section ~~{; "prevailing"}~~ :

(a) *"Prevailing indoor vehicle storage rate" means the average daily charge for storing a motor vehicle indoors, as reported in the survey for a specific geographic area.*

(b) *"Prevailing labor rate" means the average labor rate , as reported in the survey ~~{in}~~ for a specific geographic area.*

(c) *"Prevailing outdoor vehicle storage rate" means the average daily charge for storing a motor vehicle outdoors, as reported in the survey for a specific geographic area.*

Sec. 7. NRS 487.6871 is hereby amended to read as follows:

487.6871 1. Each garage operator shall display conspicuously in those areas of his or her place of business frequented by persons seeking repairs on motor vehicles a sign, not less than 22 inches by 28 inches in size, setting forth in boldface letters the following:

STATE OF NEVADA
REGISTERED GARAGE
THIS GARAGE IS REGISTERED WITH THE DEPARTMENT OF
MOTOR VEHICLES
NEVADA AUTOMOTIVE REPAIR CUSTOMER BILL OF RIGHTS

AS A CUSTOMER IN NEVADA:

YOU have the right to receive repairs from a business that is REGISTERED with the Department of Motor Vehicles that will ensure the proper repair of your vehicle. (NRS 487.6871)

YOU have the right to receive a WRITTEN ESTIMATE of charges for repairs made to your vehicle which exceed \$50. (NRS 487.6875)

YOU have the right to read and understand all documents and warranties BEFORE YOU SIGN THEM. (NRS 487.6871)

YOU have the right to INSPECT ALL REPLACED PARTS and accessories that are covered by a warranty and for which a charge is made. (NRS 487.6883)

YOU have the right to request that all replaced parts and accessories that are not covered by a warranty BE RETURNED TO YOU AT THE TIME OF SERVICE. (NRS 487.6883)

YOU have the right to require authorization BEFORE any additional repairs are made to your vehicle if the charges for those repairs exceed 20% of the original estimate or \$100, whichever is less. (NRS 487.6877)

YOU have the right to receive a COMPLETED STATEMENT OF CHARGES for repairs made to your vehicle. (NRS 487.6893)

FOR MORE INFORMATION PLEASE CONTACT:

THE DEPARTMENT OF MOTOR VEHICLES

2. Each body shop shall display conspicuously in those areas of its place of business frequented by persons seeking repairs on motor vehicles a sign, not less than 22 inches by 28 inches in size, setting forth in boldface letters the following:

STATE OF NEVADA

LICENSED BODY SHOP

THIS BODY SHOP IS LICENSED BY THE DEPARTMENT OF
MOTOR VEHICLES

NEVADA AUTOMOTIVE REPAIR CUSTOMER BILL OF RIGHTS

AS A CUSTOMER IN NEVADA:

YOU have the right to receive repairs from a business that is LICENSED with the Department of Motor Vehicles that will ensure the proper repair of your vehicle. (NRS 487.6871)

YOU have the right to receive a WRITTEN ESTIMATE of charges for repairs made to your vehicle which exceed \$50 ~~[-]~~ and, if any, the rate of and circumstances under which you will be charged more than \$50 for the storage of your vehicle. (NRS 487.6875)

YOU have the right to read and understand all documents and warranties BEFORE YOU SIGN THEM. (NRS 487.6871)

YOU have the right to INSPECT ALL REPLACED PARTS and accessories that are covered by a warranty and for which a charge is made. (NRS 487.6883)

YOU have the right to request that all replaced parts and accessories that are not covered by a warranty BE RETURNED TO YOU AT THE TIME OF SERVICE. (NRS 487.6883)

YOU have the right to require authorization BEFORE any additional repairs are made to your vehicle if the charges for those repairs exceed 20% of the original estimate or \$100, whichever is less. (NRS 487.6877)

YOU have the right to receive a COMPLETED STATEMENT OF CHARGES for repairs made to your vehicle ~~[-]~~ *and for storage of your vehicle, if applicable*. (NRS 487.6893)

FOR MORE INFORMATION PLEASE CONTACT:

THE DEPARTMENT OF MOTOR VEHICLES

3. The sign required pursuant to the provisions of subsection 1 or 2 must include a replica of the Great Seal of the State of Nevada. The Seal must be 2 inches in diameter and be centered on the face of the sign directly above the words "STATE OF NEVADA."

4. The sign required pursuant to the provisions of subsection 1 or 2 must also include the words "The Compliance Enforcement Division of the Department of Motor Vehicles can be reached at," followed by the Internet address of the Compliance Enforcement Division and the telephone number of the nearest office of the Compliance Enforcement Division.

5. Any person who violates the provisions of this section is guilty of a misdemeanor.

Sec. 8. NRS 487.6873 is hereby amended to read as follows:

487.6873 Whenever any body shop or garage operator accepts or assumes control of a motor vehicle for the purpose of making or completing any repair, the body shop or garage operator shall comply with the provisions of NRS 487.6873 to 487.6893, inclusive ~~[-]~~, *and sections 2 and 3 of this act.*

Sec. 9. NRS 487.6875 is hereby amended to read as follows:

487.6875 1. Except as otherwise provided in NRS 487.6879, a person requesting or authorizing the repair of a motor vehicle that is more than \$50 must be furnished a written estimate or statement signed by the person making the estimate or statement on behalf of the body shop or garage operator indicating the total charge for the performance of the work necessary to accomplish the repair, including the charge for labor and all parts and accessories necessary to perform the work.

2. If the estimate is for the purpose of diagnosing a malfunction, the estimate must include the cost of:

(a) Diagnosis and disassembly; and

(b) Reassembly, if the person does not authorize the repair.

3. *In an estimate furnished pursuant to subsection 1, a body shop must include, if any, the rate of and circumstances under which the person requesting or authorizing the repair would incur a charge for storage that exceeds \$50.*

4. The provisions of this section do not require a body shop or garage operator to reassemble a motor vehicle if the body shop or garage operator

determines that the reassembly of the motor vehicle would render the vehicle unsafe to operate.

Sec. 10. NRS 487.6881 is hereby amended to read as follows:

487.6881 1. An owner and the insurer of a motor vehicle who have been notified of additional charges pursuant to NRS 487.6877 shall:

(a) Authorize the performance of the repair at the additional expense; or
(b) Without delay, and upon payment of the authorized charges, take possession of the motor vehicle.

2. Until the election provided for in subsection 1 has been made, the body shop or garage operator shall not undertake any repair which would involve such additional charges.

3. If the owner or insurer of the motor vehicle elects to take possession of the motor vehicle but fails to take possession within a 24-hour period after the election ~~[, the body shop or]~~:

(a) *The garage operator may charge for storage of the motor vehicle.*

(b) *The body shop may impose a reasonable charge for storage of the motor vehicle in accordance with the provisions of section 2 of this act.*

Sec. 11. NRS 487.6893 is hereby amended to read as follows:

487.6893 1. If charges are made for the repair of a motor vehicle, the garage operator or body shop making the charges shall present to the person authorizing repairs or the person entitled to possession of the motor vehicle a statement of the charges setting forth the following information:

(a) The name and signature of the person authorizing repairs;

(b) A statement of the total charges;

(c) An itemization and description of all parts used to repair the motor vehicle indicating the charges made for labor; ~~and~~

(d) ~~[A]~~ *In the case of a garage operator, a description of all other charges* ~~[]~~; and

(e) *In the case of a body shop, a description of all other charges, including, without limitation, charges, if any, for storage of the motor vehicle.*

2. Any person violating this section is guilty of a misdemeanor.

3. In the case of a motor vehicle registered in this State, no lien for labor or materials provided under NRS 108.265 to 108.367, inclusive, may be enforced by sale or otherwise unless a statement as described in subsection 1 has been given by delivery in person or by certified mail to the last known address of the registered owner and the legal owner of the motor vehicle. In all other cases, the notice must be made to the last known address of the registered owner and any other person known to have or to claim an interest in the motor vehicle.

Sec. 12. NRS 487.6895 is hereby amended to read as follows:

487.6895 The Attorney General or any district attorney may bring an action in any court of competent jurisdiction in the name of the State of Nevada on the complaint of the Director, or of any person allegedly aggrieved by a violation of the provisions of NRS 487.6875 to 487.6893,

inclusive, *and sections 2 and 3 of this act* to enjoin any violation of the provisions of NRS 487.6875 to 487.6893, inclusive ~~[]~~, *and sections 2 and 3 of this act*.

Sec. 13. NRS 487.6897 is hereby amended to read as follows:

487.6897 Any person who knowingly violates any provision of NRS 487.6873 to 487.6893, inclusive, *and sections 2 and 3 of this act* is liable, in addition to any other penalty or remedy which may be provided by law, to a civil penalty of not more than \$500 for each offense, which may be recovered by civil action on complaint of the Director or the district attorney.

Sec. 14. NRS 487.690 is hereby amended to read as follows:

487.690 Any person who violates any of the provisions of NRS 487.530 to 487.690, inclusive, *and sections 2 and 3 of this act* is guilty of a misdemeanor.

Sec. 15. This act becomes effective on July 1, 2013.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

Thank you, Mr. President. Amendment No. 434 to Senate Bill No. 170 prohibits body shops from charging storage fees on vehicles in its possession for repairs on days when repairs occur, for 24 hours after notifying the owner that the repairs are complete, or for certain delays caused by the body shop, owner or insurer. In cases where a vehicle is towed to a body shop at the request of someone other than the registered owner, this amendment removes certain requirements a body shop must follow before charging storage fees. It also adds contact information for the Department of Motor Vehicles to the Nevada Automotive Repair Customer Bill of Rights.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 172.

Bill read second time.

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

Amendment No. 148.

"SUMMARY—Provides a deduction from the payroll tax for newly hired full-time employees under certain circumstances. (BDR 32-537)"

"AN ACT relating to taxation; providing a deduction from the payroll tax for wages paid to newly hired full-time employees under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires employers to pay a payroll tax on the wages paid to their employees during each calendar quarter. The tax is imposed on financial institutions at the rate of 2 percent per calendar quarter and, effective July 1, 2013, on other employers at the rate of 0.63 percent per calendar quarter. (NRS 363A.130, 363B.110) This bill authorizes financial institutions and other employers to deduct from the total amount of wages reported and upon which the payroll tax is imposed any wages paid to a newly hired full-time employee during the first 4 full calendar quarters next following the hiring of

the employee, and 50 percent of all wages paid to the employee during the 5th through 12th full calendar quarters next following the hiring of the employee if, at the time of hiring, the employee has been unemployed for a continuous period of not less than 6 months and certain other conditions are satisfied. The deduction does not apply with respect to any employees hired after June 30, 2017.

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

Section 1. Chapter 363A of NRS is hereby amended by adding thereto a new section to read as follows:

1. *An employer may deduct from the total amount of wages reported and upon which the excise tax is imposed pursuant to NRS 363A.130 all wages paid by the employer to an employee during the first 4 full calendar quarters next following the hiring of the employee, and 50 percent of all wages paid by the employer to the employee during the 5th through 12th full calendar quarters next following the hiring of the employee, if:*

(a) The employee is first hired by the employer on or after July 1, 2013, and on or before June 30, 2017;

(b) The employee has been unemployed for a continuous period of not less than 6 months immediately preceding the date of hire and:

(1) Has been receiving unemployment compensation continuously for that entire period; or

(2) Would have been eligible to receive unemployment compensation continuously for that entire period if the duration of his or her eligibility for unemployment compensation had not expired within the 24 months immediately preceding the date of hire;

(c) The employee is employed in a full-time position throughout the entire calendar quarter for which the deduction is claimed; and

(d) The employer submits to the Department an affidavit, signed under penalty of perjury by the employer or an authorized agent of the employer, stating that:

(1) The employee meets the requirements specified in paragraphs (a) and (b);

(2) The employee meets all qualifications for the position of employment for which he or she is hired; and

(3) ~~The employer did not terminate the employment of any other employee to create the position of employment regarding which the deduction is claimed.~~ employee was not hired to replace another employee or, if so, the replaced employee left voluntarily or was terminated for cause.

2. *An employer claiming the deduction allowed pursuant to this section shall, upon the request of the Department, provide the Department with such documentation as the Department deems appropriate to substantiate that claim.*

Sec. 2. Chapter 363B of NRS is hereby amended by adding thereto a new section to read as follows:

1. An employer may deduct from the total amount of wages reported and upon which the excise tax is imposed pursuant to NRS 363B.110 all wages paid by the employer to an employee during the first 4 full calendar quarters next following the hiring of the employee, and 50 percent of all wages paid by the employer to the employee during the 5th through 12th full calendar quarters next following the hiring of the employee, if:

(a) The employee is first hired by the employer on or after July 1, 2013, and on or before June 30, 2017;

(b) The employee has been unemployed for a continuous period of not less than 6 months immediately preceding the date of hire and:

(1) Has been receiving unemployment compensation continuously for that entire period; or

(2) Would have been eligible to receive unemployment compensation continuously for that entire period if the duration of his or her eligibility for unemployment compensation had not expired within the 24 months immediately preceding the date of hire;

(c) The employee is employed in a full-time position throughout the entire calendar quarter for which the deduction is claimed; and

(d) The employer submits to the Department an affidavit, signed under penalty of perjury by the employer or an authorized agent of the employer, stating that:

(1) The employee meets the requirements specified in paragraphs (a) and (b);

(2) The employee meets all qualifications for the position of employment for which he or she is hired; and

(3) ~~The employer did not terminate the employment of any other employee to create the position of employment regarding which the deduction is claimed.~~ employee was not hired to replace another employee or, if so, the replaced employee left voluntarily or was terminated for cause.

2. An employer claiming the deduction allowed pursuant to this section shall, upon the request of the Department, provide the Department with such documentation as the Department deems appropriate to substantiate that claim.

Sec. 3. This act becomes effective on ~~July~~ October 1, 2013, and expires by limitation on July 31, 2020.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 148 to Senate Bill No. 172 involves deductions for employer payroll taxes and requires that to qualify for the deduction, an employee was not hired to replace another employee; or, if there is a replacement, the employee who left did so voluntarily or was terminated for cause.

Amendment adopted.

Senator Kihuen moved that Senate Bill No. 172 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. 208.

Bill read second time.

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

Amendment No. 485.

"SUMMARY—Revises the definition of "police officer" primarily for purposes of certain provisions relating to occupational diseases. (BDR 53-875)"

"AN ACT relating to police officers; revising the definition of "police officer" to include court bailiffs and deputy marshals in district courts and justice courts and chiefs and assistant alternative sentencing officers of departments of alternative sentencing primarily for purposes of certain provisions relating to occupational diseases; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Under existing law, court bailiffs and deputy marshals in district courts and justice courts are not included in the statutory definition of]~~ Existing law defines "police officer" to include various law enforcement officers in this State for purposes of certain provisions relating to the Nevada Occupational Diseases Act. (NRS 617.135) This bill expands the definition of "police officer" to include ~~[such persons, thereby making those provisions of the Act that are applicable to police officers also applicable to]~~ (1) court bailiffs and deputy marshals in district courts and justice courts []; and (2) chiefs and assistant alternative sentencing officers of departments of alternative sentencing. Furthermore, because various other provisions of NRS reference "police officer" as that term is defined in the Act, this bill makes applicable to court bailiffs and deputy marshals in district courts and justice courts and to chiefs and alternative sentencing officers of departments of alternative sentencing certain provisions concerning: (1) industrial insurance coverage; (2) exemption from service as grand or trial jurors; (3) compensation for police officers with temporary disabilities; and (4) certain programs of group insurance or other medical or hospital service for the surviving spouse or any child of police officers and firefighters. (NRS 6.020, 281.153, 287.021, 287.0477, chapters 616A-616D of NRS)

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

Section 1. NRS 617.135 is hereby amended to read as follows:

617.135 "Police officer" includes:

1. A sheriff, deputy sheriff, officer of a metropolitan police department or city police officer;
2. A chief, inspector, supervisor, commercial officer or trooper of the Nevada Highway Patrol Division of the Department of Public Safety;

3. A chief, investigator or agent of the Investigation Division of the Department of Public Safety;

4. A chief, supervisor, investigator or training officer of the Training Division of the Department of Public Safety;

5. A chief or investigator of an office of the Department of Public Safety that conducts internal investigations of employees of the Department of Public Safety or investigates other issues relating to the professional responsibility of those employees;

6. A chief or investigator of the Department of Public Safety whose duties include, without limitation:

(a) The execution, administration or enforcement of the provisions of chapter 179A of NRS; and

(b) The provision of technology support services to the Director and the divisions of the Department of Public Safety;

7. An officer or investigator of the Section for the Control of Emissions From Vehicles and the Enforcement of Matters Related to the Use of Special Fuel of the Department of Motor Vehicles;

8. An investigator of the Division of Compliance Enforcement of the Department of Motor Vehicles;

9. A member of the police department of the Nevada System of Higher Education;

10. A:

(a) Uniformed employee of; or

(b) Forensic specialist employed by,

↪ the Department of Corrections whose position requires regular and frequent contact with the offenders imprisoned and subjects the employee to recall in emergencies;

11. A parole and probation officer of the Division of Parole and Probation of the Department of Public Safety;

12. A forensic specialist or correctional officer employed by the Division of Mental Health and Developmental Services of the Department of Health and Human Services at facilities for mentally disordered offenders;

13. The State Fire Marshal and his or her assistant and deputies;

14. A game warden of the Department of Wildlife who has the powers of a peace officer pursuant to NRS 289.280; ~~and~~

15. A ranger or employee of the Division of State Parks of the State Department of Conservation and Natural Resources who has the powers of a peace officer pursuant to NRS 289.260 ~~[-]; and~~

16. *A bailiff or a deputy marshal of the district court or justice court whose duties require him or her to carry a weapon and to make arrests* ~~[-];~~
and

17. A chief or an assistant alternative sentencing officer of a department of alternative sentencing created pursuant to NRS 211A.080.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 485 to Senate Bill No. 208 adds “chiefs and assistant alternative sentencing officers of departments of alternative sentencing” to the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 209.

Bill read second time.

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

Amendment No. 149.

"SUMMARY—Requires the Board of Economic Development to ~~develop and carry out~~ make recommendations regarding a recruiting and marketing effort to attract professionals and businesses to this State. (BDR 18-854)"

"AN ACT relating to economic development; requiring the Board of Economic Development to ~~develop and carry out~~ make recommendations to the Executive Director of the Office of Economic Development regarding a recruiting and marketing effort to attract professionals and businesses to this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[In addition to its other duties under existing law to promote economic development, this bill requires the Board of Economic Development to develop and carry out]~~ Existing law requires the Board of Economic Development to recommend to the Executive Director of the Office of Economic Development a State Plan for Economic Development and to make recommendations for carrying out the State Plan. This bill specifically requires the inclusion of recommendations regarding the development and implementation of a recruiting and marketing effort to attract professionals and businesses to this State. (NRS 231.033, 231.037)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 231.037 is hereby amended to read as follows:

231.037 The Board shall:

1. Review and evaluate all programs of economic development in this State and make recommendations to the Legislature for legislation to improve the effectiveness of those programs in implementing the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053.

2. Recommend to the Executive Director a State Plan for Economic Development and make recommendations to the Executive Director for carrying out the State Plan for Economic Development ~~and~~ including, without limitation, recommendations regarding the development and implementation of a recruiting and marketing effort to attract professionals and businesses to this State.

3. Recommend to the Executive Director the criteria for the designation of regional development authorities.

4. Make recommendations to the Executive Director for the designation for the southern region of this State, the northern region of this State and the rural region of this State, one or more regional development authorities for each region.

5. Provide advice and recommendations to the Executive Director concerning:

(a) The procedures to be followed by any entity seeking to obtain any development resource, allocation, grant or loan from the Office;

(b) The criteria to be used by the Office in providing development resources and making allocations, grants and loans;

(c) The requirements for reports from the recipients of development resources, allocations, grants and loans from the Office concerning the use thereof; and

(d) Any other activities of the Office.

6. Review each proposal by the Executive Director to enter into a contract pursuant to NRS 231.057 for more than \$100,000 or allocate, grant or loan more than \$100,000 to any entity and, as the Board determines to be in the best interests of the State, approve or disapprove the proposed allocation, grant or loan. Notwithstanding any other statutory provision to the contrary, the Executive Director shall not enter into any contract pursuant to NRS 231.057 for more than \$100,000 or make any allocation, grant or loan of more than \$100,000 to any entity unless the allocation, grant or loan is approved by the Board.

~~7. Develop and carry out a recruiting and marketing effort to attract professionals and businesses to this State.~~

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 149 to Senate Bill No. 209 amends Section 1, Subsection 2, to include without limitation, recommendations regarding the development and implementation of a recruiting and marketing effort to attract professionals and businesses to this State.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 211.

Bill read second time.

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

Amendment No. 324.

"SUMMARY—Requires certain health care practitioners to communicate certain information to the public. (BDR 54-14)"

"AN ACT relating to health care; requiring that advertisements for certain health care services include certain information; requiring certain health care

practitioners to communicate certain information to the public; limiting the use of the term "board certified" by certain health care practitioners; providing for the professional discipline of health care practitioners under certain circumstances; and providing other matters properly relating thereto." Legislative Counsel's Digest:

This bill requires that an advertisement for health care services identify the type of license held by each health care practitioner named in the advertisement. Such an advertisement must not include any deceptive or misleading information regarding a health care practitioner. This bill further requires a health care practitioner who provides health care services in this State to communicate his or her specific licensure to all current and prospective patients by: (1) conspicuously displaying in each office in which the health care practitioner practices a written patient disclosure statement that clearly identifies the type of license he or she holds; and (2) if the health care practitioner wears a name tag while delivering health care services, including his or her licensure on the tag. This bill prohibits health care practitioners who are physicians and osteopathic physicians from using the term "board certified" unless the board is a specialty certifying board of the American Board of Medical Specialties or the American Osteopathic Association or meets certain other requirements. This bill provides that a health care practitioner who violates an advertising or patient disclosure requirement is subject to professional discipline. This bill also ~~exempts~~ establishes certain ~~health care practitioners~~ exemptions from the requirements for advertising and patient disclosure.

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

Section 1. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2:

(a) An advertisement for health care services that names a health care practitioner must identify the type of license held by the health care practitioner and must not contain any deceptive or misleading information.

(b) A health care practitioner who provides health care services in this State shall affirmatively communicate his or her specific licensure to all current and prospective patients. Such communication must include, without limitation:

(1) A written patient disclosure statement that is conspicuously displayed in the office of the health care practitioner which clearly identifies the type of license held by the health care practitioner. The writing must be of sufficient size to be visible and apparent to all current and prospective patients.

(2) If the health care practitioner wears a name tag during the course of providing health care services, an indication of his or her specific licensure on the tag.

(c) *A health care practitioner who practices in more than one office shall comply with the requirements set forth in this section in each office in which he or she practices.*

(d) *A physician or osteopathic physician shall not hold himself or herself out to the public as board certified in a specialty or subspecialty unless the physician or osteopathic physician discloses the full and correct name of the board by which he or she is certified, and the board:*

(1) *Is a member board of the American Board of Medical Specialties or the American Osteopathic Association; or*

(2) *Requires for certification in a specialty or subspecialty:*

(I) ~~1.4~~ *The successful completion of a postgraduate training program that is approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association and which provides complete training in the specialty or subspecialty;*

(II) *Prerequisite certification by the American Board of Medical Specialties or the American Osteopathic Association in the specialty or subspecialty; and*

(III) *Successful completion of an examination in the specialty or subspecialty.*

➡ *An advertisement for health care services must not include a statement that a physician or osteopathic physician is board certified in a specialty or subspecialty unless the requirements of this subsection are met.*

(e) *If an advertisement for health care services is in writing, the information concerning licensure and board certification that is required pursuant to this section must be prominently displayed in the advertisement using a font size and style to make the information readily apparent.*

(f) *A health care practitioner who violates any provision of this section is guilty of unprofessional conduct and is subject to professional discipline by the board, agency or other entity in this State by which he or she is licensed or regulated.*

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

(a) An advertisement for health care services or a health care practitioner who provides health care services if the health care services are provided in a medical facility licensed pursuant to chapter 449 of NRS or a county or public hospital established pursuant to chapter 450 of NRS; or

(b) The following health care practitioners:

~~1.4~~ *(1) A veterinarian or other person licensed under chapter 638 of NRS.*

~~1.4~~ *(2) A person who works in or is licensed to operate, conduct, issue a report from or maintain a medical laboratory under chapter 652 of NRS unless the person provides services directly to a patient or the public.*

3. *As used in this section:*

(a) "Advertisement" means any printed, electronic or oral communication or statement that names a health care practitioner in relation to the practice, profession or institution in which the health care practitioner is employed,

volunteers or otherwise provides health care services. The term includes, without limitation, any business card, letterhead, patient brochure, pamphlet, newsletter, telephone directory, electronic mail, Internet website, physician database, audio or video transmission, direct patient solicitation, billboard and any other communication or statement used in the course of business.

(b) "Deceptive or misleading information" means any information that falsely describes or misrepresents the profession, skills, training, expertise, education, board certification or licensure of a health care practitioner.

(c) "Health care practitioner" means any person who engages in acts related to the treatment of human ailments or conditions and who is subject to licensure or regulation by this title.

(d) "Medical laboratory" has the meaning ascribed to it in NRS 652.060.

(e) "Osteopathic physician" has the meaning ascribed to it in NRS 633.091.

(f) "Physician" has the meaning ascribed to it in NRS 630.014.

Sec. 2. This act becomes effective on January 1, 2014.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senators Cegavske and Hardy.

SENATOR CEGAVSKE:

Thank you, Mr. President. Amendment No. 324 to Senate Bill No. 211 allows a physician or osteopathic physician to use the term "board certified" if he or she successfully completes a postgraduate program approved by the Accreditation Council for Medical Education or the American Osteopathic Association. It also exempts health care services or a health care practitioner who provides services in a hospital or certain medical facilities from the requirements for advertising and patient disclosure.

SENATOR HARDY:

Thank you, Mr. President. Does Amendment No. 324 to Senate Bill No. 211 deal with a physician who is grandfathered in to a board certification, has completed all of the appropriate continuing medical education requirements and so is currently board certified—will this take their board certification and nullify it?

Senator Smith moved that Senate Bill No. 211 be placed at the bottom of the Second Reading File for this legislative day.

Motion carried.

Senate Bill No. 217.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 435.

"SUMMARY—Revises provisions relating to the manner of performing work on roads in smaller counties. (BDR 35-925)"

"AN ACT relating to county roads; revising provisions relating to the manner of performing work for the construction and repair of roads and bridges in smaller counties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, in a county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties), the county commissioners of the county make up the board of county highway commissioners. (NRS 403.010) With exceptions for emergencies and instances in which a county performs its own work with day labor and county equipment, if the construction of any superstructure related to a county road may require the expenditure of \$500 or more, the board of county highway commissioners is required to advertise for bids and let contracts pursuant to certain competitive bidding provisions imposed on local government. (NRS 332.039, 403.490) Section 1 of this bill ~~creates a bifurcated system under which:~~ (1) provides that if the probable cost of road work does not exceed ~~[\$25,000,]~~ \$100,000, a county may advertise for bids and let contracts pursuant to chapter 332 or 338 of NRS or may perform its own work with county employees or day labor and using county equipment. ~~[-, and (2) if]~~ If the probable cost of the work exceeds ~~[\$25,000,]~~ \$100,000, a county is required to advertise for bids and let contracts pursuant to chapter 332 or 338 of NRS ~~[-]~~, except that, in a county whose population is less than 45,000 (currently Churchill, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Mineral, Nye, Pershing, Storey and White Pine Counties), the board of county highway commissioners may instead determine, at a hearing and with the provision of certain notice requirements, to perform the work with county employees or day labor and using county equipment if the estimated cost of the project is more than \$100,000 but less than \$250,000. Section 2 of this bill makes a parallel, conforming change with respect to the construction and repair of bridges.

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

Section 1. NRS 403.490 is hereby amended to read as follows:

403.490 1. To perform any work or construct any superstructure under this chapter wherein an expenditure of ~~[\$500]~~ \$100,000 or more may be necessary, the board of county highway commissioners shall cause definite plans of such work or superstructure to be made, estimates of the amount of work to be done and the probable cost thereof, together with a copy of the specifications thereof.

2. ~~[Upon]~~ ~~[If the probable cost of the work does not exceed \$25,000,]~~ Except as otherwise provided in subsection 3, upon receipt of the plans, estimates and specifications ~~[-]~~ for a project for which the estimated cost is \$100,000 or more, the board of county highway commissioners shall advertise for bids and let contracts in the manner prescribed by chapter 332 or 338 of NRS ~~[-]~~, as applicable.

3. ~~[After submission of bids, the board of county highway commissioners may reject any and all bids and advertise anew, or the board may order the work done by day's work under the supervision of the county road supervisor.]~~

~~3. Except as otherwise provided in subsection 4, if the probable cost of the work exceeds \$25,000, upon receipt of the plans, estimates and specifications, the board of county highway commissioners shall advertise for bids and let contracts in the manner prescribed by chapter 338 of NRS.~~
In a county whose population is less than 45,000, if the estimated cost of a project is \$100,000 or more but less than \$250,000, the board of county highway commissioners may hold a hearing to determine, by majority vote of the board, if the project can be performed by county employees or through the employment of day labor under the supervision of the board and by the use of its own machinery, tools and other equipment without advertising for bids and letting contracts pursuant to subsection 2. Notice for such a hearing must be provided not less than 15 days before the date of the hearing and must be published pursuant to the provisions of NRS 238.010 to 238.080, inclusive. The board shall provide, in the notice and at least 15 days before the hearing at the office of the board and at the place of the hearing, the following information, without limitation:

(a) A list of:

(1) All county employees, if any, including supervisors, who will perform the work, including, without limitation, the classification of each employee and an estimate of the direct and indirect costs of the labor;

(2) The number of day laborers, if any, that will be employed to perform the work; and

(3) All machinery, tools and other equipment of the county to be used on the project.

(b) An estimate of:

(1) The direct and indirect costs of the labor of the county employees who will perform the work, if any;

(2) The direct and indirect costs of the labor of any day laborers who will be employed to perform the work;

(3) The cost of any administrative support that will be required for the performance of the work;

(4) The total cost of the project, including, without limitation, the fair market value or, if available, the actual cost of all materials, supplies, equipment and labor necessary for the project; and

(5) The amount of savings to be realized by having county employees or day laborers perform the work.

4. In cases of emergency the board of county highway commissioners may let contracts for repairs in the manner prescribed by chapter 332 of NRS.

5. Nothing in this section shall prevent any county from opening, building, improving or repairing any public road or highway in the county ~~[by the]~~ through the work of county employees or the employment of day labor, under the supervision of the board of county highway commissioners and by the use of its own machinery, tools and other equipment, without letting contracts to the lowest responsible bidder, [irrespective of] if the probable cost of the work [.] does not exceed ~~(\$25,000.)~~ \$100,000.

Sec. 2. NRS 403.600 is hereby amended to read as follows:

403.600 1. No bridge shall be constructed or repaired except on the order of the board of county commissioners, or unless a petition is filed as provided in NRS 403.610.

2. In entering into a contract for the construction or repair of a bridge, the board of county commissioners shall comply with ~~chapter 332 of~~ NRS ~~403.610~~.

Sec. 3. This act becomes effective on July 1, 2013.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

Thank you, Mr. President. Amendment No. 435 to Senate Bill No. 217 changes the probable cost threshold by which a county must seek a bid on road construction projects from \$25,000 to \$100,000. For contracts in the range of \$100,000 to \$250,000, counties with a population of less than 45,000 have the option to bid out the project or to perform the work with county resources. For counties with a population of more than 45,000, the county must bid out all new construction over the \$100,000 threshold pursuant to Chapter 332 or Chapter 338 of *Nevada Revised Statutes*, as applicable.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 224.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 218.

"SUMMARY—Revises provisions governing driving under the influence. (BDR 43-668)"

"AN ACT relating to driving under the influence; providing for the imposition and collection of a fee for the provision of specialty court programs following a conviction for a misdemeanor offense of driving a vehicle under the influence or a lesser included offense; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill requires a court to impose a fee of \$500, in addition to any other administrative assessment, penalty or fine imposed, if a person pleads guilty, guilty but mentally ill or nolo contendere to, or is found guilty of, a charge of driving under the influence of intoxicating liquor or a controlled substance that is punishable as a misdemeanor or a lesser included offense. If the fee of \$500 is not within a defendant's present ability to pay, the justice or judge may impose the equivalent community service to be performed. Under this bill, the money collected for this fee is deposited with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator and money apportioned to a court from this fee must be used by the court for certain purposes related to specialty court programs.

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

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

1. ~~1.1~~ *Except as otherwise provided in this section, if a defendant who is charged with a violation of NRS 484C.110 or 484C.120 that is punishable as a misdemeanor pursuant to paragraph (a) or (b) of subsection 1 of NRS 484C.400 pleads guilty, guilty but mentally ill or nolo contendere to, or is found guilty or guilty but mentally ill of, that charge or a lesser included offense, including, without limitation, a traffic violation, arising from the same traffic episode, the justice or judge shall include in the sentence, in addition to any other penalty or administrative assessment provided by law, a fee of \$500 for the provision of specialty court programs and render a judgment against the defendant for the fee. If a defendant is sentenced to perform community service in lieu of a fine, the sentence must include the fee required pursuant to this subsection.*

2. *If the fee pursuant to subsection 1:*

(a) Is not within the defendant's present ability to pay, the justice or judge may include in the sentence, in addition to any other penalty or administrative assessment provided by law, community service for a reasonable number of hours, the value of which would be commensurate with the fee.

(b) Is not entirely within the defendant's present ability to pay, the justice or judge may include in the sentence, in addition to any other penalty or administrative assessment provided by law, a reduced fee and community service for a reasonable number of hours, the value of which would be commensurate with the amount of the reduction of the fee.

3. *The money collected for the specialty courts fee must not be deducted from any fine imposed by the justice or judge but must be collected from the defendant in addition to the fine. The money collected for such a fee must be stated separately on the court's docket. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the specialty courts fee remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay them. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of any amount of the fine or fee that the defendant has paid.*

~~4.1~~ 4. *A justice or judge shall, if requested by a defendant, allow a specialty courts fee to be paid in installments under terms established by the justice or judge.*

~~4.1~~ 5. *Any payments made by a defendant must be applied in the following order:*

(a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;

(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to NRS 176.0611;

(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs pursuant to NRS 176.0613;

(d) To pay the unpaid balance of the specialty courts fee pursuant to this section; and

(e) To pay the fine.

~~5.7~~ 6. The money collected for a specialty courts fee pursuant to this section in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the city treasurer shall deposit the money received for each specialty courts fee with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

~~6.7~~ 7. The money collected for a specialty courts fee pursuant to this section in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the county treasurer shall deposit the money received for each specialty courts fee with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

~~7.7~~ 8. Money that is apportioned to a court from specialty courts fees pursuant to this section must be used by the court to:

(a) Pay for any level of treatment, including, without limitation, psychiatric care, required for successful completion and testing of persons who participate in the program; and

(b) Improve the operations of the specialty court program by any combination of:

(1) Acquiring necessary capital goods;

(2) Providing for personnel to staff and oversee the specialty court program;

(3) Providing training and education to personnel;

(4) Studying the management and operation of the program;

(5) Conducting audits of the program;

(6) Providing for district attorney and public defender representation;

(7) Acquiring or using appropriate technology;

(8) Providing capital for building facilities necessary to house persons who participate in the program;

(9) Providing funding for employment programs for persons who participate in the program; and

(10) Providing funding for statewide public information campaigns necessary to deter driving under the influence of intoxicating liquor or a controlled substance.

~~8.7~~ 9. As used in this section:

(a) "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320; and

(b) *"Specialty court program" means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from a mental illness or ~~abuses~~ who abuse alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250 or 453.580.*

(c) *"Traffic violation" means conviction of a moving traffic violation in any municipal court or justice court in this State.*

Sec. 2. NRS 176.0611 is hereby amended to read as follows:

176.0611 1. A county or a city, upon recommendation of the appropriate court, may, by ordinance, authorize the justices or judges of the justice or municipal courts within its jurisdiction to impose for not longer than 50 years, in addition to the administrative assessments imposed pursuant to NRS 176.059 and 176.0613, an administrative assessment for the provision of court facilities.

2. Except as otherwise provided in subsection 3, in any jurisdiction in which an administrative assessment for the provision of court facilities has been authorized, when a defendant pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of \$10 as an administrative assessment for the provision of court facilities and render a judgment against the defendant for the assessment. If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the administrative assessment required pursuant to this subsection.

3. The provisions of subsection 2 do not apply to:

- (a) An ordinance regulating metered parking; or
- (b) An ordinance that is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

4. The money collected for an administrative assessment for the provision of court facilities must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the amount posted for bail pursuant to this subsection must be disbursed in the manner set forth in subsection 6 or 7. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment the defendant has paid and the justice or judge shall not recalculate the administrative assessment.

5. If the justice or judge permits the fine and administrative assessment for the provision of court facilities to be paid in installments, the payments must be applied in the following order:

(a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;

(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to this section;

(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs pursuant to NRS 176.0613; ~~and~~

(d) *To pay the unpaid balance of the specialty courts fee pursuant to section 1 of this act; and*

(e) To pay the fine.

6. The money collected for administrative assessments for the provision of court facilities in municipal courts must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. The city treasurer shall deposit the money received in a special revenue fund. The city may use the money in the special revenue fund only to:

(a) Acquire land on which to construct additional facilities for the municipal courts or a regional justice center that includes the municipal courts.

(b) Construct or acquire additional facilities for the municipal courts or a regional justice center that includes the municipal courts.

(c) Renovate or remodel existing facilities for the municipal courts.

(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the municipal courts or a regional justice center that includes the municipal courts. This paragraph does not authorize the expenditure of money from the fund for furniture, fixtures or equipment for judicial chambers.

(e) Acquire advanced technology for use in the additional or renovated facilities.

(f) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the municipal courts or a regional justice center that includes the municipal courts.

↪ Any money remaining in the special revenue fund after 5 fiscal years must be deposited in the municipal general fund for the continued maintenance of court facilities if it has not been committed for expenditure pursuant to a plan for the construction or acquisition of court facilities or improvements to court facilities. The city treasurer shall provide, upon request by a municipal court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

7. The money collected for administrative assessments for the provision of court facilities in justice courts must be paid by the clerk of the court to the

county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall deposit the money received to a special revenue fund. The county may use the money in the special revenue fund only to:

(a) Acquire land on which to construct additional facilities for the justice courts or a regional justice center that includes the justice courts.

(b) Construct or acquire additional facilities for the justice courts or a regional justice center that includes the justice courts.

(c) Renovate or remodel existing facilities for the justice courts.

(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the justice courts or a regional justice center that includes the justice courts. This paragraph does not authorize the expenditure of money from the fund for furniture, fixtures or equipment for judicial chambers.

(e) Acquire advanced technology for use in the additional or renovated facilities.

(f) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the justice courts or a regional justice center that includes the justice courts.

➡ Any money remaining in the special revenue fund after 5 fiscal years must be deposited in the county general fund for the continued maintenance of court facilities if it has not been committed for expenditure pursuant to a plan for the construction or acquisition of court facilities or improvements to court facilities. The county treasurer shall provide, upon request by a justice court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

8. If money collected pursuant to this section is to be used to acquire land on which to construct a regional justice center, to construct a regional justice center or to pay debt service on bonds issued for these purposes, the county and the participating cities shall, by interlocal agreement, determine such issues as the size of the regional justice center, the manner in which the center will be used and the apportionment of fiscal responsibility for the center.

Sec. 3. NRS 176.0613 is hereby amended to read as follows:

176.0613 1. The justices or judges of the justice or municipal courts shall impose, in addition to an administrative assessment imposed pursuant to NRS 176.059 and 176.0611, an administrative assessment for the provision of specialty court programs.

2. Except as otherwise provided in subsection 3, when a defendant pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of \$7 as an administrative assessment for the provision of specialty court programs and

render a judgment against the defendant for the assessment. If a defendant is sentenced to perform community service in lieu of a fine, the sentence must include the administrative assessment required pursuant to this subsection.

3. The provisions of subsection 2 do not apply to:

- (a) An ordinance regulating metered parking; or
- (b) An ordinance which is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

4. The money collected for an administrative assessment for the provision of specialty court programs must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the bail pursuant to this subsection must be disbursed pursuant to subsection 6 or 7. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment the defendant has paid and the justice or judge shall not recalculate the administrative assessment.

5. If the justice or judge permits the fine and administrative assessment for the provision of specialty court programs to be paid in installments, the payments must be applied in the following order:

- (a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;
- (b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to NRS 176.0611;
- (c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs; ~~and~~
- (d) *To pay the unpaid balance of the specialty courts fee pursuant to section 1 of this act; and*
- (e) To pay the fine.

6. The money collected for an administrative assessment for the provision of specialty court programs in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the city treasurer shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

7. The money collected for an administrative assessment for the provision of specialty court programs in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each

month for the preceding month. On or before the 15th day of that month, the county treasurer shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

8. The Office of Court Administrator shall allocate the money credited to the State General Fund pursuant to subsections 6 and 7 to courts to assist with the funding or establishment of specialty court programs.

9. Money that is apportioned to a court from administrative assessments for the provision of specialty court programs must be used by the court to:

(a) Pay for the treatment and testing of persons who participate in the program; and

(b) Improve the operations of the specialty court program by any combination of:

(1) Acquiring necessary capital goods;

(2) Providing for personnel to staff and oversee the specialty court program;

(3) Providing training and education to personnel;

(4) Studying the management and operation of the program;

(5) Conducting audits of the program;

(6) Supplementing the funds used to pay for judges to oversee a specialty court program; or

(7) Acquiring or using appropriate technology.

10. As used in this section:

(a) "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320; and

(b) "Specialty court program" means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from a mental illness or abuses alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250, 176A.280 or 453.580.

Sec. 4. 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. 218 to Senate Bill No. 224 provides for the imposition of community service if a defendant cannot pay the fee of \$500.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 228.

Bill read second time.

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

Amendment No. 519.

"SUMMARY—Revises provisions relating to public servants. (BDR 23-445)"

"AN ACT relating to public servants; revising provisions relating to public officers and employees; revising provisions relating to statements of financial disclosure; revising provisions relating to ethics in government and the enforcement of such provisions; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill makes various changes to provisions relating to public officers and employees, ethics in government and the ethics laws. (Chapters 281 and 281A of NRS)

Existing law requires certain candidates for public office and certain public officers to file annual statements of financial disclosure with the Secretary of State. (NRS 281.558-281.581) Sections ~~2-10~~ 2-9 of this bill define certain terms relating to the statements of financial disclosure.

Sections 11-13, 42 and 49-55 of this bill revise provisions prohibiting public officers and employees from being interested in or benefiting from governmental contracts and clarify certain procedures for voiding governmental contracts or other actions which violate ethics laws.

Sections 18-24 and 30-32 of this bill enact and revise various definitions in the Nevada Ethics in Government Law. Section 19 revises and makes applicable throughout the Ethics Law the existing definition of "commitment in a private capacity to the interests of ~~another person~~ others" in NRS 281A.420 ~~but retains without change the definition's catchall provision.~~

Section 23 ~~of this bill~~ defines "pecuniary interest," and sections 40 and 42 of this bill require proof of a significant pecuniary interest in defining various types of unethical conduct.

Section 25 of this bill enacts provisions for computing periods prescribed or allowed under the Ethics Law. Sections 26 and 40 of this bill move and revise certain existing provisions from NRS 281A.410 requiring certain public officers to file disclosures if they have represented or counseled a private person for compensation before certain agencies. Section 27 of this bill authorizes the Commission on Ethics to apply for and accept grants, contributions, services and money for the purposes of carrying out the Ethics Law.

Sections 33-37 of this bill make various changes concerning the Commission on Ethics and the duties of the Executive Director of the Commission and the Commission Counsel. Those changes include: (1) adjusting the eligibility requirements for certain members of the Commission; (2) requiring the Chair of the Commission to designate a qualified person to perform the duties of the Executive Director if the Executive Director is disqualified or unable to act on a particular matter; (3) revising the administration of the assessments paid by cities and counties

in semiannual installments to the Commission; and (4) expanding the Commission's authority to adopt regulations to carry out the Ethics Law.

Section 38 of this bill directs public officers and employees who request the issuance of a subpoena on their behalf in ethics proceedings to serve the subpoena in the manner provided in the Nevada Rules of Civil Procedure and to pay the costs of such service.

Sections 39-44 of this bill make various changes to provisions in the Ethics Law, including provisions relating to conflicts of interests for public officers and employees, disclosures and abstentions, the rendering of opinions and conduct of investigations by the Commission on Ethics and the duties of specialized and local ethics committees.

Section 39 ~~[of this bill]~~ revises provisions proscribing various types of unethical conduct.

Section 40 ~~[of this bill]~~ revises restrictions on various public officers and employees representing or counseling private persons for compensation before certain agencies, and moves and revises the existing "cooling off" provisions from NRS 281A.550 prohibiting various public officers and employees from accepting compensation from certain persons or entities for a specified period after leaving public service.

Section 46 of this bill provides new requirements relating to informing, educating and instructing public officers and employees concerning the statutory ethical standards and the duties of public officers and employees under the Ethics Law.

Section 48 of this bill authorizes the Commission on Ethics to request the drafting of 2 legislative measures for each regular session of the Legislature.

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

Section 1. Chapter 281 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. *As used in NRS 281.558 to 281.581, inclusive, and sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 281.558 and sections 3 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Business entity" means an organization or enterprise operated for economic gain, including, without limitation, a proprietorship, partnership, firm, business, company, trust, joint venture, syndicate, corporation or association.*

Sec. 4. *"Domestic partner" means a person in a domestic partnership.*

Sec. 5. *"Domestic partnership" means:*

1. *A domestic partnership as defined in NRS 122A.040; or*
2. *A domestic partnership which was validly formed in another jurisdiction and which is substantially equivalent to a domestic partnership as defined in NRS 122A.040, regardless of whether it bears the name of a domestic partnership or is registered in this State.*

Sec. 6. "Household" means an association of persons who live in the same home or dwelling ~~and sharing its expenses.~~

Sec. 7. "Intentionally" means voluntarily or deliberately, rather than accidentally or inadvertently. The term does not require proof of bad faith, ill will, evil intent or malice.

Sec. 8. "Knowingly" imports a knowledge that the facts exist which constitute the act or omission, and does not require knowledge of the prohibition against the act or omission. Knowledge of any particular fact may be inferred from the knowledge of such other facts as should put an ordinarily prudent person upon inquiry.

Sec. 9. "Member of the candidate's or public officer's household" means:

1. The spouse or domestic partner of the candidate or public officer;
2. A person who lives in the household of the candidate or public officer;
3. A person who does not live in the household of the candidate or public officer, but who is dependent on and receiving substantial support from the candidate or public officer; or
4. A person who lives in the household of the candidate or public officer for 6 months or more in the year immediately preceding the year in which the candidate or public officer files a statement of financial disclosure.

Sec. 10. ~~["Political subdivision" means any county, city or other local government as defined in NRS 354.474.] (Deleted by amendment.)~~

Sec. 11. 1. In addition to any other penalty provided by law, any governmental grant, contract or lease made or other governmental action taken by a public officer or employee in violation of this chapter or chapter 281A of NRS is voidable by the State, county, city or political subdivision.

2. The Attorney General, district attorney or city attorney shall give notice of the intent to void a governmental grant, contract or lease or other governmental action pursuant to this section not later than 30 days after adjudication of the violation.

3. In determining whether to void a governmental grant, contract or lease or other governmental action pursuant to this section, the interests of innocent third parties who could be damaged must be taken into account.

4. In addition to any other penalty provided by law, the Attorney General, district attorney or city attorney may:

(a) Pursue any other available legal or equitable remedies as a result of a violation of this chapter or chapter 281A of NRS by a public officer or employee; and

(b) Recover any fee, compensation, gift or benefit received by a person as a result of a violation of this chapter or chapter 281A of NRS by a public officer or employee. An action to recover pursuant to this section must be brought within 2 years after the violation or reasonable discovery of the violation.

5. As used in this section, "political subdivision" means any county, city or other local government as defined in NRS 354.474.

Sec. 12. NRS 281.221 is hereby amended to read as follows:

281.221 1. Except as otherwise provided in this section ~~{,}~~ and NRS 281A.430, it is unlawful for ~~{any}~~ a state officer who is not a member of the Legislature to:

(a) Become a contractor under any contract or order for supplies or other kind of contract authorized by or for the State or any of its departments, or the Legislature or either of its houses, or to be interested, directly or indirectly, as principal, in any kind of contract so authorized.

(b) Be interested in any contract made by the officer or to be a purchaser or interested in any purchase under a sale made by the officer in the discharge of the officer's official duties.

2. ~~{Any}~~ A member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by the board, commission or body may supply or contract to supply, in the ordinary course of the member's business, goods, materials or services to any state or local agency, except the board, ~~{or}~~ commission or body of which he or she is a member, if the member has not taken part in developing the contract plans or specifications and the member will not be personally involved in opening, considering or accepting offers.

3. A full- or part-time faculty member in the Nevada System of Higher Education may bid on or enter into a contract with a governmental agency, or may benefit financially or otherwise from a contract between a governmental agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to NRS 396.255.

4. A state officer, other than an officer described in subsection 2 or 3, may bid on or enter into a contract with a governmental agency if the contracting process is controlled by rules of open competitive bidding, the sources of supply are limited, the officer has not taken part in developing the contract plans or specifications and the officer will not be personally involved in opening, considering or accepting offers.

5. ~~{Any}~~ In addition to any other penalty provided by law, any governmental contract made or other governmental action taken in violation of this section may be declared void ~~{at the instance of the State or of any other person interested in the contract except an officer prohibited from making or being interested in the contract.~~

~~6. Any person violating} pursuant to section 11 of this act.~~

6. A person who violates this section is guilty of a gross misdemeanor and shall forfeit his or her office.

Sec. 13. NRS 281.230 is hereby amended to read as follows:

281.230 1. Except as otherwise provided in this section and NRS 218A.970, ~~{281A.530}~~ 281A.430 and 332.800, the following persons shall not, in any manner, directly or indirectly, receive any commission,

personal profit or compensation of any kind resulting from any contract or other significant transaction in which the employing state, county, municipality, township, district or quasi-municipal corporation is in any way directly interested or affected:

(a) State, county, municipal, district and township officers of the State of Nevada;

(b) Deputies and employees of state, county, municipal, district and township officers; and

(c) Officers and employees of quasi-municipal corporations.

2. A member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by the board, commission or body may, in the ordinary course of his or her business, bid on or enter into a contract with any governmental agency, except the board, ~~for~~ commission *or body* of which he or she is a member, if the member has not taken part in developing the contract plans or specifications and the member will not be personally involved in opening, considering or accepting offers.

3. A full- or part-time faculty member or employee of the Nevada System of Higher Education may bid on or enter into a contract with a governmental agency, or may benefit financially or otherwise from a contract between a governmental agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to NRS 396.255.

4. A public officer or employee, other than an officer or employee described in subsection 2 or 3, may bid on or enter into a contract with a governmental agency if the contracting process is controlled by rules of open competitive bidding, the sources of supply are limited, the public officer or employee has not taken part in developing the contract plans or specifications and the public officer or employee will not be personally involved in opening, considering or accepting offers. If a public officer who is authorized to bid on or enter into a contract with a governmental agency pursuant to this subsection is a member of the governing body of the agency, the public officer, pursuant to the requirements of NRS 281A.420, shall disclose his or her interest in the contract and shall not vote on or advocate the approval of the contract.

5. A person who violates any of the provisions of this section shall be punished as provided in NRS 197.230 and:

(a) Where the commission, personal profit or compensation is \$650 or more, for a category D felony as provided in NRS 193.130.

(b) Where the commission, personal profit or compensation is less than \$650, for a misdemeanor.

6. *In addition to any other penalty provided by law:*

(a) A person who violates the provisions of this section shall pay any commission, personal profit or compensation resulting from the contract or transaction to the employing state, county, municipality, township, district or quasi-municipal corporation as restitution.

(b) Any governmental contract made or other governmental action taken in violation of this section may be declared void pursuant to section 11 of this act.

Sec. 14. NRS 281.558 is hereby amended to read as follows:

281.558 ~~[As used in NRS 281.558 to 281.581, inclusive, "candidate"]~~
"Candidate" means any person:

1. Who files a declaration of candidacy;
2. Who files an acceptance of candidacy; or
3. Whose name appears on an official ballot at any election.

Sec. 15. NRS 281.571 is hereby amended to read as follows:

281.571 1. Statements of financial disclosure, as approved pursuant to NRS 281A.470 or in such electronic form as the Secretary of State otherwise prescribes, must contain the following information concerning the candidate for public office or public officer:

(a) The candidate's or public officer's length of residence in the State of Nevada and the district in which the candidate for public office or public officer is registered to vote.

(b) Each source of the candidate's or public officer's income, or that of any member of the candidate's or public officer's household who is 18 years of age or older. No listing of individual clients, customers or patients is required, but if that is the case, a general source such as "professional services" must be disclosed.

(c) A list of the specific location and particular use of real estate, other than a personal residence:

(1) In which the candidate for public office or public officer or a member of the candidate's or public officer's household has a legal or beneficial interest;

(2) Whose fair market value is \$2,500 or more; and

(3) That is located in this State or an adjacent state.

(d) The name of each creditor to whom the candidate for public office or public officer or a member of the candidate's or public officer's household owes \$5,000 or more, except for:

(1) A debt secured by a mortgage or deed of trust of real property which is not required to be listed pursuant to paragraph (c); and

(2) A debt for which a security interest in a motor vehicle for personal use was retained by the seller.

(e) If the candidate for public office or public officer has received gifts in excess of an aggregate value of \$200 from a donor during the preceding taxable year, a list of all such gifts, including the identity of the donor and value of each gift, except:

(1) A gift received from a person who is related to the candidate for public office or public officer *by blood, adoption, marriage or domestic partnership* within the third degree of consanguinity or affinity.

(2) Ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion if the donor does not have a substantial

interest in the legislative, administrative or political action of the candidate for public office or public officer.

(f) A list of each business entity with which the candidate for public office or public officer or a member of the candidate's or public officer's household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1 percent or more of the total outstanding stock or securities issued by the business entity.

(g) A list of all public offices presently held by the candidate for public office or public officer for which this statement of financial disclosure is required.

2. The Secretary of State may adopt regulations necessary to carry out the provisions of this section.

~~{3. As used in this section, "member of the candidate's or public officer's household" includes:~~

~~(a) The spouse of the candidate for public office or public officer;~~

~~(b) A person who does not live in the same home or dwelling, but who is dependent on and receiving substantial support from the candidate for public office or public officer; and~~

~~(c) A person who lived in the home or dwelling of the candidate for public office or public officer for 6 months or more in the year immediately preceding the year in which the candidate for public office or public officer files the statement of financial disclosure.}~~

Sec. 16. NRS 281.573 is hereby amended to read as follows:

281.573 1. Except as otherwise provided in subsection 2, statements of financial disclosure required by the provisions of NRS ~~[281.558 to 281.572, inclusive,]~~ 281.559 and 281.561 must be retained by the Secretary of State for 6 years after the date of filing.

2. For public officers who serve more than one term in either the same public office or more than one public office, the period prescribed in subsection 1 begins on the date of the filing of the last statement of financial disclosure for the last public office held.

Sec. 17. Chapter 281A of NRS is hereby amended by adding thereto the provisions set forth as sections 18 to 27, inclusive, of this act.

Sec. 18. "Agency" means any state agency or local agency.

Sec. 19. "Commitment in a private capacity," with respect to the interests of another person, ~~and~~ means a commitment, interest or relationship of a public officer or employee to a person:

1. Who is the spouse or domestic partner of the public officer or employee;

2. Who is a member of the household of the public officer or employee;

3. Who is related to the public officer or employee, or to the spouse or domestic partner of the public officer or employee, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity;

4. *Who employs the public officer or employee, the spouse or domestic partner of the public officer or employee or a member of the household of the public officer or employee;*

5. *With whom the public officer or employee has a substantial and continuing business relationship; or*

6. *With whom the public officer or employee has any other commitment, interest or relationship that is substantially similar to a commitment, interest or relationship described in subsections 1 to 5, inclusive.*

Sec. 20. *"Domestic partner" means a person in a domestic partnership.*

Sec. 21. *"Domestic partnership" means:*

1. *A domestic partnership as defined in NRS 122A.040; or*

2. *A domestic partnership which was validly formed in another jurisdiction and which is substantially equivalent to a domestic partnership as defined in NRS 122A.040, regardless of whether it bears the name of a domestic partnership or is registered in this State.*

Sec. 22. *"Local agency" means any local legislative body, agency, bureau, board, commission, department, division, office or other unit of any county, city or other political subdivision.*

Sec. 23. *"Pecuniary interest" means any beneficial or detrimental interest in a matter that consists of or is measured in money or is otherwise related to money, including, without limitation:*

1. *Anything of economic value; and*

2. *Payments or other money which a person is owed or otherwise entitled to by virtue of any statute, regulation, code, ordinance or contract or other agreement.*

Sec. 24. *"State agency" means any agency, bureau, board, commission, department, division, office or other unit of the Executive Department of the State Government.*

Sec. 25. *In computing any period prescribed or allowed by this chapter:*

1. *If the period begins to run on the occurrence of an act or event, the day on which the act or event begins is excluded from the computation.*

2. *The last day of the period is included in the computation, except that if the last day falls on a Saturday, Sunday, legal holiday or holiday proclaimed by the Governor or on a day on which the office of the Commission is not open for the conduct of business, the period is extended to the close of business on the next business day.*

Sec. 26. 1. *Not later than January 15 of each year, a State Legislator or public officer who has, within the preceding calendar year, represented or counseled a private person for compensation before an agency shall disclose for each occurrence of such representation or counseling during the preceding calendar year:*

(a) *The name of the private person;*

(b) *The nature of the representation or counseling; and*

(c) *The name of the agency.*

2. The disclosure required pursuant to subsection 1 must be made in writing and timely filed with the Commission on a form prescribed by the Commission. For the purposes of this subsection, the disclosure is timely filed if, on or before the last day for filing, the disclosure is:

(a) Delivered in person to the principal office of the Commission in Carson City.

(b) Mailed to the Commission by first-class mail, or other class of mail that is at least as expeditious, postage prepaid. Filing by mail is complete upon timely depositing the disclosure with the United States Postal Service.

(c) Dispatched to a third-party commercial carrier for delivery to the Commission within 3 calendar days. Filing by third-party commercial carrier is complete upon timely depositing the disclosure with the third-party commercial carrier.

(d) Transmitted to the Commission by facsimile machine or other electronic means authorized by the Commission. Filing by facsimile machine or other electronic means is complete upon receipt of the transmission by the Commission.

3. The Commission shall retain a disclosure filed pursuant to this section for 6 years after the date on which the disclosure was filed.

Sec. 27. The Commission may apply for and accept grants, contributions, services or money for the purposes of carrying out the provisions of this chapter only if the action is approved by a majority vote in an open public meeting of the Commission.

Sec. 28. ~~[NRS 281A.020 is hereby amended to read as follows:~~

~~281A.020 1. It is hereby declared to be the public policy of this State that:~~

~~(a) A public office is a public trust and shall be held for the sole benefit of the people.~~

~~(b) A public officer or employee must commit himself or herself to avoid conflicts between the private interests of the public officer or employee and those of the general public whom the public officer or employee serves.~~

~~2. The Legislature finds and declares that:~~

~~(a) The increasing complexity of state and local government, more and more closely related to private life and enterprise, enlarges the potentiality for conflict of interests.~~

~~(b) To enhance the people's faith in the integrity and impartiality of public officers and employees, adequate guidelines are required to show the appropriate separation between the roles of persons who are both public servants and private citizens.~~

~~(c) In interpreting and applying the provisions of this chapter that are applicable to State Legislators, the Commission must give appropriate weight and proper deference to the public policy of this State under which State Legislators serve as "citizen Legislators" who have other occupations and business interests, who are expected to have particular philosophies and perspectives that are necessarily influenced by the life experiences of the~~

~~Legislator, including, without limitation, professional, family and business experiences, and who are expected to contribute those philosophies and perspectives to the debate over issues with which the Legislature is confronted.~~

~~(d) The provisions of this chapter do not, under any circumstances, allow the Commission to exercise jurisdiction or authority over or inquire into, intrude upon or interfere with the functions of a State Legislator that are protected by legislative privilege and immunity pursuant to the Constitution of the State of Nevada or NRS 41.071.~~

~~3. Any act or conduct by a public officer or employee which does not comport with the public policy declared in this section but which does not violate any other specific provision of this chapter does not constitute a violation of this chapter.~~ (Deleted by amendment.)

Sec. 29. NRS 281A.030 is hereby amended to read as follows:

281A.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 281A.040 to 281A.170, inclusive, *and sections 18 to 24, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 30. NRS 281A.100 is hereby amended to read as follows:

281A.100 "Household" means an association of persons who live in the same home or dwelling, ~~[, sharing its expenses,]~~ ~~[, and who are related by blood, adoption or marriage.]~~

Sec. 31. NRS 281A.125 is hereby amended to read as follows:

281A.125 "Member of a local legislative body" means a member of a board of county commissioners, a governing body of a city or a governing body of any other political subdivision who performs any function that involves introducing, voting upon or otherwise acting upon any matter of a permanent or general character which may reflect public policy. ~~[and which is not typically restricted to identifiable persons or groups.]~~

Sec. 32. NRS 281A.160 is hereby amended to read as follows:

281A.160 1. "Public officer" means a person elected or appointed to a position which:

(a) Is established by the Constitution of the State of Nevada, a statute of this State or a charter or ordinance of any county, city or other political subdivision; and

(b) Involves the exercise of a public power, trust or duty. ~~[As used in this section, "the"]~~

2. For the purposes of subsection 1:

(a) A position is established by the Constitution of the State of Nevada, a statute of this State or a charter or ordinance of any county, city or other political subdivision if the position is established or created directly by the source of authority or if the source of authority authorizes a public body or officer to establish or create the position.

(b) "The exercise of a public power, trust or duty" means:

(1) Actions taken in an official capacity which involve a substantial and material exercise of administrative discretion in the formulation of public policy;

(2) The expenditure of public money; and

(3) The administration of laws and rules of the State or any county, city or other political subdivision.

~~{2-}~~ 3. "Public officer" includes, without limitation, a person appointed, contracted with or otherwise employed, with or without compensation, to perform the duties of a position which is a public office or to serve in such a position on a temporary, interim or acting basis.

4. "Public officer" does not include:

(a) Any justice, judge or other officer of the court system;

(b) Any member of a board, commission or other body whose function is advisory;

(c) Any member of a special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district's money; or

(d) A county health officer appointed pursuant to NRS 439.290.

~~{3-}~~ 5. "Public office" does not include an office held by:

(a) Any justice, judge or other officer of the court system;

(b) Any member of a board, commission or other body whose function is advisory;

(c) Any member of a special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district's money; or

(d) A county health officer appointed pursuant to NRS 439.290.

Sec. 33. NRS 281A.200 is hereby amended to read as follows:

281A.200 1. The Commission on Ethics, consisting of eight members, is hereby created.

2. The Legislative Commission shall appoint to the Commission four residents of the State, at least two of whom ~~{are}~~ *must be* former public officers ~~{-}~~ *or employees*, and at least one of whom must be an attorney licensed to practice law in this State.

3. The Governor shall appoint to the Commission four residents of the State, at least two of whom must be former public officers or ~~{public}~~ employees, and at least one of whom must be an attorney licensed to practice law in this State.

4. Not more than four members of the Commission may be members of the same political party. *The provisions of NRS 281.057 do not apply to this subsection.*

5. Not more than four members of the Commission may be residents of the same county.

~~{5-}~~ 6. None of the members of the Commission may, while the member is serving on the Commission:

(a) Hold another public office;

(b) Be actively involved in the work of any political party or political campaign; or

(c) Communicate directly with a State Legislator or a member of a local legislative body on behalf of someone other than himself or herself or the Commission, for compensation, to influence:

(1) The State Legislator with regard to introducing or voting upon any matter or taking other legislative action; or

(2) The member of the local legislative body with regard to introducing or voting upon any ordinance or resolution, taking other legislative action or voting upon:

(I) The appropriation of public money;

(II) The issuance of a license or permit; or

(III) Any proposed subdivision of land or special exception or variance from zoning regulations.

~~{6-}~~ 7. After the initial terms, the terms of the members are 4 years. Any vacancy in the membership must be filled by the appropriate appointing authority for the unexpired term. Each member may serve no more than two consecutive full terms.

Sec. 34. NRS 281A.240 is hereby amended to read as follows:

281A.240 1. In addition to any other duties imposed upon the Executive Director, the Executive Director shall:

(a) Maintain complete and accurate records of all transactions and proceedings of the Commission.

(b) Receive requests for opinions pursuant to NRS 281A.440.

(c) Gather information and conduct investigations regarding requests for opinions received by the Commission and submit recommendations to the investigatory panel appointed pursuant to NRS 281A.220 regarding whether there is just and sufficient cause to render an opinion in response to a particular request.

(d) Recommend to the Commission any regulations or legislation that the Executive Director considers desirable or necessary to improve the operation of the Commission and maintain high standards of ethical conduct in government.

(e) Upon the request of any public officer or the employer of a public employee, conduct training on the requirements of this chapter, the rules and regulations adopted by the Commission and previous opinions of the Commission. In any such training, the Executive Director shall emphasize that the Executive Director is not a member of the Commission and that only the Commission may issue opinions concerning the application of the statutory ethical standards to any given set of facts and circumstances. The Commission may charge a reasonable fee to cover the costs of training provided by the Executive Director pursuant to this subsection.

(f) Perform such other duties, not inconsistent with law, as may be required by the Commission.

2. The Executive Director shall, within the limits of legislative appropriation, employ such persons as are necessary to carry out any of the Executive Director's duties relating to:

- (a) The administration of the affairs of the Commission; and
- (b) The investigation of matters under the jurisdiction of the Commission.

3. *If the Executive Director is prohibited from acting on a particular matter or is otherwise unable to act on a particular matter, the Chair of the Commission shall designate a qualified person to perform the duties of the Executive Director with regard to that particular matter.*

Sec. 35. NRS 281A.260 is hereby amended to read as follows:

281A.260 1. The Commission Counsel is the legal adviser to the Commission. For each opinion of the Commission, the Commission Counsel shall prepare, at the direction of the Commission, the appropriate findings of fact and conclusions as to relevant standards and the propriety of particular conduct . ~~[within the time set forth in subsection 6 of NRS 281A.440.]~~ The Commission Counsel shall not issue written opinions concerning the applicability of the statutory ethical standards to a given set of facts and circumstances except as directed by the Commission.

2. The Commission may rely upon the legal advice of the Commission Counsel in conducting its daily operations.

3. If the Commission Counsel is prohibited from acting on a particular matter or is otherwise unable to act on a particular matter, the Commission may:

- (a) Request that the Attorney General appoint a deputy to act in the place of the Commission Counsel; or
- (b) Employ outside legal counsel.

Sec. 36. NRS 281A.270 is hereby amended to read as follows:

281A.270 1. Each county whose population is 10,000 or more and each city whose population is 15,000 or more and that is located within such a county shall pay an assessment for the costs incurred by the Commission each biennium in carrying out its functions pursuant to this chapter. The total amount of money to be derived from assessments paid pursuant to this subsection for a biennium must be determined by the Legislature in the legislatively approved budget of the Commission for that biennium. The assessments must be apportioned among each such city and county based on the proportion that the total population of the city or the total population of the unincorporated area of the county bears to the total population of all such cities and the unincorporated areas of all such counties in this State.

2. On or before July 1 of each odd-numbered year, the Executive Director shall, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, determine for the next ensuing biennium the amount of the assessments due for each city and county that is required to pay an assessment pursuant to subsection 1. The assessments must be paid to the Commission in semiannual installments that are due on or before August 1

and February 1 of each year of the biennium. The Executive Director shall send out a billing statement to each such city or county which states the amount of the semiannual installment payment due from the city or county.

3. Any money that the Commission receives pursuant to subsection 2:

(a) Must be deposited in the State Treasury, accounted for separately in the State General Fund and credited to the budget account for the Commission;

(b) May only be used to carry out the provisions of this chapter and only to the extent authorized for expenditure by the Legislature; ~~and~~

(c) Does not revert to the State General Fund at the end of any fiscal year ~~[-]~~; and

(d) Does not revert to a city or county if:

(1) The actual expenditures by the Commission are less than the amount of the assessments approved by the Legislature pursuant to subsection 1 and the city or county has already remitted its semiannual installment to the Commission for the billing period; or

(2) The budget of the Commission is modified after the amount of the assessments has been approved by the Legislature pursuant to subsection 1 and the city or county has already remitted its semiannual installment to the Commission for the billing period.

4. If any installment payment is not paid on or before the date on which it is due, the Executive Director shall make reasonable efforts to collect the delinquent payment. If the Executive Director is not able to collect the arrearage, the Executive Director shall submit a claim for the amount of the unpaid installment payment to the Department of Taxation. If the Department of Taxation receives such a claim, the Department shall deduct the amount of the claim from money that would otherwise be allocated from the Local Government Tax Distribution Account to the city or county that owes the installment payment and shall transfer that amount to the Commission.

5. As used in this section, "population" means the current population estimate for that city or county as determined and published by the Department of Taxation and the demographer employed pursuant to NRS 360.283.

Sec. 37. NRS 281A.290 is hereby amended to read as follows:

281A.290 The Commission shall:

1. Adopt ~~procedural~~ regulations:

(a) To facilitate the receipt of inquiries by the Commission;

(b) For the filing of a request for an opinion with the Commission;

(c) For the withdrawal of a request for an opinion by the person who filed the request; ~~and~~

(d) To facilitate the prompt rendition of opinions by the Commission ~~[-]~~;

(e) Specifying the information sufficient to satisfy the disclosure requirements of subsection 1 of NRS 281A.420; and

(f) Which are proper and necessary to carry out the provisions of this chapter.

2. Define by regulation the term "gift" for the purposes of this chapter.

3. Prescribe, by regulation, forms and procedures for the submission of statements of acknowledgment filed by public officers pursuant to NRS 281A.500, maintain files of such statements and make the statements available for public inspection.

~~{3.}~~ 4. Cause the making of such investigations as are reasonable and necessary for the rendition of its opinions pursuant to this chapter.

~~{4.}~~ 5. Inform the Attorney General or district attorney of all cases of noncompliance with the requirements of this chapter.

~~{5.}~~ 6. Recommend to the Legislature such further legislation as the Commission considers desirable or necessary to promote and maintain high standards of ethical conduct in government.

~~{6.}~~ 7. Publish a manual for the use of public officers and employees that ~~contains:~~

~~(a) Hypothetical opinions which are abstracted from opinions rendered pursuant to subsection 1 of NRS 281A.440, for the future guidance of all persons concerned with ethical standards in government;~~

~~(b) Abstracts of selected opinions rendered pursuant to subsection 2 of NRS 281A.440; and~~

~~(c) An abstract of~~ *explains* the requirements of this chapter.

↪ The Legislative Counsel shall prepare annotations to this chapter for inclusion in the Nevada Revised Statutes based on the ~~abstracts and~~ published opinions of the Commission.

Sec. 38. NRS 281A.300 is hereby amended to read as follows:

281A.300 1. The Chair and Vice Chair of the Commission may administer oaths.

2. The Commission, upon majority vote, may issue a subpoena to compel the attendance of a witness and the production of books and papers. Upon the request of the Executive Director or the public officer or ~~public~~ employee who is the subject of a request for an opinion, the Chair or, in the Chair's absence, the Vice Chair, may issue a subpoena to compel the attendance of a witness and the production of books and papers. *A public officer or employee who requests the issuance of a subpoena pursuant to this subsection must serve the subpoena in the manner provided in the Nevada Rules of Civil Procedure for service of subpoenas in a civil action and must pay the costs of such service.*

3. Before issuing a subpoena to a public officer or ~~public~~ employee who is the subject of a request for an opinion ~~{.}~~ *to compel his or her attendance as a witness or his or her production of books or papers*, the Executive Director shall submit a written request to the public officer or ~~public~~ employee requesting:

(a) The appearance of the public officer or ~~public~~ employee as a witness; or

(b) The production by the public officer or ~~public~~ employee of any books and papers relating to the request for an opinion.

4. Each written request submitted by the Executive Director pursuant to subsection 3 must specify the time and place for the attendance of the public officer or ~~public~~ employee or the production of any books and papers, and designate with certainty the books and papers requested, if any. If the public officer or ~~public~~ employee fails or refuses to attend at the time and place specified or produce the books and papers requested by the Executive Director within 5 business days after receipt of the request, the Chair may issue the subpoena. Failure of the public officer or ~~public~~ employee to comply with the written request of the Executive Director shall be deemed a waiver by the public officer or ~~public~~ employee of the time set forth in subsections 4, 5 and 6 of NRS 281A.440.

5. If any witness refuses to attend, testify or produce any books and papers as required by the subpoena, the Chair of the Commission may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the Commission pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Commission, or has refused to answer questions propounded to the witness, and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Commission.

6. Upon such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why the witness has not attended, testified or produced the books or papers before the Commission. A certified copy of the order must be served upon the witness.

7. If it appears to the court that the subpoena was regularly issued by the Commission, the court shall enter an order that the witness appear before the Commission, at the time and place fixed in the order, and testify or produce the required books and papers. Upon failure to obey the order, the witness must be dealt with as for contempt of court.

Sec. 39. NRS 281A.400 is hereby amended to read as follows:

281A.400 A code of ethical standards is hereby established to govern the conduct of public officers and employees:

1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend ~~improperly~~ to influence a reasonable person in the public officer's or employee's position to depart from the faithful and impartial discharge of the public officer's or employee's public duties.

2. A public officer or employee shall not use the public officer's or employee's position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for ~~the~~ :

(a) *The public officer or employee* ~~[-any]~~ ;

(b) *Any business entity in which the public officer or employee has a significant pecuniary interest* ~~[-or any]~~ ; or

(c) *Any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person.* ~~[As used in this subsection:~~

(a) ~~"Commitment in a private capacity to the interests of that person" has the meaning ascribed to "commitment in a private capacity to the interests of others" in subsection 8 of NRS 281A.420.~~

(b) ~~"Unwarranted" means without justification or adequate reason.]~~

3. A public officer or employee shall not participate as an agent of government in the negotiation , ~~[or]~~ *execution or approval* of a contract between the government and ~~{any}~~ :

(a) *The public officer or employee;*

(b) *Any business entity in which the public officer or employee has a significant pecuniary interest* ~~[-]~~ ; or

(c) *Any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person.*

4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of the public officer's or employee's *public duties* . ~~[as a public officer or employee.]~~

5. ~~[A public officer or employee shall not concurrently serve as a public officer or employee and hold a public office by virtue of which the public officer or employee may exercise control over his or her employer or supervisor.]~~

~~6.]~~ If a public officer or employee acquires, through the public officer's or employee's public duties or relationships, any information which by law or practice is not at the time available to people generally, the public officer or employee shall not use the information to further ~~[the]~~ *a significant pecuniary* ~~[interests of the]~~ *interest of:*

(a) *The public officer or employee ; or* ~~{any}~~

(b) *Any other person or business entity.*

6. ~~[7.]~~ A public officer or employee shall not suppress any governmental report or other *official* document because it might tend to affect unfavorably ~~[the public officer's or employee's]~~ *a significant pecuniary* ~~[interests.]~~ *interest of:*

(a) *The public officer or employee;*

(b) *Any business entity in which the public officer or employee has a significant pecuniary interest;* or

(c) *Any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person.*

7. ~~[8.]~~ Except for State Legislators who are subject to the restrictions set forth in subsection 8. ~~[9.]~~ a public officer or employee shall not use governmental time, property, equipment or other facility to benefit ~~[the~~

~~public officer's or employee's~~] a significant personal or ~~[financial]~~ pecuniary interest ~~[]~~ of the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest, or any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person. This subsection does not prohibit:

(a) A limited use of governmental property, equipment or other facility for personal purposes if:

(1) The public officer *or employee* who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances;

(2) The use does not interfere with the performance of the public officer's or employee's public duties;

(3) The cost or value related to the use is nominal; and

(4) The use does not create the appearance of impropriety;

(b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(c) The use of telephones or other means of communication if there is not a special charge for that use.

➡ If a governmental agency incurs a cost as a result of a use that is authorized pursuant to this subsection or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.

8. ~~10.7~~ A State Legislator shall not:

(a) Use governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of the State Legislator or any other person. This paragraph does not prohibit:

(1) A limited use of state property and resources for personal purposes if:

(I) The use does not interfere with the performance of the State Legislator's public duties;

(II) The cost or value related to the use is nominal; and

(III) The use does not create the appearance of impropriety;

(2) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(3) The use of telephones or other means of communication if there is not a special charge for that use.

(b) Require or authorize a legislative employee, while on duty, to perform personal services or assist in a private activity, except:

(1) In unusual and infrequent situations where the employee's service is reasonably necessary to permit the State Legislator or legislative employee to perform that person's official duties; or

(2) Where such service has otherwise been established as legislative policy.

~~9. ~~10.~~~~ A public officer or employee shall not, *through the influence of a subordinate*, attempt to benefit ~~[the public officer's or employee's]~~ a significant personal or ~~[financial]~~ pecuniary interest ~~[through the influence]~~ of ~~[a subordinate]~~.

~~10.—A.~~ :

(a) *The public officer or employee;*

(b) *Any business entity in which the public officer or employee has a significant pecuniary interest; or*

(c) *Any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person.*

~~11.~~ 10. Except as otherwise provided in this subsection, a public officer or employee shall not use the public officer's or employee's position in government to seek other employment or contracts ~~[through the use of the public officer's or employee's official position.]~~ for:

(a) *The public officer or employee;*

(b) *Any business entity in which the public officer or employee has a significant pecuniary interest; or*

(c) *Any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person.*

↪ A public officer or employee may state or affirm that he or she holds a position as a public officer or employee and may describe or discuss his or her functions, duties and experiences as a public officer or employee, including, without limitation, providing such information on a resume or other application for future employment or appointment or election to a public office.

11. A public officer or employee shall not concurrently serve as a public officer or employee and hold a separate public office in which he or she exercises controlling influence over his or her employer or supervisor or the operation and activities of the agency by which he or she is employed.

Sec. 40. NRS 281A.410 is hereby amended to read as follows:

281A.410 ~~[In addition to the requirements of the code of ethical standards:]~~

1. ~~[If]~~ Except as otherwise provided in this section, a public officer or employee ~~[serves in a state agency of the Executive Department or an agency of any county, city or other political subdivision, the public officer or employee:]~~

~~(a) Shall]~~ shall not ~~[accept]~~ :

(a) Accept additional compensation ~~[from any private person]~~ to represent or counsel ~~[the]~~ a private person on any issue pending before the Legislature or any agency, including the agency in which that public officer or employee serves ; ~~[, if the agency makes decisions,]~~ and

(b) If the public officer or employee leaves the service of ~~[the]~~ an agency, ~~[shall not,]~~ for 1 year after ~~[leaving the service of the agency, represent or]~~

~~counsel for~~ the termination of his or her service, accept compensation to represent or counsel a private person ~~upon~~ on any issue which was under consideration by the agency during the public officer's or employee's service. As used in this paragraph, "issue" includes a case, proceeding, application, contract or determination, but does not include the proposal or consideration of legislative measures or administrative regulations.

2. A State Legislator or a member of a local legislative body, or a public officer or employee whose public service requires less than half of his or her time, may represent or counsel a private person before an agency in which he or she does not serve ~~[. Any other]~~, except that a member of a local legislative body ~~for a public officer or employee of a local agency]~~ shall not represent or counsel a private person for compensation before any ~~state agency of the Executive or Legislative Department.~~

~~3. Not later than January 15 of each year, any State Legislator or other public officer who has, within the preceding year, represented or counseled a private person for compensation before a state agency of the Executive Department shall disclose for each such representation or counseling during the previous calendar year:~~

- ~~(a) The name of the client;~~
- ~~(b) The nature of the representation; and~~
- ~~(c) The name of the state agency.~~

~~4. The disclosure required by subsection 3 must be made in writing and filed with the Commission on a form prescribed by the Commission. For the purposes of this subsection, the disclosure is timely filed if, on or before the last day for filing, the disclosure is filed in one of the following ways:~~

- ~~(a) Delivered in person to the principal office of the Commission in Carson City.~~
- ~~(b) Mailed to the Commission by first class mail, or other class of mail that is at least as expeditious, postage prepaid. Filing by mail is complete upon timely depositing the disclosure with the United States Postal Service.~~
- ~~(c) Dispatched to a third party commercial carrier for delivery to the Commission within 3 calendar days. Filing by third party commercial carrier is complete upon timely depositing the disclosure with the third party commercial carrier.~~

~~5. The Commission shall retain a disclosure filed pursuant to subsections 3 and 4 for 6 years after the date on which the disclosure was filed.] local agency in the county in which he or she serves.~~

3. A former member of the Public Utilities Commission of Nevada shall not:

- (a) Accept any compensation from a public utility or parent organization or subsidiary of a public utility; or
- (b) Appear before the Public Utilities Commission of Nevada to testify on behalf of a public utility or parent organization or subsidiary of a public utility,

➤ for 1 year after the termination of the member's service on the Public Utilities Commission of Nevada.

4. A former member of the State Gaming Control Board or the Nevada Gaming Commission shall not:

(a) Accept any compensation from a person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the Nevada Gaming Commission pursuant to chapter 463 of NRS; or

(b) Appear before the State Gaming Control Board or the Nevada Gaming Commission on behalf of a person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the Nevada Gaming Commission pursuant to chapter 463 of NRS,

➤ for 1 year after the termination of the member's service on the State Gaming Control Board or the Nevada Gaming Commission.

5. In addition to the other prohibitions set forth in this section, and except as otherwise provided in subsection 6, a former public officer or employee of an agency, except a clerical employee, shall not solicit or accept compensation from a person or entity whose activities are governed by, or which is a part of a business or industry whose activities are governed by, regulations or local ordinances adopted by the agency for 1 year after the termination of the former public officer's or employee's service or period of employment if:

(a) ~~The~~ During the immediately preceding year, the former public officer's or employee's principal duties included the formulation of policy contained in the regulations or local ordinances governing that business or industry;

(b) During the immediately preceding year, the former public officer or employee directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the person or entity which is a part of that business or industry; or

(c) As a result of the former public officer's or employee's governmental service or employment, the former public officer or employee possesses knowledge of the trade secrets of a direct competitor in that business or industry.

6. The provisions of subsection 5 do not apply to a former public officer who was a member of ~~the~~ :

(a) The governing body of a state agency or an advisory body thereto if:

~~the~~ (1) The governing body or the advisory body thereto performs any function that involves introducing, voting upon or otherwise acting upon any matter of a permanent or general character which may reflect public policy;
or

(2) The former public officer ~~is~~ :

(I) Is engaged in the profession, occupation or business regulated by the state agency;

~~f (b) The former public officer holds~~

(II) Holds a license issued by the state agency; and

~~f (e) Holding~~

(III) Is required to hold a license issued by the state agency ~~for~~ as a requirement for membership on the governing body of the state agency.

(b) A local legislative body or an advisory body thereto.

7. In addition to the other prohibitions set forth in this section, a former public officer or employee of an agency, except a clerical employee, shall not solicit or accept compensation from a person to whom a contract for supplies, materials, equipment or services was awarded by the agency for 1 year after the termination of the public officer's or employee's service or period of employment, if:

(a) The amount of the contract exceeded \$25,000;

(b) The contract was awarded within the 12-month period immediately preceding the termination of the public officer's or employee's service or period of employment; and

(c) The position held by the former public officer or employee at the time the contract was awarded allowed for the former public officer or employee to affect or influence the awarding of the contract.

8. The Commission may relieve a current or former public officer or employee from the strict application of the provisions of this section if:

(a) The current or former public officer or employee requests an opinion from the Commission pursuant to subsection 1 of NRS 281A.440; and

(b) The Commission determines that such relief is not contrary to:

(1) The best interests of the public;

(2) The continued ethical integrity of the agency; and

(3) The provisions of this chapter.

9. As used in this section ~~f, "regulation"~~ :

(a) "Local ordinance" means any ordinance, code or other governing law adopted by a local agency.

(b) "Regulation" has the meaning ascribed to it in NRS 233B.038 and also includes regulations adopted by an agency that is not subject to the requirements of chapter 233B of NRS.

Sec. 41. NRS 281A.420 is hereby amended to read as follows:

281A.420 1. Except as otherwise provided in this section, a public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon a matter:

(a) Regarding which the public officer or employee has accepted a gift or loan;

(b) In which the public officer or employee has a *significant* pecuniary interest; or

(c) Which would reasonably be affected by the public officer's or employee's commitment in a private capacity to the ~~interest of others,~~ *interests of another person,*

➔ without disclosing ~~sufficient~~ information concerning the gift ~~or~~ loan, *significant pecuniary interest or commitment in a private capacity to the interests of the person that is sufficient* to inform the public of the potential

effect of the action or abstention upon the person who provided the gift or loan, upon the public officer's or employee's *significant* pecuniary interest, or upon the ~~{persons}~~ *person* to whom the public officer or employee has a commitment in a private capacity. Such a disclosure must be made at the time the matter is considered. If the public officer or employee is a member of a body which makes decisions, the public officer or employee shall make the disclosure in public to the chair and other members of the body. If the public officer or employee is not a member of such a body and holds an appointive office, the public officer or employee shall make the disclosure to the supervisory head of the public officer's or employee's organization or, if the public officer holds an elective office, to the general public in the area from which the public officer is elected.

2. The provisions of subsection 1 do not require a public officer to disclose:

(a) Any campaign contributions that the public officer reported in a timely manner pursuant to NRS 294A.120 or 294A.125; or

(b) Any contributions to a legal defense fund that the public officer reported in a timely manner pursuant to NRS 294A.286.

3. Except as otherwise provided in this section, in addition to the requirements of subsection 1, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in the public officer's situation would be materially affected by:

(a) The public officer's acceptance of a gift or loan;

(b) The public officer's *significant* pecuniary interest; or

(c) The public officer's commitment in a private capacity to the interests of ~~{others}~~ *another person*.

4. In interpreting and applying the provisions of subsection 3:

(a) It must be presumed that the independence of judgment of a reasonable person in the public officer's situation would not be materially affected by the public officer's *acceptance of a gift or loan*, *significant* pecuniary interest or ~~{the public officer's}~~ commitment in a private capacity to the interests of ~~{others}~~ *another person* where the resulting benefit or detriment accruing to the public officer, or if the public officer has a commitment in a private capacity to the interests of ~~{others}~~ *another person*, accruing to the other ~~{persons}~~ *person*, is not greater than that accruing to any other member of ~~{the}~~ *any* general business, profession, occupation or group that is affected by the matter. The presumption set forth in this paragraph does not affect the applicability of the requirements set forth in subsection 1 relating to the disclosure of the pecuniary interest or commitment in a private capacity to the interests of {others} ~~*exempts a public officer from the requirements set forth in subsection 1 when the benefit or detriment accruing to the public officer is not greater than that accruing to any other member of any general*~~

~~business, profession, occupation or group which is affected by the matter.] another person.~~

(b) The Commission must give appropriate weight and proper deference to the public policy of this State which ~~[favors]~~ :

(1) *Favors* the right of a public officer to perform the duties for which the public officer was elected or appointed and to vote or otherwise act upon a matter, provided the public officer has properly disclosed the public officer's acceptance of a gift or loan, ~~[the public officer's]~~ *significant* pecuniary interest or ~~[the public officer's]~~ commitment in a private capacity to the interests of ~~[others]~~ *another person* in the manner required by subsection 1 ~~[-Because]~~ ; and

(2) *Acknowledges that* abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs . ~~[-the provisions of this section are intended to require abstention only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the public officer's acceptance of a gift or loan, the public officer's pecuniary interest or the public officer's commitment in a private capacity to the interests of others.]~~

5. Except as otherwise provided in NRS 241.0355, if a public officer declares to the body or committee in which the vote is to be taken that the public officer will abstain from voting because of the requirements of this section, the necessary quorum to act upon and the number of votes necessary to act upon the matter, as fixed by any statute, ordinance or rule, is reduced as though the member abstaining were not a member of the body or committee.

6. The provisions of this section do not, under any circumstances:

(a) Prohibit a member of a local legislative body from requesting or introducing a legislative measure; or

(b) Require a member of a local legislative body to take any particular action before or while requesting or introducing a legislative measure.

7. The provisions of this section do not, under any circumstances, apply to State Legislators or allow the Commission to exercise jurisdiction or authority over State Legislators. The responsibility of a State Legislator to make disclosures concerning gifts, loans, interests or commitments and the responsibility of a State Legislator to abstain from voting upon or advocating the passage or failure of a matter are governed by the Standing Rules of the Legislative Department of State Government which are adopted, administered and enforced exclusively by the appropriate bodies of the Legislative Department of State Government pursuant to Section 6 of Article 4 of the Nevada Constitution.

8. As used in this section ~~[-~~

(a) ~~"Commitment in a private capacity to the interests of others" means a commitment to a person:~~

(1) ~~Who is a member of the public officer's or employee's household;~~

~~(2) Who is related to the public officer or employee by blood, adoption or marriage within the third degree of consanguinity or affinity;~~

~~(3) Who employs the public officer or employee or a member of the public officer's or employee's household;~~

~~(4) With whom the public officer or employee has a substantial and continuing business relationship; or~~

~~(5) Any other commitment or relationship that is substantially similar to a commitment or relationship described in subparagraphs (1) to (4), inclusive, of this paragraph.~~

(b) "Public" , "public officer" and "public employee" do not include a State Legislator.

Sec. 42. NRS 281A.430 is hereby amended to read as follows:

281A.430 1. ~~[Except]~~ *Notwithstanding the provisions of NRS 281.221 and 281.230, and except as otherwise provided in this section and NRS ~~[281A.530]~~ 218A.970 and 332.800, a public officer or employee shall not , directly or through a third party, perform any contract, bid on or enter into ~~[a]~~ any contract or modify or renew any contract if:*

(a) The contract is between ~~[a governmental]~~ the agency in which the public officer or employee serves and ~~[any]~~ :

(1) The public officer or employee; or

(2) Any business entity in which the public officer or employee has a significant pecuniary interest ~~[.]~~ ; or

(b) The contract is between an agency that has any connection, relation or affiliation with the agency in which the public officer or employee serves and:

(1) The public officer or employee; or

(2) Any business entity in which the public officer or employee has a significant pecuniary interest,

➡ if the duties or services to be performed or provided for the agency pursuant to the contract are the same or similar duties performed by the public officer or employee for the agency in which he or she serves.

2. A ~~[member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by such board, commission or body may, in the ordinary course of his or her business, bid on or enter into a contract with any governmental agency, except the board, commission or body on which he or she is a member, if the member has not taken part in developing the contract plans or specifications and the member will not be personally involved in opening, considering or accepting offers.]~~ public officer or employee may perform a contract, bid on or enter into a contract or modify or renew a contract with an agency in which the public officer or employee serves, or a related agency as described in paragraph (b) of subsection 1, if:

(a) The contract is subject to competitive selection and, at the time the contract is bid on, entered into, modified or renewed:

(1) *The contracting process is controlled by the rules of open competitive bidding or the rules of open competitive bidding are not used as a result of the applicability of NRS 332.112 or 332.148;*

(2) *The sources of supply are limited and no other person expresses an interest in the contract;*

(3) *The public officer or employee has not taken part in developing the contract plans or specifications; and*

(4) *The public officer or employee is not personally involved in opening, considering or accepting offers.*

(b) *The contract, by its nature, is not adapted to be awarded by competitive selection and, at the time the contract is bid on, entered into, modified or renewed:*

(1) *The public officer or employee has not taken part in developing the contract plans or specifications and is not personally involved in opening, considering, or accepting offers; and*

(2) *The contract:*

(I) *Has been approved by the agency through the application of internal procedures in which a public officer or employee may obtain approval to engage in such contracts; or*

(II) *Is not exclusive to the public officer or employee and is the type of contract that is available to all persons with the requisite qualifications.*

3. A full- or part-time faculty member or employee of the Nevada System of Higher Education may *perform a contract*, bid on or enter into a contract or *modify or renew a contract* with ~~a governmental~~ an agency, or may benefit financially or otherwise from a contract between ~~a governmental~~ an agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to NRS 396.255.

4. ~~A public officer or employee, other than a public officer or employee described in subsection 2 or 3, may bid on or enter into a contract with a governmental agency if:~~

~~(a) The contracting process is controlled by the rules of open competitive bidding or the rules of open competitive bidding are not employed as a result of the applicability of NRS 332.112 or 332.148;~~

~~(b) The sources of supply are limited;~~

~~(c) The public officer or employee has not taken part in developing the contract plans or specifications; and~~

~~(d) The public officer or employee will not be personally involved in opening, considering or accepting offers.~~

→ If a public officer who is authorized to *perform a contract*, bid on or enter into a contract or *modify or renew a contract* with ~~a governmental~~ an agency pursuant to this ~~subsection~~ section is a member of the governing body of the agency, the public officer, pursuant to the requirements of NRS 281A.420, shall disclose the public officer's interest in the contract and shall not vote on or advocate the approval of the contract.

5. ~~5. The purchase of~~ A public officer who is a member of the governing body of any county, city or other political subdivision shall not sell goods or services ~~by any~~ to the county, city or other political subdivision ~~upon a two thirds vote of its governing body from a member of the governing body who is~~ unless:

(a) The public officer, or an entity in which the public officer has a significant pecuniary interest, offers the sole source of supply of the goods or services within the area served by the governing body ~~is not unlawful or unethical if the~~; and

(b) The governing body:

(1) Issues a public notice of the meeting which specifically mentions that such a purchase of goods or services will be ~~discussed~~ considered; and

(2) Approves the purchase in accordance with the applicable provisions of law.

6. The Commission may relieve a public officer or employee from the strict application of the provisions of this section if:

(a) The public officer or employee requests an opinion from the Commission pursuant to subsection 1 of NRS 281A.440; and

(b) The Commission determines that such relief is not contrary to:

(1) The best interests of the public;

(2) The continued ethical integrity of the agency; and

(3) The provisions of this chapter.

7. As used in this section, "contract, by its nature, is not adapted to be awarded by competitive selection" includes, without limitation:

(a) A contract for services which may only be contracted from a sole or limited source;

(b) A contract for professional services, including, without limitation, a contract for the services of:

(1) An expert witness;

(2) A professional engineer;

(3) A registered architect;

(4) An attorney;

(5) An accountant; or

(6) Any other professional, if the services of that professional are not adapted to competitive selection;

(c) A contract for services necessitated by an emergency affecting the national, state or local defense or an emergency caused by a natural or human-caused disaster or any other unforeseeable circumstances; or

(d) Any other contract which is open or available to the public at large.

Sec. 43. NRS 281A.440 is hereby amended to read as follows:

281A.440 1. The Commission shall render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances within 45 days after receiving a request, on a form prescribed by the Commission, from a public officer or employee who is seeking

guidance on questions which directly relate to the propriety of the requester's own past, present or future conduct as ~~an~~ *a public* officer or employee, unless the public officer or employee waives the time limit. ~~[The public officer or employee may also request the Commission to hold a public hearing regarding the requested opinion.]~~ If a requested opinion relates to the propriety of the requester's own present or future conduct, the opinion of the Commission is:

- (a) Binding upon the requester as to the requester's future conduct; and
- (b) Final and subject to judicial review pursuant to NRS 233B.130, except that a proceeding regarding this review must be held in closed court without admittance of persons other than those necessary to the proceeding, unless this right to confidential proceedings is waived by the requester.

2. The Commission may render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances:

- (a) Upon request from a specialized or local ethics committee.
- (b) Except as otherwise provided in this subsection, upon request from a person, if the requester submits:
 - (1) The request on a form prescribed by the Commission; and
 - (2) All related evidence deemed necessary by the Executive Director and the investigatory panel to make a determination of whether there is just and sufficient cause to render an opinion in the matter.
- (c) Upon the Commission's own motion regarding the propriety of conduct by a public officer or employee. The Commission shall not initiate proceedings pursuant to this paragraph based solely upon an anonymous complaint.

↪ The Commission shall not render an opinion interpreting the statutory ethical standards or apply those standards to a given set of facts and circumstances if the request is submitted by a person who is incarcerated in a correctional facility in this State.

3. Upon receipt of a request for an opinion by the Commission or upon the motion of the Commission pursuant to subsection 2, the Executive Director shall investigate the facts and circumstances relating to the request to determine whether there is just and sufficient cause for the Commission to render an opinion in the matter. The Executive Director shall notify the public officer or employee who is the subject of the request and provide the public officer or employee an opportunity to submit to the Executive Director a response to the allegations against the public officer or employee within 30 days after the date on which the public officer or employee received the notice of the request. The purpose of the response is to provide the Executive Director with any information relevant to the request which the public officer or employee believes may assist the Executive Director and the investigatory panel in conducting the investigation. The public officer or employee is not required in the response or in any proceeding before the investigatory panel to assert, claim or raise any objection or defense, in law or fact, to the

allegations against the public officer or employee and no objection or defense, in law or fact, is waived, abandoned or barred by the failure to assert, claim or raise it in the response or in any proceeding before the investigatory panel.

4. The Executive Director shall complete the investigation and present a *written* recommendation relating to just and sufficient cause , *including, without limitation, the specific evidence or reasons that support the recommendation*, to the investigatory panel within 70 days after the receipt of or the motion of the Commission for the request, unless the public officer or employee waives this time limit. ~~{If, after the investigation, the Executive Director determines that there is just and sufficient cause for the Commission to render an opinion in the matter, the Executive Director shall state such a recommendation in writing, including, without limitation, the specific evidence that supports the Executive Director's recommendation. If, after the investigation, the Executive Director determines that there is not just and sufficient cause for the Commission to render an opinion in the matter, the Executive Director shall state such a recommendation in writing, including, without limitation, the specific reasons for the Executive Director's recommendation.}~~

5. Within 15 days after the Executive Director has provided the ~~{Executive Director's}~~ *written* recommendation in the matter to the investigatory panel ~~{,}~~ *pursuant to subsection 4*, the investigatory panel shall *conclude the investigation and* make a final determination regarding whether there is just and sufficient cause for the Commission to render an opinion in the matter, unless the public officer or employee waives this time limit. The investigatory panel shall not determine that there is just and sufficient cause for the Commission to render an opinion in the matter unless the Executive Director has provided the public officer or employee an opportunity to respond to the allegations against the public officer or employee as required by subsection 3. The investigatory panel shall cause a record of its proceedings ~~{to be made}~~ in each matter ~~{,}~~ *to be kept* . ~~{, and such a}~~ ~~{The record of the investigatory panel must}~~ ~~{remain}~~ ~~{be kept confidential}~~ ~~{until the investigatory panel determines whether there is just and sufficient cause for}~~ ~~{by the Commission}~~ ~~{to render an opinion}~~ ~~{in the}~~ ~~{matter.}~~ ~~{manner and for the period prescribed by subsection 8.}~~

6. If the investigatory panel determines that there is just and sufficient cause for the Commission to render an opinion in the matter, the Commission shall hold a hearing and render an opinion in the matter within 60 days after the determination of just and sufficient cause by the investigatory panel, unless the public officer or employee waives this time limit.

7. Each request for an opinion that a public officer or employee submits to the Commission pursuant to subsection 1, each opinion rendered by the Commission in response to such a request and any motion, determination, evidence or record of a hearing relating to such a request are confidential unless the public officer or employee who requested the opinion:

(a) Acts in contravention of the opinion, in which case the Commission may disclose the request for the opinion, the contents of the opinion and any motion, evidence or record of a hearing related thereto;

(b) Discloses the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto; or

(c) Requests the Commission to disclose the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto.

8. Except as otherwise provided in ~~this~~ subsection ~~1~~, ~~each document~~ 9, all files, material and information, communications, records, documents or other material in the possession of the Commission or its staff that is related to a request for an opinion regarding a public officer or employee submitted to or initiated by the Commission pursuant to subsection 2, including, without limitation, ~~the Commission's copy of the request, the record of the proceedings of the investigatory panel and all files, materials and information gathered or created in~~ an investigation of the request, is ~~are~~ made pursuant to subsection 5, are confidential and not public records pursuant to chapter 239 of NRS until ~~and are not discoverable except to the extent that the~~ :

(a) The investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter. The and serves written notice of such a determination on the public officer or employee who is the subject of the request for an opinion submitted or initiated pursuant to subsection 2; or

(b) The public officer or employee who is the subject of a request for an opinion submitted or initiated pursuant to subsection 2 may in writing authorize the Commission in writing to make its files, material and information, communications, records, documents or other material which are related to the request publicly available. and relies on the files, materials and information in support of the determination. whichever occurs first.

9. Except as otherwise provided in ~~paragraphs (a) and (b), the proceedings of the investigatory panel are~~ this section, the investigative file of the Commission is confidential. until At any time after being served with written notice of the determination of the investigatory panel determines whether there is regarding the existence of just and sufficient cause for the Commission to render an opinion in the matter. ~~A person who:~~

(a) Requests an opinion from the Commission pursuant to paragraph (b) of subsection 2 may:

(1) At any time, reveal to a third party the alleged conduct of a public officer or employee underlying the request that the person filed with the Commission or the substance of testimony, if any, that the person gave before the Commission.

(2) After the investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter, reveal to a third party the fact that the person requested an opinion from the Commission.

(b) ~~Gives testimony before the Commission may:~~

(1) ~~At any time, reveal to a third party the substance of testimony that the person gave before the Commission.~~

(2) ~~After the investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter, reveal to a third party the fact that the person gave testimony before the Commission.] .~~ *the public officer or employee who is the subject of the request for an opinion may submit a written discovery request to the Commission for a copy of any portion of the investigative file that the Commission intends to present for consideration as evidence in rendering an opinion in the matter and a list of proposed witnesses. Any portion of the investigative file which the Commission presents as evidence in rendering an opinion in the matter becomes a public record as provided in chapter 239 of NRS.*

10. Whenever the Commission holds a hearing pursuant to this section, the Commission shall:

(a) Notify the person about whom the opinion was requested of the place and time of the Commission's hearing on the matter;

(b) Allow the person to be represented by counsel; and

(c) Allow the person to hear the evidence presented to the Commission and to respond and present evidence on the person's own behalf.

➔ The Commission's hearing may be held no sooner than 10 days after the notice is given unless the person agrees to a shorter time.

11. ~~#10.~~ If a person who is not a party to a hearing before the Commission, including, without limitation, a person who has requested an opinion pursuant to paragraph (a) or (b) of subsection 2, wishes to ask a question of a witness at the hearing, the person must submit the question to the Executive Director in writing. The Executive Director may submit the question to the Commission if the Executive Director deems the question relevant and appropriate. This subsection does not require the Commission to ask any question submitted by a person who is not a party to the proceeding.

12. ~~#11.~~ If a person who requests an opinion pursuant to subsection 1 or 2 does not:

(a) Submit all necessary information to the Commission; and

(b) Declare by oath or affirmation that the person will testify truthfully,

➔ the Commission may decline to render an opinion.

13. ~~#12.~~ For good cause shown, the Commission may take testimony from a person by telephone or video conference.

14. ~~#13.~~ For the purposes of NRS 41.032, the members of the Commission and its employees shall be deemed to be exercising or performing a discretionary function or duty when taking an action related to the rendering of an opinion pursuant to this section.

15. ~~#14.~~ A meeting or hearing that the Commission or the investigatory panel holds to receive information or evidence concerning the propriety of the conduct of a public officer or employee pursuant to this section and the deliberations of the Commission and the investigatory panel on such

information or evidence are not subject to the provisions of chapter 241 of NRS.

16. For the purposes of this section, the investigative file of the Commission which relates to a request for an opinion regarding a public officer or employee includes, without limitation, any information obtained by the Commission through any form of communication during the course of an investigation and any records, documents or other material created or maintained during the course of an investigation which relate to the public officer or employee who is the subject of the request for an opinion, regardless of whether such information, records, documents or other material are obtained by a subpoena.

Sec. 44. NRS 281A.470 is hereby amended to read as follows:

281A.470 1. Any ~~{department, board, commission or other}~~ state agency ~~{of the State}~~ or the governing body of a county or an incorporated city may establish a specialized or local ethics committee to complement the functions of the Commission. A specialized or local ethics committee may:

(a) Establish a code of ethical standards suitable for the particular ethical problems encountered in its sphere of activity. The standards may not be less restrictive than the statutory ethical standards.

(b) Render an opinion upon the request of any public officer or employee of its own organization or level seeking an interpretation of its ethical standards on questions directly related to the propriety of the public officer's or employee's own future official conduct or refer the request to the Commission. Any public officer or employee subject to the jurisdiction of the committee shall direct the public officer's or employee's inquiry to that committee instead of the Commission.

(c) Require the filing of statements of financial disclosure by public officers on forms prescribed by the committee or the city clerk if the form has been:

(1) Submitted, at least 60 days before its anticipated distribution, to the Secretary of State for review; and

(2) Upon review, approved by the Secretary of State. *The Secretary of State shall not approve the form unless the form contains all the information required to be included in a statement of financial disclosure pursuant to NRS 281.571.*

2. *The Secretary of State is not responsible for the costs of producing or distributing a form for filing a statement of financial disclosure pursuant to the provisions of subsection 1.*

3. A specialized or local ethics committee shall not attempt to interpret or render an opinion regarding the statutory ethical standards.

~~{3.}~~ 4. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:

(a) The public officer or employee acts in contravention of the opinion; or

(b) The requester discloses the content of the opinion.

Sec. 45. NRS 281A.480 is hereby amended to read as follows:

281A.480 1. In addition to any other penalties provided by law, the Commission may impose on a public officer or employee or former public officer or employee civil penalties:

(a) Not to exceed \$5,000 for a first willful violation of this chapter;

(b) Not to exceed \$10,000 for a separate act or event that constitutes a second willful violation of this chapter; and

(c) Not to exceed \$25,000 for a separate act or event that constitutes a third willful violation of this chapter.

2. In addition to any other penalties provided by law, the Commission may impose a civil penalty not to exceed \$5,000 and assess an amount equal to the amount of attorney's fees and costs actually and reasonably incurred by the person about whom an opinion was requested pursuant to NRS 281A.440 against a person who prevents, interferes with or attempts to prevent or interfere with the discovery or investigation of a violation of this chapter.

3. If the Commission finds that a violation of a provision of this chapter by a public officer or employee or former public officer or employee has resulted in the realization of a financial benefit by the current or former public officer or employee or another person, the Commission may, in addition to any other penalties provided by law, require the current or former public officer or employee to pay a civil penalty of not more than twice the amount so realized.

4. In addition to any other penalties provided by law, if a proceeding results in an opinion that:

(a) One or more willful violations of this chapter have been committed by a State Legislator removable from office only through expulsion by the State Legislator's own House pursuant to Section 6 of Article 4 of the Nevada Constitution, the Commission shall:

(1) If the State Legislator is a member of the Senate, submit the opinion to the Majority Leader of the Senate or, if the Majority Leader of the Senate is the subject of the opinion or the person who requested the opinion, to the President pro Tempore of the Senate; or

(2) If the State Legislator is a member of the Assembly, submit the opinion to the Speaker of the Assembly or, if the Speaker of the Assembly is the subject of the opinion or the person who requested the opinion, to the Speaker pro Tempore of the Assembly.

(b) One or more willful violations of this chapter have been committed by a state officer removable from office only through impeachment pursuant to Article 7 of the Nevada Constitution, the Commission shall submit the opinion to the Speaker of the Assembly and the Majority Leader of the Senate or, if the Speaker of the Assembly or the Majority Leader of the Senate is the person who requested the opinion, to the Speaker pro Tempore of the Assembly or the President pro Tempore of the Senate, as appropriate.

(c) One or more willful violations of this chapter have been committed by a public officer other than a public officer described in paragraphs (a) and (b), the willful violations shall be deemed to be malfeasance in office for the purposes of NRS 283.440 and the Commission:

(1) May file a complaint in the appropriate court for removal of the public officer pursuant to NRS 283.440 when the public officer is found in the opinion to have committed fewer than three willful violations of this chapter.

(2) Shall file a complaint in the appropriate court for removal of the public officer pursuant to NRS 283.440 when the public officer is found in the opinion to have committed three or more willful violations of this chapter.

↪ This paragraph grants an exclusive right to the Commission, and no other person may file a complaint against the public officer pursuant to NRS 283.440 based on any violation found in the opinion.

5. An action taken by a public officer or employee or former public officer or employee relating to this chapter is not a willful violation of a provision of those sections if the public officer or employee establishes by sufficient evidence that the public officer or employee satisfied all of the following requirements:

(a) The public officer or employee relied in good faith upon the advice of the legal counsel retained by the public body on which the public officer ~~[represents]~~ serves or by the employer of the public employee ~~for upon the manual published by the Commission pursuant to NRS 281A.290.~~ ; ~~[;]~~ ~~[For purposes of this paragraph, a public officer or employee has not relied in good faith upon the advice of legal counsel if the public officer or employee has personal knowledge that the advice of the legal counsel is inaccurate or contrary to law.~~

~~(b) The public officer or employee was unable, through no fault of the public officer or employee, to obtain an opinion from the Commission before the action was taken.~~ ; and

~~[(c)]~~ (b) The public officer or employee took action that was not contrary to a prior published opinion issued by the Commission.

6. In addition to any other penalties provided by law, a public employee who commits a willful violation of this chapter is subject to disciplinary proceedings by the employer of the public employee and must be referred for action in accordance to the applicable provisions governing the employment of the public employee.

7. The provisions of this chapter do not abrogate or decrease the effect of the provisions of the Nevada Revised Statutes which define crimes or prescribe punishments with respect to the conduct of public officers or employees. If the Commission finds that a public officer or employee has committed a willful violation of this chapter which it believes may also constitute a criminal offense, the Commission shall refer the matter to the

Attorney General or the district attorney, as appropriate, for a determination of whether a crime has been committed that warrants prosecution.

8. The imposition of a civil penalty pursuant to subsection 1, 2 or 3 is a final decision for the purposes of judicial review pursuant to NRS 233B.130.

9. A finding by the Commission that a public officer or employee has violated any provision of this chapter must be supported by a preponderance of the evidence unless a greater burden is otherwise prescribed by law.

Sec. 46. NRS 281A.500 is hereby amended to read as follows:

281A.500 1. *On or before the date on which a public officer ~~takes~~ swears or affirms the oath of office, the public officer must be informed of the statutory ethical standards and the duty to file an acknowledgment of the statutory ethical standards in accordance with this section by:*

(a) For an appointed public officer, the appointing authority of the public officer; and

(b) For an elected public officer of:

(1) The county and other political subdivisions within the county except cities, the county clerk;

(2) The city, the city clerk;

(3) The Legislative Department of the State Government, the Director of the Legislative Counsel Bureau; and

(4) The Executive Department of the State Government, the Chief of the Budget Division of the Department of Administration.

2. *Within 30 days after a public employee begins employment:*

(a) The Administrator of the Division of Human Resource Management of the Department of Administration, or his or her designee, shall provide each new public employee of a state agency with the information prepared by the Commission concerning the statutory ethical standards; and

(b) The manager of each local agency, or his or her designee, shall provide each new public employee of the local agency with the information prepared by the Commission concerning the statutory ethical standards.

3. *Within 6 months after the date on which a public officer ~~takes~~ swears or affirms the oath of office or a public employee of a state agency begins employment, the public officer or employee shall complete a course on the statutory ethical standards conducted by the Executive Director pursuant to NRS 281A.240 or by a designee of the Executive Director.*

4. Each public officer shall acknowledge that the public officer:

(a) Has received, read and understands the statutory ethical standards; and

(b) Has a responsibility to inform himself or herself of any amendments to the statutory ethical standards as soon as reasonably practicable after each session of the Legislature.

~~{2-}~~ 5. The acknowledgment must be executed on a form prescribed by the Commission and must be filed with the Commission:

(a) If the public officer is elected to office at the general election, on or before January 15 of the year following the public officer's election.

(b) If the public officer is elected to office at an election other than the general election or is appointed to office, on or before the 30th day following the date on which the public officer ~~takes~~ swears or affirms the oath of office.

~~{3.}~~ 6. Except as otherwise provided in this subsection, a public officer shall execute and file the acknowledgment once for each term of office. If the public officer serves at the pleasure of the appointing authority and does not have a definite term of office, the public officer, in addition to executing and filing the acknowledgment after the public officer ~~takes~~ swears or affirms the oath of office in accordance with subsection ~~{2.}~~ 5, shall execute and file the acknowledgment on or before January 15 of each even-numbered year while the public officer holds that office.

~~{4.}~~ 7. For the purposes of this section, the acknowledgment is timely filed if, on or before the last day for filing, the acknowledgment is : ~~{filed in one of the following ways:}~~

(a) Delivered in person to the principal office of the Commission in Carson City.

(b) Mailed to the Commission by first-class mail, or other class of mail that is at least as expeditious, postage prepaid. Filing by mail is complete upon timely depositing the acknowledgment with the United States Postal Service.

(c) Dispatched to a third-party commercial carrier for delivery to the Commission within 3 calendar days. Filing by third-party commercial carrier is complete upon timely depositing the acknowledgment with the third-party commercial carrier.

~~{5.}~~ (d) *Transmitted to the Commission by facsimile machine or other electronic means authorized by the Commission. Filing by facsimile machine or other electronic means is complete upon receipt of the transmission by the Commission.*

8. The form for making the acknowledgment must contain:

(a) The address of the Internet website of the Commission where a public officer may view the statutory ethical standards and print a ~~hard~~ copy ~~{.}~~ of the standards; and

(b) The telephone number and mailing address of the Commission where a public officer may make a request to obtain a ~~hard~~ printed copy of the statutory ethical standards from the Commission.

~~{6.}~~ 9. Whenever the Commission, or any public officer or employee as part of the public officer's or employee's official duties, provides a public officer with a ~~hard~~ printed copy of the form for making the acknowledgment, a ~~hard~~ printed copy of the statutory ethical standards must be included with the form.

~~{7.}~~ 10. The Commission shall retain each acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.

~~{8-}~~ 11. Willful refusal to execute and file the acknowledgment required by this section shall be deemed to be:

(a) A willful violation of this chapter for the purposes of NRS 281A.480; and

(b) Nonfeasance in office for the purposes of NRS 283.440 and, if the public officer is removable from office pursuant to NRS 283.440, the Commission may file a complaint in the appropriate court for removal of the public officer pursuant to that section. This paragraph grants an exclusive right to the Commission, and no other person may file a complaint against the public officer pursuant to NRS 283.440 based on any violation of this section.

~~{9-}~~ 12. As used in this section, "general election" has the meaning ascribed to it in NRS 293.060.

Sec. 47. NRS 281A.540 is hereby amended to read as follows:

281A.540 ~~{1-}~~ In addition to any other penalties provided by law, ~~{a}~~ any governmental grant, contract or lease ~~entered into in violation of this chapter is voidable by the State, county, city or political subdivision. In a determination under this section of whether to void a grant, contract or lease, the interests of innocent third parties who could be damaged must be taken into account. The Attorney General, district attorney or city attorney must give notice of the intent to void a grant, contract or lease under this section no later than 30 days after the Commission has determined that there has been a related violation of this chapter.~~

~~2. In addition to any other penalties provided by law, a contract prohibited by NRS 281.230 which is knowingly entered into by a person designated in subsection 1 of NRS 281.230 is void.~~

~~3. Any action taken by the State in violation of this chapter is voidable, except that the interests of innocent third parties in the nature of the violation must be taken into account. The Attorney General may also pursue any other available legal or equitable remedies.~~

~~4. In addition to any other penalties provided by law, the Attorney General may recover any fee, compensation, gift or benefit received by a person as a result of a violation of this chapter by a public officer. An action to recover pursuant to this section must be brought within 2 years after the violation or reasonable discovery of the violation.] made or other governmental action taken in violation of this chapter may be declared void pursuant to section 11 of this act.~~

Sec. 48. NRS 218D.175 is hereby amended to read as follows:

218D.175 1. For a regular session, the Governor or the Governor's designated representative may request the drafting of not more than 100 legislative measures which have been approved by the Governor or the Governor's designated representative on behalf of the officers, agencies, boards, commissions, departments and other units of the Executive Department. The requests must be submitted to the Legislative Counsel on or before September 1 preceding the regular session.

2. The Department of Administration may request on or before the 19th day of a regular session, without limitation, the drafting of as many legislative measures as are necessary to implement the budget proposed by the Governor and to provide for the fiscal management of the State. In addition to the requests otherwise authorized pursuant to this section, the Governor may request the drafting of not more than 5 legislative measures on or before the 19th day of a regular session to propose the Governor's legislative agenda.

3. For a regular session, the following constitutional officers may request, without the approval of the Governor or the Governor's designated representative, the drafting of not more than the following numbers of legislative measures, which must be submitted to the Legislative Counsel on or before September 1 preceding the regular session:

Lieutenant Governor	1
Secretary of State	5
State Treasurer	2
State Controller	2
Attorney General.....	15

4. *For a regular session, the Commission on Ethics created by NRS 281A.200 may request, without the approval of the Governor or the Governor's designated representative, the drafting of not more than ~~27~~ two legislative measures, which must be submitted to the Legislative Counsel on or before September 1 preceding the regular session.*

5. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to subsections 1, ~~and~~ 3 and 4 must be prefiled on or before December 20 preceding the regular session. A legislative measure that is not prefiled on or before that date shall be deemed withdrawn.

Sec. 49. NRS 245.075 is hereby amended to read as follows:

245.075 1. Except as otherwise provided in NRS 281.230, 281A.430 ~~[-281A.530]~~ and 332.800, it is unlawful for any county officer, *directly or indirectly*, to be interested in any contract made by the county officer or to be a purchaser or ~~be~~ interested in any purchase of a sale made by the county officer in the discharge of his or her official duties.

2. Any contract made in violation of ~~subsection 1~~ *this section* may be declared void at the instance of the county interested or of any other person interested in the contract except the officer prohibited from making or being interested in the contract.

3. Any person ~~violating~~ *who violates* this section ~~[-directly or indirectly]~~ is guilty of a gross misdemeanor and shall forfeit his or her office.

Sec. 50. NRS 268.384 is hereby amended to read as follows:

268.384 1. Except as otherwise provided in NRS 281.230, 281A.430 ~~[-281A.530]~~ and 332.800, it is unlawful for any city officer, *directly or indirectly*, to be interested in any contract made by the city officer ~~[-]~~ or to be

a purchaser or interested ~~[directly or indirectly]~~ in any purchase of a sale made by the city officer in the discharge of *his or her* official duties.

2. Any person ~~[violating]~~ *who violates* this section is guilty of a gross misdemeanor and shall forfeit his or her office.

Sec. 51. NRS 268.386 is hereby amended to read as follows:

268.386 Any contract made in violation of NRS 268.384 may be declared void at the instance of the city interested or of any other person interested in the contract except ~~[an]~~ *the* officer prohibited from making or being interested in the contract.

Sec. 52. NRS 269.071 is hereby amended to read as follows:

269.071 1. ~~[H]~~ *Except as otherwise provided in NRS 281.230, 281A.430 and 332.800, it* is unlawful for any member of a town board or board of county commissioners acting for any town to become a contractor under any contract or order for supplies or any other kind of contract authorized by or for the board of which he or she is a member, or to be interested, directly or indirectly, as principal ~~[i]~~ in any kind of contract so authorized.

2. Any person ~~[violating subsection 1]~~ *who violates this section* is guilty of a gross misdemeanor and shall forfeit his or her office.

Sec. 53. NRS 269.072 is hereby amended to read as follows:

269.072 1. ~~[H]~~ *Except as otherwise provided in NRS 281.230, 281A.430 and 332.800, it* is unlawful for any town officer, directly or indirectly, to be interested in any contract made by the town officer ~~[i]~~ or to be a purchaser or ~~[be]~~ interested in any purchase under a sale made by the town officer in the discharge of *his or her* official duties.

2. Any person ~~[violating subsection 1]~~ *who violates this section* is guilty of a gross misdemeanor and shall forfeit his or her office.

Sec. 54. NRS 269.073 is hereby amended to read as follows:

269.073 Any contract made in violation of NRS 269.071 or 269.072 may be declared void at the instance of the town or any person interested in the contract except ~~[an]~~ *the* officer prohibited from making or being interested in the contract.

Sec. 55. NRS 332.800 is hereby amended to read as follows:

332.800 1. Except as otherwise provided in NRS 281.230 ~~[i]~~ and 281A.430, ~~[and 281A.530,]~~ a member of the governing body may not be interested, directly or indirectly, in any contract entered into by the governing body, but the governing body may purchase supplies, not to exceed \$1,500 in the aggregate in any 1 calendar month from a member of such governing body ~~[i]~~ when not to do so would be of great inconvenience due to a lack of any other local source.

2. An evaluator may not be interested, directly or indirectly, in any contract awarded by such governing body or its authorized representative.

3. A member of a governing body who furnishes supplies in the manner permitted by subsection 1 may not vote on the allowance of the claim for such supplies.

4. A ~~[violation of]~~ *person who violates* this section is *guilty of* a misdemeanor and, in the case of a member of a governing body, *a violation is* cause for removal from office.

Sec. 56. NRS 281A.530 and 281A.550 are hereby repealed.

Sec. 56.5. 1. Except as otherwise provided in subsection 2, the provisions of subsection 5 of NRS 281A.410, as amended by section 40 of this act, do not apply to the service or employment of a public officer or employee who is serving or is employed by a local agency before January 1, 2014.

2. A public officer or employee who otherwise meets the requirements set forth in subsection 1 but who, on or after January 1, 2014, begins serving as a public officer or begins working as an employee of another state or local agency is subject to the provisions of subsection 5 of NRS 281A.410, as amended by section 40 of this act, with respect to such subsequent service or employment.

Sec. 57. 1. This section and sections 1 to ~~[45,]~~ 10, inclusive, ~~[and 47 to 56,]~~ 14 to 38, inclusive, 41 and 43 to 48, inclusive, of this act become effective upon passage and approval.

2. ~~[Section 46]~~ Sections 11, 12, 13, 39, 40, 42 and 49 to 56.5, inclusive, of this act ~~[becomes]~~ become effective on January 1, 2014.

TEXT OF REPEALED SECTIONS

281A.530 Purchase of goods or services by local government from member of governing body not unlawful or unethical; conditions. The purchase of goods or services by a local government upon a two-thirds vote of its governing body from a member of the governing body who is the sole source of supply within the area served by the governing body is not unlawful or unethical if the public notice of the meeting specifically mentioned that such a purchase would be discussed.

281A.550 Employment of certain former public officers and employees by regulated businesses prohibited; certain former public officers and employees prohibited from soliciting or accepting employment from certain persons contracting with State or local government; determination by Commission.

1. A former member of the Public Utilities Commission of Nevada shall not:

(a) Be employed by a public utility or parent organization or subsidiary of a public utility; or

(b) Appear before the Public Utilities Commission of Nevada to testify on behalf of a public utility or parent organization or subsidiary of a public utility,

↪ for 1 year after the termination of the member's service on the Public Utilities Commission of Nevada.

2. A former member of the State Gaming Control Board or the Nevada Gaming Commission shall not:

(a) Appear before the State Gaming Control Board or the Nevada Gaming Commission on behalf of a person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the Nevada Gaming Commission pursuant to chapter 463 of NRS; or

(b) Be employed by such a person,

➔ for 1 year after the termination of the member's service on the State Gaming Control Board or the Nevada Gaming Commission.

3. In addition to the prohibitions set forth in subsections 1 and 2, and except as otherwise provided in subsections 4 and 6, a former public officer or employee of a board, commission, department, division or other agency of the Executive Department of State Government, except a clerical employee, shall not solicit or accept employment from a business or industry whose activities are governed by regulations adopted by the board, commission, department, division or other agency for 1 year after the termination of the former public officer's or employee's service or period of employment if:

(a) The former public officer's or employee's principal duties included the formulation of policy contained in the regulations governing the business or industry;

(b) During the immediately preceding year, the former public officer or employee directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the business or industry which might, but for this section, employ the former public officer or employee; or

(c) As a result of the former public officer's or employee's governmental service or employment, the former public officer or employee possesses knowledge of the trade secrets of a direct business competitor.

4. The provisions of subsection 3 do not apply to a former public officer who was a member of a board, commission or similar body of the State if:

(a) The former public officer is engaged in the profession, occupation or business regulated by the board, commission or similar body;

(b) The former public officer holds a license issued by the board, commission or similar body; and

(c) Holding a license issued by the board, commission or similar body is a requirement for membership on the board, commission or similar body.

5. Except as otherwise provided in subsection 6, a former public officer or employee of the State or a political subdivision, except a clerical employee, shall not solicit or accept employment from a person to whom a contract for supplies, materials, equipment or services was awarded by the State or political subdivision, as applicable, for 1 year after the termination of the officer's or employee's service or period of employment, if:

(a) The amount of the contract exceeded \$25,000;

(b) The contract was awarded within the 12-month period immediately preceding the termination of the officer's or employee's service or period of employment; and

(c) The position held by the former public officer or employee at the time the contract was awarded allowed the former public officer or employee to affect or influence the awarding of the contract.

6. A current or former public officer or employee may request that the Commission apply the relevant facts in that person's case to the provisions of subsection 3 or 5, as applicable, and determine whether relief from the strict application of those provisions is proper. If the Commission determines that relief from the strict application of the provisions of subsection 3 or 5, as applicable, is not contrary to:

- (a) The best interests of the public;
- (b) The continued ethical integrity of the State Government or political subdivision, as applicable; and
- (c) The provisions of this chapter,

→ it may issue an opinion to that effect and grant such relief. The opinion of the Commission in such a case is final and subject to judicial review pursuant to NRS 233B.130, except that a proceeding regarding this review must be held in closed court without admittance of persons other than those necessary to the proceeding, unless this right to confidential proceedings is waived by the current or former public officer or employee.

7. Each request for an opinion that a current or former public officer or employee submits to the Commission pursuant to subsection 6, each opinion rendered by the Commission in response to such a request and any motion, determination, evidence or record of a hearing relating to such a request are confidential unless the current or former public officer or employee who requested the opinion:

- (a) Acts in contravention of the opinion, in which case the Commission may disclose the request for the opinion, the contents of the opinion and any motion, evidence or record of a hearing related thereto;
- (b) Discloses the request for the opinion, the contents of the opinion or any motion, evidence or record of a hearing related thereto; or
- (c) Requests the Commission to disclose the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto.

8. A meeting or hearing that the Commission or an investigatory panel holds to receive information or evidence concerning the propriety of the conduct of a current or former public officer or employee pursuant to this section and the deliberations of the Commission and the investigatory panel on such information or evidence are not subject to the provisions of chapter 241 of NRS.

9. As used in this section, "regulation" has the meaning ascribed to it in NRS 233B.038 and also includes regulations adopted by a board, commission, department, division or other agency of the Executive Department of State Government that is exempted from the requirements of chapter 233B of NRS.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

Thank you, Mr. President. Amendment No. 519 to Senate Bill No. 228 makes numerous changes to the ethics laws of Nevada: (1) makes changes to public contracts; (2) makes changes to clarify that an individual cannot concurrently serve as a public officer or employee and hold a separate public office that permits that person to exercise controlling influence over the employer; (3) makes changes to the cooling-off period affecting State and local public officers and employees; (4) aligns confidentiality of Commission on Ethics records with protections afforded other State agencies; (5) clarifies provisions related to relying on advice of counsel; (6) makes changes to certain provisions in the manual of the Commission on Ethics; and (7) provides that prohibitions on former public officers and employees representing individuals before certain government agencies for one year after termination do not apply to those who held their positions before January 1, 2014.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 243.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 338.

"SUMMARY—Revises provisions relating to genetic marker analysis.
(BDR 14-137)"

"AN ACT relating to genetic marker analysis; defining certain terms relating to genetic marker analysis; establishing the State DNA Database; imposing an administrative assessment upon a defendant convicted of any crime; requiring that a biological specimen be obtained from a person arrested for a felony; establishing the Subcommittee to Review Arrestee DNA of the Advisory Commission on the Administration of Justice; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the board of county commissioners of each county to designate a forensic laboratory to conduct and oversee any genetic marker analysis that is required by law. (NRS 176.0917) Section 11 of this bill establishes the State DNA Database, which is to be overseen, managed and administered by the Forensic Science Division of the Washoe County Sheriff's Office. Section 12 of this bill specifies the duties and responsibilities of forensic laboratories with respect to DNA records.

Under existing law, if a defendant is convicted of a felony or certain other specified offenses, the court, as part of the defendant's sentence, must order that a biological specimen be obtained from the defendant and that the specimen be used for analysis to determine the genetic markers of the specimen. (NRS 176.0911-176.0917) Section 13 of this bill requires that a biological specimen be obtained if a person is arrested for a felony. Section 13 provides that if the person is convicted of the felony, the biological specimen must be kept, but if the person is not convicted, the biological specimen must be destroyed and all records relating thereto must be purged from all databases.

Existing law prohibits a person from sharing or disclosing certain information relating to another person's biological specimen or genetic marker analysis and makes such conduct punishable as a misdemeanor. (NRS 176.0913, 176.0916) Sections 13, 21 and 23 of this bill increase the penalty for such conduct from a misdemeanor to a category C felony.

Section 15 of this bill imposes an additional administrative assessment of ~~[\$2]~~ \$3 on a person convicted of a misdemeanor, gross misdemeanor or felony. Section 15 also provides that the money collected from the assessments must be used to defray the costs associated with obtaining biological specimens and conducting genetic marker analysis.

Existing law: (1) establishes the Advisory Commission on the Administration of Justice and the Subcommittees on Juvenile Justice and Victims of Crime; and (2) directs the Commission and Subcommittees, among other duties, to identify and study the elements of this State's system of criminal justice. (NRS 176.0123-176.0125) Section 16.3 of this bill establishes the Subcommittee to Review Arrestee DNA of the Commission. Section 16.3 also: (1) requires the Chair of the Commission to appoint the members of the Subcommittee, including certain specified representatives; and (2) requires the Subcommittee to study issues related to arrestee DNA and report to the Commission with recommendations to address such issues.

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

Section 1. Chapter 176 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~16~~ 16.3, inclusive, of this act.

Sec. 2. *"Agency of criminal justice" has the meaning ascribed to it in NRS 179A.030.*

Sec. 3. *"Biological specimen" means a biological sample, tissue, fluid or other bodily sample suitable for genetic marker analysis, obtained from a person or from physical evidence.*

Sec. 4. *"CODIS" means the Federal Bureau of Investigation's Combined DNA Index System that allows for the storage and exchange of DNA records submitted by federal, state and local forensic DNA laboratories. The term includes the National DNA Index System administered and operated by the Federal Bureau of Investigation.*

Sec. 5. *"DNA" means deoxyribonucleic acid which is located in the cells of a person and which provides the genetic blueprint of a person.*

Sec. 6. *"DNA profile" means the genetic constitution of a person at defined locations in the DNA of the person.*

Sec. 7. *"DNA record" means a database record, stored in the State DNA Database or CODIS, that includes the DNA profile of a person and data required to manage the record, including, without limitation, the identity of the agency submitting the database record, the identification number of the biological specimen and the names of personnel who conducted the genetic marker analysis.*

Sec. 8. *"Forensic laboratory" means any laboratory designated pursuant to NRS 176.0917.*

Sec. 9. *"Genetic marker analysis" means the analytical testing process of a biological specimen that results in a DNA profile.*

Sec. 10. *"State DNA Database" means the database established pursuant to section 11 of this act.*

Sec. 11. 1. *The State DNA Database is hereby established to serve as this State's repository for DNA records and to provide DNA records to the Federal Bureau of Investigation.*

2. *The Forensic Science Division of the Washoe County Sheriff's Office shall oversee, manage and administer the State DNA Database and shall:*

(a) *Implement policies for the management and administration of the State DNA Database, including, without limitation, any system for the identification of DNA profiles and DNA records that is necessary to support agencies of criminal justice.*

(b) *Adopt policies and protocols and enter into any necessary agreements to implement the provisions of NRS 176.0911 to 176.0917, inclusive, and sections 2 to 16, inclusive, of this act.*

(c) *Ensure that all searches of the State DNA Database are performed in accordance with state and federal law.*

(d) *Act as a liaison between the Federal Bureau of Investigation and other state agencies of criminal justice relating to this State's participation in CODIS.*

Sec. 12. 1. *A forensic laboratory shall:*

(a) *Prescribe protocols and procedures for the collection, submission, identification, genetic marker analysis, storage, maintenance, uploading and disposition of biological specimens, DNA profiles and DNA records.*

(b) *Securely upload DNA records to the State DNA Database.*

(c) *Acquire and maintain computer hardware and software necessary to store, maintain and upload DNA profiles and DNA records relating to:*

(1) *Crime scene evidence and forensic casework;*

(2) *Persons arrested for a felony and persons convicted of an offense listed in subsection 4 of NRS 176.0913 who are required to provide a biological specimen;*

(3) *Persons required to register as sex offenders pursuant to NRS 179D.445, 179D.460 or 179D.480;*

(4) *Unidentified persons or body parts;*

(5) *Missing persons;*

(6) *Relatives of missing persons;*

(7) *Anonymous DNA profiles used for forensic validation, forensic protocol development, quality control purposes or establishment of a population statistics database for use by criminal justice agencies; and*

(8) *Voluntarily submitted DNA profiles.*

2. *A forensic laboratory may:*

(a) Use all or part of the remainder of any biological specimen stored in the forensic laboratory for:

(1) Retesting to confirm or update the original genetic marker analysis;
or

(2) Quality control testing of new forensic methods for genetic marker analysis, provided that no personal identifying information is included.

(b) Contract with providers of services to perform a genetic marker analysis or to carry out functions on behalf of the forensic laboratory. Any provider of services who contracts with a forensic laboratory to perform a genetic marker analysis or to carry out functions on behalf of the forensic laboratory is subject to the same restrictions and requirements as the forensic laboratory.

3. A forensic laboratory shall not use any biological specimen, DNA profile or DNA record for the purpose of identification of any medical or genetic disorder.

Sec. 13. 1. If a person is arrested for a felony pursuant to a warrant, the law enforcement agency making the arrest shall:

(a) Submit the name, ~~social security number, if any,~~ date of birth, fingerprints and any other information identifying the person to the Central Repository for Nevada Records of Criminal History;

(b) Upon booking the person into a city or county jail or detention facility, and before the person is released from custody, obtain a biological specimen from the person, through a cheek swab, pursuant to the provisions of this section; and

(c) Submit the biological specimen to the appropriate forensic laboratory for genetic marker analysis in accordance with the provisions of this section.

2. If a person is arrested for a felony without a warrant, the law enforcement agency making the arrest shall:

(a) Submit the name, ~~social security number, if any,~~ date of birth, fingerprints and any other information identifying the person to the Central Repository for Nevada Records of Criminal History;

(b) Upon booking the person into a city or county jail or detention facility, and before the person is released from custody, obtain a biological specimen from the person, through a cheek swab, pursuant to the provisions of this section;

(c) Submit the biological specimen to the appropriate forensic laboratory for genetic marker analysis in accordance with the provisions of this section after receiving notice that a court or magistrate has determined that probable cause existed for the person's arrest; and

(d) If a court or magistrate determines that probable cause did not exist for the person's arrest, destroy the biological specimen within 5 business days after receiving notice of the determination by the court or magistrate.

3. A law enforcement agency shall not knowingly obtain a biological specimen from a person who has previously submitted such a specimen for

an arrest or conviction of a prior offense unless the law enforcement agency or a court or magistrate determines that an additional specimen is necessary.

4. If a law enforcement agency has not already obtained a biological specimen from a person arrested for an offense for which a biological specimen must be obtained pursuant to this section at the time a court or magistrate sets bail or considers releasing a person on his or her own recognizance, the court or magistrate shall:

(a) Require the person to provide a biological specimen as a condition of being admitted to bail or released on his or her own recognizance; and

(b) Require the biological specimen to be provided to the appropriate forensic laboratory.

5. The Attorney General or a district attorney may petition a district court for an order requiring a person arrested for an offense for which a biological specimen must be obtained pursuant to this section to provide a biological specimen:

(a) Through a cheek swab; or

(b) By alternative means, if the person will not cooperate.

Nothing in this subsection shall be construed to prevent the collection of a biological specimen by order of a court of competent jurisdiction or the collection of a biological specimen from a person who is required to provide such a specimen pursuant to this section.

6. Upon receipt of a biological specimen, the forensic laboratory shall proceed with a genetic marker analysis. If the forensic laboratory determines that the biological specimen is inadequate or otherwise unusable, the law enforcement agency may obtain an additional biological specimen from the person arrested unless the person arrested is eligible to request destruction of the biological specimen and purging of his or her DNA profile or DNA record pursuant to this section.

7. Upon completion of a genetic marker analysis of a person pursuant to this section, the forensic laboratory shall inform the Central Repository for Nevada Records of Criminal History that the forensic laboratory has created a DNA profile of the person and will be submitting the DNA profile of the person for inclusion in the State DNA Database and CODIS. The Central Repository for Nevada Records of Criminal History shall include an indication on the criminal history record of the person regarding the collection of a biological specimen and the creation of a DNA profile, but may not include, in its records, any other information relating to the biological specimen, DNA profile or DNA record of the person.

8. A person whose record of criminal history indicates the collection of a biological specimen and whose DNA profile and DNA record have been included in the State DNA Database and CODIS pursuant to this section may make a written request to the Central Repository for Nevada Records of Criminal History, using the form created pursuant to section 14 of this act, that the biological specimen be destroyed and the DNA profile and DNA

record be purged from the forensic laboratory, the State DNA Database and CODIS on the grounds that:

(a) The conviction on which the authority for keeping the biological specimen or the DNA profile or DNA record has been reversed and the case dismissed; or

(b) The arrest which led to the inclusion of the biological specimen or the DNA profile or DNA record:

(1) Has resulted in a felony charge that has been resolved by a dismissal, the successful completion of a preprosecution diversion program, a conditional discharge or an acquittal; or

(2) Has not resulted in any additional criminal charge for a felony within 5 years after the date of the arrest.

9. Within 6 weeks after receiving a written request pursuant to subsection 8, the Central Repository for Nevada Records of Criminal History shall forward the request and all supporting documentation to the forensic laboratory holding the biological specimen. Except as otherwise provided in subsection 10, upon receipt of the written request, the forensic laboratory shall destroy any biological specimen from the person and purge the DNA profile of the person if the written request is accompanied by:

(a) A certified copy of the court order reversing and dismissing the conviction; or

(b) For any biological specimen obtained pursuant to an arrest for which a biological specimen must be provided pursuant to this section:

(1) A certified copy of the dismissal, the successful completion of a preprosecution diversion program, a conditional discharge or an acquittal; or

(2) A sworn affidavit from the law enforcement agency which submitted the biological specimen that no felony charges arising from the arrest have been filed within 5 years after the date of the arrest.

10. The forensic laboratory shall not destroy a biological specimen or purge the DNA profile of a person if the forensic laboratory is notified by a law enforcement agency that the person has a prior felony, a new felony arrest or a pending felony charge for which collection of a biological specimen is authorized pursuant to this section.

11. If a forensic laboratory:

(a) Determines that the requirements to destroy a biological specimen or purge a DNA profile or DNA record of a person have not been met, the forensic laboratory shall notify the Central Repository of Nevada Records of Criminal History of that fact. The Central Repository shall, as soon as reasonably practicable, notify the person that his or her request has been denied.

(b) Destroys a biological specimen and purges a DNA profile pursuant to this section, the forensic laboratory shall take the following actions:

(1) Notify the State DNA Database that the DNA profile and DNA record of the person must be purged from the State DNA Database and from

CODIS. Upon receipt of such notification, the DNA profile and DNA record of the person must be purged from the State DNA Database and CODIS.

(2) Notify the Central Repository for Nevada Records of Criminal History that the forensic laboratory has destroyed the biological specimen and purged the DNA profile of the person and has notified the State DNA Database that the DNA profile and DNA record of the person must be purged from the State DNA Database and CODIS. Upon receipt of such notification, the Central Repository shall, as soon as reasonably practicable, notify the person that his or her request has been granted, his or her biological specimen has been destroyed by the forensic laboratory and his or her DNA profile and DNA record have been purged from the forensic laboratory, the State DNA Database and CODIS.

12. Any cost that is incurred to obtain a biological specimen from a person, to destroy a biological specimen or to purge a DNA profile or DNA record from a forensic laboratory, the State DNA Database or CODIS pursuant to this section:

- (a) Is a charge against the county in which the person was arrested; and*
- (b) Must be paid as provided in NRS 176.0915.*

13. The biological specimen, DNA profile, DNA record and any other information identifying or matching a biological specimen with a person must, at all times, be stored and maintained in the forensic laboratory, State DNA Database or CODIS, as applicable, and may only be made available in accordance with the provisions of this section. The biological specimen, DNA profile, DNA record, other information identifying or matching a biological specimen with a person and all computer software used by the forensic laboratory and the State DNA Database for the State DNA Database and for CODIS are confidential and are not public books or records within the meaning of NRS 239.010.

14. If any information related to a biological specimen, DNA profile or DNA record contained in CODIS is requested, the forensic laboratory shall comply with all applicable provisions of federal law and all applicable statutes and regulations governing the release of such information. All requests for any such information must be directed through the casework CODIS administrator of the forensic laboratory. To minimize duplication in the collection of a biological specimen and the conducting of a genetic marker analysis, a forensic laboratory may make information available to any agency of criminal justice to verify whether a biological specimen has been collected from a person and a genetic marker analysis has been conducted.

15. Except as otherwise authorized by this section, by federal law or by another specific statute, a biological specimen obtained pursuant to this section, a DNA profile, a DNA record and any other information identifying or matching a biological specimen with a person must not be shared with or disclosed to any person other than the authorized personnel who have possession and control of the biological specimen, DNA profile, DNA record

or other information identifying or matching a biological specimen with a person, except pursuant to:

(a) A court order; or

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

➡ A person who violates any provision of this subsection is guilty of a category C felony and shall be punished as provided in NRS 193.130.

Sec. 14. 1. The Department of Public Safety shall establish a standard form for use by every law enforcement agency in this State that:

(a) Sets forth the authorized use of a biological specimen pursuant to NRS 176.0911 to 176.0917, inclusive, and sections 2 to 16, inclusive, of this act.

(b) Identifies the circumstances and process under which a person may have his or her biological specimen destroyed and his or her DNA profile or DNA record purged from the forensic laboratory, the State DNA Database and CODIS.

(c) May be completed and submitted to the Central Repository for Nevada Records of Criminal History by a person to request that his or her biological specimen be destroyed and his or her DNA profile or DNA record be purged from the forensic laboratory, the State DNA Database and CODIS.

2. A law enforcement agency shall provide the form to a person:

(a) Before obtaining a biological specimen;

(b) Upon release from custody ~~for the Department of Corrections or supervision of the Division,~~ if the person has submitted a biological specimen; or

(c) At the request of the person, if the person believes that he or she is eligible to have his or her biological specimen destroyed and his or her DNA profile or DNA record purged from the forensic laboratory, the State DNA Database and CODIS.

Sec. 15. 1. In addition to any other administrative assessment imposed, when a defendant pleads guilty, is found guilty or enters a plea of nolo contendere to a misdemeanor, gross misdemeanor or felony, including the violation of any municipal ordinance, on or after July 1, 2013, the justice or judge of the justice, municipal or district court, as applicable, shall include in the sentence the sum of ~~the sum of \$27~~ \$3 as an administrative assessment for obtaining a biological specimen and conducting a genetic marker analysis and shall render a judgment against the defendant for the assessment. If a defendant is sentenced to perform community service in lieu of a fine, the sentence must include the administrative assessment required pursuant to this subsection.

2. The money collected for an administrative assessment for obtaining a biological specimen and conducting a genetic marker analysis must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket

and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the bail pursuant to this subsection must be disbursed pursuant to subsection 3. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible, and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he or she has paid, and the justice or judge shall not recalculate the administrative assessment.

3. If the justice or judge permits the fine and administrative assessment for the provision of genetic marker analysis to be paid in installments, the payments must be applied in the following order:

(a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;

(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to NRS 176.0611;

(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs pursuant to NRS 176.0613;

(d) To pay the unpaid balance of an administrative assessment for obtaining a biological specimen and conducting a genetic marker analysis pursuant to this section; and

(e) To pay the fine.

4. The money collected for an administrative assessment for the provision of genetic marker analysis must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month for credit to the fund for genetic marker analysis pursuant to NRS 176.0915.

Sec. 16. Any person authorized to collect a biological specimen pursuant to NRS 176.0911 to 176.0917, and sections 2 to 16, inclusive, of this act, may not be held civilly or criminally liable for any act relating to the collection of a biological specimen if the person performed that act in good faith and in a reasonable manner.

Sec. 16.3. 1. There is hereby created the Subcommittee to Review Arrestee DNA of the Commission.

2. The Chair of the Commission shall appoint the members of the Subcommittee which must include, without limitation:

(a) A member experienced in defending criminal actions.

(b) A member of a minority community organization whose mission includes the protection of civil rights for minorities.

3. The Chair of the Commission shall designate one of the members of the Subcommittee as Chair of the Subcommittee. The Chair of the Subcommittee must be a member of the Commission.

4. The Subcommittee shall meet at the times and places specified by a call of the Chair. A majority of the members of the Subcommittee constitutes a quorum, and a quorum may exercise any power or authority conferred on the Subcommittee.

5. The Subcommittee shall consider issues relating to DNA of arrested persons and shall evaluate, review and submit a report to the Commission with recommendations concerning such issues.

6. Any Legislators who are members of the Subcommittee are entitled to receive the salary provided for a majority of the members of the Legislature during the first 60 days of the preceding session for each day's attendance at a meeting of the Subcommittee.

7. While engaged in the business of the Subcommittee, to the extent of legislative appropriation, each member of the Subcommittee is entitled to receive the per diem allowance and travel expenses as provided for state officers and employees generally.

Sec. 16.7. NRS 176.0121 is hereby amended to read as follows:

176.0121 As used in NRS 176.0121 to 176.0129, inclusive, and section 16.3 of this act, "Commission" means the Advisory Commission on the Administration of Justice.

Sec. 17. NRS 176.0611 is hereby amended to read as follows:

176.0611 1. A county or a city, upon recommendation of the appropriate court, may, by ordinance, authorize the justices or judges of the justice or municipal courts within its jurisdiction to impose for not longer than 50 years, in addition to the administrative assessments imposed pursuant to NRS 176.059 and 176.0613, and section 15 of this act, an administrative assessment for the provision of court facilities.

2. Except as otherwise provided in subsection 3, in any jurisdiction in which an administrative assessment for the provision of court facilities has been authorized, when a defendant pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of \$10 as an administrative assessment for the provision of court facilities and render a judgment against the defendant for the assessment. If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the administrative assessment required pursuant to this subsection.

3. The provisions of subsection 2 do not apply to:

(a) An ordinance regulating metered parking; or
(b) An ordinance that is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

4. The money collected for an administrative assessment for the provision of court facilities must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount

posted for bail. If bail is forfeited, the administrative assessment included in the amount posted for bail pursuant to this subsection must be disbursed in the manner set forth in subsection 6 or 7. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment the defendant has paid and the justice or judge shall not recalculate the administrative assessment.

5. If the justice or judge permits the fine and administrative assessment for the provision of court facilities to be paid in installments, the payments must be applied in the following order:

(a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;

(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to this section;

(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs pursuant to NRS 176.0613; ~~and~~

(d) *To pay the unpaid balance of an administrative assessment for obtaining a biological specimen and conducting a genetic marker analysis pursuant to section 15 of this act; and*

(e) To pay the fine.

6. The money collected for administrative assessments for the provision of court facilities in municipal courts must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. The city treasurer shall deposit the money received in a special revenue fund. The city may use the money in the special revenue fund only to:

(a) Acquire land on which to construct additional facilities for the municipal courts or a regional justice center that includes the municipal courts.

(b) Construct or acquire additional facilities for the municipal courts or a regional justice center that includes the municipal courts.

(c) Renovate or remodel existing facilities for the municipal courts.

(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the municipal courts or a regional justice center that includes the municipal courts. This paragraph does not authorize the expenditure of money from the fund for furniture, fixtures or equipment for judicial chambers.

(e) Acquire advanced technology for use in the additional or renovated facilities.

(f) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the municipal courts or a regional justice center that includes the municipal courts.

➡ Any money remaining in the special revenue fund after 5 fiscal years must be deposited in the municipal general fund for the continued maintenance of court facilities if it has not been committed for expenditure pursuant to a plan for the construction or acquisition of court facilities or improvements to court facilities. The city treasurer shall provide, upon request by a municipal court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

7. The money collected for administrative assessments for the provision of court facilities in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall deposit the money received to a special revenue fund. The county may use the money in the special revenue fund only to:

(a) Acquire land on which to construct additional facilities for the justice courts or a regional justice center that includes the justice courts.

(b) Construct or acquire additional facilities for the justice courts or a regional justice center that includes the justice courts.

(c) Renovate or remodel existing facilities for the justice courts.

(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the justice courts or a regional justice center that includes the justice courts. This paragraph does not authorize the expenditure of money from the fund for furniture, fixtures or equipment for judicial chambers.

(e) Acquire advanced technology for use in the additional or renovated facilities.

(f) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the justice courts or a regional justice center that includes the justice courts.

➡ Any money remaining in the special revenue fund after 5 fiscal years must be deposited in the county general fund for the continued maintenance of court facilities if it has not been committed for expenditure pursuant to a plan for the construction or acquisition of court facilities or improvements to court facilities. The county treasurer shall provide, upon request by a justice court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

8. If money collected pursuant to this section is to be used to acquire land on which to construct a regional justice center, to construct a regional justice center or to pay debt service on bonds issued for these purposes, the county and the participating cities shall, by interlocal agreement, determine such

issues as the size of the regional justice center, the manner in which the center will be used and the apportionment of fiscal responsibility for the center.

Sec. 18. NRS 176.0613 is hereby amended to read as follows:

176.0613 1. The justices or judges of the justice or municipal courts shall impose, in addition to an administrative assessment imposed pursuant to NRS 176.059 and 176.0611, *and section 15 of this act*, an administrative assessment for the provision of specialty court programs.

2. Except as otherwise provided in subsection 3, when a defendant pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of \$7 as an administrative assessment for the provision of specialty court programs and render a judgment against the defendant for the assessment. If a defendant is sentenced to perform community service in lieu of a fine, the sentence must include the administrative assessment required pursuant to this subsection.

3. The provisions of subsection 2 do not apply to:

- (a) An ordinance regulating metered parking; or
- (b) An ordinance which is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

4. The money collected for an administrative assessment for the provision of specialty court programs must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the bail pursuant to this subsection must be disbursed pursuant to subsection 6 or 7. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment the defendant has paid and the justice or judge shall not recalculate the administrative assessment.

5. If the justice or judge permits the fine and administrative assessment for the provision of specialty court programs to be paid in installments, the payments must be applied in the following order:

- (a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;
- (b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to NRS 176.0611;
- (c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs; ~~and~~

(d) *To pay the unpaid balance of an administrative assessment for obtaining a biological specimen and conducting a genetic marker analysis pursuant to section 15 of this act; and*

(e) To pay the fine.

6. The money collected for an administrative assessment for the provision of specialty court programs in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the city treasurer shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

7. The money collected for an administrative assessment for the provision of specialty court programs in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the county treasurer shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

8. The Office of Court Administrator shall allocate the money credited to the State General Fund pursuant to subsections 6 and 7 to courts to assist with the funding or establishment of specialty court programs.

9. Money that is apportioned to a court from administrative assessments for the provision of specialty court programs must be used by the court to:

(a) Pay for the treatment and testing of persons who participate in the program; and

(b) Improve the operations of the specialty court program by any combination of:

(1) Acquiring necessary capital goods;

(2) Providing for personnel to staff and oversee the specialty court program;

(3) Providing training and education to personnel;

(4) Studying the management and operation of the program;

(5) Conducting audits of the program;

(6) Supplementing the funds used to pay for judges to oversee a specialty court program; or

(7) Acquiring or using appropriate technology.

10. As used in this section:

(a) "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320; and

(b) "Specialty court program" means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from a mental illness or abuses alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250, 176A.280 or 453.580.

Sec. 19. NRS 176.0911 is hereby amended to read as follows:

176.0911 As used in NRS 176.0911 to 176.0917, inclusive, *and sections 2 to 16, inclusive, of this act*, unless the context otherwise requires, ~~["CODIS" means the Combined DNA Indexing System operated by the Federal Bureau of Investigation.]~~ *the words and terms defined in sections 2 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 20. NRS 176.0912 is hereby amended to read as follows:

176.0912 1. Except as otherwise provided in this section, upon the conviction of a defendant for a category A or B felony, an agency of criminal justice that has in its possession or custody any biological evidence secured in connection with the investigation or prosecution of the defendant shall preserve such evidence until the expiration of any sentence imposed on the defendant.

2. Biological evidence subject to the requirements of this section may be consumed for testing upon notice to the defendant.

3. An agency of criminal justice may establish procedures for:

(a) Retaining probative samples of biological evidence subject to the requirements of this section; and

(b) Disposing of bulk evidence that does not affect the suitability of such probative samples for testing.

4. The provisions of this section must not be construed to restrict or limit an agency of criminal justice from establishing procedures for the retention, preservation and disposal of biological evidence secured in connection with other criminal cases.

5. As used in this section ~~[-~~

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

(b) ~~"Biological"~~, "biological evidence" means any semen, blood, saliva, hair, skin tissue or other identified biological material removed from physical evidence.

~~[(c) "Sexual offense" has the meaning ascribed to it in NRS 179D.097.]~~

Sec. 21. NRS 176.0913 is hereby amended to read as follows:

176.0913 1. If a defendant is convicted of an offense listed in subsection 4:

(a) The name, social security number, ~~if any,~~ date of birth, fingerprints and any other information identifying the defendant must be submitted to the Central Repository for Nevada Records of Criminal History; and

(b) ~~[A]~~ Unless a biological specimen was previously obtained upon arrest pursuant to section 13 of this act, a biological specimen must be obtained from the defendant pursuant to the provisions of this section and the specimen must be used for ~~[an analysis to determine the]~~ a genetic ~~[markers of the specimen.]~~ marker analysis. If a biological specimen was previously obtained upon arrest pursuant to section 13 of this act, the court shall notify

the Central Repository for Nevada Records of Criminal History, who in turn shall notify the appropriate forensic laboratory.

2. If the defendant is committed to the custody of the Department of Corrections, the Department of Corrections shall arrange for the biological specimen to be obtained from the defendant. The Department of Corrections shall provide the specimen to the forensic laboratory that has been designated by the county in which the defendant was convicted to conduct or oversee genetic marker ~~testing~~ *analysis* for the county pursuant to NRS 176.0917.

3. If the defendant is not committed to the custody of the Department of Corrections, the Division shall arrange for the biological specimen to be obtained from the defendant. The Division shall provide the specimen to the forensic laboratory that has been designated by the county in which the defendant was convicted to conduct or oversee genetic marker ~~testing~~ *analysis* for the county pursuant to NRS 176.0917. Any cost that is incurred to obtain a biological specimen from a defendant pursuant to this subsection is a charge against the county in which the defendant was convicted and must be paid as provided in NRS 176.0915.

4. Except as otherwise provided in subsection 5, the provisions of subsection 1 apply to a defendant who is convicted of:

- (a) A felony;
- (b) A crime against a child as defined in NRS 179D.0357;
- (c) A sexual offense as defined in NRS 179D.097;
- (d) Abuse or neglect of an older person or a vulnerable person pursuant to NRS 200.5099;
- (e) A second or subsequent offense for stalking pursuant to NRS 200.575;
- (f) An attempt or conspiracy to commit an offense listed in paragraphs (a) to (e), inclusive;
- (g) Failing to register with a local law enforcement agency as a convicted person as required pursuant to NRS 179C.100, if the defendant previously was:

(1) Convicted in this State of committing an offense listed in paragraph (a), (d), (e) or (f); or

(2) Convicted in another jurisdiction of committing an offense that would constitute an offense listed in paragraph (a), (d), (e) or (f) if committed in this State;

(h) Failing to register with a local law enforcement agency after being convicted of a crime against a child as required pursuant to NRS 179D.450; or

(i) Failing to register with a local law enforcement agency after being convicted of a sexual offense as required pursuant to NRS 179D.450.

5. If it is determined that a defendant's biological specimen has previously been submitted for conviction of a prior offense, an additional sample is not required.

6. Except as otherwise authorized by federal law or by specific statute, a biological specimen obtained pursuant to this section, the ~~results of a genetic~~

~~marker analysis~~] *DNA profile, the DNA record* and any other information identifying or matching a biological specimen with a person must not be shared with or disclosed to any person other than the authorized personnel who have possession and control of the biological specimen, ~~results of a genetic marker analysis~~] *the DNA profile, the DNA record* or other information identifying or matching a biological specimen with a person, except pursuant to:

- (a) A court order; or
- (b) A request from a law enforcement agency during the course of an investigation.

7. A person who violates any provision of subsection 6 is guilty of a ~~[misdemeanor.]~~ *category C felony and shall be punished as provided in NRS 193.130.*

Sec. 22. NRS 176.0915 is hereby amended to read as follows:

176.0915 1. If a biological specimen is obtained from a ~~[defendant]~~ *person* pursuant to NRS 176.0913, *or section 13 of this act, and the person is convicted of the offense for which the biological specimen was obtained,* the court, in addition to any other penalty, shall order the ~~[defendant.]~~ *person*, to the extent of the ~~[defendant's]~~ *person's* financial ability, to pay the sum of \$150 as a fee for obtaining the specimen and for conducting the ~~[analysis to determine the]~~ *genetic [markers of the specimen.] marker analysis.* The fee:

- (a) Must be stated separately in the judgment of the court or on the docket of the court;
- (b) Must be collected from the ~~[defendant]~~ *person* before or at the same time that any fine imposed by the court is collected from the ~~[defendant.]~~ *person;* and
- (c) Must not be deducted from any fine imposed by the court.

2. All money that is collected pursuant to subsection 1 must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month.

3. The board of county commissioners of each county shall by ordinance create in the county treasury a fund to be designated as the fund for genetic marker ~~[testing.]~~ *analysis.* The county treasurer shall deposit money that is collected pursuant to subsection 2 in the fund for genetic marker ~~[testing.]~~ *analysis.* The money must be accounted for separately within the fund.

4. Each month, the county treasurer shall use the money deposited in the fund for genetic marker ~~[testing]~~ *analysis* to pay for the actual amount charged to the county for obtaining a biological specimen from a ~~[defendant]~~ *person* pursuant to NRS 176.0913 ~~[.]~~ *or section 13 of this act.*

5. The board of county commissioners of each county may apply for and accept grants, gifts, donations, bequests or devises which the board of county commissioners shall deposit with the county treasurer for credit to the fund for genetic marker ~~[testing.]~~ *analysis.*

6. If money remains in the fund after the county treasurer makes the payments required by subsection 4, the county treasurer shall pay the

remaining money each month to the forensic laboratory that is designated by the county pursuant to NRS 176.0917 to conduct or oversee genetic marker ~~[testing]~~ *analysis* for the county. A forensic laboratory that receives money pursuant to this subsection shall use the money to cover any expense related to genetic marker ~~[testing]~~ *analysis*.

Sec. 23. NRS 176.0916 is hereby amended to read as follows:

176.0916 1. If the Division is supervising a probationer or parolee pursuant to an interstate compact and the probationer or parolee is or has been convicted in another jurisdiction of violating a law that prohibits the same or similar conduct as an offense listed in subsection 4 of NRS 176.0913, *unless a biological specimen was previously obtained upon arrest pursuant to section 13 of this act*, the Division shall arrange for a biological specimen to be obtained from the probationer or parolee.

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

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

(b) Submit the name, social security number, ~~if any,~~ date of birth, fingerprints and any other information identifying the probationer or parolee to the Central Repository.

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

(a) A court order; or

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

4. A person who violates any provision of subsection 3 is guilty of a ~~[misdemeanor]~~ *category C felony and shall be punished as provided in NRS 193.130.*

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

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

7. Any unpaid balance for a fee required pursuant to subsection 5 is a charge against the Division.

8. The Division shall deposit money that is collected pursuant to this section in the Fund for Genetic Marker ~~{Testing}~~ Analysis, which is hereby created in the State General Fund. The money deposited in the Fund for Genetic Marker ~~{Testing}~~ Analysis must be used to pay for the actual amount charged to the Division for obtaining biological specimens from probationers and parolees, and for conducting ~~{an analysis to determine the genetic markers}~~ genetic marker analysis of the biological specimens.

Sec. 24. NRS 176.0917 is hereby amended to read as follows:

176.0917 1. The board of county commissioners of each county shall designate a forensic laboratory to conduct or oversee for the county any genetic marker ~~{testing}~~ analysis that is ~~{ordered or arranged}~~ required pursuant to NRS 176.0913 or 176.0916 ~~{ }~~ or section 13 of this act.

2. The forensic laboratory designated by the board of county commissioners pursuant to subsection 1:

- (a) Must be operated by this State or one of its political subdivisions; and
- (b) Must satisfy or exceed the standards for quality assurance that are established by the Federal Bureau of Investigation for participation in CODIS.

Sec. 25. NRS 179.225 is hereby amended to read as follows:

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

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

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

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

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

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

- (a) Child support;
- (b) Restitution to victims of crimes; and
- (c) Any administrative assessment required to be paid pursuant to NRS 62E.270, 176.059, 176.0611, 176.0613 and 176.062 ~~and section 15 of this act.~~

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

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

Sec. 26. 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}~~ DNA profile of a person ~~{who is convicted of an offense listed in subsection 4 of}~~ from whom a biological specimen is obtained pursuant to NRS 176.0913, or section 13 of this act, to the Division. The information must be submitted to the Division:

- (a) Through an electronic network;
 - (b) On a medium of magnetic storage; or
 - (c) In the manner prescribed by the Director of the Department,
- ↪ within the period prescribed by the Director of the Department. If an agency has submitted a record regarding the arrest of a person who is later

determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.

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

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

(1) Records of criminal history; and

(2) The ~~{genetic markers of a biological specimen}~~ *DNA profile* of a person ~~[who is convicted of an offense listed in subsection 4 of]~~ *from whom a biological specimen is obtained pursuant to NRS 176.0913 [-] or section 13 of this act.*

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

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

5. The Division may:

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

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

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

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

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

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

(4) For whom such information is required to be obtained pursuant to NRS 62B.270, 424.031, 427A.735, 432A.170, 433B.183 and 449.123; 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.

(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. 27. NRS 179D.151 is hereby amended to read as follows:

179D.151 1. A record of registration must include, if the information is available:

~~{1-}~~ (a) Information identifying the offender or sex offender, including, but not limited to:

~~{(a)}~~ (1) The name of the offender or sex offender and all aliases that the offender or sex offender has used or under which he or she has been known;

~~[(b)]~~ (2) A complete physical description of the offender or sex offender, a current photograph of the offender or sex offender and the fingerprints and palm prints of the offender or sex offender;

~~[(c)]~~ (3) The date of birth and the social security number of the offender or sex offender;

~~[(d)]~~ (4) The identification number from a driver's license or an identification card issued to the offender or sex offender by this State or any other jurisdiction and a photocopy of such driver's license or identification card;

~~[(e)] A report of the analysis of the genetic markers of the specimen obtained from the offender or sex offender pursuant to NRS 176.0913;~~

(5) *Information indicating whether the DNA profile and DNA record of the offender or sex offender has been entered in CODIS;* and

~~[(f)]~~ (6) Any other information that identifies the offender or sex offender.

~~[2.]~~ (b) Except as otherwise provided in ~~[subsection 3.]~~ paragraph (c), information concerning the residence of the offender or sex offender, including, but not limited to:

~~[(a)]~~ (1) The address at which the offender or sex offender resides;

~~[(b)]~~ (2) The length of time the offender or sex offender has resided at that address and the length of time the offender or sex offender expects to reside at that address;

~~[(c)]~~ (3) The address or location of any other place where the offender or sex offender expects to reside in the future and the length of time the offender or sex offender expects to reside there; and

~~[(d)]~~ (4) The length of time the offender or sex offender expects to remain in the county where the offender or sex offender resides and in this State.

~~[3.]~~ (c) If the offender or sex offender has no fixed residence, the address of any dwelling that is providing the offender or sex offender temporary shelter, or any other location where the offender or sex offender habitually sleeps, including, but not limited to, the cross streets, intersection, direction and identifiable landmarks of the city, county, state and zip code of that location.

~~[4.]~~ (d) Information concerning the offender's or sex offender's occupations, employment or work or expected occupations, employment or work, including, but not limited to, the name, address and type of business of all current and expected future employers of the offender or sex offender.

~~[5.]~~ (e) Information concerning the offender's or sex offender's volunteer service or expected volunteer service in connection with any activity or organization within this State, including, but not limited to, the name, address and type of each such activity or organization.

~~[6.]~~ (f) Information concerning the offender's or sex offender's enrollment or expected enrollment as a student in any public or private educational institution or school within this State, including, but not limited to, the name, address and type of each such educational institution or school.

~~{7-}~~ (g) Information concerning whether:

~~{(a)}~~ (1) The offender or sex offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of the offender's or sex offender's enrollment at an institution of higher education; or

~~{(b)}~~ (2) The offender or sex offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of the offender's or sex offender's work at an institution of higher education,

➤ including, but not limited to, the name, address and type of each such institution of higher education.

~~{8-}~~ (h) The license plate number and a description of all motor vehicles registered to or frequently driven by the offender or sex offender.

~~{9-}~~ (i) The level of registration and community notification of the offender or sex offender.

~~{10-}~~ (j) The criminal history of the offender or sex offender, including, without limitation:

~~{(a)}~~ (1) The dates of all arrests and convictions of the offender or sex offender;

~~{(b)}~~ (2) The status of parole, probation or supervised release of the offender or sex offender;

~~{(c)}~~ (3) The status of the registration of the offender or sex offender; and

~~{(d)}~~ (4) The existence of any outstanding arrest warrants for the offender or sex offender.

~~{11-}~~ (k) The following information for each offense for which the offender or sex offender has been convicted:

~~{(a)}~~ (1) The court in which the offender or sex offender was convicted;

~~{(b)}~~ (2) The text of the provision of law defining each offense;

~~{(c)}~~ (3) The name under which the offender or sex offender was convicted;

~~{(d)}~~ (4) The name and location of each penal institution, school, hospital, mental facility or other institution to which the offender or sex offender was committed;

~~{(e)}~~ (5) The specific location where the offense was committed;

~~{(f)}~~ (6) The age, the gender, the race and a general physical description of the victim; and

~~{(g)}~~ (7) The method of operation that was used to commit the offense, including, but not limited to:

~~{(1)}~~ (I) Specific sexual acts committed against the victim;

~~{(2)}~~ (II) The method of obtaining access to the victim, such as the use of enticements, threats, forced entry or violence against the victim;

~~{(3)}~~ (III) The type of injuries inflicted on the victim;

~~{(4)}~~ (IV) The types of instruments, weapons or objects used;

~~{(5)}~~ (V) The type of property taken; and

~~[(6)]~~ (VI) Any other distinctive characteristic of the behavior or personality of the offender or sex offender.

~~[(12)]~~ (I) Any other information required by federal law.

2. As used in this section:

(a) "CODIS" has the meaning ascribed to it in section 4 of this act.

(b) "DNA profile" has the meaning ascribed to it in section 6 of this act.

(c) "DNA record" has the meaning ascribed to it in section 7 of this act.

Sec. 28. NRS 179D.443 is hereby amended to read as follows:

179D.443 1. When an offender convicted of a crime against a child or a sex offender registers with a local law enforcement agency as required pursuant to NRS 179D.445, 179D.460 or 179D.480, or updates the registration as required pursuant to NRS 179D.447:

~~[(1)]~~ (a) The offender or sex offender shall provide the local law enforcement agency with the following:

~~[(a)]~~ (1) The name of the offender or sex offender and all aliases that the offender or sex offender has used or under which the offender or sex offender has been known;

~~[(b)]~~ (2) The social security number of the offender or sex offender;

~~[(c)]~~ (3) The address of any residence or location at which the offender or sex offender resides or will reside;

~~[(d)]~~ (4) The name and address of any place where the offender or sex offender is a worker or will be a worker;

~~[(e)]~~ (5) The name and address of any place where the offender or sex offender is a student or will be a student;

~~[(f)]~~ (6) The license plate number and a description of all motor vehicles registered to or frequently driven by the offender or sex offender; and

~~[(g)]~~ (7) Any other information required by federal law.

~~[(2)]~~ (b) If the offender or sex offender has not previously provided a biological specimen pursuant to NRS 176.0913 or 176.0916, *or section 13 of this act*, the offender or sex offender shall provide a biological specimen to the local law enforcement agency. The local law enforcement agency shall provide the specimen to the forensic laboratory that has been designated by the county in which the offender or sex offender resides, is present or is a worker or student to conduct or oversee genetic marker ~~testing~~ analysis for the county pursuant to NRS 176.0917.

~~[(3)]~~ (c) The local law enforcement agency shall ensure that the record of registration of the offender or sex offender includes, without limitation:

~~[(a)]~~ (1) A complete physical description of the offender or sex offender, a current photograph of the offender or sex offender and the fingerprints and palm prints of the offender or sex offender;

~~[(b)]~~ (2) The text of the provision of law defining each offense for which the offender or sex offender is required to register;

~~[(c)]~~ (3) The criminal history of the offender or sex offender, including, without limitation:

~~{{(1)}} (I)~~ The dates of all arrests and convictions of the offender or sex offender;

~~{{(2)}} (II)~~ The status of parole, probation or supervised release of the offender or sex offender;

~~{{(3)}} (III)~~ The status of the registration of the offender or sex offender; and

~~{{(4)}} (IV)~~ The existence of any outstanding arrest warrants for the offender or sex offender;

~~{{(d)} A report of the analysis of the genetic markers of the specimen obtained from the offender or sex offender;~~

~~{{(e)}} (4)~~ *Information indicating whether the DNA profile and DNA record of the offender or sex offender has been entered in CODIS;*

(5) The identification number from a driver's license or an identification card issued to the offender or sex offender by this State or any other jurisdiction and a photocopy of such driver's license or identification card; and

~~{{(f)}} (6)~~ Any other information required by federal law.

2. *As used in this section:*

(a) *"CODIS" has the meaning ascribed to it in section 4 of this act.*

(b) *"DNA profile" has the meaning ascribed to it in section 6 of this act.*

(c) *"DNA record" has the meaning ascribed to it in section 7 of this act.*

Sec. 29. NRS 209.247 is hereby amended to read as follows:

209.247 Except as otherwise provided in NRS 209.2475, the Director may make the following deductions, in the following order of priority, from any money deposited in the individual account of an offender from any source other than the offender's wages:

1. An amount the Director deems reasonable for deposit with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260.

2. An amount the Director considers reasonable to meet an existing obligation of the offender for the support of the offender's family.

3. An amount determined by the Director, with the approval of the Board, to offset the cost of maintaining the offender in the institution, as reflected in the budget of the Department. An amount deducted pursuant to this subsection may include, but is not limited to, an amount to offset the cost of participation by the offender pursuant to NRS 209.4231 to 209.4244, inclusive, in a therapeutic community or a program of aftercare, or both.

4. A deduction pursuant to NRS 209.246.

5. An amount determined by the Director for deposit in a savings account for the offender, in which interest on the money deposited does not accrue, to be used for the payment of the expenses of the offender related to his or her release or, if the offender dies before his or her release, to defray expenses related to arrangements for the offender's funeral.

6. An amount the Director considers reasonable to meet an existing obligation of the offender for restitution to a victim of his or her crime.

7. An amount the Director considers reasonable to pay the balance of an administrative assessment included in the judgment entered against the offender for each crime for which the offender is incarcerated and the balance of an unpaid administrative assessment included in a judgment entered against the offender for a crime committed in this state for which the offender was previously convicted. An amount deducted from a source other than the wages earned by the offender during his or her incarceration, pursuant to this subsection, must be submitted:

(a) If the offender does not have an administrative assessment owing from a judgment entered for a crime previously committed in this state, to the court that entered the judgment against the offender for which he or she is incarcerated.

(b) If the offender has an administrative assessment owing from a judgment entered for a crime previously committed in this state, to the court that first entered a judgment for which an administrative assessment is owing, until the balance owing has been paid.

8. An amount the Director considers reasonable to pay the balance of a fine included in the judgment entered against the offender for each crime for which the offender is incarcerated and the balance of an unpaid fine included in a judgment entered against the offender for a crime committed in this state for which the offender was previously convicted. An amount deducted from any source other than the wages earned by the offender during his or her incarceration, pursuant to this subsection, must be submitted:

(a) If the offender does not have a fine owing from a judgment entered for a crime previously committed in this state, to the court that entered the judgment against the offender for which he or she is incarcerated.

(b) If the offender has a fine owing from a judgment entered for a crime previously committed in this state, to the court that first entered a judgment for which any fine or administrative assessment is owing, until the balance owing has been paid.

9. An amount the Director considers reasonable to pay the balance of any fee imposed upon the offender for genetic marker ~~testing~~ analysis and included in the judgment entered against the offender pursuant to NRS 176.0915.

➡ The Director shall determine the priority of any other deduction authorized by law from any source other than the wages earned by the offender during his or her incarceration.

Sec. 30. NRS 209.463 is hereby amended to read as follows:

209.463 Except as otherwise provided in NRS 209.2475, the Director may make the following deductions, in the following order of priority, from the wages earned by an offender from any source during the offender's incarceration:

1. If the hourly wage of the offender is equal to or greater than the federal minimum wage:

(a) An amount the Director deems reasonable for deposit with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime.

(b) An amount the Director considers reasonable to meet an existing obligation of the offender for the support of his or her family.

(c) An amount determined by the Director, with the approval of the Board, for deposit in the State Treasury for credit to the Fund for New Construction of Facilities for Prison Industries, but only if the offender is employed through a program for prison industries.

(d) An amount determined by the Director for deposit in the individual account of the offender in the Prisoners' Personal Property Fund.

(e) An amount determined by the Director, with the approval of the Board, to offset the cost of maintaining the offender in the institution, as reflected in the budget of the Department. An amount deducted pursuant to this paragraph may include, but is not limited to, an amount to offset the cost of participation by the offender pursuant to NRS 209.4231 to 209.4244, inclusive, in a therapeutic community or a program of aftercare, or both.

(f) A deduction pursuant to NRS 209.246.

(g) An amount determined by the Director for deposit in a savings account for the offender, in which interest on the money deposited does not accrue, to be used for the payment of the expenses of the offender related to his or her release, or if the offender dies before his or her release, to defray expenses related to arrangements for his or her funeral.

(h) An amount the Director considers reasonable to meet an existing obligation of the offender for restitution to any victim of his or her crime.

(i) An amount the Director considers reasonable to pay the balance of any fee imposed upon the offender for genetic marker ~~testing~~ analysis and included in the judgment entered against the offender pursuant to NRS 176.0915.

(j) An amount the Director considers reasonable to pay the balance of an administrative assessment included in the judgment entered against the offender for each crime for which the offender is incarcerated and the balance of an unpaid administrative assessment included in a judgment entered against the offender for a crime committed in this state for which the offender was previously convicted. An amount deducted from the wages of the offender pursuant to this paragraph must be submitted:

(1) If the offender does not have an administrative assessment owing from a judgment entered for a crime previously committed in this state, to the court that entered the judgment against the offender for which the offender is incarcerated.

(2) If the offender has an administrative assessment owing from a judgment entered for a crime previously committed in this state, to the court that first entered a judgment for which an administrative assessment is owing, until the balance owing has been paid.

(k) An amount the Director considers reasonable to pay the balance of a fine included in the judgment entered against the offender for each crime for

which the offender is incarcerated and the balance of an unpaid fine included in a judgment entered against the offender for a crime committed in this state for which the offender was previously convicted. An amount deducted from the wages of the offender pursuant to this paragraph must be submitted:

(1) If the offender does not have a fine owing from a judgment entered for a crime previously committed in this state, to the court that entered the judgment against the offender for which the offender is incarcerated.

(2) If the offender has a fine owing from a judgment entered for a crime previously committed in this state, to the court that first entered a judgment for which a fine or administrative assessment is owing, until the balance owing has been paid.

➡ The Director shall determine the priority of any other deduction authorized by law from the wages earned by the offender from any source during the offender's incarceration.

2. If the hourly wage of the offender is less than the federal minimum wage:

(a) An amount the Director deems reasonable for deposit with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime.

(b) An amount determined by the Director, with the approval of the Board, for deposit in the State Treasury for credit to the Fund for New Construction of Facilities for Prison Industries, but only if the offender is employed through a program for prison industries.

(c) An amount determined by the Director for deposit in the individual account of the offender in the Prisoners' Personal Property Fund.

(d) An amount determined by the Director, with the approval of the Board, to offset the cost of maintaining the offender in the institution, as reflected in the budget of the Department. An amount deducted pursuant to this paragraph may include, but is not limited to, an amount to offset the cost of participation by the offender pursuant to NRS 209.4231 to 209.4244, inclusive, in a therapeutic community or a program of aftercare, or both.

(e) A deduction pursuant to NRS 209.246.

(f) An amount the Director considers reasonable to pay the balance of any fee imposed upon the offender for genetic marker ~~testing~~ analysis and included in the judgment entered against the offender pursuant to NRS 176.0915.

(g) An amount determined by the Director for deposit in a savings account for the offender, in which interest on the money deposited does not accrue, to be used for the payment of the expenses of the offender related to the offender's release, or if the offender dies before the offender's release, to defray expenses related to arrangements for the offender's funeral.

➡ The Director shall determine the priority of any other deduction authorized by law from the wages earned by the offender from any source during the offender's incarceration.

Sec. 31. NRS 211.245 is hereby amended to read as follows:

211.245 1. If a prisoner fails to make a payment within 10 days after it is due, the district attorney for a county or the city attorney for an incorporated city may file a civil action in any court of competent jurisdiction within this State seeking recovery of:

- (a) The amount of reimbursement due;
- (b) Costs incurred in conducting an investigation of the financial status of the prisoner; and
- (c) Attorney's fees and costs.

2. A civil action brought pursuant to this section must:

- (a) Be instituted in the name of the county or city in which the jail, detention facility or alternative program is located;
- (b) Indicate the date and place of sentencing, including, without limitation, the name of the court which imposed the sentence;
- (c) Include the record of judgment of conviction, if available;
- (d) Indicate the length of time served by the prisoner and, if the prisoner has been released, the date of his or her release; and
- (e) Indicate the amount of reimbursement that the prisoner owes to the county or city.

3. The county or city treasurer of the county or incorporated city in which a prisoner is or was confined shall determine the amount of reimbursement that the prisoner owes to the city or county. The county or city treasurer may render a sworn statement indicating the amount of reimbursement that the prisoner owes and submit the statement in support of a civil action brought pursuant to this section. Such a statement is prima facie evidence of the amount due.

4. A court in a civil action brought pursuant to this section may award a money judgment in favor of the county or city in whose name the action was brought.

5. If necessary to prevent the disposition of the prisoner's property by the prisoner, or the prisoner's spouse or agent, a county or city may file a motion for a temporary restraining order. The court may, without a hearing, issue ex parte orders restraining any person from transferring, encumbering, hypothecating, concealing or in any way disposing of any property of the prisoner, real or personal, whether community or separate, except for necessary living expenses.

6. The payment, pursuant to a judicial order, of existing obligations for:

- (a) Child support or alimony;
- (b) Restitution to victims of crimes; and
- (c) Any administrative assessment required to be paid pursuant to NRS 62E.270, 176.059, 176.0611, 176.0613 and 176.062, *and section 15 of this act,*

➡ has priority over the payment of a judgment entered pursuant to this section.

Sec. 32. NRS 249.085 is hereby amended to read as follows:

249.085 On or before the 15th day of each month, the county treasurer shall report to the State Controller the amount of the administrative assessments paid by each justice court for the preceding month pursuant to NRS 176.059 and 176.0613 ~~[-]~~ and section 15 of this act.

Sec. 33. 1. If a person is convicted of an offense listed in subsection 4 of NRS 176.0913, regardless of the date upon which the conviction is entered, and the person has not previously submitted a biological specimen:

(a) The Department of Corrections shall arrange for a biological specimen to be obtained before the person is released from custody, if the person is in the custody of the Department of Corrections.

(b) The Division of Parole and Probation of the Department of Public Safety shall arrange for a biological specimen to be obtained from the person, if the person is located in this State but is not in the custody of the Department of Corrections.

2. For the purposes of NRS 176.0911 to 176.0917, inclusive, as amended by this act, a biological specimen obtained pursuant to this section shall be deemed to be a biological specimen obtained pursuant to NRS 176.0913, must be treated as a biological specimen obtained pursuant to NRS 176.0913 and is subject to the provisions of NRS 176.0913 as if the biological specimen were obtained pursuant to NRS 176.0913.

Sec. 34. 1. Except as otherwise provided in subsection 2, the amendatory provisions of this act apply to a person who is arrested on or after July 1, 2014.

2. The ~~amendatory~~ provisions of:

(a) Section 15 of this act apply to a person who pleads guilty, is found guilty or enters a plea of nolo contendere to a misdemeanor, gross misdemeanor or felony, including the violation of any municipal ordinance, on or after July 1, 2013.

(b) Section 33 of this act apply to a person who is convicted of an offense listed in subsection 4 of NRS 176.0913 before, on or after July 1, 2014.

Sec. 35. 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. 338 to Senate Bill No. 243 requires the standard form for use by law enforcement to identify the process by which a person may have his or her biological specimen destroyed and his or her DNA profile, or DNA record purged, from the forensic laboratory, the State DNA database and Combined DNA Index System, or "CODIS." It provides that law enforcement shall provide the form to a person upon release from custody if the person has submitted a specimen. The amendment increases the administrative assessment from \$2 to \$3 and deletes the provision of a social security number to law enforcement making the arrest. And finally, it establishes the Subcommittee to Review Arrestee DNA of the Advisory Commission on the Administration of Justice. The members of the Subcommittee are appointed by the Chair of the Commission and must, at a minimum, include: 1) a member experienced in defending criminal actions; and 2) a member of a minority community organization whose mission includes the protection of civil rights for minorities.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 246.

Bill read second time.

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

Amendment No. 370.

"SUMMARY—Revises provisions relating to committees for political action. (BDR 24-674)"

"AN ACT relating to campaign practices; amending the definition of "committee for political action" to include certain organizations and entities that receive contributions or make expenditures in excess of certain amounts for the purpose of affecting an election; requiring such organizations and entities to register as committees for political action; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill revises the definition of "committee for political action" to include any business or social organization, corporation, partnership, association, trust, unincorporated organization or labor union that: (1) has as its ~~major~~ primary purpose affecting the outcome of an election and for that purpose receives in excess of \$1,500 in contributions or makes expenditures in excess of \$1,500 in a calendar year; or (2) does not have as its ~~major~~ primary purpose affecting the outcome of an election but for that purpose receives in excess of \$5,000 in contributions or makes expenditures in excess of \$5,000 in a calendar year. Section 2 of this bill requires all such organizations and entities to register with the Secretary of State not later than 7 calendar days after qualifying as a committee for political action.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 294A.0055 is hereby amended to read as follows:

294A.0055 1. "Committee for political action" means ~~any~~ :

(a) Any group of natural persons or entities that solicits or receives contributions from any other person, group or entity and:

~~{(a)}~~ (1) Makes or intends to make contributions to candidates or other persons; or

~~{(b)}~~ (2) Makes or intends to make expenditures,

↪ designed to affect the outcome of any primary election, primary city election, general election, general city election, special election or question on the ballot.

(b) Any business or social organization, corporation, partnership, association, trust, unincorporated organization or labor union:

(1) Which has as its ~~major~~ primary purpose affecting the outcome of any primary election, primary city election, general election, general city

election, special election or any question on the ballot and for that purpose receives contributions in excess of \$1,500 in a calendar year or makes expenditures in excess of \$1,500 in a calendar year; or

(2) Which does not have as its ~~major~~ primary purpose affecting the outcome of any primary election, primary city election, general election, general city election, special election or any question on the ballot, but for the purpose of affecting the outcome of any election or question on the ballot receives contributions in excess of \$5,000 in a calendar year or makes ~~for~~ ~~expenditure~~ expenditures in excess of \$5,000 in a calendar year.

2. "Committee for political action" does not include:

(a) An organization made up of legislative members of a political party whose primary purpose is to provide support for their political efforts.

(b) An entity solely because it provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public.

(c) An individual natural person.

(d) ~~[An]~~ Except as otherwise provided in paragraph (b) of subsection 1, an individual corporation or other business organization who has filed articles of incorporation or other documentation of organization with the Secretary of State pursuant to title 7 of NRS.

(e) ~~[A]~~ Except as otherwise provided in paragraph (b) of subsection 1, a labor union.

(f) A personal campaign committee or the personal representative of a candidate who receives contributions or makes expenditures that are reported as campaign contributions or expenditures by the candidate.

(g) A committee for the recall of a public officer.

Sec. 2. NRS 294A.230 is hereby amended to read as follows:

294A.230 1. ~~[Each]~~ Except as otherwise provided in subsection 2, each committee for political action shall, before it engages in any activity in this State, register with the Secretary of State on forms supplied by the Secretary of State.

2. A person who qualifies as a committee for political action in accordance with:

(a) Subparagraph (1) of paragraph (b) of subsection 1 of NRS 294A.0055 by receiving contributions in excess of \$1,500 in a calendar year or making expenditures in excess of \$1,500 in a calendar year; or

(b) Subparagraph (2) of paragraph (b) of subsection 1 of NRS 294A.0055 by receiving contributions in excess of \$5,000 in a calendar year or making ~~for an expenditure~~ expenditures in excess of \$5,000 in a calendar year,

➡ shall, not later than 7 calendar days after the qualifying event, register with the Secretary of State on forms supplied by the Secretary of State.

3. The form must require:

(a) The name of the committee ~~[:]~~ for political action;

(b) The purpose for which it was organized;

(c) The names, addresses and telephone numbers of its officers;

(d) If the committee for political action is affiliated with any other organizations, the name, address and telephone number of each organization;

(e) The name, address and telephone number of its registered agent; and

(f) Any other information deemed necessary by the Secretary of State.

~~3-1~~ 4. A committee for political action shall file with the Secretary of State:

(a) An amended form for registration within 30 days after any change in the information contained in the form for registration.

(b) A form for registration on or before January 15 of each year, regardless of whether there is a change in the information contained in the most recent form for registration filed by the committee for political action with the Secretary of State.

~~4-1~~ 5. The Secretary of State shall include on the Secretary of State's Internet website the information required pursuant to subsection ~~2-~~

~~5-1~~ 3.

6. For purposes of the civil penalty that the Secretary of State may impose pursuant to NRS 294A.420 for violating the provisions of subsection 1 ~~1-1~~ or 2, if a committee for political action fails to register with the Secretary of State pursuant to subsection 1 ~~1-1~~ or 2, each time the committee for political action engages in any activity in this State constitutes a separate violation of subsection 1 or 2 for which the Secretary of State may impose a civil penalty.

Senator Spearman moved the adoption of the amendment.

Remarks by Senator Spearman.

Thank you, Mr. President. Amendment No. 370 to Senate Bill No. 246 makes technical changes for the purpose of clarification. The word "major" is changed to "primary" with regard to the purpose of an organization, which brings it into conformance with other sections of *Nevada Revised Statutes*. The word "expenditure" is changed to the plural form "expenditures" to indicate aggregate expenditures and not one single expenditure. The word "calendar" is inserted to indicate that the period for registration is seven consecutive calendar days after the qualifying event.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 255.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 447.

"SUMMARY—Limits the use of certain property or the proceeds of certain property by the Board of Regents of the University of Nevada. (BDR 34-632)"

"AN ACT relating to the Nevada System of Higher Education; limiting the use of certain property or the proceeds of certain property by the Board of Regents of the University of Nevada; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Board of Regents of the University of Nevada to accept property for the benefit of any branch or facility of the Nevada System of Higher Education and authorizes the Board of Regents to sell or lease the property under certain conditions. (NRS 396.420, 396.430) This bill ~~requires~~ authorizes the Board of Regents to use the proceeds from the sale of, or any property received in exchange for, agricultural research property to support, expand and develop research and other educational programs in agriculture within the Nevada Agricultural Research System or an institution within the System ~~for~~ or any other purpose proposed by the Board of Regents and approved by the Legislature, or the Interim Finance Committee if the Legislature is not in session.

WHEREAS, The Nevada Legislature is directed by the Nevada Constitution to establish a state university which embraces a department of agriculture; and

WHEREAS, Agriculture is one of the most important industries in this State, providing a cornerstone for the economies of rural Nevada and the State as a whole, and employing a large number of workers in this State; and

WHEREAS, The federal requirements governing federally funded agricultural property require the reinvestment of the proceeds from agricultural research assets back into agricultural programs placing the State of Nevada in jeopardy of being required to repay federal funding; and

WHEREAS, Property and related assets which are part of the Nevada Agricultural Research System and proceeds from such property should be preserved for exclusive use by the Nevada Agricultural Research System or other institutions of the Nevada System of Higher Education to support, expand and develop programs in agriculture; now, therefore,

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

Section 1. NRS 396.430 is hereby amended to read as follows:

396.430 1. The Board of Regents may sell or lease any property granted, donated, devised or bequeathed to the System if:

(a) The sale or lease is not prohibited by or inconsistent with the provisions or conditions prescribed by the grant, gift, devise or bequest; and

(b) The sale or lease is approved by the Governor.

2. ~~The~~ *Except as otherwise provided by subsection 3, the proceeds and rents from the sale or lease must be held, managed, invested, used, bestowed and applied by the Board of Regents for the purposes, provisions and conditions prescribed by the original grant, gift, devise or bequest of the property so sold or leased.*

3. *The proceeds and rents from the sale or lease of, or any property or other asset received in exchange for, property or a related asset that has been owned and used or operated in conjunction with the Nevada Agricultural Research System ~~must~~ may be used ~~exclusively~~ for:*

(a) *Current production agricultural education or applied research programs or the development of new programs of this type in agriculture within the Nevada Agricultural Research System; ~~for~~*

(b) *The development or expansion of production agricultural education programs at any other institution within the System ~~for~~; or*

(c) *Any other purpose which, upon a proposal submitted by the Board of Regents, is approved by the Legislature, or the Interim Finance Committee if the Legislature is not in session.*

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. 447 to Senate Bill No. 255 provides that the proceeds and rents from the sale or lease of property operated by the Nevada Agricultural Research System may be used, versus used exclusively, for the purposes of current or new agriculture education, production or research programs. It also allows for the proceeds of the sale or lease of agricultural property specified in the bill to be used for other purposes if the Board of Regents seeks and obtains prior approval from the Legislature.

Amendment adopted.

Senator Goicoechea moved that Senate Bill No. 255 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. 267.

Bill read second time.

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

Amendment No. 487.

"SUMMARY—Establishes provisions governing tanning establishments. (BDR 52-958)"

"AN ACT relating to tanning establishments; prohibiting an owner or operator of a tanning establishment from allowing a person who is less than 18 years of age to use the tanning equipment of the establishment; ~~[without first identifying and obtaining the written consent of the parent or guardian of the person]~~ requiring an owner or operator of a tanning establishment to post certain warning signs concerning the use of tanning equipment; authorizing certain persons to bring an action against an owner or operator of a tanning establishment under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 8 of this bill prohibits an owner or operator of a tanning establishment from allowing a person who is less than 18 years of age to use the tanning equipment of the establishment. ~~[unless the owner or operator first identifies and obtains the written consent of the parent or guardian of the person.]~~

Section 9 of this bill requires an owner or operator of a tanning establishment to post a notice in a conspicuous place informing customers ~~of certain requirements set forth in section 8,]~~ : (1) that a person who is less than 18 years of age is prohibited from using the tanning equipment; (2) that the owner or operator of the tanning establishment may be subject to civil action for certain violations; (3) that any person may report violations to any law enforcement agency; and (4) of certain health risks associated with the use of tanning equipment. Section 10 of this bill requires an owner or operator of a tanning establishment to post in a conspicuous place in each area where tanning equipment is used a warning sign informing users of certain safety procedures that must be followed while using the tanning equipment. Section 10 also establishes certain civil penalties for failure to post such warning signs. Section 11 of this bill requires an owner or operator of a tanning establishment to ensure that a qualified person be present at the tanning establishment during operating hours and that each user be aware of and use certain safety equipment. Section 11 prohibits a person from using the tanning equipment of a tanning establishment unless he or she signs a statement of acknowledgment and uses protective eyewear while using the tanning equipment. Section 13 of this bill exempts from the provisions of this ~~act]~~ bill any physician who prescribes the use of a phototherapy device, as well as any person prescribed the use of such a device by a physician.

Section 12 of this bill authorizes a parent or guardian to bring an action against an owner or operator of a tanning establishment who allows a child of the parent or guardian to use the tanning equipment of the establishment, ~~[and who does not first identify and obtain the written consent of the parent or guardian. Section 12 also provides that an owner or operator of a tanning establishment is not liable in such an action if he or she obtained the written consent of the parent or guardian in good faith and pursuant to the procedural requirements set forth in section 8.]~~

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

Section 1. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this act.

Sec. 2. *As used in sections 2 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Operator" means a person who is designated by the owner of a tanning establishment or by the lessee of the tanning equipment of the tanning establishment to operate or to assist and instruct in the operation and use of the tanning establishment or tanning equipment.*

Sec. 4. *"Owner" means the owner of a tanning establishment.*

Sec. 5. *"Phototherapy device" means any equipment that emits ultraviolet radiation and is used in the diagnosis or treatment of disease or injury.*

Sec. 6. "Tanning equipment" means any device that emits ultraviolet radiation to tan human skin, including, without limitation, sunlamps, tanning booths and tanning beds.

Sec. 7. "Tanning establishment" means any premises, mobile unit, building or part of a building where access to tanning equipment is provided for a fee, membership dues or any other compensation.

Sec. 8. ~~1.~~ An owner or operator shall not allow a person who is less than 18 years of age to use the tanning equipment of ~~the~~ a tanning establishment, ~~unless:~~

~~(a) A parent or guardian of the person physically appears at the tanning establishment and produces a driver's license or other form of identification issued by a governmental agency as evidence of his or her identity; and~~

~~(b) The owner or operator obtains the written consent of the parent or guardian of the person, which must include a statement that he or she is a parent or guardian of the person and which expressly authorizes the person to use the tanning equipment of the tanning establishment.~~

~~2. The written consent of a parent or guardian obtained by the owner or operator pursuant to subsection 1 expires 1 year after the date on which it is obtained and may be renewed or revoked by the parent or guardian.~~

~~3. The owner or operator shall maintain a copy of any written consent obtained from a parent or guardian of a person who is less than 18 years of age pursuant to this section for a period of not less than 1 year after the most recent use of the tanning equipment by the person.~~

Sec. 9. An owner or operator shall post in a conspicuous place in the tanning establishment a notice that states substantially the following:

1. It is unlawful for the owner or operator of a tanning establishment to allow a person who is less than 18 years of age to use any tanning equipment ~~without first obtaining the written consent of the parent or guardian of the person.~~

2. An owner or operator of a tanning establishment who violates any provision of sections 2 to 13, inclusive, of this act may be subject to civil action.

3. Any person may report a violation of sections 2 to 13, inclusive, of this act to any law enforcement agency.

4. Health risks associated with tanning include, without limitation, skin cancer, premature aging of the skin and burns to the skin.

Sec. 10. 1. An owner or operator shall post in a conspicuous place in each area where tanning equipment is used a warning sign that states substantially the following:

~~1.~~ (a) Follow instructions.

~~2.~~ (b) Avoid too frequent or too lengthy exposure. Like exposure to the sun, use of tanning equipment can cause eye and skin injury and allergic reactions. Repeated exposure can cause chronic sun damage, which is characterized by wrinkling, dryness, fragility and bruising of the skin and skin cancer.

~~f3.7~~ (c) Wear protective eyewear. Failure to do so may result in severe burns or long-term injury to the eyes.

~~f4.7~~ (d) Medications and cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using tanning equipment if you are using medications, have a history of skin problems or believe that you are especially sensitive to sunlight.

~~f5.7~~ (e) If your skin does not tan when exposed to the sun, it is unlikely that your skin will tan when exposed to this tanning equipment.

2. An owner or operator who fails to post a warning sign in accordance with subsection 1 shall:

(a) For the first violation, pay a civil penalty of \$250.

(b) For the second violation, pay a civil penalty of \$500.

(c) For the third or subsequent violation, pay a civil penalty of \$1,000.

Sec. 11. An owner or operator shall ensure that:

1. A person who is qualified to operate the tanning equipment and who is able to inform users about, and assist such users in, the proper use of tanning equipment is present at the tanning establishment during operating hours.

2. Tanning equipment is properly sanitized after each use.

3. Each user, before he or she begins to use tanning equipment, is provided with properly sanitized and securely fitting protective eyewear that protects the wearer's eyes from ultraviolet radiation and allows enough vision to maintain balance.

4. Users wear the protective eyewear described in subsection 3 when using tanning equipment.

5. Each user is shown how to maintain the proper exposure distance from the tanning equipment as recommended by the manufacturer.

6. A timing device which is accurate within 10 percent of any selected time interval is used and is remotely located so a user cannot set his or her own exposure time when using tanning equipment.

7. Tanning equipment is equipped with a mechanism that allows the user to turn off the tanning equipment.

8. Each user is limited to the maximum exposure time recommended by the manufacturer for his or her skin type.

9. A user is not allowed to use the tanning equipment more than once in any 24-hour period.

10. The interior temperature of the tanning ~~establishment~~ equipment does not exceed 100 degrees Fahrenheit.

11. Acknowledgments signed by each user ~~for, if the user is less than 18 years of age, by his or her parent or guardian,~~ indicating that he or she understands the notices and warnings prescribed by sections 9 and 10 ~~f7~~ of this act, and that he or she agrees to use protective eyewear, are retained for at least ~~f3 years~~ 1 year or until the user signs a new acknowledgment.

Sec. 12. 1. A parent or guardian of a person who is less than 18 years of age may bring an action against an owner or operator if the owner or

operator ~~does not identify and obtain written consent from the parent or guardian in the manner prescribed by subsection 1 of~~ violates section 8 of this act.

2. ~~Except as otherwise provided in subsection 4, in~~ In any action brought pursuant to this section, if a parent or guardian of a person who is less than 18 years of age establishes that the owner or operator ~~did not identify and obtain written consent from the parent or guardian in the manner prescribed by subsection 1 of~~ violated section 8 of this act, a court shall award the parent or guardian, in addition to costs and reasonable attorney's fees:

(a) For the first occurrence, ~~\$2,000.~~ \$500.

(b) For the second ~~for a subsequent~~ occurrence, ~~\$4,000.~~ \$1,000.

(c) For the third or subsequent occurrence, \$1,500.

3. Each instance in which an owner or operator allows a person who is less than 18 years of age to use the tanning equipment of the tanning establishment ~~without identifying and obtaining the consent of a parent or guardian of the person in the manner prescribed by subsection 1~~ in violation of section 8 of this act constitutes a separate occurrence.

~~4. An owner or operator who, in good faith, complies with the requirements of section 8 of this act is not liable in any action brought pursuant to this section.~~

Sec. 13. The provisions of sections 2 to 13, inclusive, of this act do not apply to any physician licensed to practice medicine in this State who uses, or prescribes the use of, a phototherapy device, or to any person who is prescribed the use of a phototherapy device by a physician licensed to practice medicine in this State.

Sec. 14. 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. 487 to Senate Bill No. 267 prohibits any person who is less than 18 years of age from using tanning equipment in a tanning establishment. It also revises the amounts for civil penalties if an owner or operator of a tanning establishment allows someone under the age of 18 to use the tanning equipment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 278.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 378.

"SUMMARY—Establishes an expedited process for the foreclosure of abandoned residential property. (BDR 9-134)"

"AN ACT relating to real property; establishing an expedited process for the foreclosure of abandoned residential property; authorizing a board of county commissioners or the governing body of an incorporated city to

establish by ordinance a registry of abandoned residential real property ~~and~~ and a registry of real property in danger of becoming abandoned; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for a trustee under a deed of trust to exercise a power of sale on real property after a breach of an obligation or payment of debt secured by the deed of trust. (NRS 107.080) This bill establishes an expedited procedure for the exercise of the power of sale with respect to abandoned residential property.

Section 2 of this bill establishes the criteria to be used to determine whether real property constitutes abandoned residential property. Section 4 of this bill authorizes a beneficiary of a deed of trust ~~the successor in interest of the beneficiary or an agent designated or authorized to act on behalf of the beneficiary or its successor in interest~~ to elect to use an expedited procedure for the exercise of the trustee's power of sale ~~Section 4 also authorizes certain persons to enter property to investigate whether the property is abandoned residential property. Under section 4, if~~ if : (1) after an investigation of the property, the beneficiary determines that the property is abandoned residential property; and (2) the beneficiary receives a certification that the property is abandoned residential property from an agency designated by the county or city in which the property is located. Under section 4, each county and city must designate an agency to provide certifications that property is abandoned residential property, and that agency may charge the beneficiary a fee of not more than \$50 to provide such certifications. To elect to use the expedited procedure, the beneficiary ~~for its successor in interest or the agent authorized to act on behalf of the beneficiary or its successor in interest elects to use this expedited procedure,~~ must include with the notice of default and election to sell ~~must include~~ the certification of the agency designated by the county or city and an affidavit setting forth the circumstances and conditions supporting the determination that the property is abandoned residential property. If ~~such an~~ the certification and affidavit ~~is~~ are included with the notice of default and election to sell: (1) section 5 of this bill authorizes a notice of the sale of the property to be recorded not less than 60 days, rather than 3 months, after the recording of the notice of default and election to sell; and (2) section 6 of this bill provides that the requirements relating to the Foreclosure Mediation Program are inapplicable and that the trustee may exercise the power of sale by obtaining a certificate from the Mediation Administrator.

Under section 4, if the trustee's sale is not conducted within 6 months after receipt of a certification from the agency designated by the county or city: (1) the notice of default and election to sell and the affidavit and certification to elect the expedited procedure are deemed to be withdrawn; and (2) the beneficiary is liable to the grantor or the successor in interest of the grantor for a civil penalty of not more than \$500. Section 4 further authorizes a grantor of a deed of trust or his or her successor in interest to record an

affidavit stating that the property is not abandoned residential property and, if such an affidavit is recorded before the ~~recording of the~~ trustee's ~~deed of~~ sale of the property, the notice of default and election to sell and the affidavit and certification to elect the expedited sale procedure are deemed to be withdrawn.

Section 3 of this bill: (1) authorizes a board of county commissioners or the governing body of an incorporated city to establish a registry of abandoned residential property ~~and~~ and a registry of real property that is in danger of becoming abandoned residential property; and (2) requires ~~an~~ the affidavit and certification required to elect the expedited sale procedure to be submitted to the entity maintaining the registry of abandoned residential property for the jurisdiction in which the property is located.

Section 7 of this bill provides that this bill expires by limitation on June 30, 2017, and thus, the authorization to use the expedited procedure for the exercise of the trustee's power of sale expires on that date.

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

Section 1. Chapter 107 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *As used in this section and NRS 107.080 to 107.110, inclusive, and sections 3 and 4 of this act, unless the context otherwise requires:*

1. *"Abandoned residential property" means residential real property:*

(a) *Consisting of not more than four family dwelling units or a single-family residential unit, including, without limitation, a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units; and*

(b) *That the grantor or the successor in interest of the grantor has surrendered as evidenced by a document signed by the grantor or successor confirming the surrender or by the delivery of the keys to the property to the beneficiary or that satisfies the following conditions:*

(1) *The residential real property is not currently occupied as a principal residence by the grantor of the deed of trust, the person who holds title of record or any lawful occupant;*

(2) *The obligation secured by the deed of trust is in default and the deficiency in performance or payment has not been cured;*

(3) *The gas, electric and water utility services to the residential real property have been terminated;*

(4) ~~There~~ It appears, after reasonable inquiry, that there are no *children enrolled in school residing at the address of the residential real property;*

(5) *Payments pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits, payments for unemployment compensation or payments for public assistance, as defined in*

NRS 422.050 and 422A.065, are not currently being ~~mailed~~ delivered, electronically or otherwise, to a person who has registered the address of the residential real property ~~for~~ as his or her residence with the agency making the payment;

(6) An owner of the residential real property is not presently serving in the Armed Forces of the United States, a reserve component thereof or the National Guard; and

(7) Two or more of the following conditions exist:

(I) Construction was initiated on the residential real property and was discontinued before completion, leaving a building unsuitable for occupancy, and no construction has taken place for at least 6 months;

(II) Multiple windows on the residential real property are boarded up or closed off or are smashed through, broken off or unhinged, or multiple window panes are broken and unrepaired;

(III) Doors on the residential real property are smashed through, broken off, unhinged or continuously unlocked;

(IV) The residential real property has been stripped of copper or other materials, or interior fixtures to the property have been removed;

~~[(V) Assessments owed to a unit owners' association, as defined in NRS 116.011 or 116B.030, are past due;~~

~~[(VI) At least two written statements of occupants of neighboring properties indicate a clear intent to abandon the residential real property;]~~

~~[(VII)]~~ (V) Law enforcement officials have received at least one report of trespassing or vandalism or other illegal acts being committed at the residential real property within the immediately preceding 6 months;

~~[(VIII)]~~ (VI) The residential real property has been declared unfit for occupancy and ordered to remain vacant and unoccupied under an order issued by a municipal or county authority or a court of competent jurisdiction;

~~[(IX)]~~ (VII) The local police, fire or code enforcement authority has requested that the owner or any other interested or authorized party secure the residential real property because the local authority has declared the property to be an imminent danger to the health, safety and welfare of the public; or

~~[(X)]~~ (VIII) The residential real property is open and unprotected and in reasonable danger of significant damage resulting from exposure to the elements or vandalism ~~for~~ or

~~[(XI) The residential real property contains overgrown or dead vegetation.]~~

2. The term does not include residential real property if:

(a) There is construction, renovation or rehabilitation on the residential real property that is proceeding diligently to completion, and any building being constructed, renovated or rehabilitated on the property is in substantial compliance with all applicable ordinances, codes, regulations and laws;

(b) The residential real property is occupied on a seasonal basis, but is otherwise secure;

(c) There are bona fide rental or sale signs on the residential real property, or the property is listed on a Multiple Listing Service, and the property is secure; or

(d) The residential real property is secure but is the subject of a probate action, action to quiet title or any other ownership dispute.

Sec. 3. 1. A board of county commissioners or the governing body of an incorporated city may establish by ordinance ~~that~~ :

(a) A registry of abandoned residential property that contains information concerning abandoned residential property located in the county or city.

(b) A registry of residential property located in the county or city that may be in danger of becoming abandoned residential property.

2. If a beneficiary of a deed of trust, the successor in interest of the beneficiary or the trustee includes with a notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 the affidavit and certification described in subsection ~~3~~ 6 of section 4 of this act and the county or city in which the abandoned residential property is located has established a registry of abandoned residential property, the beneficiary or its successor in interest or the trustee must submit a copy of the affidavit and certification to the entity maintaining the registry for the county or city in which the abandoned residential property is located.

3. If a beneficiary of a deed of trust, the successor in interest of the beneficiary or the trustee receives a copy of the affidavit described in subsection ~~4~~ 7 of section 4 of this act, the beneficiary or its successor in interest or the trustee must notify the entity maintaining the registry for the county or city in which the property described in the affidavit is located. Upon receiving such a notification, the entity maintaining the registry must remove the property from the registry.

4. If a property which has been removed from a registry established pursuant to this section subsequently becomes abandoned residential property or in danger of becoming abandoned residential property, the property may be added to the applicable registry in accordance with this section or the requirements established for the registry by the board of county commissioners or the governing body of an incorporated city.

Sec. 4. 1. A beneficiary may elect to use an expedited procedure for the exercise of the trustee's power of sale pursuant to NRS 107.080 if, after an investigation, the beneficiary ~~determines~~ :

(a) Determines that real property is abandoned residential property ~~that~~ ; and

(b) Receives from the applicable governmental entity a certification pursuant to subsection 4.

2. Each board of county commissioners of a county and each governing body of an incorporated city shall designate an agency to inspect real property upon receipt of a request pursuant to paragraph (b) of subsection 3

and to provide certifications that real property is abandoned residential property pursuant to subsection 4.

3. If a beneficiary has a reasonable belief that real property may be abandoned residential property, the beneficiary or its agent ~~may~~ :

(a) May enter the real property to investigate whether the real property is abandoned residential property. Notwithstanding any other provision of law, a beneficiary and its agents who enter real property pursuant to this subsection are not liable for trespass.

~~3.7~~ (b) May request a certification pursuant to subsection 4 from the agency designated by the applicable governmental entity pursuant to subsection 2.

4. Upon receipt of a request pursuant to paragraph (b) of subsection 3, the agency designated by the applicable governmental entity shall inspect the real property. The agency and any of its employees may enter the real property to perform an inspection pursuant to this subsection, and the agency and any of its employees who enter real property pursuant to this subsection are not liable for trespass. If the agency or an employee of the agency determines that the real property is abandoned residential property, the agency shall serve a notice by first-class mail to the grantor or the successor in interest of the grantor and by posting the notice on the front door of the residence. The notice must provide that unless a lawful occupant of the real property contacts the agency within 30 days after service of the notice, the agency will issue a certification that the real property is abandoned residential property and that the beneficiary may use the certification to seek an expedited procedure for the exercise of the trustee's power of sale. If a grantor or the successor in interest of the grantor or a lawful occupant of the real property fails to contact the agency within 30 days after service of the notice, the agency shall provide to the beneficiary a certification that the real property is abandoned residential property. The certification required by this subsection must:

(a) Be signed and verified by the employee or employees of the agency who inspected the real property;

(b) State that, upon information and belief of the agency, after investigation by the employee or employees of the agency, the real property is abandoned residential property; and

(c) State the conditions or circumstances supporting the determination that the property is abandoned residential property. Documentary evidence in support of such conditions or circumstances must be attached to the certification.

5. For an inspection, service of notice and issuance of a certification pursuant to subsection 4, the agency designated pursuant to subsection 2 by the applicable governmental entity may charge and receive from the beneficiary a fee of not more than \$50.

6. A beneficiary who elects to use an expedited procedure for the exercise of the trustee's power of sale pursuant to NRS 107.080 must include,

or cause to be included, with the notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 an affidavit setting forth the facts supporting the determination that the real property is abandoned residential property ~~and~~ and the certification provided to the beneficiary pursuant to subsection 4. The affidavit required by this subsection must:

- (a) Be signed and verified by the beneficiary;
- (b) State that, upon information and belief of the beneficiary after investigation by the beneficiary or its agent, the property is abandoned residential property; and
- (c) State the conditions or circumstances supporting the determination that the property is abandoned residential property. Photographic or other documentary evidence in support of such conditions or circumstances must be attached to the affidavit.

~~4. 7.~~ 7. If the notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 includes ~~an~~ the affidavit ~~indicating that, pursuant to this section, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property,~~ and certification described in subsection 6, before the ~~recording of the trustee's deed upon~~ sale, ~~pursuant to subsection 9 of NRS 107.080,~~ the grantor or a successor in interest of the grantor may record in the office of the county recorder in the county where the real property is ~~situated~~ located an affidavit stating that the real property is not abandoned residential property, unless the grantor or the successor in interest of the grantor has surrendered the property as evidenced by a document signed by the grantor or successor confirming the surrender or by the delivery of the keys to the real property to the beneficiary. Upon the recording of such an affidavit:

- (a) The grantor or the successor in interest must mail by registered or certified mail, return receipt requested, to the beneficiary and the trustee a copy of the affidavit; and

- (b) The notice of default and election to sell and the affidavit and certification described in subsection ~~3~~ 6 are deemed to be withdrawn.

~~5. 8.~~ 8. If the notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 includes the affidavit and certification described in subsection 6, the trustee's sale of the abandoned residential property must be conducted within 6 months after the beneficiary received the certification. If the trustee's sale is not conducted within 6 months after the beneficiary received the certification:

- (a) The notice of default and election to sell and the affidavit and certification described in subsection 6 are deemed to be withdrawn; and

- (b) The beneficiary is liable to the grantor or the successor in interest of the grantor for a civil penalty of not more than \$500.

9. As used in this section ~~f, "beneficiary";~~ :

- (a) "Applicable governmental entity" means:

(1) If the real property is within the boundaries of a city, the governing body of the city; and

(2) If the real property is not within the boundaries of a city, the board of county commissioners of the county in which the property is located.

(b) "Beneficiary" means the beneficiary of the deed of trust or the successor in interest of the beneficiary or any person designated or authorized to act on behalf of the beneficiary or its successor in interest.

Sec. 5. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 106.210, 107.085 and 107.086, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) Except as otherwise provided in paragraph (b), in the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment.

(b) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS 107.086, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment.

(c) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of the election to sell or cause to be sold the property to satisfy the obligation which, except as otherwise provided in this paragraph, includes a notarized affidavit of authority to exercise the power of sale stating, based on personal knowledge and under the penalty of perjury:

(1) The full name and business address of the trustee or the trustee's personal representative or assignee, the current holder of the note secured by the deed of trust, the current beneficiary of record and the servicers of the obligation or debt secured by the deed of trust;

(2) The full name and last known business address of every prior known beneficiary of the deed of trust;

(3) That the beneficiary under the deed of trust, the successor in interest of the beneficiary or the trustee is in actual or constructive possession of the note secured by the deed of trust;

(4) That the trustee has the authority to exercise the power of sale with respect to the property pursuant to the instruction of the beneficiary of record and the current holder of the note secured by the deed of trust;

(5) The amount in default, the principal amount of the obligation or debt secured by the deed of trust, a good faith estimate of all fees imposed and to be imposed because of the default and the costs and fees charged to the debtor in connection with the exercise of the power of sale; and

(6) The date, recordation number or other unique designation of the instrument that conveyed the interest of each beneficiary and a description of the instrument that conveyed the interest of each beneficiary.

➡ The affidavit described in this paragraph is not required for the exercise of the trustee's power of sale with respect to any trust agreement which concerns a time share within a time share plan created pursuant to chapter 119A of NRS if the power of sale is being exercised for the initial beneficiary under the deed of trust or an affiliate of the initial beneficiary.

(d) Not less than 3 months have elapsed after the recording of the notice ~~[]~~ *or, if the notice includes an affidavit and a certification indicating that, pursuant to section 4 of this act, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property, not less than 60 days have elapsed after the recording of the notice.*

3. The 15- or 35-day period provided in paragraph (a) of subsection 2, or the period provided in paragraph (b) of subsection 2, commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor or, to the person who holds the title of record on the date the notice of default and election to sell is recorded, and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must:

(a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2; ~~and~~

(b) *If, pursuant to section 4 of this act, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property, include the affidavit and certification required by subsection ~~4~~ 6 of section 4 of this act; and*

(c) If the property is a residential foreclosure, comply with the provisions of NRS 107.087.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the ~~[3-month]~~ *applicable period specified in paragraph (d) of subsection 2* following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor, any other person entitled to notice pursuant to this section and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health, by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in a public place in the county where the property is situated;

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated or, if the property is a time share, by posting a copy of the notice on an Internet website and publishing a statement in a newspaper in the manner required by subsection 3 of NRS 119A.560; and

(d) If the property is a residential foreclosure, complying with the provisions of NRS 107.087.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and any successors in interest without equity or right of redemption. A sale made pursuant to this section must be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section or any applicable provision of NRS 107.086 and 107.087;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to

each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. If, in an action brought by the grantor or the person who holds title of record in the district court in and for the county in which the real property is located, the court finds that the beneficiary, the successor in interest of the beneficiary or the trustee did not comply with any requirement of subsection 2, 3 or 4, the court must award to the grantor or the person who holds title of record:

(a) Damages of \$5,000 or treble the amount of actual damages, whichever is greater;

(b) An injunction enjoining the exercise of the power of sale until the beneficiary, the successor in interest of the beneficiary or the trustee complies with the requirements of subsections 2, 3 and 4; and

(c) Reasonable attorney's fees and costs, ➡ unless the court finds good cause for a different award. The remedy provided in this subsection is in addition to the remedy provided in subsection 5.

8. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

9. After a sale of property is conducted pursuant to this section, the trustee shall:

(a) Within 30 days after the date of the sale, record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located; or

(b) Within 20 days after the date of the sale, deliver the trustee's deed upon sale to the successful bidder. Within 10 days after the date of delivery of the deed by the trustee, the successful bidder shall record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located.

10. If the successful bidder fails to record the trustee's deed upon sale pursuant to paragraph (b) of subsection 9, the successful bidder:

(a) Is liable in a civil action to any party that is a senior lienholder against the property that is the subject of the sale in a sum of up to \$500 and for reasonable attorney's fees and the costs of bringing the action; and

(b) Is liable in a civil action for any actual damages caused by the failure to comply with the provisions of subsection 9 and for reasonable attorney's fees and the costs of bringing the action.

11. The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect:

(a) A fee of \$150 for deposit in the State General Fund.

(b) A fee of \$45 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The Account must be

administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.

(c) A fee of \$5 to be paid over to the county treasurer on or before the fifth day of each month for the preceding calendar month. The county recorder may direct that 1.5 percent of the fees collected by the county recorder pursuant to this paragraph be transferred into a special account for use by the office of the county recorder. The county treasurer shall remit quarterly to the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent all the money received from the county recorder pursuant to this paragraph.

12. The fees collected pursuant to paragraphs (a) and (b) of subsection 11 must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the State General Fund or the Account for Foreclosure Mediation as prescribed pursuant to subsection 11. The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder pursuant to this subsection to the State Controller for credit to the State General Fund or the Account as prescribed in subsection 11.

13. The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection 11.

14. As used in this section:

(a) "Residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this paragraph, "single family residence":

(1) Means a structure that is comprised of not more than four units.

(2) Does not include vacant land or any time share or other property regulated under chapter 119A of NRS.

(b) "Trustee" means the trustee of record.

Sec. 6. NRS 107.086 is hereby amended to read as follows:

107.086 1. ~~In~~ *Except as otherwise provided in this subsection, in addition to the requirements of NRS 107.085, the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement which concerns owner-occupied housing is subject to the provisions of this section. The provisions of this section do not apply to the exercise of the power of sale if the notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 includes an affidavit and a certification indicating that, pursuant to section 4 of this act, an election has been made*

to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless the trustee:

(a) Includes with the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080:

(1) Contact information which the grantor or the person who holds the title of record may use to reach a person with authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust;

(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development;

(3) A notice provided by the Mediation Administrator indicating that the grantor or the person who holds the title of record has the right to seek mediation pursuant to this section; and

(4) A form upon which the grantor or the person who holds the title of record may indicate an election to enter into mediation or to waive mediation pursuant to this section and one envelope addressed to the trustee and one envelope addressed to the Mediation Administrator, which the grantor or the person who holds the title of record may use to comply with the provisions of subsection 3;

(b) Serves a copy of the notice upon the Mediation Administrator; and

(c) Causes to be recorded in the office of the recorder of the county in which the trust property, or some part thereof, is situated:

(1) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 3 or 6 which provides that no mediation is required in the matter; or

(2) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 7 which provides that mediation has been completed in the matter.

3. The grantor or the person who holds the title of record shall, not later than 30 days after service of the notice in the manner required by NRS 107.080, complete the form required by subparagraph (4) of paragraph (a) of subsection 2 and return the form to the trustee by certified mail, return receipt requested. If the grantor or the person who holds the title of record indicates on the form an election to enter into mediation, the trustee shall notify the beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the election of the grantor or the person who holds the title of record to enter into mediation and file the form with the Mediation Administrator, who shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. No further action may be taken to exercise the power of sale until the completion of the mediation. If the grantor or the person who holds the title of record indicates

on the form an election to waive mediation or fails to return the form to the trustee as required by this subsection, the trustee shall execute an affidavit attesting to that fact under penalty of perjury and serve a copy of the affidavit, together with the waiver of mediation by the grantor or the person who holds the title of record, or proof of service on the grantor or the person who holds the title of record of the notice required by subsection 2 of this section and subsection 3 of NRS 107.080, upon the Mediation Administrator. Upon receipt of the affidavit and the waiver or proof of service, the Mediation Administrator shall provide to the trustee a certificate which provides that no mediation is required in the matter.

4. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection 8. The beneficiary of the deed of trust or a representative shall attend the mediation. The grantor or a representative shall attend the mediation if the grantor elected to enter into mediation, or the person who holds the title of record or a representative shall attend the mediation if the person who holds the title of record elected to enter into mediation. The beneficiary of the deed of trust shall bring to the mediation the original or a certified copy of the deed of trust, the mortgage note and each assignment of the deed of trust or mortgage note. If the beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority.

5. If the beneficiary of the deed of trust or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not bring to the mediation each document required by subsection 4 or does not have the authority or access to a person with the authority required by subsection 4, the mediator shall prepare and submit to the Mediation Administrator a petition and recommendation concerning the imposition of sanctions against the beneficiary of the deed of trust or the representative. The court may issue an order imposing such sanctions against the beneficiary of the deed of trust or the representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

6. If the grantor or the person who holds the title of record elected to enter into mediation and fails to attend the mediation, the Mediation Administrator shall provide to the trustee a certificate which states that no mediation is required in the matter.

7. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the Mediation Administrator a recommendation that the matter be terminated. The Mediation Administrator shall provide to the trustee a certificate which provides that the mediation required by this section has been completed in the matter.

8. The Supreme Court shall adopt rules necessary to carry out the provisions of this section. The rules must, without limitation, include provisions:

(a) Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the district court of the county in which the property is situated or any other judicial entity.

(b) Ensuring that mediations occur in an orderly and timely manner.

(c) Requiring each party to a mediation to provide such information as the mediator determines necessary.

(d) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith.

(e) Establishing a total fee of not more than \$400 that may be charged and collected by the Mediation Administrator for mediation services pursuant to this section and providing that the responsibility for payment of the fee must be shared equally by the parties to the mediation.

9. Except as otherwise provided in subsection 11, the provisions of this section do not apply if:

(a) The grantor or the person who holds the title of record has surrendered the property, as evidenced by a letter confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or

(b) A petition in bankruptcy has been filed with respect to the grantor or the person who holds the title of record under chapter 7, 11, 12 or 13 of Title 11 of the United States Code and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

10. A noncommercial lender is not excluded from the application of this section.

11. The Mediation Administrator and each mediator who acts pursuant to this section in good faith and without gross negligence are immune from civil liability for those acts.

12. As used in this section:

(a) "Mediation Administrator" means the entity so designated pursuant to subsection 8.

(b) "Noncommercial lender" means a lender which makes a loan secured by a deed of trust on owner-occupied housing and which is not a bank, financial institution or other entity regulated pursuant to title 55 or 56 of NRS.

(c) "Owner-occupied housing" means housing that is occupied by an owner as the owner's primary residence. The term does not include vacant land or any time share or other property regulated under chapter 119A of NRS.

Sec. 7. This act becomes effective on July 1, 2013, and expires by limitation on June 30, 2017.

Senator Ford moved the adoption of the amendment.

Remarks by Senator Ford.

Thank you, Mr. President. Amendment No. 378 revises certain provisions of Senate Bill No. 278. In addition to being able to establish a registry of abandoned homes, it also authorizes the Board of County Commissioners of a county and each governing body of an incorporated city to talk about homes that may become abandoned. It also allows a county commission or a municipality to designate an agency to inspect real property upon a request to do so, to determine abandonment. In addition, it requires first-class mail and posting on the door of any home that has been declared abandoned with a 30-day notice requirement that the owner respond.

Amendment No. 378 to Senate Bill No. 278 provides a six-month timeframe by which a sale, pursuant to this statute, must take place, or a fine will ensue. It provides a definition of "applicable governmental entity" and sets a sunset on the measure of June 30, 2017.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 280.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 339.

"SUMMARY—Revises provisions relating to common-interest communities. (BDR 10-863)"

"AN ACT relating to common-interest communities; revising provisions governing the collection of past due financial obligations owed to an association; revising provisions governing payments received by an association from a unit's owner; revising provisions governing the foreclosure of an association's lien by sale; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a homeowners' association has a lien on a unit for certain amounts due to the association. (NRS 116.3116) Existing law authorizes the association to foreclose its lien by sale of the unit and prescribes the procedures for such a foreclosure. (NRS 116.31162-116.31168) This bill revises provisions governing: (1) the collection of past due financial obligations owed to a homeowners' association; and (2) foreclosures by a homeowners' association.

Section 1 of this bill establishes procedures which a homeowners' association must follow before initiating the process of foreclosing on a unit or commencing any other debt collection activity. Under section 1, before initiating the foreclosure process or commencing any other debt collection activity: (1) a homeowners' association must mail ~~three~~ to the unit's owner a statement and two letters ~~and make two telephone calls to a unit's owner who owes a past due obligation to the association to inform the unit's owner of that provide~~ certain information concerning the past due obligation; and (2) the executive board of the homeowners' association must ~~approve the initiation of the foreclosure process or the commencement of any other debt collection activity at a regular meeting of the executive board. Section~~

conduct a hearing to verify the past due obligation. Sections 1 and 7 of this bill ~~authorizes~~ require: (1) the executive board to meet in executive session to ~~discuss whether to approve the initiation of the foreclosure process or the commencement of any other debt collection activity, but requires~~ conduct a hearing to verify a past due obligation; (2) the unit's owner to be allowed to attend and present evidence at the hearing; and (3) that the total number of votes of each member of the executive board for and against a determination of the executive board at the hearing to verify the past due obligation and the assessor's parcel number of the unit (to) be recorded in the minutes of the meeting. ~~Sections 1 and 7 further authorize a unit's owner to request a hearing before the executive board to contest a past due obligation and require the executive board to hold such a hearing in executive session upon the written request of the unit's owner.~~ Under section 1, a homeowners' association is required to offer a repayment plan to a unit's owner who owes a past due obligation to the association and a unit's owner may accept such a repayment plan at any time before the foreclosure sale of the unit or the commencement of a civil action to collect the past due obligation. ~~Sections 1 and 4 of this bill prohibit the~~ Finally, section 1 authorizes an association (from charging) to charge the unit's owner: (1) a fee of not more than \$50 for a repayment plan; and (2) a fee of not more than \$50 for any costs incurred by the association in complying with the requirements of section 1.

Section 8 of this bill requires the collection policy of a homeowner's association to provide an administrative process by which a unit's owner may contest a past due obligation.

Sections 9-11 of this bill revise provisions governing foreclosures by homeowner's associations. Section 9 prohibits the association from foreclosing a unit ~~(unless the foreclosure is)~~ for a failure to pay when due assessments for common expenses (and only if) unless the amount of such delinquent assessments, excluding acceleration and any interest, charges for late payment, fines or costs of collecting the assessment, is \$1,000 or more, or exceeds 12 months of assessments, whichever is less. Section 11 also provides that if a unit constitutes owner-occupied housing, a foreclosure of the unit by a homeowner's association is subject to a right of redemption for the unit's owner. ~~(a) the unit by a homeowner's association is subject to a right of redemption for the unit's owner.~~ Under section 11, the redemption amount must include assessment and property taxes paid after the foreclosure sale and the redemption period is (180) 120 days. Under section 10, the notice of a foreclosure sale provided by a homeowner's association or a person conducting the foreclosure sale must provide notice of the right of redemption.

Section 5 of this bill prohibits an association from refusing to accept ~~from a unit owner's~~ any payment (of any assessment, fine, fee or other charge that is due because there is an outstanding payment due.) from a unit's owner. Section 5 further requires an association to apply any payment received from a unit's owner to any past due assessments, including late charges, costs of

collecting and interest, owed by the unit's owner before the payment is applied to any other financial obligation owed by the unit's owner ~~if~~, unless the unit's owner directs a different application of the payment.

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *An association may not mail to a unit's owner or his or her successor in interest a letter of its intent to mail a notice of delinquent assessment pursuant to paragraph (a) of subsection 1 of NRS 116.31162, mail the notice of delinquent assessment or take any other action to collect a past due obligation from a unit's owner or his or her successor in interest unless ~~if~~*

~~(a) The the association has satisfied the requirements of subsections 2 and 3, and~~

~~(b) Not later than 30 days after the association has satisfied the requirements of subsections 2 and 3, at a regular meeting of the executive board, the executive board determines that the association has satisfied the requirements of subsection 4 and approved the foreclosure of the association's lien pursuant to NRS 116.31162 to 116.31168, inclusive, or the taking of any other action to collect the past due obligation. to 5, inclusive.~~

2. *If a unit's owner owes a past due obligation ~~to the association,~~ that is 60 days or more past due, the association must ~~if~~*

~~(a) Mail mail to the address on file for the unit's owner a full statement of account showing the transaction history for the immediately preceding 24 months, a schedule of the fees that may be charged if the unit's owner fails to pay the past due obligation and a proposed repayment plan. If the past due obligation is not paid within 15 days after the mailing of the statement of account, schedule of fees and proposed repayment plan, the association must mail, by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, at least ~~three~~ two letters, not less than 10 days apart, ~~informing the unit's owner or his or her successor of:~~~~

~~(1) The amount of the past due obligation and an itemized statement of payments made and the charges owed by the unit's owner;~~

~~(2) The right to contest the past due obligation at a hearing before the executive board and the procedures for requesting such a hearing;~~

~~(3) A schedule of any late fees, interest, collection costs, fines or other charges that may be imposed if the past due obligation is not paid; and~~

~~(4) The repayment plan offered by the association pursuant to subsection 4.~~

~~(b) Make at least two telephone calls, not less than 10 days apart, to the unit's owner or his or her successor in interest at the last known telephone number of the unit's owner or his or her successor in interest. During any contact with a unit's owner or his or her successor in interest pursuant to~~

~~this paragraph, the association must inform the unit's owner or his or her successor in interest of:~~

- ~~(1) The amount of the past due obligation;~~
- ~~(2) The right to contest the past due obligation at a hearing before the executive board and the procedures for requesting such a hearing; and~~
- ~~(3) The repayment plan offered by the association pursuant to subsection 4.1 that state the following information:~~
 - (a) The current account balance information;
 - (b) A transaction history for the immediately preceding 24 months;
 - (c) A schedule of the fees that may be charged if the unit's owner fails to pay the past due obligation;
 - (d) A proposed repayment plan; and
 - (e) A notice of the right to contest the past due obligation at a hearing before the executive board and the procedures for requesting such a hearing.

3. ~~Not later than 30 days after receiving~~ mailing the last of the letters required by ~~paragraph (a) of~~ subsection 2, ~~a unit's owner or his or her successor in interest may submit to the association a written request for a hearing before~~ the executive board ~~to contest~~ must conduct a hearing to verify the past due obligation. ~~If the association receives a written request for a hearing within the period prescribed by this subsection, the executive board must hold a hearing~~ in accordance with this subsection and subsection 5 of NRS 116.31085. ~~before the association may mail to a unit's owner or his or her successor in interest a notice of delinquent assessment pursuant to paragraph (a) of subsection 1 of NRS 116.31162 or take any other action to collect a past due obligation from the unit's owner or his or her successor in interest.~~ The executive board shall schedule the date, time and location for the hearing to ~~contest~~ verify the past due obligation so that the unit's owner or his or her successor in interest is provided with a reasonable opportunity to prepare for and be present at the hearing.

~~4.1~~ 4. The unit's owner or his or her successor in interest:

- (a) Is entitled to attend all portions of the hearing to verify the past due obligation.
- (b) Is entitled to be represented by another person at the hearing.
- (c) Is entitled to present evidence of timely payment of the past due obligation, which may be presented in writing if the unit's owner is unable to be present at the hearing at the date and time scheduled for the hearing. Any written evidence submitted pursuant to this paragraph must be included in the minutes of the hearing.
- (d) Is not entitled to attend the deliberations of the executive board.

4. Not later than 30 days after the hearing to verify the past due obligation held pursuant to subsection 3, the association shall mail the determination of the executive board to the unit's owner or his or her successor in interest. If the executive board determines that the unit's owner or his or her successor in interest owes a past due obligation to the association and that the

association has satisfied the applicable requirements of this section and if the executive board has approved the foreclosure of the association's lien pursuant to NRS 116.31162 to 116.31168, inclusive, or the taking of any other action to collect the past due obligation, the association may, after mailing the determination of the executive board pursuant to this subsection, take action as authorized by the executive board to collect the past due obligation by filing a notice of delinquent assessment pursuant to paragraph (a) of subsection 1 of NRS 116.31162 or by taking any other action to collect the past due obligation which is authorized by the laws of this State.

5. An association must offer a unit's owner who owes a past due obligation to the association a repayment plan providing for the payment of the amount of the past due obligation in equal monthly installments over a period of:

- (a) Six months, if the amount of the past due obligation is \$1,000 or less.
- (b) Twelve months, if the amount of the past due obligation is more than \$1,000 but less than \$2,000.
- (c) Twenty-four months, if the amount of the past due obligation is \$2,000 or more.

~~6.~~ 6. The association ~~shall not~~ may charge ~~any~~ a fee of not more than \$50 for a repayment plan. ~~for~~ The association shall not charge any interest or late fees on a past due obligation for which a unit's owner or his or her successor in interest has entered into a repayment plan. A unit's owner or his or her successor in interest may accept a payment plan at any time before the date of the sale of the unit pursuant to NRS 116.31164 or the commencement of a civil action against the unit's owner or his or her successor in interest to obtain a judgment for the amount of the past due obligation. A unit's owner or his or her successor in interest may accept the repayment plan offered by the association pursuant to this subsection by tendering the first monthly payment. If a unit's owner or his or her successor in interest defaults on any repayment plan, the association may resume its efforts to collect the past due obligation from the time at which the unit's owner or his or her successor in interest accepted the repayment plan.

~~{5. Any}~~

7. The failure of a unit's owner to pay when due an installment payment under a repayment plan is deemed to be a breach of the repayment plan and the repayment plan terminates upon such a failure.

8. The association may charge the unit's owner or his or her successor in interest a fee of not more than \$50 to cover the costs incurred by an association in satisfying the requirements of this section. ~~must not be charged to the unit's owner or his or her successor in interest.~~

~~6.~~ 9. As used in this section, "obligation" has the meaning ascribed to it in NRS 116.310313.

Sec. 2. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsections 2 and 3, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. The provisions of NRS 116.12065 and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that the definitions are necessary to construe any of those provisions, apply to a residential planned community containing more than 6 units.

3. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, *and section 1 of this act* and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than 6 units.

Sec. 3. NRS 116.12075 is hereby amended to read as follows:

116.12075 1. The provisions of this chapter do not apply to a nonresidential condominium except to the extent that the declaration for the nonresidential condominium provides that:

(a) This entire chapter applies to the condominium;

(b) Only the provisions of NRS 116.001 to 116.2122, inclusive, and 116.3116 to 116.31168, inclusive, *and section 1 of this act* apply to the condominium; or

(c) Only the provisions of NRS 116.3116 to 116.31168, inclusive, *and section 1 of this act* apply to the condominium.

2. If this entire chapter applies to a nonresidential condominium, the declaration may also require, subject to NRS 116.1112, that:

(a) Notwithstanding NRS 116.3105, any management, maintenance operations or employment contract, lease of recreational or parking areas or facilities and any other contract or lease between the association and a declarant or an affiliate of a declarant continues in force after the declarant turns over control of the association; and

(b) Notwithstanding NRS 116.1104 and subsection 3 of NRS 116.311, purchasers of units must execute proxies, powers of attorney or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.

Sec. 4. NRS 116.310313 is hereby amended to read as follows:

116.310313 1. An association may charge a unit's owner reasonable fees to cover the costs of collecting any past due obligation. The Commission shall adopt regulations establishing the amount of the fees that an association may charge pursuant to this section.

2. The provisions of this section apply to any costs of collecting a past due obligation charged to a unit's owner, regardless of whether the past due obligation is collected by the association itself or by any person acting on behalf of the association, including, without limitation, an officer or employee of the association, a community manager or a collection agency.

3. As used in this section:

(a) "Costs of collecting" includes any fee, charge or cost, by whatever name, including, without limitation, any collection fee, filing fee, recording fee, fee related to the preparation, recording or delivery of a lien or lien rescission, title search lien fee, bankruptcy search fee, referral fee, fee for postage or delivery and any other fee or cost that an association charges a unit's owner for the investigation, enforcement or collection of a past due obligation. The term does not include any costs incurred by an association if a lawsuit is filed to enforce any past due obligation, ~~for~~ any costs awarded by a court ~~or~~ *or any costs incurred by an association in complying with the requirements of section 1 of this act.*

(b) "Obligation" means any assessment, fine, construction penalty, fee, charge or interest levied or imposed against a unit's owner pursuant to any provision of this chapter or the governing documents.

Sec. 5. NRS 116.310315 is hereby amended to read as follows:

116.310315 1. *An association:*

(a) ~~Shall not refuse to accept any payment from a unit's owner. *payment of any assessment, fine, fee or other charge that is due because there is an outstanding payment due.*~~

(b) ~~Shall~~ Unless a unit's owner directs a different application of a payment, shall apply a payment received from a unit's owner to any past due assessment for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115, including any late fees, costs of collection and interest on the past due assessment, before any portion of the payment is applied to any other assessment or any fine, penalty, fee, charge or interest which has been levied or imposed against the unit's owner pursuant to this chapter or the governing documents.

2. If an association has imposed a fine against a unit's owner or a tenant or an invitee of a unit's owner or a tenant pursuant to NRS 116.31031 for violations of the governing documents of the association, the association shall establish a compliance account to account for the fine, which must be separate from any account established for assessments.

Sec. 6. NRS 116.31068 is hereby amended to read as follows:

116.31068 1. Except as otherwise provided in subsection 3, an association shall deliver any notice required to be given by the association under this chapter to any mailing or electronic mail address a unit's owner designates. Except as otherwise provided in subsection 3, if a unit's owner has not designated a mailing or electronic mail address to which a notice must be delivered, the association may deliver notices by:

- (a) Hand delivery to each unit's owner;
- (b) Hand delivery, United States mail, postage paid, or commercially reasonable delivery service to the mailing address of each unit;
- (c) Electronic means, if the unit's owner has given the association an electronic mail address; or

(d) Any other method reasonably calculated to provide notice to the unit's owner.

2. The ineffectiveness of a good faith effort to deliver notice by an authorized means does not invalidate action taken at or without a meeting.

3. The provisions of this section do not apply:

(a) To a notice required to be given pursuant to NRS 116.3116 to 116.31168, inclusive ~~and~~, *and section 1 of this act*; or

(b) If any other provision of this chapter specifies the manner in which a notice must be given by an association.

Sec. 7. NRS 116.31085 is hereby amended to read as follows:

116.31085 1. Except as otherwise provided in this section, a unit's owner may attend any meeting of the units' owners or of the executive board and speak at any such meeting. The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting.

2. An executive board may not meet in executive session to open or consider bids for an association project as defined in NRS 116.31086, or to enter into, renew, modify, terminate or take any other action regarding a contract.

3. An executive board may meet in executive session only to:

(a) Consult with the attorney for the association on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115, inclusive.

(b) Discuss the character, alleged misconduct, professional competence, or physical or mental health of a community manager or an employee of the association.

(c) Except as otherwise provided in subsection 4, discuss a violation of the governing documents, including, without limitation, the failure to pay an assessment.

(d) Discuss the alleged failure of a unit's owner to adhere to a schedule required pursuant to NRS 116.310305 if the alleged failure may subject the unit's owner to a construction penalty.

~~f (e) Discuss whether to initiate the process of foreclosing the association's lien by sale pursuant to NRS 116.31162 to 116.31168, inclusive, or whether to take any action other than the actions set forth in section 1 of this act to collect a past due obligation.~~

4. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the executive board. If the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted, the person:

(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses;

(b) Is entitled to due process, as set forth in the standards adopted by regulation by the Commission, which must include, without limitation, the right to counsel, the right to present witnesses and the right to present information relating to any conflict of interest of any member of the hearing panel; and

(c) Is not entitled to attend the deliberations of the executive board.

5. ~~[Am.] Except as otherwise provided in subsection 3 of section 1 of this act, an executive board shall meet in executive session to hold a hearing for a request to contest to verify a past due obligation submitted by a unit's owner or his or her successor in interest pursuant to subsection 3 of section 1 of this act. The person who submitted the request:~~

~~(a) Is entitled to attend all portions of the hearing, including, without limitation, the presentation of evidence and the testimony of witnesses;~~

~~(b) Is entitled to due process, as set forth in the standards adopted by regulation by the Commission, which must include, without limitation, the right to counsel, the right to present witnesses and the right to present information relating to any conflict of interest of any member of the hearing panel; and~~

~~(c) Is not entitled to attend the deliberations of the executive board.]~~

6. The provisions of ~~[subsection]~~ subsections 4 and 5 establish the minimum protections that the executive board must provide before it may make a decision. The provisions of ~~[subsection]~~ subsections 4 and 5 do not preempt any provisions of the governing documents that provide greater protections.

~~[6.]~~ 7. Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session must be generally noted in the minutes of the meeting of the executive board. The minutes of a hearing to verify a past due obligation held pursuant to subsection 3 of section 1 of this act must state the number of votes for and against any determination of the executive board and the assessor's parcel number of the unit. The executive board shall maintain minutes of ~~[any]~~:

(a) Any decision made pursuant to subsection 4 concerning an alleged violation and, upon request, provide a copy of the decision to the person who was subject to being sanctioned at the hearing or to the person's designated representative.

~~[7.]~~ (b) Any ~~[decision]~~ determination made pursuant to subsection 5 and subsection 3 of section 1 of this act concerning a ~~[contest]~~ verification of a past due obligation and, upon request, provide a copy of the ~~[decision]~~ determination to the person who was alleged to owe the past due obligation or to the person's designated representative.

~~f (c) Any decision made pursuant to subsection 1 of section 1 of this act concerning whether to initiate the process of foreclosing the association's lien by sale pursuant to NRS 116.31162 to 116.31168, inclusive, or whether to take any action other than the actions set forth in section 1 of this act to~~

~~collect a past due obligation. The minutes must state only the vote of each member of the executive board and the assessor's parcel number of the unit.]~~

8. Except as otherwise provided in [subsection] subsections 4 [5] and 5, a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.

9. *As used in this section, "obligation" has the meaning ascribed to it in NRS 116.310313.*

Sec. 8. NRS 116.31151 is hereby amended to read as follows:

116.31151 1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards, the executive board shall, not less than 30 days or more than 60 days before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:

(a) The budget for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and any contributions to be made to the reserve account of the association.

(b) The budget to provide adequate funding for the reserves required by paragraph (b) of subsection 2 of NRS 116.3115. The budget must include, without limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(2) As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more special assessments will be necessary to repair, replace or restore any major component of the common elements or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore or to provide adequate funding for the reserves designated for that purpose; and

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of the reserves required by NRS 116.31152.

2. In lieu of distributing copies of the budgets of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, accompanied by a written notice that:

(a) The budgets are available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties but not to exceed 60 miles from the physical location of the common-interest community; and

(b) Copies of the budgets will be provided upon request.

3. Within 60 days after adoption of any proposed budget for the common-interest community, the executive board shall provide a summary of the proposed budget to each unit's owner and shall set a date for a meeting of the units' owners to consider ratification of the proposed budget not less than 14 days or more than 30 days after the mailing of the summaries. Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.

4. The executive board shall, at the same time and in the same manner that the executive board makes the budget available to a unit's owner pursuant to this section, make available to each unit's owner the policy established for the association concerning the collection of any fees, fines, assessments or costs imposed against a unit's owner pursuant to this chapter. The policy must include, without limitation:

(a) The responsibility of the unit's owner to pay any such fees, fines, assessments or costs in a timely manner; ~~and~~

(b) The association's rights concerning the collection of such fees, fines, assessments or costs if the unit's owner fails to pay the fees, fines, assessments or costs in a timely manner ~~[-]~~; and

(c) *An administrative process by which a unit's owner may contest an allegation that the unit's owner is delinquent in the payment of any fees, fines, assessments or costs imposed against a unit's owner pursuant to this chapter. The administrative process must include, without limitation, a reasonable opportunity for a hearing before the executive board.*

Sec. 9. NRS 116.31162 is hereby amended to read as follows:

116.31162 1. Except as otherwise provided in ~~subsection 4,~~ subsections 4 and 5, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the association may foreclose its lien by sale after all of the following occur:

(a) The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which

are due in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) Not less than 30 days after mailing the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the name and address of the person authorized by the association to enforce the lien by sale.

(3) Contain, in 14-point bold type, the following warning:

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days begins on the first day following:

(a) The date on which the notice of default is recorded; or

(b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit,

➡ whichever date occurs later.

4. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless

(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; ~~or~~

~~(b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.]~~

5. The association may foreclose a lien by sale ~~only~~ for a failure to pay when due an assessment for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 ~~and~~ only if the amount of such delinquent assessment, excluding acceleration and any interest, charges for late payment, fines or costs of collecting the assessment ~~is~~

(a) Is \$1,000 or more ~~+~~; or

(b) Exceeds 12 months of assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115.

Sec. 10. NRS 116.311635 is hereby amended to read as follows:

116.311635 1. The association or other person conducting the sale shall also, after the expiration of the 90 days and before selling the unit:

(a) Give notice of the time and place of the sale in the manner and for a time not less than that required by law for the sale of real property upon execution, except that in lieu of following the procedure for service on a judgment debtor pursuant to NRS 21.130, service must be made on the unit's owner as follows:

(1) A copy of the notice of sale must be mailed, on or before the date of first publication or posting, by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and to the address of the unit; and

(2) A copy of the notice of sale must be served, on or before the date of first publication or posting, in the manner set forth in subsection 2; and

(b) Mail, on or before the date of first publication or posting, a copy of the notice by first-class mail to:

(1) Each person entitled to receive a copy of the notice of default and election to sell notice under NRS 116.31163;

(2) The holder of a recorded security interest or the purchaser of the unit, if either of them has notified the association, before the mailing of the notice of sale, of the existence of the security interest, lease or contract of sale, as applicable; and

(3) The Ombudsman.

2. In addition to the requirements set forth in subsection 1, a copy of the notice of sale must be served:

(a) By a person who is 18 years of age or older and who is not a party to or interested in the sale by personally delivering a copy of the notice of sale to an occupant of the unit who is of suitable age; or

(b) By posting a copy of the notice of sale in a conspicuous place on the unit.

3. Any copy of the notice of sale required to be served pursuant to this section must include:

(a) The amount necessary to satisfy the lien as of the date of the proposed sale; ~~and~~

(b) A statement that the unit is being sold subject to the right of redemption created by subsection 3 of NRS 116.31166; and

(c) The following warning in 14-point bold type:

WARNING! A SALE OF YOUR PROPERTY IS IMMINENT!
UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE
BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME,
EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT
BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS,

PLEASE CALL (name and telephone number of the contact person for the association). IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT (toll-free telephone number designated by the Division) IMMEDIATELY.

4. Proof of service of any copy of the notice of sale required to be served pursuant to this section must consist of:

(a) A certificate of mailing which evidences that the notice was mailed through the United States Postal Service; or

(b) An affidavit of service signed by the person who served the notice stating:

(1) The time of service, manner of service and location of service; and

(2) The name of the person served or, if the notice was not served on a person, a description of the location where the notice was posted on the unit.

Sec. 11. NRS 116.31166 is hereby amended to read as follows:

116.31166 1. The recitals in a deed made pursuant to NRS 116.31164 of:

(a) Default, the mailing of the notice of delinquent assessment, and the recording of the notice of default and election to sell;

(b) The elapsing of the 90 days; and

(c) The giving of notice of sale,

↪ are conclusive proof of the matters recited.

2. Such a deed containing those recitals is conclusive against the unit's former owner, his or her heirs and assigns, and all other persons. The receipt for the purchase money contained in such a deed is sufficient to discharge the purchaser from obligation to see to the proper application of the purchase money.

3. ~~[The]~~ Except as otherwise provided in this subsection, the sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164 vests in the purchaser the title of the unit's owner without equity or ~~is subject to a~~ right of redemption ~~for the unit's owner.~~ If a unit constitutes owner-occupied housing, as defined in NRS 107.086, the sale of the unit pursuant to NRS 116.31162, 116.31163 and 116.31164 is subject to a right of redemption for the unit's owner. The redemption amount must include any assessments and property taxes paid after the sale of the unit pursuant to NRS 116.31162, 116.31163 and 116.31164. The redemption period within which a unit's owner may redeem the unit from a foreclosure sale pursuant to this subsection ends ~~180~~ 120 days after the sale. If a unit's owner does not redeem the unit from a foreclosure sale within the redemption period specified in this subsection, the title of the unit's owner vests in the purchaser.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 339 to Senate Bill No. 280 provides that if a past-due obligation is 60 days or more past due, the association must mail a full statement of

account showing all transaction history for the immediately preceding 24 months along with a schedule of fees that may be charged if payment is not received, and a proposed repayment plan. It provides that if payment is not received within 15 days after the mailing of the documents, the association must mail at least two letters, containing specific information. It also adds a provision that the association may foreclose a lien if the amount of delinquency exceeds 12 months of assessments for common expenses. Finally, the amendment provides for the right of redemption for the unit's owner if the unit is owner occupied.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 286.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 187.

"SUMMARY—Provides immunity from civil action under certain circumstances. (BDR 3-675)"

"AN ACT relating to civil actions; providing immunity from civil action for certain claims based on the right to petition and the right to free speech under certain circumstances; establishing the burden of proof for a special motion to dismiss; providing for the interlocutory appeal from an order denying a special motion to dismiss; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes certain provisions to deter frivolous or vexatious lawsuits (Strategic Lawsuits Against Public Participation, commonly known as "SLAPP lawsuits"). (Chapter 387, Statutes of Nevada 1997, p. 1363; NRS 41.635-41.670) A SLAPP lawsuit is characterized as a meritless suit filed primarily to discourage the named defendant's exercise of First Amendment rights. "The hallmark of a SLAPP lawsuit is that it is filed to obtain a financial advantage over one's adversary by increasing litigation costs until the adversary's case is weakened or abandoned." (*Metabolic Research, Inc. v. Ferrell*, 693 F.3d 795, 796 n.1 (9th Cir. 2012))

The Ninth Circuit Court of Appeals recently held that the provisions of NRS concerning such lawsuits only protect communications made directly to a governmental agency. The Ninth Circuit also held that, as written, these provisions of NRS provide protection from liability but not from trial. That distinction, when coupled with the lack of an express statutory right to an interlocutory appeal, led the court to conclude that these provisions of NRS do not provide for an immediate appeal of an order denying a special motion to dismiss a SLAPP lawsuit. (*Metabolic*, at 802)

Existing law provides that a person who engages in good faith communication in furtherance of the right to petition is immune from civil liability for claims based upon that communication. (NRS 41.650) Section 2 of this bill expands the scope of that immunity by providing that a person who exercises the right to free speech in direct connection with an issue of

public concern is also immune from any civil action for claims based upon that communication.

Existing law defines certain communications, for purposes of statutory provisions concerning SLAPP lawsuits, as communications made by a person in connection with certain governmental actions, officers, employees or entities. (NRS 41.637) Section 1 of this bill includes within the meaning of such communications those that are made in direct connection with an issue of public interest in a place open to the public or in a public forum. Section 3 of this bill establishes the burden of proof for a dismissal by special motion of a SLAPP lawsuit. Section 3 reduces from 30 days to 7 judicial days the time within which a court must rule on a special motion to dismiss.

Existing law requires, under certain circumstances, an award of reasonable costs and attorney's fees to the person against whom a SLAPP lawsuit was brought if a court grants a special motion to dismiss. (NRS 41.670) Section 4 of this bill ~~requires~~ authorizes, in addition to an award of costs and attorney's fees, an award of up to \$10,000 if a special motion to dismiss is granted. Section 4 also provides that if a court finds that a special motion to dismiss was frivolous or vexatious, the court shall award the prevailing party reasonable costs and attorney's fees ~~[-an]~~ and may award [of] an amount of up to \$10,000 and any such additional relief as the court deems proper to punish and deter the filing of frivolous or vexatious motions.

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

Section 1. NRS 41.637 is hereby amended to read as follows:

41.637 "Good faith communication in furtherance of the right to petition ~~["]~~ *or the right to free speech in direct connection with an issue of public concern*" means any:

1. Communication that is aimed at procuring any governmental or electoral action, result or outcome;

2. Communication of information or a complaint to a Legislator, officer or employee of the Federal Government, this state or a political subdivision of this state, regarding a matter reasonably of concern to the respective governmental entity; ~~for~~

3. Written or oral statement made in direct connection with an issue under consideration by a legislative, executive or judicial body, or any other official proceeding authorized by law ~~[;]~~ ; *or*

4. *Communication made in direct connection with an issue of public interest in a place open to the public or in a public forum,*

↪ *which is truthful or is made without knowledge of its falsehood.*

Sec. 2. NRS 41.650 is hereby amended to read as follows:

41.650 A person who engages in a good faith communication in furtherance of the right to petition *or the right to free speech in direct connection with an issue of public concern* is immune from *any civil [liability]* action for claims based upon the communication.

Sec. 3. NRS 41.660 is hereby amended to read as follows:

41.660 1. If an action is brought against a person based upon a good faith communication in furtherance of the right to petition ~~[-]~~ *or the right to free speech in direct connection with an issue of public concern:*

(a) The person against whom the action is brought may file a special motion to dismiss; and

(b) The Attorney General or the chief legal officer or attorney of a political subdivision of this State may defend or otherwise support the person against whom the action is brought. If the Attorney General or the chief legal officer or attorney of a political subdivision has a conflict of interest in, or is otherwise disqualified from, defending or otherwise supporting the person, the Attorney General or the chief legal officer or attorney of a political subdivision may employ special counsel to defend or otherwise support the person.

2. A special motion to dismiss must be filed within 60 days after service of the complaint, which period may be extended by the court for good cause shown.

3. If a special motion to dismiss is filed pursuant to subsection 2, the court shall:

(a) ~~[Treat the motion as a motion for summary judgment;]~~ *Determine whether the moving party has established, by a preponderance of the evidence, that the claim is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern;*

(b) *If the court determines that the moving party has met the burden pursuant to paragraph (a), determine whether the plaintiff has established by clear and convincing evidence a probability of prevailing on the claim;*

(c) *If the court determines that the plaintiff has established a probability of prevailing on the claim pursuant to paragraph (b), ensure that such determination will not:*

(1) *Be admitted into evidence at any later stage of the underlying action or subsequent proceeding; or*

(2) *Affect the burden of proof that is applied in the underlying action or subsequent proceeding;*

(d) *Consider such evidence, written or oral, by witnesses or affidavits, as may be material in making a determination pursuant to paragraphs (a) and (b);*

(e) Stay discovery pending:

(1) A ruling by the court on the motion; and

(2) The disposition of any appeal from the ruling on the motion; and

~~[(e)]~~ (f) *Rule on the motion within ~~[30]~~ 7 judicial days after the motion is ~~[filed]~~ served upon the plaintiff.*

4. If the court dismisses the action pursuant to a special motion to dismiss filed pursuant to subsection 2, the dismissal operates as an adjudication upon the merits.

Sec. 4. NRS 41.670 is hereby amended to read as follows:

41.670 1. If the court grants a special motion to dismiss filed pursuant to NRS 41.660:

~~{1-}~~ (a) The court shall award reasonable costs and attorney's fees to the person against whom the action was brought, except that the court shall award reasonable costs and attorney's fees to this State or to the appropriate political subdivision of this State if the Attorney General, the chief legal officer or attorney of the political subdivision or special counsel provided the defense for the person pursuant to NRS 41.660.

~~{2-}~~ (b) ~~The court shall~~ may award, in addition to reasonable costs and attorney's fees awarded pursuant to paragraph (a), ~~the~~ an amount of up to \$10,000 to the person against whom the action was brought.

(c) The person against whom the action is brought may bring a separate action to recover:

~~{a-}~~ (1) Compensatory damages;

~~{b-}~~ (2) Punitive damages; and

~~{c-}~~ (3) Attorney's fees and costs of bringing the separate action.

2. *If the court denies a special motion to dismiss filed pursuant to NRS 41.660 and finds that the motion was frivolous or vexatious, the court shall award to the prevailing party ~~the~~*

~~(a) Reasonable~~ reasonable costs and attorney's fees incurred in responding to the motion. ~~the~~

~~(b) The amount of~~

3. In addition to reasonable costs and attorney's fees awarded pursuant to subsection 2, the court may award:

~~(a) An amount of up to \$10,000; ~~the~~ not including reasonable costs and attorney's fees awarded pursuant to paragraph (a);~~ and

~~(c-)~~ (b) Any such additional relief as the court deems proper to punish and deter the filing of frivolous or vexatious motions.

~~{2-}~~ 4. *If the court denies the special motion to dismiss filed pursuant to NRS 41.660, an interlocutory appeal lies to the Supreme Court.*

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 187 to Senate Bill No. 286 clarifies that the court shall rule on the motion within seven judicial days after the motion is served upon the plaintiff. It also makes it permissive for the court to award an additional amount up to \$10,000 under certain circumstances.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 297.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 406.

"SUMMARY—Revises provisions relating to certain crimes against older or vulnerable persons. (BDR 15-1005)"

"AN ACT relating to crimes; imposing an additional penalty for attempting or conspiring to commit certain crimes against older or vulnerable persons; ~~increasing the minimum term of imprisonment for such an additional penalty;~~ and providing other matters properly relating thereto." Legislative Counsel's Digest:

Existing law provides for additional penalties to be imposed for certain crimes that are committed against persons 60 years of age or older or against vulnerable persons. The term "vulnerable person" is defined for the purposes of this section to mean an adult with certain physical or mental limitations. (NRS 193.167) This bill ~~[(1)]~~ adds an attempt or conspiracy to commit ~~such~~ certain crimes to that list ~~[(1)]~~; and ~~[(2)]~~ increases the minimum term of imprisonment for such an additional penalty from 1 year to 2 years.

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

Section 1. NRS 193.167 is hereby amended to read as follows:

193.167 1. Except as otherwise provided in NRS 193.169, any person who commits the crime of:

- (a) Murder;
- (b) Attempted murder;
- (c) Assault;
- (d) Battery;
- (e) Kidnapping;
- (f) Robbery;
- (g) Sexual assault;
- (h) Embezzlement of money or property of a value of \$650 or more;
- (i) Obtaining money or property of a value of \$650 or more by false pretenses; ~~or~~

(j) Taking money or property from the person of another ~~[(1)]~~; or

(k) Attempting or conspiring to commit an offense listed in paragraph (a) or paragraphs ~~[(a)]~~ (c) to (j), inclusive,

↪ against any person who is 60 years of age or older or against a vulnerable person shall, in addition to the term of imprisonment prescribed by statute for the crime, be punished, if the crime is a misdemeanor or gross misdemeanor, by imprisonment in the county jail for a term equal to the term of imprisonment prescribed by statute for the crime, and, if the crime is a felony, by imprisonment in the state prison for a minimum term of not less than 1 year ~~2 years~~ and a maximum term of not more than 20 years.

2. Except as otherwise provided in NRS 193.169, any person who commits a criminal violation of the provisions of chapter 90 or 91 of NRS against any person who is 60 years of age or older or against a vulnerable person shall, in addition to the term of imprisonment prescribed by statute for the criminal violation, be punished, if the criminal violation is a misdemeanor or gross misdemeanor, by imprisonment in the county jail for a term equal to the term of imprisonment prescribed by statute for the criminal violation, and, if the criminal violation is a 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 20 years.

3. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

- (a) The facts and circumstances of the crime or criminal violation;
- (b) The criminal history of the person;
- (c) The impact of the crime or criminal violation 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 the additional penalty imposed.

4. The sentence prescribed by this section must run consecutively with the sentence prescribed by statute for the crime or criminal violation.

5. This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

6. As used in this section, "vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 406 to Senate Bill No. 297 retains the current one-year term of imprisonment for crimes committed against persons 60 years of age or older or against vulnerable persons.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 307.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 241.

"SUMMARY—Revises provisions relating to trusts, estates and probate. (BDR 12-179)"

"AN ACT relating to personal financial administration; revising provisions relating to the distribution and administration of the estate of a deceased person; exempting certain property from execution; revising provisions governing certain nonprobate transfers; revising provisions relating to the creation and administration of trusts; providing for the creation and administration of public benefit trusts; revising provisions relating to directed trusts; revising provisions relating to the jurisdiction of a court in cases concerning the administration of the estate of a deceased person and the administration of trusts; revising provisions governing spendthrift trusts; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law defines the term "interested person" for the purpose of determining who is entitled to receive notice of, and participate in, a proceeding relating to the estate of a deceased person. (NRS 132.185) Sections 3 and 5 of this bill amend this definition to include all persons whose interest in an estate or trust will be materially affected by a decision of a fiduciary or a decision of the court and that a person's status as an interested person is determined according to the particular purposes of, and the matter involved in, each proceeding.

Existing law provides that if a decedent executed a will before his or her marriage, the will is revoked as to the surviving spouse of the decedent unless the spouse is provided for in the will or is mentioned in the will in such a way that indicates an intent not to make a provision for the spouse. (NRS 133.110) Section 6 of this bill revises this provision so that such a will is not revoked if the will refers generally to a future spouse.

Section 7 of this bill provides that if a declaratory judgment establishing the validity of a will is entered during the lifetime of the person executing the will, the validity of the will cannot be challenged after the death of the person executing the will. Section 7 does not prohibit an action to establish that the will was revoked or that the decedent executed a valid later will.

Existing law establishes the qualifications for a person to serve as executor or administrator of a decedent's estate. (NRS 138.020, 139.010) Sections 10 and 12 of this bill authorize a court to disqualify a person from acting as the executor or administrator of a decedent's estate upon proof of any compelling reason.

Existing law establishes the authority of administrators with the will annexed and the order of appointment for such administrators. (NRS 138.090) Section 11 of this bill provides certain discretionary powers to administrators with the will annexed. Section 11 also provides that a person who is expressly excluded as a beneficiary or as a fiduciary in a will is ineligible to serve as an administrator with the will annexed and that the court has discretion to disregard the order of priority for the appointment of an administrator under existing law to favor the appointment of certain beneficiaries of the will as administrators with the will annexed.

Existing law requires an appraisal of certain property of the estate of a deceased person and an inventory of all estate property. (NRS 144.010, 144.020, 144.040) Sections 14 and 15 of this bill authorize the waiver of such an appraisal or inventory in certain circumstances.

Existing law provides that if a person dies leaving an estate the gross value of which, after deducting encumbrances, is \$100,000 or less, the estate must not be administered and must be assigned and set apart, after directing such payments as the court deems just, for the support of the surviving spouse or any minor children of the decedent. (NRS 146.070) Section 16 of this bill authorizes the court to: (1) direct payments to the creditors of the decedent and to the attorney for the petition before the estate is assigned and set part for the support of the surviving spouse or any minor children; and (2) reduce

the amount assigned and set apart for the surviving spouse or any minor children by the amount of certain nonprobate transfers to those persons.

Sections 18 and 52 of this bill enact provisions governing personal jurisdiction over certain persons in proceedings related to the estate of a deceased person and the administration of a trust and governing the law to be applied in certain proceedings related to trusts.

Existing law creates a presumption that certain transfers at death are void due to fraud, undue influence or coercion. (NRS 155.097, 155.0975) Sections 20-24 of this bill create the same presumption for certain transfers which occur during the lifetime of the transferor.

Existing law authorizes the court to impose certain sanctions on a person whom the court finds to be a vexatious litigant in a proceeding related to the administration of the estate of a deceased person or a trust. (NRS 155.165) Section 25 of this bill includes a trustee or a personal representative as a person who may be a vexatious litigant.

Sections 26 and 27 of this bill amend the provisions of existing law relating to property that is exempt from execution to include veterans benefits and military retirement plans, certain education plans, certain insurance and annuity plans and the proceeds of certain exempt property and any property attributable to those proceeds.

Sections 28 and 29 of this bill authorize a life estate to be terminated by an affidavit instead of requiring a court petition.

Section 32 of this bill specifies that existing law governing spendthrift trusts rather than the law governing fraudulent transfers is controlling with respect to any challenges to a transfer of property to a spendthrift trust.

Section 33 of this bill enacts into statute certain duties of a fiduciary and authorizes the person appointing the fiduciary, by express provision in the governing instrument, to modify any of those duties other than the duty to comply with the governing instrument and the duty to comply with applicable law.

Existing law enumerates the powers of a trustee. (Chapter 163 of NRS) Sections 36 and 37 of this bill add to the powers of a trustee the power to combine or divide trusts and the power to change the name of a trust in certain circumstances.

Existing law sets forth factors that may not be considered the exercise of improper dominion or control over a trust by a beneficiary or settlor. (NRS 163.4177) Existing law also requires clear and convincing evidence to find a settlor to be an alter ego of a trustee of an irrevocable trust. (NRS 163.418) Section 38 of this bill places these provisions of existing law in a single section and sets forth a standard for establishing that a person is the alter ego of or has improper dominion or control over an irrevocable trust.

Existing law governs the administration of directed trusts, which are trusts under which someone other than the trustee has the authority to direct the trustee to take certain actions. (NRS 163.553-163.556) Section 39, 40 and 49-51 of this bill amend provisions governing directed trusts. Section 49 of

this bill provides that a trustee of a directed trust is not liable individually or as a fiduciary for a loss resulting from the trustee's compliance with certain directions or failure to take any proposed action that required an approval which was not given or was contingent upon a condition that was not satisfied.

Sections 41 and 44 of this bill provide for the creation and administering of public benefit trusts, which are trusts without identifiable beneficiaries that are not charitable trusts and are established to further one or more specifically declared religious, scientific, literary, educational, community development, personal improvement or philanthropic purpose that is not illegal or against public policy.

Existing law provides that a trust may be created by a declaration by the owner of property that he or she holds the property as trustee. (NRS 163.002, 163.004, 163.006) Section 42 of this bill provides that regardless of the formal title to the property, in the absence of a contrary declaration by the owner or a transfer of the property to a third party: (1) property declared to be trust property and all the income and reinvestment thereof remains trust property; and (2) any additions or contributions to accounts or certain other property declared to be trust property are also trust property.

Under existing law, for a court to assume jurisdiction over a case involving a trust, a petition to confirm a trustee must be filed. (NRS 164.010) Section 53 of this bill provides for a petition requesting the court to assume jurisdiction without confirming the trustee.

Under existing law, a trustee may present a certification of trust to any person, in lieu of a copy of any trust instrument, to establish the existence or terms of the trust. (NRS 164.400) Section 55 of this bill authorizes the certification of trust to include a declaration of a trust's domicile and governing law.

Under the Uniform Prudent Investor Act, a trustee is authorized to take certain action without court approval if all interested persons consent or acquiesce in such action. (NRS 164.725) Section 56 of this bill authorizes a trustee to use that same procedure for any aspect of trust administration.

Existing law provides that a trustee who invests and manages trust property owes a duty to the beneficiaries to comply with the prudent investor rule set forth in existing law, but that a trustee is not liable to a beneficiary to the extent the trustee acted in reasonable reliance on the terms of the trust. (NRS 164.740) Section 57 of this bill provides that such a trustee is not liable to a beneficiary if the trustee determined in good faith not to diversify the investments of the trust in accordance with existing law.

Existing law governs the duty of a trustee to inform and account to a trust's beneficiaries. (NRS 165.040, 165.050, 165.135, 165.137, 165.139, 165.147) Sections 58 and 59 of this bill require the trustee of a testamentary trust to account to the trust's beneficiaries in the same manner as a trustee of a nontestamentary trust, except as to the final account. Section 62 of this bill

requires a trustee to provide to beneficiaries entitled to receive certain accountings certain notice of the existence of the trust.

Section 63 of this bill grants the district court, sitting as a probate court, exclusive jurisdiction with respect to proceedings involving spendthrift trusts. Section 64 of this bill amends the statute of limitations governing certain actions involving spendthrift trusts. Section 64 also clarifies that assets transferred to a spendthrift trust are protected from claims of a creditor unless the creditor can prove that specific property was transferred with the intent to defraud the creditor or in violation of a contract or court order specifically relating to the property transferred.

Existing law exempts proceeds of certain insurance policies and annuities from the claims of a creditor. (NRS 687B.260, 687B.290) Sections 65 and 66 of this bill amend those provisions to apply to life insurance trusts and spendthrift trusts.

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

Section 1. Chapter 132 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~1.2 and~~ 1.3 to 3, inclusive, of this act.

Sec. 1.3. "Foreign jurisdiction" means any jurisdiction other than this State.

Sec. 1.7. "Nontestamentary trust" means a trust validly created pursuant to the provisions of chapter 163 of NRS, other than a testamentary transfer, whether revocable or irrevocable, and whether or not any settlor thereof is living or deceased. The term does not include a trust created by the terms of a will of a person.

Sec. 2. "Testamentary trust" means a trust created by the terms of the will of a person.

Sec. 3. 1. For the purposes of this title, a person is an interested person with respect to:

(a) A judicial proceeding or a notice of a proposed action, including, without limitation, a nonjudicial settlement, if the person has or claims to have an enforceable right or interest that may be materially affected by the outcome of that proceeding or proposed action. While living, a settlor or a testator shall be deemed to have an enforceable right with respect to any trust or will that he or she created. For the purposes of this paragraph, a person may not claim to have a right or interest under an estate or trust after the entry of an order of the court declaring the right or interest invalid.

(b) An estate of a decedent, if the person:

(1) Is an heir, devisee, child, spouse, creditor, settlor or beneficiary;

(2) Has a property right in or claim against the estate of a decedent, including, without limitation, the Director of the Department of Health and Human Services in any case in which money is owed to the Department of Health and Human Services as a result of the payment of benefits for Medicaid;

(3) Has priority for appointment as a personal representative; or

(4) Is any other fiduciary representing an interested person.

(c) A trust, if the person:

(1) Is a living settlor or, if a court has appointed a guardian of the estate of the settlor, the guardian of the estate appointed by the court;

(2) Is the trustee, including, without limitation, each acting cotrustee;

(3) Holds the presently exercisable right to remove or replace the trustee or a cotrustee;

(4) Asserts the right to serve as the trustee or as a cotrustee;

(5) Is a current beneficiary, as defined in NRS 165.128, or a remainder beneficiary, as defined in NRS 165.132, of that trust;

(6) Holds a presently exercisable power of appointment that permits the holder to designate or change the designation of a current beneficiary or a remainder beneficiary of that trust;

(7) Holds a presently exercisable power that permits the holder to designate, remove or otherwise change the designation of a person who, pursuant to this paragraph, would be an interested person;

(8) Is a creditor of the settlor who has a claim which has been accepted by the trustee or who has asserted the trustee's liability therefor in a probate proceeding or in a civil action under subsection 8 or 9 of NRS 111.779; or

(9) Is a creditor of the trust who has given the trustee written notice of its claim.

(d) A revocable trust that is the subject of a petition under NRS 164.015 relating to the validity of the trust or any trust-related document, if the person, after the death of the settlor, under the terms of any version of the trust documents in dispute, would be:

(1) A current beneficiary, as defined in NRS 165.128, or a remainder beneficiary, as defined in NRS 165.132, of that trust; or

(2) A trustee or a successor trustee, including, without limitation, a cotrustee.

(e) A will that, while the testator is still living, is the subject of a petition under subsection 2 of NRS 30.040, if the person, after the death of the testator, would be:

(1) A beneficiary of that will; or

(2) A fiduciary, as defined in NRS 132.145, designated in or pursuant to the terms of that will.

2. For the purposes of this title, the following persons are not interested persons:

(a) With respect to a motion, petition or proceeding, any person holding or claiming an interest or right that is not affected by the motion, petition or proceeding.

(b) The Director of the Department of Health and Human Services after any money owed to the Department has been paid in full or with respect to the estate or trust of a decedent who did not receive any benefits from Medicaid.

(c) *A vexatious litigant with regard to a motion, petition or proceeding for which the vexatious litigant has been denied standing pursuant to NRS 155.165.*

(d) *As to the estate of a decedent:*

(1) *After a will has been admitted to probate, an heir, child or spouse who is not a beneficiary of the will, except for the purposes of NRS 133.110, 133.160 and 137.080.*

(2) *A creditor whose claim has not been accepted by the personal representative, if the enforcement of the claim of the creditor is barred under the provisions of chapter 11 or 147 of NRS or any other applicable statute of limitations.*

(e) *As to a trust:*

(1) *The guardian of the person of an interested person, unless the guardian is expressly permitted to act for the interested person under the terms of the trust instrument;*

(2) *A beneficiary or creditor whose right or claim is barred by any applicable statute of limitations, including, without limitation, the statute of limitations found in chapter 11 of NRS, NRS 164.021, 164.025 or 166.170;*

(3) *Any beneficiary of a revocable trust, except as expressly provided in paragraph (d) of subsection 1; or*

(4) *Any disclaimant as to a disclaimed interest, except with respect to the enforcement of the disclaimer.*

Sec. 4. NRS 132.025 is hereby amended to read as follows:

132.025 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 132.030 to 132.370, inclusive, and ~~section~~ sections 1.3, 1.7 and 2 of this act have the meanings ascribed to them in those sections.

Sec. 4.5. NRS 132.116 is hereby amended to read as follows:

132.116 "District court" or "court" means ~~the~~ the:

1. A district court of this State or a department thereof specifically designated by the rules of that district court to sit in probate and to assume jurisdiction over the administration of an estate or trust or otherwise adjudicate matters pursuant to this title or title 13 of NRS; or

2. If the rules of a district court contain no such designation, a district court of this State sitting in probate or otherwise adjudicating matters pursuant to this title ~~the~~ or title 13 of NRS.

↪ The term includes the family court only as to revocable trusts over which the family court has assumed jurisdiction pursuant to paragraph (1) of subsection 1 of NRS 159.113 or only as designated by the rules of the district court described in subsection 1.

Sec. 5. NRS 132.185 is hereby amended to read as follows:

132.185 ~~the~~ "Interested person" ~~includes, without limitation, an heir, devisee, child, spouse, creditor, settlor, beneficiary and any other person having a property right in or claim against a trust estate or the estate of a decedent, including, without limitation, the Director of the Department of~~

~~Health and Human Services in any case in which money is owed to the Department of Health and Human Services as a result of the payment of benefits for Medicaid. The term includes] means a person [having priority for appointment as a personal representative and other fiduciaries representing interested persons.] whose right or interest under an estate or trust may be materially affected by a decision of a fiduciary or a decision of the court. The [meaning as it relates to particular persons must be determined] fiduciary or court shall determine, pursuant to section 3 of this act, who is an interested person according to the particular purposes of, and matter involved in, a proceeding.~~

~~{2. The term does not include:~~

~~(a) After a will has been admitted to probate, an heir, child or spouse who is not a beneficiary of the will, except for purposes of NRS 133.110, 133.160 and 137.080.~~

~~(b) A person with regard to a motion, petition or proceeding that does not affect an interest of that person.~~

~~(c) A creditor whose claim has not been accepted by the personal representative if the enforcement of the claim of the creditor is barred under the provisions of chapter 11 or 147 of NRS or any other applicable statute of limitation.]~~

Sec. 6. NRS 133.110 is hereby amended to read as follows:

133.110 1. If a person marries after making a will and the spouse survives the maker, the will is revoked as to the spouse, unless:

(a) Provision has been made for the spouse by marriage contract;

(b) The spouse is provided for in the will, or in such a way mentioned therein as to show an intention not to make such provision ~~[;]~~ *, including, without limitation by a general reference in the will to any future spouse; or*

(c) The spouse is provided for by a transfer of property outside of the will and it appears that the maker intended the transfer to be in lieu of a testamentary provision.

2. When a will is revoked as to the spouse pursuant to subsection 1:

(a) The spouse is entitled to the same share in the estate of the deceased spouse as if the deceased spouse had died intestate; and

(b) The remaining provisions of the will remain intact to the extent those provisions are not inconsistent with paragraph (a), including, without limitation, any provision concerning the appointment of a personal representative.

Sec. 7. Chapter 136 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If a declaratory judgment is entered under subsection 2 of NRS 30.040, during the lifetime of the decedent, declaring a document to be the valid will of the decedent, the validity of that will is not subject to challenge after the death of the decedent.*

2. *Nothing in this section shall be construed to prohibit evidence that the will has been revoked or that the decedent executed a valid later will.*

Sec. 8. ~~[NRS 136.240 is hereby amended to read as follows:~~

~~136.240 1. The petition for the probate of a lost or destroyed will must include a copy of the will, or if no copy is available state, or be accompanied by a written statement of, the testamentary words, or the substance thereof.~~

~~2. If offered for probate, a lost or destroyed will must be proved in the same manner as other wills are proved under this chapter.~~

~~3. In addition, no will may be proved as a lost or destroyed will unless it is proved to have been in existence at the death of the person whose will it is claimed to be, or is shown to have been fraudulently destroyed in the lifetime of that person, nor unless its provisions are clearly and distinctly proved by at least two credible witnesses.~~

~~4. The testimony of each witness must be reduced to writing, signed by the witness and filed, and is admissible in evidence in any contest of the will if the witness has died or permanently moved from the State.~~

~~5. Notwithstanding any provision of this section to the contrary:~~

~~(a) The production of a person's lost or destroyed will, whose primary beneficiary is a nontestamentary trust established by the person and in existence at his or her death, creates a rebuttable presumption that the will had not been revoked.~~

~~(b) If the proponent of a lost or destroyed will makes a prima facie showing that it was more likely than not left unrevoked by the person whose will it is claimed to be before his or her death, then the will must be admitted to probate in absence of an objection. If such prima facie showing has been made, the court shall accept a copy of such a will as sufficient proof of the terms thereof without requiring further evidence in the absence of any objection.~~

~~6. If the will is established, its provisions must be set forth specifically in the order admitting it to probate, or a copy of the will must be attached to the order.~~

~~7. As used in this section, "nontestamentary trust" means a trust validly created pursuant to the provisions of chapter 163 of NRS, whether revocable or irrevocable, and whether or not any settlor thereof is living or deceased. The term does not include a trust created by the terms of a will of a person.]~~
(Deleted by amendment.)

Sec. 9. ~~[NRS 136.260 is hereby amended to read as follows:~~

~~136.260 1. A will duly proved, allowed and admitted to probate outside of this State may be admitted to probate and recorded in the proper court of any county in this State in which the testator left any estate.~~

~~2. When a copy of the will and the order admitting it to probate, duly certified, are presented by the personal representative, a nominee or any other interested person, with a petition for probate, the order and copy must be filed, and the clerk shall set a time for a hearing thereon, and notice must be given as required by law on a petition for the original probate of a domestic will pursuant to NRS 136.100.~~

~~3. If, upon the hearing, it appears to the satisfaction of the court that the will has been duly proved and admitted to probate outside this State, and that it was executed according to the law of the place in which it was made, or in which the testator was at the time domiciled, or in conformity with the laws of this State, it must be admitted to probate with the same force and effect as the original probate of a domestic will.~~

~~4. If a certified copy of a will from any jurisdiction where probate is not required by the laws of that jurisdiction, with the certificate of the legal custodian of the original will that the certified copy is a true copy and that the will has become operative by the laws of that jurisdiction, or a copy of a notarial will in possession of a notary in a foreign jurisdiction entitled to the custody of the will and required by the laws of that jurisdiction to retain custody of it, duly certified by the notary, is presented by the personal representative, a nominee of the personal representative or another interested person to the proper court in this State, the clerk shall set a time for a hearing thereon, and notice must be given as required by law on a petition for the original probate of a domestic will.~~

~~5. If it appears to the court that the will should be admitted to probate in this State, as the last will and testament of the decedent, the copy must be filed with the clerk, and the will has the same effect as if originally proved and admitted to probate in the court of this State.~~

~~6. As used in this section, "foreign jurisdiction" means any jurisdiction other than this State.~~ (Deleted by amendment.)

Sec. 10. NRS 138.020 is hereby amended to read as follows:

138.020 1. No person is qualified to serve as an executor who, at the time the will is probated:

- (a) Is under the age of majority;
- (b) Has been convicted of a felony, unless the court determines that such a conviction should not disqualify the person from serving in the position of an executor;
- (c) Upon proof, is adjudged by the court disqualified to execute the duties of executor by reason of conflict of interest, drunkenness, improvidence, ~~for~~ lack of integrity or understanding ~~};~~ or *other compelling reason; or*
- (d) Is a bank not authorized to do business in the State of Nevada, unless it associates as coexecutor a bank authorized to do business in this State. An out-of-state bank is qualified to appoint a substitute executor, pursuant to NRS 138.045, without forming such an association, but any natural person so appointed must be a resident of this State.

2. If a disqualified person is named as the sole executor in a will, or if all persons so named are disqualified or renounce their right to act, or fail to appear and qualify, letters of administration with the will annexed must issue.

Sec. 11. NRS 138.090 is hereby amended to read as follows:

138.090 1. Administrators with the will annexed have the same authority as the executor named in the will would have had if the executor had qualified, and their acts are as effectual for every purpose. ~~[- but if] If~~ the

power or authority conferred upon the executor is discretionary, and is not ~~[conferred by law,]~~ *expressly excluded by the will*, it is ~~[not]~~ conferred upon an administrator with the will annexed.

2. *Except to the extent expressly provided for by the will, a provision of the will waiving the bond of a personal representative does not apply to an administrator with the will annexed.*

3. Persons and their nominees and appointees are entitled to appointment as administrators with the will annexed in the same order of priority as in the appointment of administrators, except that ~~[, as to foreign letters, an interested person has priority over one who is not.]~~ :

(a) *An heir who has been expressly eliminated as a beneficiary or as a fiduciary under the terms of the will is not eligible to serve as an administrator with the will annexed; and*

(b) *The court has the discretion to disregard the order of priority set forth in subsection 1 of NRS 139.040 to favor the appointment of a beneficiary of the will who is given a larger share of the estate over beneficiaries who are given lesser shares, and the court may exercise this discretion to appoint two or more beneficiaries who have similar interests in the estate of the decedent as coadministrators with the will annexed.*

Sec. 12. NRS 139.010 is hereby amended to read as follows:

139.010 No person is entitled to letters of administration if the person:

1. Is under the age of majority;

2. Has been convicted of a felony, unless the court determines that such a conviction should not disqualify the person from serving in the position of an administrator;

3. Upon proof, is adjudged by the court disqualified by reason of conflict of interest, drunkenness, improvidence, ~~[or]~~ lack of integrity or understanding ~~[,]~~ *or other compelling reason;*

4. Is not a resident of the State of Nevada, unless the person:

(a) Associates as coadministrator a resident of the State of Nevada or a banking corporation authorized to do business in this State; or

(b) Is named as personal representative in the will if the will is the subject of a pending petition for probate, and the court in its discretion believes it would be appropriate to make such an appointment; or

5. Is a banking corporation that is not authorized to do business in this State, unless the banking corporation:

(a) Associates as coadministrator a resident of the State of Nevada or a banking corporation authorized to do business in this State; or

(b) Is named as personal representative in the will if the will is the subject of a pending petition for probate, and the court in its discretion believes it would be appropriate to make such an appointment.

Sec. 13. NRS 143.380 is hereby amended to read as follows:

143.380 1. Subject to the limitations and requirements of NRS ~~[143.300 to 143.815, inclusive,]~~ 143.370, when the personal representative exercises the authority to sell property of the estate *after being*

granted full authority pursuant to NRS 143.300 to 143.815, inclusive, the personal representative may sell the property at public auction or private sale, and with or without notice, for cash or on credit, for such price and upon such terms and conditions as the personal representative may determine.

2. The requirements applicable to court confirmation of sales of real property referenced in subsection 1 include, without limitation:

- (a) Publication of the notice of sale;
- (b) Court approval of agents' and brokers' commissions;
- (c) The sale being not less than 90 percent of appraised value of the real property;
- (d) An examination by the court into the necessity for the sale of the real property, including, without limitation, any advantage to the estate and benefit to interested persons; and
- (e) The efforts of the personal representative to obtain the highest and best price for the property reasonably attainable.

3. The requirements applicable to court confirmation of sales of real property and sales of personal property do not apply to a sale pursuant to this section.

Sec. 14. NRS 144.010 is hereby amended to read as follows:

144.010 1. ~~Every~~ *Except as otherwise provided in this subsection, every* personal representative shall make and file with the clerk, within 60 days after appointment, unless the court extends the time, a true inventory and appraisal or record of value of all the estate of the decedent that has come to the possession or knowledge of the personal representative. *The requirement of filing an inventory or the requirement of filing an appraisal or verified record of value, or both, may be waived by the unanimous written consent of each interested person.*

2. The personal representative, within 10 days after filing the inventory with the clerk, shall mail a copy to all the interested heirs of an intestate estate, or to the devisees of a testate estate, or to both interested heirs and devisees, if a contest of the will of the decedent is pending. Proof of the mailing of the copies must be made and filed in the proceeding.

Sec. 15. NRS 144.020 is hereby amended to read as follows:

144.020 1. A personal representative may engage a qualified and disinterested appraiser to ascertain the fair market value, as of the decedent's death, of any asset the value of which is subject to reasonable doubt. Different persons may be engaged to appraise different kinds of assets included in the estate.

2. Any such appraiser is entitled to a reasonable compensation for the appraisal and may be paid the compensation by the personal representative out of the estate at any time after completion of the appraisal.

3. ~~¶¶~~ *Except as otherwise provided in NRS 144.010, if* there is no reasonable doubt as to the value of assets, such as money, deposits in banks or credit unions, bonds, policies of life insurance, or securities for money or

evidence of indebtedness, and the asset is equal in value to cash, the personal representative shall file a verified record of value in lieu of the appraisal.

4. If it appears beyond reasonable doubt that there will be no need to sell assets of the estate to pay the debts of the estate or expenses of administration, or to divide assets for distribution in kind to the devisees or heirs, the personal representative may petition the court for an order allowing a verified record of value to be filed in lieu of the appraisal ~~or~~ *or, if no interested person is prejudiced thereby, an order waiving the requirement of filing an appraisal or verified record of value*, and the court may enter such an order with or without notice.

Sec. 16. NRS 146.070 is hereby amended to read as follows:

146.070 1. ~~1. If~~ *Except as otherwise provided in subsection 2, if* a person dies leaving an estate the gross value of which, after deducting any encumbrances, does not exceed \$100,000, and there is a surviving spouse or minor child or minor children of the decedent, the estate must not be administered upon, but the whole estate, after directing such payments to:

(a) *The creditors of the decedent, including, without limitation the Director of the Department of Health and Human Services in any case in which money is owed to the Department as a result of the payment of benefits for Medicaid, as may be deemed just* ~~or~~ *; and*

(b) *The attorney for the petitioner pursuant to NRS 150.0605,*

➤ *must be, by an order for that purpose, assigned and set apart for the support of the surviving spouse or minor child or minor children, or for the support of the minor child or minor children, if there is no surviving spouse. Even if there is a surviving spouse, the court may, after directing such payments, set aside the whole of the estate to the minor child or minor children, if it is in their best interests.*

2. *The court may reduce the amount of the estate assigned and set apart under subsection 1 for the support of the surviving spouse or minor child or minor children by the value of nonprobate transfers from the decedent to the surviving spouse or minor child or minor children of the decedent or to one or more trusts or custodial accounts for the benefit of the surviving spouse or minor child or minor children.*

3. If there is no surviving spouse or minor child of the decedent and the gross value of a decedent's estate, after deducting any encumbrances, does not exceed \$100,000, upon good cause shown, the court shall order that the estate not be administered upon, but the whole estate be assigned and set apart in the following order:

(a) To the payment of funeral expenses, expenses of last illness, money owed to the Department of Health and Human Services as a result of the payment of benefits for Medicaid and creditors, if there are any; and

(b) Any balance remaining to the claimant or claimants entitled thereto pursuant to a valid will of the decedent, and if there is no valid will, pursuant to intestate succession.

~~{3-}~~ 4. Proceedings taken under this section, whether or not the decedent left a valid will, must not begin until at least 30 days after the death of the decedent and must be originated by a petition containing:

(a) A specific description of all the decedent's property ~~{-}~~, *including, without limitation, property passing by one or more nonprobate transfers from the decedent to the surviving spouse or minor child or minor children of the decedent.*

(b) A list of all the liens and mortgages of record at the date of the decedent's death.

(c) An estimate of the value of the property.

(d) A statement of the debts of the decedent so far as known to the petitioner.

(e) The names and residences of the heirs and devisees of the decedent and the age of any who is a minor and the relationship of the heirs and devisees to the decedent, so far as known to the petitioner.

~~{4-}~~ 5. The clerk shall set the petition for hearing and the petitioner shall give notice of the petition and hearing in the manner provided in NRS 155.010 to the decedent's heirs and devisees and to the Director of the Department of Health and Human Services. If a complete copy of the petition is not enclosed with the notice, the notice must include a statement setting forth to whom the estate is being set aside.

~~{5-}~~ 6. No court or clerk's fees may be charged for the filing of any petition in, or order of court thereon, or for any certified copy of the petition or order in an estate not exceeding \$2,500 in value.

~~{6-}~~ 7. If the court finds that the gross value of the estate, less encumbrances, does not exceed the sum of \$100,000, the court may direct that the estate be distributed to the father or mother of a minor heir or devisee, with or without the filing of any bond, or to a custodian under chapter 167 of NRS, or may require that a general guardian be appointed and that the estate be distributed to the guardian, with or without bond, as in the discretion of the court is deemed to be in the best interests of the minor. The court may direct the manner in which the money may be used for the benefit of the minor.

Sec. 17. ~~[NRS 151.180 is hereby amended to read as follows:~~

~~151.180 1. If an assignee or distributee is a nonresident minor or incapacitated person who has a guardian of his or her estate legally appointed under the laws of a foreign jurisdiction, the distribution of the assignee's or distributee's share may be made to the legally appointed guardian, whose receipt therefor, together with a certificate of appointment issued under the seal of the court by the clerk of the court appointing the guardian, when filed with the clerk of the court in which the assignment or distribution was ordered, must be received by the court as a complete receipt and voucher in favor of the personal representative.~~

~~2. As used in this section, "foreign jurisdiction" means any jurisdiction other than this State.~~ (Deleted by amendment.)

Sec. 18. Chapter 155 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *In a proceeding involving the estate of a decedent or a testamentary trust, the court has jurisdiction over the assets of the estate or trust involved as a proceeding in rem.*

2. *The court has personal jurisdiction over each person:*

(a) *Who is appointed as a personal representative by the court;*

(b) *Whose appointment as a trustee is confirmed by the court;*

(c) *Who files a petition or an objection to a petition in a proceeding involving the estate of a decedent or a testamentary trust;*

(d) *Who makes an appearance at a hearing of a proceeding involving the estate of a decedent or a testamentary trust, unless the appearance is made solely for the purpose of objecting to the jurisdiction of the court; or*

(e) *Who is a party to a proceeding commenced by a petition filed pursuant to NRS 153.031 if notice is given pursuant to NRS 155.010.*

3. *Sanctions against a person that are imposed by the court pursuant to any provision of law or the terms of a will or testamentary trust are limited to that person's interest in the estate or trust unless the court has personal jurisdiction over that person.*

Sec. 19. NRS 155.010 is hereby amended to read as follows:

155.010 1. Except as otherwise provided in *subsection 2* or a specific statute relating to the kind of notice required or otherwise ordered by the court in a particular instance, a petitioner shall cause notice of the time and place of the hearing of a petition to be given to each interested person and to every other person entitled to notice pursuant to this title or his or her attorney if the person has appeared by attorney or requested that notice be sent to his or her attorney. Notice must be given:

(a) By mailing a copy thereof at least 10 days before the time set for the hearing by certified, registered or ordinary first-class mail addressed to the person being notified at the post office address given in the person's demand for notice, if any, or at his or her office or place of residence, if known, or by personally delivering a copy thereof to the person being notified at least 10 days before the time set for the hearing; or

(b) If the address or identity of the person is not known and cannot be ascertained with reasonable diligence, by publishing at least once a week for 3 consecutive weeks a copy thereof in a newspaper having general circulation in the county where the hearing is to be held, the last publication of which must be at least 10 days before the date set for the hearing.

2. *A person who, for the purposes of the matter to be considered at a hearing, is not an interested person is not entitled to notice of that hearing.*

3. The court, for good cause shown, may provide for a different method or time of giving notice for any hearing, or may dispense with the notice otherwise required to be given to a person under this title.

~~{3-}~~ 4. Proof of the giving of notice must be made on or before the hearing and filed in the proceeding.

~~[4-]~~ 5. A person entitled to notice may, in writing, waive notice of the hearing of a petition.

Sec. 20. NRS 155.094 is hereby amended to read as follows:

155.094 "Independent attorney" means an attorney, other than ~~[a]~~ an attorney who:

1. Is a *transferee* described in subsection 2 of NRS 155.097; or
2. Has served as an attorney for a person who is described in subsection 2 of NRS 155.097.

Sec. 21. NRS 155.0955 is hereby amended to read as follows:

155.0955 "Transfer instrument" means ~~[the]~~ a legal document intended to effectuate a transfer of property for less than fair market value, whether such transfer becomes effective during the life of the transferor or on or after the transferor's death and includes, without limitation ~~[, a]~~:

1. A will ~~[,]~~;
2. A trust ~~[,]~~;
3. A deed ~~[,]~~; and
4. Any form, ~~[designated as payable on death,]~~ contract or other ~~[beneficiary designation form,]~~ document which:
 - (a) Creates, conveys or transfers any interest in property;
 - (b) Creates any type of joint ownership;
 - (c) Establishes a right of survivorship;
 - (d) Designates a beneficiary;
 - (e) Creates or attempts to effectuate a nonprobate transfer, which will be effective upon the death of the transferor; or
 - (f) Is intended to amend, modify, eliminate, supersede or revoke any other transfer instrument.

Sec. 22. NRS 155.096 is hereby amended to read as follows:

155.096 "Transferee" means a devisee, a beneficiary of trust, a grantee of a deed, including a grantee of a deed pursuant to NRS 111.655 to 111.699, inclusive, and any other person designated in a transfer instrument to receive a nonprobate transfer ~~[,]~~ or other interest in property for less than fair market value.

Sec. 23. NRS 155.097 is hereby amended to read as follows:

155.097 1. ~~[To]~~ Regardless of when a transfer instrument is made, to the extent the court finds that a transfer was the product of fraud, duress or undue influence, the transfer is void and each transferee who is found responsible for the fraud, duress or undue influence shall bear the costs of the proceedings, including, without limitation, reasonable attorney's fees.

2. Except as otherwise provided in subsection 3 and NRS 155.0975, a transfer is presumed to be void if the transfer is ~~[effective on or after a transferor's death and the transfer is]~~ to a transferee who is:

- (a) The person who drafted the transfer instrument;
- (b) A caregiver of the transferor;
- (c) A person who arranged for or paid for the drafting of the transfer instrument; or

(d) A person who is related to, affiliated with or subordinate to any person described in paragraph (a), (b) or (c).

3. *The provisions of subsection 2 do not apply to a transfer instrument that is intended to effectuate a transfer:*

(a) *After the transferor's death, unless the transfer instrument is made on or after October 1, 2011.*

(b) *During the transferor's lifetime, unless the transfer instrument is made on or after October 1, 2013.*

Sec. 24. NRS 155.0975 is hereby amended to read as follows:

155.0975 The presumption established by NRS 155.097 does not apply:

1. To a transfer of property ~~[under a will]~~ *which is triggered by the transferor's death* if the transferee is an heir of the ~~[testator whose share in the estate of the testator under the terms of the testator's will]~~ *transferor and the combined value of all transfers received by that transferee is not greater than the share the transferee would be entitled to pursuant to chapter 134 of NRS if the [testator] transferor had died intestate [-] and the transferor's estate included all nonprobate transfers which are triggered by the death of the transferor.*

2. *To a nonprobate transfer, if the transferee would have received the same property under the terms of the will of the transferor if the property were included in the probate estate of the transferor unless the presumption would apply to the transfer under the will.*

3. Except as otherwise provided in this subsection, if the court determines, upon clear and convincing evidence, that the transfer was not the product of fraud, duress or undue influence. The determination of the court pursuant to this subsection must not be based solely upon the testimony of a person described in subsection 2 of NRS 155.097.

~~[3.]~~ 4. If the transfer instrument is reviewed by an independent attorney who:

(a) Counsels the transferor about the nature and consequences of the intended transfer;

(b) Attempts to determine if the intended consequence is the result of fraud, duress or undue influence; and

(c) Signs and delivers to the transferor an original certificate of that review in substantially the following form:

CERTIFICATE OF INDEPENDENT REVIEW

I, ... (attorney's name), have reviewed (name of transfer instrument) and have counseled my client, ... (name of client), on the nature and consequences of the transfer or transfers of property to (name of transferee) contained in the transfer instrument. I am disassociated from the interest of the transferee to the extent that I am in a position to advise my client independently, impartially and confidentially as to the consequences of the transfer. On the basis of this counsel, I conclude that the transfer or transfers of

property in the transfer instrument that otherwise might be invalid pursuant to NRS 155.097 are valid because the transfer or transfers are not the product of fraud, duress or undue influence.

.....
(Name of Attorney) (Date)

~~{4.}~~ 5. To a transferee that is:

- (a) A federal, state or local public entity; or
- (b) An entity that is recognized as exempt under section 501(c)(3) or 501(c)(19) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3) or 501(c)(19), or a trust holding an interest for such an entity but only to the extent of the interest of the entity or the interest of the trustee of the trust.

~~{5.—A}~~

6. *To a transfer of property if the fair market value of the property does not exceed \$3,000. The exclusion provided by this subsection does not apply more than once in each calendar year to transfers made during the transferor's lifetime. For the purposes of this subsection, regardless of the number of transfer instruments involved, the value of property transferred to a transferee pursuant to a transfer that is triggered by the transferor's death must include the value of all property transferred to that transferee, or for such transferee's benefit, after the transferor's death.*

Sec. 25. NRS 155.165 is hereby amended to read as follows:

155.165 1. The court may find that a person , *including, without limitation, a personal representative or trustee*, is a vexatious litigant if the person files a petition, objection, motion or other pleading which is without merit , ~~{or}~~ intended to harass or annoy the personal representative or a trustee ~~{or}~~ *intended to unreasonably oppose or frustrate the efforts of an interested person who is acting in good faith to enforce his or her rights. The court may find that a personal representative or trustee is a vexatious litigant if the personal representative or trustee has expended the funds of the estate or trust to unreasonably oppose the good faith efforts of an interested person to enforce his or her rights.* In determining whether the person is a vexatious litigant, the court may take into consideration whether the person has previously filed pleadings in a proceeding that were without merit , ~~{or}~~ intended to harass or annoy a fiduciary ~~{or}~~ *intended to unreasonably oppose or frustrate the good faith efforts of an interested person to enforce his or her rights.*

2. If a court finds that a person is a vexatious litigant pursuant to subsection 1, the court may impose sanctions on the person in an amount sufficient to reimburse the estate or trust for all or part of the expenses , *including, without limitation, reasonable attorney's fees*, incurred by the estate or trust to respond to the petition, objection, motion or other pleading and for any other pecuniary losses which are associated with the actions of the vexatious litigant. The court may make an order directing entry of judgment for the amount of such sanctions. *If a court finds that a personal representative or trustee is a vexatious litigant, the court may remove the*

personal representative or trustee, and any sanctions imposed by the court must be imposed against the personal representative or trustee personally and not against the estate or trust.

3. The court may deny standing to an interested party to bring a petition or motion if the court finds that:

(a) The subject matter of the petition or motion is unrelated to the interests of the interested party;

(b) The interests of the interested party are minimal as it relates to the subject matter of the petition or motion; or

(c) The interested party is a vexatious litigant pursuant to subsection 1.

4. If a court finds that a person is a vexatious litigant pursuant to subsection 1, that person does not have standing to:

(a) Object to the issuance of letters; or

(b) Request the removal of a personal representative or a trustee.

Sec. 26. NRS 21.075 is hereby amended to read as follows:

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

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

NOTICE OF EXECUTION

YOUR PROPERTY IS BEING ATTACHED OR

YOUR WAGES ARE BEING GARNISHED

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

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

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

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

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

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.
6. Payments received as disability, illness or unemployment benefits.
7. Payments received as unemployment compensation.
8. Veteran's benefits ~~and~~ *and all benefits from any military retirement plan.*
9. A homestead in a dwelling or a mobile home, not to exceed \$550,000, unless:
 - (a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.
 - (b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.
10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.
11. A vehicle, if your equity in the vehicle is less than \$15,000.
12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.
13. Money, not to exceed \$500,000 in present value, held in:
 - (a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;
 - (b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;
 - (c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;
 - (d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq. ~~and~~ *, and the benefits of a qualified annuity plan under section 403 of the Internal Revenue Code, 26 U.S.C. § 403;* and
 - (e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS ~~and~~ *any applicable regulations adopted pursuant to chapter 353B of NRS , or similar laws and regulations of a jurisdiction other than this State,* and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after

the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

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

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

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

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

(b) A present or future interest in the income or principal of a trust for which discretionary power is held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

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

(d) Certain powers held by a trust protector or certain other persons; and

(e) Any power held by the person who created the trust.

17. If a trust contains a spendthrift provision:

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

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

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

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

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

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

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

23. Payments received as restitution for a criminal act.

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

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

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

➡ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to indigent or elderly persons). If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court an executed claim of exemption. A copy of the claim of exemption must be served upon the sheriff, the garnishee and the judgment creditor within 10 days after the notice of execution or garnishment is served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on. The property must be released by the garnishee or the sheriff within 9 judicial days after you serve the claim of exemption upon the sheriff, garnishee and judgment creditor, unless the sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less

than 5 judicial days before the date set for the hearing. The hearing to determine whether the property or money is exempt must be held within 7 judicial days after the objection to the claim of exemption and notice for the hearing is filed. You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.

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

Sec. 27. NRS 21.090 is hereby amended to read as follows:

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

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

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

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

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

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

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

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable,

whichever is greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

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

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

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

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

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) ~~{AHH}~~ *Except as otherwise provided in NRS 687B.260, all money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance.*

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

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

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the

judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

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

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

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

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

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

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

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

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

(5) *A qualified annuity plan under section 403 of the Internal Revenue Code, 26 U.S.C. § 403; and*

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) A distribution interest in the trust as defined in NRS 163.4155 that is a discretionary interest as described in NRS 163.4185, if the interest has not been distributed;

(3) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been exercised;

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

(5) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been exercised.

(dd) If a trust contains a spendthrift provision:

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

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

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) *Veteran's benefits which are exempt from execution pursuant to 38 U.S.C. § 5301.*

(jj) *Benefits from a military retirement plan.*

(kk) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

~~{(jj)}~~ (ll) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

~~{(kk)}~~ (mm) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291.

~~{(ll)}~~ (nn) Child welfare assistance provided pursuant to NRS 432.036.

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

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

4. *Except as otherwise provided in subsection 5, an exemption specified in subsection 1 that is paid in cash to a debtor during the debtor's lifetime, including, without limitation, any amounts payable under:*

(a) *A life insurance policy;*

(b) *An annuity contract;*

(c) *A tax refund described in paragraph (aa) of subsection 1; and*

(d) *Any form of compensation set forth in subsection 1,*

➡ *must continue during the debtor's lifetime as to the property and all property traceable thereto.*

5. *The exemption for the cash payable to the debtor pursuant to subsection 2 of NRS 115.050 if a homestead is sold in its entirety must continue during the debtor's lifetime as to the cash and all property traceable thereto. After the debtor's death, the cash is no longer exempt under this section, and the property traceable thereto is exempt only to the extent that such property qualifies for an exemption pursuant to this section without regard to the source of the funds used to acquire such property.*

6. *The following provisions apply to the plans and trusts described in paragraph (r) of subsection 1 and to the military retirement plans described in paragraph (jj) of subsection 1:*

(a) *If an exemption applies to a deferred compensation plan, retirement plan or retirement trust, the exemption must extend to the proceeds*

distributed from such plans to the plan participant or to the plan participant's spouse and to debts of the plan participant and the participant's spouse. After the death of the plan participant, the exemption must continue in perpetuity as to the debts of the plan participant and as to the debts of the participant's spouse, but as to the debts of a beneficiary, other than the participant's spouse, the plan or trust must be treated as a spendthrift trust and the proceeds thereof are not subject to execution, attachment or levy, until after they are distributed to the beneficiary.

(b) Money held in a trust described in subparagraph (6) of paragraph (r) of subsection 1 must be treated as a spendthrift trust. As to the money held in the trust, as long as it remains undistributed, the exemption applies to the debts of the plan contributor and as to the debts of any beneficiary or potential beneficiary. As to the proceeds paid from the trust, the exemption must continue to the extent the proceeds are expended or distributed for the education of a designated beneficiary.

(c) The provisions of subsection 2 of NRS 166.120 must apply with respect to any legal action related to any plan or trust which is a spendthrift trust or which is treated as a spendthrift trust.

7. *Except as otherwise provided in subsection 4, 5 or 6, after the debtor's death:*

(a) The exemption of a homestead must exist only as provided by chapter 115 or 146 of NRS and is subject to the provisions of NRS 115.090.

(b) The exemption of property, other than a homestead that was exempt before the debtor's death, must continue as to any claim or judgment against the debtor, and the exemption as to the debts of the deceased debtor continues as to the debtor's estate and as to property distributed to each beneficiary, as defined in NRS 132.050, whether such property is distributed from the debtor's estate that is subject to administration or is received pursuant to a nonprobate transfer, as defined in NRS 111.721.

(c) The exemption of property under this section that is paid in cash after a debtor's death, including, without limitation, any amounts payable under:

- (1) A life insurance policy;*
- (2) An annuity contract;*
- (3) A tax refund described in paragraph (aa) of subsection 1; and*
- (4) Any form of compensation set forth in subsection 1,*

↪ must continue as to any claim or judgment against the debtor, whether such property is held by the debtor, the estate of the debtor or a beneficiary of the debtor.

(d) The exemptions provided by paragraphs (b) and (c) apply only to the claims and judgments of a deceased debtor, and nothing therein shall be construed to extend the exemption to cover the liabilities of a beneficiary of a deceased debtor.

Sec. 28. NRS 40.515 is hereby amended to read as follows:

40.515 1. If any person has died, or shall hereafter die, who at the time of the person's death was the owner of a life estate which terminates by

reason of the person's death, any person interested in the property, or in the title thereto, in which such life estate was held, may file in the district court of the county in which the property is situated, the person's verified petition, setting forth such facts, and thereupon and after such notice by publication or otherwise, as the court or judge may order, the court or judge shall hear such petition and the evidence offered in support thereof, and if upon such hearing it shall appear that such life estate of such deceased person absolutely terminated by reason of the person's death, the court or judge shall make an order to that effect, and thereupon a certified copy of such order may be recorded in the office of the county recorder.

2. *As an alternative method of terminating the interest of any person who has died, or will hereafter die, and who at the time of the person's death was the owner of a life estate which terminates by reason of the person's death, any person who has knowledge of the facts may record in the office of the county recorder in the county where the property is situated an affidavit meeting the requirements of NRS 111.365, accompanied by a certified copy of the death certificate of the deceased person.*

Sec. 29. NRS 111.365 is hereby amended to read as follows:

111.365 1. In the case of real property owned by two or more persons as joint tenants or as community property with right of survivorship, it is presumed that all title or interest in and to that real property of each of one or more deceased joint tenants or the deceased spouse has terminated, and vested solely in the surviving joint tenant or spouse or vested jointly in the surviving joint tenants, if there has been recorded in the office of the recorder of the county or counties in which the real property is ~~{situate}~~ *situated* an affidavit, subscribed and sworn to by a person who has knowledge of the facts required in this subsection, *which is accompanied by a certified copy of the death certificate of each deceased joint tenant or the deceased spouse and* which sets forth the following:

(a) The family relationship, if any, of the affiant to each deceased joint tenant or the deceased spouse;

(b) A description of the instrument or conveyance by which the joint tenancy or right of survivorship was created;

(c) A description of the property subject to the joint tenancy or right of survivorship; and

(d) The date and place of death of each deceased joint tenant or the deceased spouse.

2. *In the case of real property owned by a person as a life tenant, with the ownership of the real property passing to the owner of the remainder interest upon the death of the life tenant, it is presumed that all title or interest in and to that real property of the life tenant has terminated, and vested solely in the owner or owners of the remainder interest, if there has been recorded in the office of the recorder of the county or counties in which the real property is situated an affidavit, subscribed and sworn to by a person who has knowledge of the facts required in this subsection, which is*

accompanied by a certified copy of the death certificate of the deceased life tenant and which sets forth the following:

- (a) The relationship of the affiant to each deceased life tenant;*
- (b) A description of the instrument or conveyance by which the life estate was created;*
- (c) A description of the property subject to the life estate; and*
- (d) The date and place of death of each deceased life tenant.*

3. Each month, a county recorder shall send all the information contained in each affidavit received by the county recorder pursuant to subsection 1 *or* 2 during the immediately preceding month to the Department of Health and Human Services in any format and by any medium approved by the Department.

Sec. 30. NRS 111.779 is hereby amended to read as follows:

111.779 1. Except as otherwise provided in NRS 21.090 and other applicable law, a transferee of a nonprobate transfer is liable to the probate estate of the decedent for allowed claims against that decedent's probate estate to the extent the estate is insufficient to satisfy those claims.

2. The liability of a nonprobate transferee may not exceed the value of nonprobate transfers received or controlled by that transferee.

3. Nonprobate transferees are liable for the insufficiency described in subsection 1 in the following order of priority:

(a) A transferee specified in the decedent's will or any other governing instrument as being liable for such an insufficiency, in the order of priority provided in the will or other governing instrument;

(b) The trustee of a trust serving as the principal nonprobate instrument in the decedent's estate plan as shown by its designation as devisee of the decedent's residuary estate or by other facts or circumstances, to the extent of the value of the nonprobate transfer received or controlled; and

(c) Other nonprobate transferees, in proportion to the values received.

4. Unless otherwise provided by the trust instrument, interests of beneficiaries in all trusts incurring liabilities under this section abate as necessary to satisfy the liability, as if all the trust instruments were a single will and the interests were devised under it.

5. If a nonprobate transferee is a spouse or a minor child, the nonprobate transferee may petition the court to be excluded from the liability imposed by this section as if the nonprobate property received by the spouse or minor child were part of the decedent's estate. Such a petition may be made pursuant to the applicable provisions of chapter 146 of NRS, including, without limitation, the provisions of NRS 146.010, NRS 146.020 without regard to the filing of an inventory and subsection ~~[2]~~ 3 of NRS 146.070.

6. A provision made in one instrument may direct the apportionment of the liability among the nonprobate transferees taking under that or any other governing instrument. If a provision in one instrument conflicts with a provision in another, the later one prevails.

7. Upon due notice to a nonprobate transferee, the liability imposed by this section is enforceable in probate proceedings in this State, whether or not the transferee is located in this State.

8. If a probate proceeding is pending, a proceeding under this section may be commenced by the personal representative of the decedent's estate or, if the personal representative declines to do so, by a creditor in the name of the decedent's estate, at the expense of the creditor and not of the estate. If a creditor successfully establishes an entitlement to payment under this section, the court must order the reimbursement of the costs reasonably incurred by the creditor, including attorney's fees, from the transferee from whom the payment is to be made, subject to the limitations of subsection 2, or from the estate as a cost of administration, or partially from each, as the court deems just. A personal representative who declines in good faith to commence a requested proceeding incurs no personal liability for declining.

9. If a probate proceeding is not pending, a proceeding under this section may be commenced as a civil action by a creditor at the expense of the creditor.

10. If a proceeding is commenced pursuant to this section, it must be commenced:

(a) As to a creditor whose claim was allowed after proceedings challenging disallowance of the claim by the personal representative, within 60 days after final allowance of the claim by the probate court or within 1 year after the decedent's death, whichever is later.

(b) As to a creditor whose claim against the decedent is being adjudicated in a separate proceeding that is still pending 1 year after the decedent's death, within 60 days after the adjudication of the claim in favor of the creditor is final and no longer subject to reconsideration or appeal.

(c) As to the recovery of benefits paid for Medicaid, within 3 years after the decedent's death.

(d) As to all other creditors, within 1 year after the decedent's death.

11. Unless a written notice asserting that a decedent's probate estate is nonexistent or insufficient to pay allowed claims and statutory allowances has been received from the decedent's personal representative, the following rules apply:

(a) Payment or delivery of assets by a financial institution, registrar or other obligor to a nonprobate transferee in accordance with the terms of the governing instrument controlling the transfer releases the obligor from all claims for amounts paid or assets delivered.

(b) A trustee receiving or controlling a nonprobate transfer is released from liability under this section with respect to any assets distributed to the trust's beneficiaries. Each beneficiary to the extent of the distribution received becomes liable for the amount of the trustee's liability attributable to assets received by the beneficiary.

12. Notwithstanding any provision of this section to the contrary:

(a) A creditor has no claim against property transferred pursuant to a power of appointment exercised by a decedent unless it was exercisable in favor of the decedent or the decedent's estate.

(b) A purchaser for value of property or a lender who acquires a security interest in the property from a beneficiary of a nonprobate transfer after the death of the owner, in good faith:

(1) Takes the property free of any claims or of liability to the owner's estate, creditors of the owner's estate, persons claiming rights as beneficiaries under the nonprobate transfer or heirs of the owner's estate, in absence of actual knowledge that the transfer was improper; and

(2) Has no duty to verify sworn information relating to the nonprobate transfer. The protection provided by this subparagraph applies to information that relates to the ownership interest of the beneficiary in the property and the beneficiary's right to sell, encumber and transfer good title to a purchaser or lender and does not relieve a purchaser or lender from the notice imparted by instruments of record respecting the property.

13. As used in this section, "devise" has the meaning ascribed to it in NRS 132.095.

Sec. 31. NRS 111.781 is hereby amended to read as follows:

111.781 1. Except as otherwise provided by the express terms of a governing instrument, a court order or a contract relating to the division of the marital estate made between the divorced persons before or after the marriage, divorce or annulment, the divorce or annulment of a marriage:

(a) Revokes any revocable:

(1) Disposition or appointment of property made by a divorced person to his or her former spouse in a governing instrument and any disposition or appointment created by law or in a governing instrument to a relative of the divorced person's former spouse;

(2) Provision in a governing instrument conferring a general or nongeneral power of appointment on the divorced person's former spouse or on a relative of the divorced person's former spouse; and

(3) Nomination in a governing instrument that nominates a divorced person's former spouse or a relative of the divorced person's former spouse to serve in any fiduciary or representative capacity, including a personal representative capacity, including a personal representative, executor, trustee, conservator, agent or guardian; and

(b) Severs the interest of the former spouses in property held by them at the time of the divorce or annulment as joint tenants with the right of survivorship or as community property with a right of survivorship and transforms the interests of the former spouses into equal tenancies in common.

2. A severance under paragraph (b) of subsection 1 does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the survivor of the former spouses unless a writing declaring the severance has been noted, registered, filed or

recorded in records appropriate to the kind and location of the property which records are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

3. The provisions of a governing instrument are given effect as if the former spouse and relatives of the former spouse disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the former spouse and relatives of the former spouse died immediately before the divorce or annulment.

4. Any provisions revoked solely by this section are revived by the divorced person's remarriage to the former spouse or by a nullification of the divorce or annulment.

5. Unless a court in an action commenced pursuant to chapter 125 of NRS specifically orders otherwise, a restraining order entered pursuant to NRS 125.050 does not preclude a party to such an action from making or changing beneficiary designations that specify who will receive the party's assets upon the party's death.

6. A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by the provisions of this section or for having taken any other action in good faith reliance on the validity of the governing instrument before the payor or other third party received written or actual notice of any event affecting a beneficiary designation. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written or actual notice of a claimed forfeiture or revocation under this section.

7. Written notice of the divorce, annulment or remarriage or written notice of a complaint or petition for divorce or annulment must be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of the divorce, annulment or remarriage, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement or transfer in accordance with the determination. Payments, transfers or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

8. A person who purchases property from a former spouse, relative of a former spouse or any other person for value and without notice, or who receives from a former spouse, relative of a former spouse or any other

person a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, item of property or benefit nor is liable under this section for the amount of the payment or the value of the item of property or benefit. A former spouse, relative of a former spouse or other person who, not for value, received a payment, item of property or any other benefit to which that person is not entitled under this section is obligated to return the payment, item of property or benefit or is personally liable for the amount of the payment or the value of the item of property or benefit to the person who is entitled to it under this section.

9. If this section or any part of this section is preempted by federal law with respect to a payment, an item of property or any other benefit covered by this section, a former spouse, relative of the former spouse or any other person who, not for value, received a payment, item of property or any other benefit to which that person is not entitled under this section is obligated to return that payment, item of property or benefit or is personally liable for the amount of the payment or the value of the item of property or benefit to the person who would have been entitled to it were this section or part of this section not preempted.

10. *This section applies only to nonprobate transfers which become effective because of the death of a person on or after October 1, 2011, regardless of when the divorce or annulment occurred.*

11. As used in this section:

(a) "Disposition or appointment of property" includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.

(b) "Divorce or annulment" means any divorce or annulment or any dissolution or declaration of invalidity of a marriage. A decree of separation that does not terminate the status of husband and wife is not a divorce for purposes of this section.

(c) "Divorced person" includes a person whose marriage has been annulled.

(d) "Governing instrument" means a governing instrument executed by a divorced person before the divorce or annulment of the person's marriage to the person's former spouse.

(e) "Relative of the divorced person's former spouse" means a person who is related to the divorced person's former spouse by blood, adoption or affinity and who, after the divorce or annulment, is not related to the divorced person by blood, adoption or affinity.

(f) "Revocable," with respect to a disposition, appointment, provision or nomination, means one under which the divorced person, at the time of the divorce or annulment, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the person's former spouse or former spouse's relative, whether or not the divorced person was then empowered to designate himself or herself in place of his or her former

spouse or in place of his or her former spouse's relative and whether or not the divorced person then had the capacity to exercise the power.

Sec. 32. Chapter 112 of NRS is hereby amended by adding thereto a new section to read as follows:

The provisions of this chapter do not apply to a transfer to a spendthrift trust, and a creditor's rights and relief with respect to a spendthrift trust are governed by chapter 166 of NRS.

Sec. 33. Chapter 162 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Subject to the requirements of this section, a fiduciary:*

(a) Owes a duty of loyalty to each principal and beneficiary, including, without limitation, a duty to disclose any conflict of interest to each principal and beneficiary.

(b) Shall comply with the law and the terms of the governing instrument.

(c) Shall keep each qualified beneficiary reasonably informed about the material actions taken by the fiduciary in his or her fiduciary capacity, and provide each qualified beneficiary with the material facts necessary for the qualified beneficiary to protect his or her interest.

(d) When more than one principal or beneficiary is involved, must be impartial as between or among those persons in managing and investing property after taking into consideration the differing interests of those persons.

(e) Shall act prudently with respect to the investment of property that comes into the control of the fiduciary in accordance with NRS 164.700 to 164.775, inclusive. The duty of an agent under a power of attorney which is set forth in this paragraph is limited to the actions actually taken by the agent, and an agent under a power of attorney has no duty to take an action unless the agent has agreed in writing to take that action.

2. *Notwithstanding the terms of a trust instrument, if a settlor has a power to substitute property of equivalent value, the trustee has a fiduciary duty to determine that the substituted property is of equivalent value before allowing the substitution.*

3. *In addition to any accounting required by the governing instrument, if the fiduciary is:*

(a) A guardian, the guardian shall account as required by chapter 159 of NRS.

(b) A personal representative, the personal representative shall account as required by chapter 150 of NRS.

(c) A trustee appointed pursuant to NRS 156.030 or an administrator or executor appointed pursuant to NRS 156.160, the trustee, administrator or executor shall account as provided in chapter 156 of NRS, except that if a trustee is a trustee of a custodial trust the trustee shall account as provided in chapter 166A of NRS.

(d) A custodian who is nominated or designated under chapter 167 of NRS, the custodian shall account as provided in that chapter.

4. *The duty to account of an agent that has accepted appointment under a power of attorney, as described in NRS 162A.310, is subject to the limitations set forth in subsection 8 of NRS 162A.310.*

5. *The duties of a fiduciary set forth in this section do not apply to the extent the governing instrument provides otherwise, except that no provision of the governing instrument supersedes the provisions of paragraph (b) of subsection 1, subsection 2 or NRS 165.139.*

6. *Nothing in this section shall be construed to prohibit the waiver of a duty by any person to whom the duty is owed. The failure of a person to whom a duty is owed to enforce the duty as to any particular event or conduct shall not be deemed a waiver of that duty as to any other event or conduct.*

7. *Nothing in this section shall be construed to modify, reduce or eliminate any duty or any standard of care expressly imposed by the instrument by which the fiduciary was appointed.*

8. *Nothing in this section shall be construed to expand the duties of a fiduciary serving under an instrument created before October 1, 2013.*

9. *As used in this section, "qualified beneficiary" includes:*

(a) A living principal for whom the fiduciary is acting; and

(b) Each person to whom the fiduciary has a duty to account by law and under the terms of the governing instrument.

Sec. 34. NRS 162.020 is hereby amended to read as follows:

162.020 1. In NRS 162.010 to 162.140, inclusive, *and section 33 of this act*, unless the context of subject matter otherwise requires:

(a) "Bank" includes any person or association of persons, whether incorporated or not, carrying on the business of banking.

(b) "Fiduciary" includes a trustee under any trust, expressed, implied, resulting or constructive, executor, administrator, guardian, conservator, curator, receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public or private, public officer, or any other person acting in a fiduciary capacity for any person, trust or estate.

(c) "Principal" includes any person to whom a fiduciary as such owes an obligation.

2. A thing is done "in good faith" within the meaning of NRS 162.010 to 162.140, inclusive, *and section 33 of this act* when it is in fact done honestly, whether it is done negligently or not.

Sec. 35. Chapter 163 of NRS is hereby amended by adding thereto the provisions set forth as sections 36 to 41, inclusive, of this act.

Sec. 36. 1. *Except as otherwise provided by the terms of the instrument, a trustee may combine two or more trusts into a single trust or divide a trust into two or more separate trusts if the combination or division does not impair the rights of any of the beneficiaries, substantially affect the accomplishment of the purposes of the trust or trusts or violate the rule against perpetuities applicable to the trust or trusts.*

2. *The combination or division of trusts must be made only after giving notice of the proposed action and following the procedure provided in NRS 164.725. The notice of the proposed action must contain a summary of the anticipated tax consequences, if any, of the proposed combination or division.*

Sec. 37. *Except as otherwise specifically provided in the instrument and except to the extent it would be materially detrimental to the administration of the trust or the furtherance of its purposes, a trustee may change the name of an irrevocable trust and may give a name to an irrevocable trust that does not have one.*

Sec. 38. 1. *Absent clear and convincing evidence, a person, including, without limitation, a settlor, a beneficiary or an adviser of an irrevocable trust, shall not be deemed to be the alter ego of, or have improper dominion or control over, an irrevocable trust or its trustee.*

2. *In a proceeding in which an assertion is made that a person is the alter ego of, or has improper dominion or control over, an irrevocable trust or of a trustee thereof, the following factors, alone or in combination, are not sufficient evidence for the court to determine that the person is an alter ego of, or has improper dominion or control over, the trust or its trustee:*

(a) *The person, if not a trustee, has signed checks, made disbursements or executed other documents related to the trust as the trustee, if the person has done so only in isolated incidents;*

(b) *The person has made requests for distributions on behalf of a beneficiary;*

(c) *The person has made requests for the trustee to hold, purchase or sell any trust property;*

(d) *The trustee or a cotrustee is:*

(1) *The person asserted to be the alter ego of, or with improper dominion or control over, the trust or its trustee;*

(2) *Someone related by blood, marriage, domestic partnership or adoption to the person asserted to be the alter ego of, or with improper dominion or control over, the trust or its trustee; or*

(3) *An agent, business associate, employee, accountant, attorney, financial advisor or friend of the person asserted to be the alter ego of, or with improper dominion or control over, the trust or its trustee;*

(e) *The person holds an unrestricted power to remove or replace a trustee;*

(f) *The person is an administrator, trustee, trust administrator, manager, officer, director, partner or employee of an entity in which the trust has an interest;*

(g) *The person holds any power of appointment over any or all of the trust property or has the power to veto a distribution;*

(h) *The person holds a power to substitute property of equivalent value;*

(i) *The trustee may loan trust property to the person asserted to be the alter ego of, or with improper dominion or control over, the trust or its*

trustee, for less than a full and adequate rate of interest or without adequate security;

(j) The person is the only beneficiary currently eligible for trust distributions; or

(k) The person has the authority to direct the investments of all or some of the assets of the trust.

3. *To establish that a settlor is or is not the alter ego of an irrevocable spendthrift trust within the meaning provided in chapter 166 of NRS, there must be clear and convincing evidence that material provisions of the instrument have been violated or that the enforceable rights of a beneficiary other than the settlor have been materially and adversely affected.*

4. *As used in this section, "adviser" means any person advising a trustee with respect to the administration or distribution of a trust, whether or not the person is compensated and whether or not the person is acting in a fiduciary capacity. The term includes, without limitation:*

(a) An attorney;

(b) An accountant;

(c) An investment adviser;

(d) A trust adviser, as defined in NRS 163.5545; and

(e) A trust protector, as defined in NRS 163.5547.

Sec. 39. *"Directing trust adviser" means a trust adviser, trust protector or other person designated in the instrument who has the authority to give directives that must be followed by the fiduciary. The term does not include a trust adviser, trust protector or other person who is giving recommendations, counsel or advice that the fiduciary is not required to follow under the terms of the instrument.*

Sec. 40. *For the purposes of NRS 163.553 to 163.556, inclusive, and sections 39 and 40 of this act, a fiduciary is a "directed fiduciary" as to any action which the fiduciary:*

1. Has no power to take under the terms of the governing instrument;

2. Is mandated by the governing instrument and for which the fiduciary has no discretion to act otherwise; and

3. Is directed to take or is prohibited from taking by a directing trust adviser.

Sec. 41. 1. *A public benefit trust must be administered in accordance with the terms of the trust instrument. Except to the extent otherwise provided for in the trust instrument:*

(a) Any person appointed by the terms of the trust instrument may enforce the terms of the public benefit trust or, if there is no such person or if such a person is no longer willing or able to serve as a person appointed to enforce the trust, the terms of the trust may be enforced by the Attorney General, the district attorney of the county in which the trust is domiciled or a person appointed by the district court in the county in which the trust is domiciled.

(b) A petition for an order that appoints a person to enforce the terms of the public benefit trust or to remove the person who has been appointed to

enforce the terms of the trust may be filed with the district court in the county in which the trust is domiciled by the Attorney General, by the district attorney in the county in which the trust is domiciled or by any person who has an interest, other than a general public interest, in the declared purpose of the trust.

(c) The principal and income of the public benefit trust may be applied only to its intended use.

(d) Upon the termination of the public benefit trust, any assets of the trust and any undistributed income must be distributed in accordance with the terms of the trust or, in the absence of such terms, to the estate of the settlor.

(e) If a specific purpose of the public benefit trust becomes illegal under the United States Constitution or the Nevada Constitution, the trust must continue in force as if the illegal purpose was not included in the trust instrument. If no purpose of the public benefit trust is lawful, the district court in the county in which the trust is domiciled may, upon the petition of an interested person or upon its own motion, reform the trust to continue for lawful purposes similar to those intended by the settlor. If the court determines that a reformation of the public benefit trust is not practical or will not accomplish the objectives of the settlor, the trust must terminate and its assets and undistributed income must be distributed pursuant to paragraph (d).

(f) Except as ordered by the district court or required by the trust instrument, no filing, report, registration, periodic accounting, separate maintenance of funds, appointment or fee is required by reason of the existence of the fiduciary relationship of the trustee or trustees of the public benefit trust.

(g) If no trustee is designated or no designated trustee is willing or able to act, the district court in the county in which the trust is domiciled shall name one or more trustees and may make such other orders and determinations as are advisable to carry out the interest of the settlor and the purposes of the public benefit trust.

2. As used in this section, "public benefit trust" means a valid trust without identifiable beneficiaries that is not a charitable trust, but which:

(a) Is established to further one or more specifically declared religious, scientific, literary, educational, community development, personal improvement or philanthropic purposes that is not illegal or against public policy;

(b) Provides that the trust principal or income, or both, will provide a benefit, but not necessarily principal or income, to the general public or to one or more classes or groups of persons, including, without limitation, a government, a governmental agency and any political subdivision of an government, that are to be identified in the trustee's discretion;

(c) Does not allow any benefit to the trustee or any cotrustee, except as to the payment of reasonable compensation and the reimbursement of expenses incurred for the benefit of the trust; and

(d) Does not violate the rule against perpetuities as set forth in NRS 111.103 to 111.1039, inclusive.

Sec. 42. NRS 163.002 is hereby amended to read as follows:

163.002 Except as otherwise provided by specific statute, a trust may be created by any of the following methods:

1. A declaration by the owner of property that he or she holds the property as trustee. *In the absence of a contrary declaration by the owner of the property or of a transfer of the property to a third party and regardless of formal title to the property:*

(a) Property declared to be trust property, together with all income therefrom and the reinvestment thereof, must remain trust property; and

(b) If the property declared to be trust property includes an account, contract, certificate, note, judgment, business interest, contents of a safe deposit box or other property interest that is subject to additions or contributions, all subsequent additions and contributions to the property are also trust property.

2. A transfer of property by the owner during his or her lifetime to another person as trustee.

3. A testamentary transfer of property by the owner to another person as trustee.

4. An exercise of a power of appointment in trust.

5. An enforceable promise to create a trust.

Sec. 43. NRS 163.004 is hereby amended to read as follows:

163.004 1. A trust may be created for any purpose that is not illegal or against public policy.

2. Except as otherwise provided by a specific statute, federal law or common law, the terms of a trust instrument may vary the rights and interests of beneficiaries in any manner that is not illegal or against public policy, including, without limitation, specifying:

(a) The grounds for removing a fiduciary;

(b) The circumstances, if any, in which the fiduciary must diversify investments; and

(c) A fiduciary's powers, duties, standards of care, rights of indemnification and liability to persons whose interests arise from the trust instrument.

3. *A trust is irrevocable by the settlor, except to the extent that, in the original trust instrument, a right to amend the trust or a right to revoke the trust is expressly reserved by the settlor.*

4. Nothing in this section shall be construed to:

(a) Authorize the exculpation or indemnification of a fiduciary for the fiduciary's own willful misconduct or gross negligence; or

(b) Preclude a court of competent jurisdiction from removing a fiduciary because of the fiduciary's willful misconduct or gross negligence.

~~{4.}~~ 5. The rule that statutes in derogation of the common law are to be strictly construed has no application to this section. This section must be

liberally construed to give maximum effect to the principle of freedom of disposition and to the enforceability of trust instruments.

Sec. 44. NRS 163.006 is hereby amended to read as follows:

163.006 A trust ~~[, other than a charitable trust,]~~ is created only if there is a beneficiary. This requirement is satisfied if the trust instrument provides for:

1. A beneficiary or class of beneficiaries that is ascertainable with reasonable certainty or that is sufficiently described so that it can be determined whether a person meets the description or is within the class; ~~[or]~~

2. A grant of power to the trustee or some other person to select the beneficiary based on a standard or in the discretion of the trustee or other person ~~[,]~~;

3. *A charitable trust, as defined in NRS 163.460;*

4. *A trust for the benefit for animals created pursuant to NRS 163.0075;*

or

5. *A public benefit trust, as defined in section 41 of this act.*

Sec. 45. NRS 163.020 is hereby amended to read as follows:

163.020 As used in NRS 163.010 to 163.200, inclusive, *and sections 36 and 37 of this act*, unless the context or subject matter otherwise requires:

1. "Affiliate" means any person directly or indirectly controlling or controlled by another person, or any person under direct or indirect common control with another person. It includes any person with whom a trustee has an express or implied agreement regarding the purchase of trust investments by each from the other, directly or indirectly, except a broker or stock exchange.

2. "Relative" means a spouse, ancestor, descendant, brother or sister.

3. "Trust" means an express trust only.

4. "Trustee" means the person holding property in trust and includes trustees, a corporate as well as a natural person and a successor or substitute trustee.

Sec. 46. NRS 163.414 is hereby amended to read as follows:

163.414 As used in NRS 163.414 to 163.419, inclusive, *and section 38 of this act*, unless the context otherwise requires, the words and terms defined in NRS 163.4145 to 163.4165, inclusive, have the meanings ascribed to them in those sections.

Sec. 47. NRS 163.419 is hereby amended to read as follows:

163.419 *Except as otherwise provided in the trust instrument, as to a discretionary interest, as described in NRS 163.4185:*

1. *A beneficiary who has a discretionary interest of a trust does not have an enforceable right to a distribution from the trust, and a court, as defined in NRS 132.116, may review a trustee's exercise of discretion concerning a discretionary interest only if the trustee acts dishonestly, with ~~[improper motive]~~ gross negligence or ~~[fails to act]~~ with willful misconduct.*

2. A trustee given discretion in a trust instrument that is described as sole, absolute, uncontrolled, unrestricted or unfettered discretion, or with similar words, has no duty to act reasonably in the exercise of that discretion.

3. Absent express language in a trust to the contrary, if a discretionary interest permits unequal distributions between beneficiaries or to the exclusion of other beneficiaries, the trustee may distribute all of the undistributed income and principal to one beneficiary in the trustee's discretion.

4. Regardless of whether a beneficiary has an outstanding creditor, a trustee of a discretionary interest may directly pay any expense on the beneficiary's behalf and may exhaust the income and principal of the trust for the benefit of such beneficiary.

Sec. 48. NRS 163.553 is hereby amended to read as follows:

163.553 As used in NRS 163.553 to 163.556, inclusive, *and sections 39 and 40 of this act*, unless the context otherwise requires, the words and terms defined in NRS 163.5533 to 163.5547, inclusive, *and section 39 of this act* have the meanings ascribed to them in those sections.

Sec. 49. NRS 163.5549 is hereby amended to read as follows:

163.5549 1. ~~[An excluded]~~ A directed fiduciary is not liable, individually or as a fiduciary, for any loss which results from:

(a) Complying with a direction of a directing trust adviser, ~~[custodial account owner or authorized designee of a custodial account owner;]~~ *whether the direction is to act or not to act; or*

(b) ~~[A failure]~~ Failing to take any action proposed by ~~[an excluded]~~ a directed fiduciary ~~[which requires prior authorization of the trust adviser if the excluded fiduciary timely sought but failed to obtain such authorization; or~~

~~(c) Any action taken at the direction of a trust protector.] if the action:~~

(1) Required approval, consent or authorization from a person who did not give the required approval, consent or authorization; or

(2) Was contingent upon a condition that was not met or satisfied.

2. ~~[An excluded]~~ A directed fiduciary is not liable for any obligation to perform an investment or suitability review, inquiry or investigation or to make any recommendation or evaluation with respect to any investment, to the extent that the *investment is made by the directing trust adviser*. ~~[, custodial account owner or authorized designee of a custodial account owner had authority to direct the acquisition, disposition or retention of such investment.]~~

3. The provisions of this section do not impose an obligation or liability on a custodian of a custodial account for providing any authorization.

Sec. 50. NRS 163.555 is hereby amended to read as follows:

163.555 If the instrument provides, ~~[an excluded]~~ a directed fiduciary may continue to follow the direction of a directing trust adviser upon the incapacity or death of the settlor of the trust.

Sec. 51. NRS 163.556 is hereby amended to read as follows:

163.556 1. Unless the terms of a testamentary instrument or irrevocable trust provide otherwise, a trustee with discretion or authority to distribute trust income or principal to or for a beneficiary of the trust may exercise such discretion or authority by appointing the property subject to such discretion or authority in favor of a second trust for the benefit of one or more of those beneficiaries.

2. Notwithstanding subsection 1, a trustee may not appoint property of the original trust to a second trust if:

(a) The second trust includes a beneficiary who is not a beneficiary of the original trust. For purposes of this paragraph, a permissible appointee of a power of appointment exercised by a beneficiary of the second trust is not considered a beneficiary of the second trust.

(b) Appointing the property will reduce any current fixed income interest, annuity interest or unitrust interest of a beneficiary of the original trust. As used in this paragraph, "unitrust" has the meaning ascribed to it in NRS 164.700.

(c) A contribution made to the original trust qualified for a marital or charitable deduction for federal or state income, gift or estate taxes or qualified for a gift tax exclusion for federal or state tax purposes and the terms of the second trust include a provision which if included in the original trust would prevent the original trust from qualifying for the tax deduction or exclusion.

(d) The property to be appointed is subject to a power of withdrawal which is held by a beneficiary of the original trust and may be executed at the time of the proposed appointment, unless after the exercise of such appointment, the beneficiary of the original trust's power of withdrawal is unchanged with respect to the trust property.

(e) Property specifically allocated for one beneficiary of the original trust is no longer allocated for that beneficiary under either or both trusts, unless the beneficiary consents in writing.

(f) Property held for the benefit of one or more beneficiaries under both the original and the second trust has a lower value than the value of the property held for the benefit of the same beneficiaries under only the original trust, unless:

(1) The benefit provided is limited to a specific amount or periodic payments of a specific amount; and

(2) The value of the property held in either or both trusts for the benefit of one or more beneficiaries is actuarially adequate to provide the benefit.

(g) Under the second trust:

(1) Discretionary distributions may be made by ~~the~~ a trustee to a beneficiary or group of beneficiaries of the original trust;

(2) Distributions are not limited by an ascertainable standard; and

(3) A beneficiary or group of beneficiaries has the power to remove and replace the *distribution* trustee of the second trust with a beneficiary of the

second trust or with a *distribution* trustee that is related to or subordinate to a beneficiary of the second trust.

(h) A contribution made to the original trust qualified for a gift tax exclusion as described in section 2503(b) of the Internal Revenue Code, 26 U.S.C. § 2503(b), by reason of the application of section 2503(c) of the Internal Revenue Code, 26 U.S.C. § 2503(c), unless the second trust provides that the beneficiary's remainder interest must vest not later than the date upon which such interest would have vested under the terms of the original trust.

3. Notwithstanding the provisions of subsection 1, a trustee who is a beneficiary of the original trust may not exercise the authority to appoint property of the original trust to a second trust if:

(a) Under the terms of the original trust or pursuant to law governing the administration of the original trust:

(1) The trustee does not have discretion to make distributions to himself or herself;

(2) The trustee's discretion to make distributions to himself or herself is limited by an ascertainable standard, and under the terms of the second trust, the trustee's discretion to make distributions to himself or herself is not limited by the same ascertainable standard; or

(3) The trustee's discretion to make distributions to himself or herself can only be exercised with the consent of a cotrustee or a person holding an adverse interest and under the terms of the second trust the trustee's discretion to make distributions to himself or herself is not limited by an ascertainable standard and may be exercised without consent; or

(b) Under the terms of the original trust or pursuant to law governing the administration of the original trust, the trustee of the original trust does not have discretion to make distributions that will discharge the trustee's legal support obligations but under the second trust the trustee's discretion is not limited.

4. The provisions of subsection 3 do not prohibit a trustee who is not a beneficiary of the original trust from exercising the authority to appoint property of the original trust to a second trust pursuant to the provisions of subsection 1.

5. Before appointing property pursuant to subsection 1, a trustee may give notice of a proposed action pursuant to NRS 164.725 or may petition a court for approval pursuant to NRS 153.031, 164.015 or 164.725. Any notice of a proposed action or a petition for a court's approval must include the trustee's opinion of how the appointment of property will affect the trustee's compensation and the administration of other trust expenses.

6. The trust instrument of the second trust may:

(a) Grant a power of appointment to one or more of the beneficiaries of the second trust who are proper objects of the exercise of the power in the original trust. The power of appointment includes, without limitation, the power to appoint trust property to the holder of the power, the holder's

creditors, the holder's estate, the creditors of the holder's estate or any other person.

(b) Provide that, at a time or occurrence of an event specified in the trust instrument, the remaining trust assets in the second trust must be held for the beneficiaries of the original trust upon terms and conditions that are substantially identical to the terms and conditions of the original trust.

7. The power to appoint the property of the original trust pursuant to subsection 1 must be exercised by a writing, signed by the trustee and filed with the records of the trust.

8. The exercise of the power to invade principal of the original trust pursuant to subsection 1 is considered the exercise of a power of appointment, other than power to appoint the property to the trustee, the trustee's creditors, the trustee's estate or the creditors of the trustee's estate and the provisions of NRS 111.1031 apply to such power of appointment.

9. The provisions of this section do not abridge the right of any trustee who has the power to appoint property which arises under any other law.

10. The provisions of this section do not impose upon a trustee a duty to exercise the power to appoint property pursuant to subsection 1.

11. The power to appoint property to another trust pursuant to subsection 1 is not a power to amend the trust and a trustee is not prohibited from appointing property to another trust pursuant to subsection 1 if the original trust is irrevocable or provides that it may not be amended.

12. A trustee's power to appoint property to another trust pursuant to subsection 1 is not limited by the existence of a spendthrift provision in the original trust.

13. A trustee exercising any power granted pursuant to this section may designate himself or herself or any other person permitted to act as a trustee as the trustee of the second trust.

14. The trustee of a second trust, resulting from the exercise of the power to appoint property to another trust pursuant to subsection 1, may also exercise the powers granted pursuant to this section with respect to the second trust.

15. As used in this section, "ascertainable standard" means a standard relating to an individual's health, education, support or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code, 26 U.S.C. § 2041(b)(1)(A) or 2514(c)(1), and any regulations of the United States Treasury promulgated thereunder.

Sec. 52. Chapter 164 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The laws of this State govern the validity and construction of a trust if:*

(a) *The trust instrument so provides;*

(b) *Designated by a person who, under the terms of the trust instrument, has the right to designate the laws that govern the validity and construction of the trust at the time the designation is made; or*

(c) *The trust instrument does not provide for the law that governs the validity and construction of the trust, a person designated under the terms of the trust instruments to designate the law that governs the validity and construction of the trust has not made such a designation and the settlor or the trustee of a trust was a resident of this State at the time the trust was created or at the time the trust became irrevocable.*

2. *If the district court as defined in NRS 132.116, determines that there is a clear and sufficient nexus between a trust and this State, the court may assume jurisdiction during a proceeding conducted pursuant to NRS 164.010 unless:*

(a) *Another court has properly assumed jurisdiction in accordance with the laws of that jurisdiction;*

(b) *The trust instrument expressly provides that the situs of the trust is outside of this State or that a court of a jurisdiction other than this State has jurisdiction over the trust; or*

(c) *A person has designated for the trust a situs or jurisdiction other than this State, if such person made the designation at a time during which he or she held the power to make such a designation under the express terms of the trust instrument.*

3. *For the purposes of subsection 2, there is a clear and sufficient nexus between the trust and this State if:*

(a) *The trust owns an interest in real or personal property located in the State, including, without limitation, the right to receive interest, dividends, royalties, rents or other income from the property;*

(b) *The trust has money or other property deposited with, or left in the custody of, an entity that is authorized to do business in this State, even if the entity was formed pursuant to the laws of a jurisdiction other than this State and even if the trust's account was opened or is maintained remotely via the Internet;*

(c) *The trustee or a cotrustee is a bank or trust company that is authorized to exercise trust powers in this State;*

(d) *The trustee or a cotrustee is a resident of this State;*

(e) *One or more beneficiaries of the trust reside in this State; or*

(f) *At least part of the administration of the trust occurs in this State.*

4. *For paragraphs (c) and (d) of subsection 3 to apply with respect to a cotrustee, such cotrustee must have the authority to maintain records for the trust and to prepare income tax returns for the trust, even if such authority may also be exercised by another cotrustee.*

5. *Notwithstanding the provisions of this section, if a court of a jurisdiction other than this State has jurisdiction over a trust and grants an order authorizing a transfer of jurisdiction over the trust to this State, the district court has the power to assume jurisdiction over that trust and to otherwise supervise the administration of that trust in accordance with the procedures set forth in this title if the requirements of subsection 2 are satisfied. A trust, the situs of which is outside this State, that moves its situs*

to this State is valid whether or not the trust complies with the laws of this State at the time of its creation or after its creation.

6. *As used in this section, "account" includes, without limitation, a checking account, time deposit, certificate of deposit, brokerage account, investment fund, a trust company fiduciary account and any other similar account or deposit.*

Sec. 53. NRS 164.010 is hereby amended to read as follows:

164.010 1. *Subject to the provisions of section 52 of this act:*

(a) *Upon petition of any person appointed as trustee of an express trust by any written instrument other than a will, or upon petition of a settlor or beneficiary of the trust, the district court of the county in which the trustee resides or conducts business, or in which the trust has been domiciled, shall consider the application for the court to ~~confirm the appointment of the trustee and specify the manner in which the trustee must qualify. Thereafter the court has~~ assume jurisdiction of the trust as a proceeding in rem.*

~~{2.}~~ (b) *If the court grants the petition, it ~~may~~:*

(1) *Has jurisdiction of the trust as a proceeding in rem.*

(2) *Has personal jurisdiction over any person listed in subsection 2 of section 18 of this act.*

(3) *May confirm at the same time the appointment of the trustee and specify the manner in which the trustee must qualify.*

(4) *May consider at the same time ~~any petition for instructions filed with the petition for confirmation.~~*

~~3.}~~ *granting orders on other matters related to the trust, including, without limitation, matters that might be addressed in a declaratory judgment relating to the trust under subsection 2 of NRS 30.040 or petitions filed pursuant to NRS 153.031 or 164.015, and such matters may be raised in the petition to assume jurisdiction or in one or more separate petitions that are filed concurrently with the petition to assume jurisdiction.*

(c) *At any time, the trustee may petition the court for removal of the trust from continuing jurisdiction of the court.*

~~{4.}~~ 2. *For the purposes of this section, a trust is domiciled:*

(a) *In this State if there is a clear and sufficient nexus between the trust and this State pursuant to subsection 3 of section 52 of this act.*

(b) *In a county of this State that provides the nexus required pursuant to paragraph (a) giving preference:*

(1) *First, to the situs or domicile most recently declared by a person granted the power to make such a declaration under the terms of the trust instrument;*

(2) *Second, to the situs or domicile declared in the trust instrument; and*

(3) *Finally, to the situs or domicile declared by the trustee in a certification of the trust which complies with subsection 2 of NRS 164.400 and subsection 2 of NRS 164.410 and which contains a declaration of the trust's situs or domicile as authorized in subsection 1 of NRS 164.410.*

3. As used in this section, "written instrument" includes, without limitation, an electronic trust as defined in NRS 163.0015.

Sec. 54. NRS 164.015 is hereby amended to read as follows:

164.015 1. The court *,as defined in NRS 132.116,* has exclusive jurisdiction of proceedings initiated by the petition of an interested person concerning the internal affairs of a nontestamentary trust, including a revocable living trust while the settlor is still living if the court determines that the settlor cannot adequately protect his or her own interests or if the interested person shows that the settlor is incompetent or susceptible to undue influence. Proceedings which may be maintained under this section are those concerning the administration and distribution of trusts, the declaration of rights and the determination of other matters involving trustees and beneficiaries of trusts, including petitions with respect to a nontestamentary trust for any appropriate relief provided with respect to a testamentary trust in NRS 153.031 ~~[—]~~ *and petitions for a ruling that property not formally titled in the name of a trust or its trustee constitutes trust property pursuant to NRS 163.002.*

2. A petition under this section *or subsection 2 of NRS 30.040 that relates to a trust* may be filed in conjunction with a petition under NRS 164.010 or at any time after the court has assumed jurisdiction under that section.

3. If an interested person contests the validity of a revocable nontestamentary trust, the interested person is the plaintiff and the trustee is the defendant. The written grounds for contesting the validity of the trust constitutes a pleading and must conform with any rules applicable to pleadings in a civil action. *This subsection applies whether the person contesting the validity of the trust is the petitioner or the objector and whether or not the opposition to the validity of the trust is asserted under this section or subsection 2 of NRS 30.040.*

4. In a proceeding pursuant to subsection 3, the competency of the settlor to make the trust, the freedom of the settlor from duress, menace, fraud or undue influence at the time of execution of the will, the execution and attestation of the trust instrument, or any other question affecting the validity of the trust is a question of fact and must be tried by the court, subject to the provisions of subsection 5.

5. A court may consolidate the cases if there is a contest of a revocable nontestamentary trust and a contest relating to a will executed on the same date. If a jury is demanded pursuant to NRS 137.020 for the contest of the will, the court may instruct the jury to render an advisory opinion with respect to an issue of fact pursuant to subsection 4 in the contest of the trust.

6. Upon the hearing, the court shall enter such order as it deems appropriate. The order is final and conclusive as to all matters determined and is binding in rem upon the trust estate and upon the interests of all beneficiaries, vested or contingent, except that appeal to the Supreme Court may be taken from the order within 30 days after notice of its entry by filing

notice of appeal with the clerk of the district court. The appellant shall mail a copy of the notice to each person who has appeared of record. If the proceeding was brought pursuant to subsection 3, 4 or 5, the court must also award costs pursuant to chapter 18 of NRS.

7. ~~[A]~~ *Except as otherwise ordered by the court, a proceeding under this section does not result in continuing supervisory proceedings ~~[-The]~~ and the administration of the trust must proceed expeditiously in a manner consistent with the terms of the trust, without judicial intervention or the order, approval or other action of any court, unless the jurisdiction of the court is invoked by an interested person or exercised as provided by other law.*

8. *As used in this section, "nontestamentary trust" ~~means a trust validly created pursuant to the provisions of chapter 163 of NRS, whether revocable or irrevocable, and whether or not any settlor thereof is living or deceased. The term does not include a trust created by the terms of a will of a person.~~ has the meaning ascribed to it in section 1.7 of this act.*

Sec. 54.5. NRS 164.025 is hereby amended to read as follows:

164.025 1. The trustee of a nontestamentary trust may after the death of the settlor of the trust cause to be published a notice in the manner specified in paragraph (b) of subsection 1 of NRS 155.020 and mail a copy of the notice to known or readily ascertainable creditors.

2. The notice must be in substantially the following form:

NOTICE TO CREDITORS

Notice is hereby given that the undersigned is the duly appointed and qualified trustee of the trust., the settlor of that trust died on A creditor having a claim against the trust estate must file a claim with the undersigned at the address given below within 90 days after the first publication of this notice.

Dated.....

.....
Trustee

.....
Address

3. A person having a claim, due or to become due, against a settlor or the trust must file the claim with the trustee within 90 days after the mailing, for those required to be mailed, or 90 days after publication of the first notice to creditors. Any claim against the trust estate not filed within that time is forever barred. After the expiration of the time, the trustee may distribute the assets of the trust to its beneficiaries without personal liability to any creditor who has failed to file a claim with the trustee.

4. If the trustee knows or has reason to believe that the settlor received public assistance during the lifetime of the settlor, the trustee shall, whether or not the trustee gives notice to other creditors, give notice within 30 days after the death to the Department of Health and Human Services in the manner provided in NRS 155.010. If notice to the Department is required by this subsection but is not given, the trust estate and any assets transferred to a

beneficiary remain subject to the right of the Department to recover public assistance received.

5. If a claim is rejected by the trustee, in whole or in part, the trustee must, within 10 days after the rejection, notify the claimant of the rejection by written notice forwarded by registered or certified mail to the mailing address of the claimant. The claimant must bring suit in the proper court against the trustee within 60 days after the notice is given, whether the claim is due or not, or the claim is barred forever and the trustee may distribute the assets of the trust to its beneficiaries without personal liability to any creditor whose claim is barred forever.

6. As used in this section, "nontestamentary trust" has the meaning ascribed to it in section 1.7 of this act.

Sec. 55. NRS 164.410 is hereby amended to read as follows:

164.410 1. A certification of trust may confirm the following facts or contain the following information:

- (a) The existence of the trust and date of execution of any trust instrument;
- (b) The identity of the settlor and each currently acting trustee;
- (c) The powers of the trustee and any restrictions imposed upon the trustee in dealing with assets of the trust;
- (d) The revocability or irrevocability of the trust and the identity of any person holding a power to revoke it;
- (e) If there is more than one trustee, whether all of the currently acting trustees must or less than all may act to exercise identified powers of the trustee;
- (f) ~~The identifying number of the trust and whether it is a social security number or an employer identification number;~~ *A declaration regarding the situs or domicile of the trust and regarding the law that governs the validity, construction and administration of the trust;* and
- (g) The form in which title to assets of the trust is to be taken.

2. The certification must contain a statement that the trust has not been revoked or amended to make any representations contained in the certification incorrect, and that the signatures are those of all the currently acting trustees.

Sec. 56. NRS 164.725 is hereby amended to read as follows:

164.725 1. As used in this section, "action" includes a course of action and a decision on whether or not to take action.

2. A trustee may provide a notice of proposed action regarding any matter governed by NRS 163.556 or 164.700 to 164.925, inclusive. *Except as otherwise provided in the trust instrument, a trustee may provide a notice of proposed action regarding any aspect of the administration of the trust.*

3. If a trustee provides a notice of proposed action, the trustee shall mail the notice of proposed action to every adult beneficiary who, at the time the notice is provided, receives, or is entitled to receive, income under the trust or who would be entitled to receive a distribution of principal if the trust were terminated. A notice of proposed action need not be provided to a

person who consents in writing to the proposed action. A consent to a proposed action may be executed before or after the proposed action is taken.

4. The notice of proposed action must state:

- (a) That the notice is provided pursuant to this section;
- (b) The name and mailing address of the trustee;
- (c) The name and telephone number of a person with whom to communicate for additional information regarding the proposed action;
- (d) A description of the proposed action and an explanation of the reason for taking the action;
- (e) The time within which objection to the proposed action may be made, which must be not less than 30 days after the notice of proposed action is mailed; and
- (f) The date on or after which the proposed action is to be taken or is to be effective.

5. A beneficiary may object to the proposed action by mailing a written objection to the trustee at the address and within the time stated in the notice.

6. If no beneficiary entitled to receive notice of a proposed action objects to the proposed action and the other requirements of this section are met, the trustee is not liable to any present or future beneficiary with respect to that proposed action.

7. If the trustee received a written objection to the proposed action within the period specified in the notice, the trustee or a beneficiary may petition the court for an order to take the action as proposed, take the action with modification or deny the proposed action. A beneficiary who failed to object to the proposed action is not estopped from opposing the proposed action. The burden is on a beneficiary to prove that the proposed action should not be taken or should be modified. If the trustee takes the proposed action as approved by the court, the trustee is not liable to any beneficiary with respect to that action.

8. If the trustee decides not to take a proposed action for which notice has been provided, the trustee shall notify the beneficiaries of his or her decision not to take the proposed action and the reasons for the decision. The trustee is not liable to any present or future beneficiary with respect to the decision not to take the proposed action. A beneficiary may petition the court for an order to take the action as proposed. The burden is on the beneficiary to prove that the proposed action should be taken.

9. If the proposed action for which notice has been provided is an adjustment to principal and income pursuant to NRS 164.795 or 164.796, the sole remedy a court may order, pursuant to subsections 7 and 8, is to make the adjustment, to make the adjustment with a modification or to order the adjustment not to be made.

Sec. 57. NRS 164.740 is hereby amended to read as follows:

164.740 Except as otherwise provided in chapter 669A of NRS, a trustee who invests and manages trust property owes a duty to the beneficiaries of the trust to comply with the prudent investor rule as set forth in NRS 164.700

to 164.775, inclusive, but a trustee is not liable to a beneficiary to the extent that the trustee ~~acted~~ :

1. *Acted in reasonable reliance on the terms of the trust ~~[-]~~ or a court order; and*

2. *Determined in good faith not to diversify the investments of a trust pursuant to NRS 164.750.*

Sec. 57.5. NRS 164.950 is hereby amended to read as follows:

164.950 1. If two settlors who are married establish a nontestamentary trust jointly, and the trust provides for the pecuniary or fractional division of the community property held by the settlors upon the death of one of the settlors, the trustee has the authority to distribute the community property unless the trust instrument expressly provides otherwise. The trustee may distribute the community property on a non-pro rata basis so long as the fair market value of the distribution is, at the time of the distribution, the same as if the distribution were made pro rata. The provisions of this section do not affect the distribution of assets that are specifically allocated in the trust instrument to be distributed in kind.

2. As used in this section, "nontestamentary trust" has the meaning ascribed to it in section 1.7 of this act.

Sec. 58. Chapter 165 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided by the will creating a testamentary trust or by court order, until the termination of a testamentary trust:*

(a) *The trustee shall account for the trust in the same manner as the trustee of a nontestamentary trust; and*

(b) *The provisions of NRS 165.122 to 165.149, inclusive, apply to a testamentary trust, and all references therein to the trust instrument shall be construed to refer to the will under which the testamentary trust was created.*

2. *Notwithstanding any other provision of this section, the trustee of a testamentary trust may file an intermediate account with the court and may petition for the approval of such an account at any time. Notice of a hearing on such a petition must be given as provided in NRS 155.010, and the procedural provisions of chapter 155 of NRS apply to the petition.*

3. *As used in this section, "nontestamentary trust" means a trust validly created pursuant to the provisions of chapter 163 of NRS, whether revocable or irrevocable, and whether or not any settlor thereof is living or deceased. The term does not include a trust created by the terms of a will of a person.*

Sec. 59. NRS 165.050 is hereby amended to read as follows:

165.050 1. Within 60 days after the termination of a testamentary trust, the trustee ~~[-, and in the case of the transfer of the trusteeship because of the death, resignation, removal, dissolution, merger or consolidation of a sole trustee, the successor in interest of the old trustee,]~~ shall file with the court of the county where the will was admitted to probate a final account under oath ~~[-, showing]~~ for the period since the ~~[-filing of the last]~~ most recent account ~~[-the facts required by NRS 165.040 regarding intermediate accountings, and]~~

~~in the case of termination of the trust,]~~ was provided to and approved or deemed approved by the beneficiaries. The final account must comply with subsection 3 or 4 of NRS 165.135 and must set forth the distribution of the trust property which the ~~[accountant]~~ trustee proposes to make.

2. The beneficiaries entitled to a share in the final distribution must be provided a copy of the account, and the trustee shall petition the court for approval of the account. Notice of a hearing on such a petition must be given in the manner provided in NRS 155.010, and the procedural provisions of chapter 155 of NRS apply to the petition.

3. Notwithstanding the provisions of this section, any beneficiary may waive the right to receive an account, the right to a hearing on the account or the right to receive notice of a hearing.

Sec. 60. NRS 165.137 is hereby amended to read as follows:

165.137 1. The following provisions apply to the extent that the trust instrument does not expressly provide otherwise:

(a) ~~[The]~~ Except as otherwise provided in paragraphs (e), (f) and (g), the trustee shall provide an account to each current beneficiary and to each remainder beneficiary upon request but is not required to provide an account to a remote beneficiary;

(b) A trustee is not required to provide an account more than once in any calendar year unless ordered by a court to do so upon good cause shown;

(c) Each account provided to a beneficiary must comply with the provisions of subsection 3 or 4 of NRS 165.135;

(d) In addition to other methods of providing an account to a beneficiary, a trustee may provide an account to a beneficiary by electronic mail or through a secure website on the Internet;

(e) While a trust is revocable, the trustee is not required to provide an account to any person other than a person having the right of revocation except that a trustee of such a trust shall provide an account if:

(1) A court-appointed guardian of the trust estate requests an account on behalf of the settlor; or

(2) The court, in considering a petition filed under NRS 164.015, determines that the settlor is incompetent or is susceptible to undue influence and directs the trustee to provide an account, specifying the nature and extent of the account to be provided and the person or persons who are entitled to receive the account;

(f) While an irrevocable trust in its entirety is subject to a broad power of appointment, the trustee is not required to provide an account for that trust to any person other than the power holder;

(g) While a beneficiary's only interest is a discretionary interest, as described in NRS 163.4185, except as otherwise provided by any other provision of law, the trustee is not required to provide an account to such a beneficiary;

(h) The cost of an account must be charged as provided in the Uniform Principal and Income Act (1997) as set forth in chapter 164 of NRS;

~~[(h)]~~ (i) An account shall be deemed approved by a beneficiary who received a copy of the account if no written objection thereto is given to the trustee within ~~[(+20)]~~ 90 days after the date on which the trustee provided the account to that beneficiary;

~~[(i)]~~ (j) An account shall be deemed approved by a minor, unborn or unknown beneficiary if it is deemed approved as to an adult beneficiary who has a similar interest;

~~[(j)]~~ (k) A trustee is not required to provide to a beneficiary information that does not affect the beneficiary's interest in the trust, and an adult beneficiary may, by a written declaration that is signed by that beneficiary, waive the right to receive any information otherwise required to be provided pursuant to the provisions of subsection 3 or 4 of NRS 165.135; and

~~[(k)]~~ (l) For the purposes of paragraph ~~[(h)]~~ (i), a beneficiary shall be deemed to have received a copy of an account provided by the trustee to the beneficiary by electronic mail or through a secure website on the Internet if the trustee:

(1) Sent the beneficiary an electronic mail in a manner that complies with subsection 1 of NRS 719.320 and the beneficiary received the electronic mail in a manner that complies with subsection 2 of NRS 719.320; and

(2) Attached the account to the electronic mail as an electronic record or included in the electronic mail a notice to the beneficiary indicating the availability of the account on the secure website.

2. As used in this section:

(a) "Electronic mail" has the meaning ascribed to it in NRS 41.715.

(b) "Electronic record" has the meaning ascribed to it in NRS 132.117.

Sec. 61. NRS 165.139 is hereby amended to read as follows:

165.139 Notwithstanding any provision to the contrary in the trust instrument:

1. If the amount distributable to a current beneficiary is affected by the amount of administrative expenses or is affected by the allocation of receipts and disbursements to income or principal, the trustee shall, upon request, provide an account annually to the current beneficiary. An account provided to a current beneficiary pursuant to this subsection must comply with the provisions of subsection 3 or 4 of NRS 165.135, except to the extent that the current beneficiary agrees otherwise in writing.

2. Except as otherwise provided in this subsection ~~[(j)]~~ and NRS 165.137, upon request, an account must be provided annually to each remainder beneficiary of an irrevocable trust. A beneficiary who has been eliminated by the exercise of a power of appointment has no right to request or receive an account. ~~[(pursuant to this subsection.)]~~ *Upon request, an account must be provided annually to each living settlor, and a settlor has standing to enforce the terms of the trust and all applicable law on behalf of any beneficiaries.*

3. A trustee, at the expense of the trust, may provide:

(a) An unrequested account to one or more beneficiaries at any time; and

(b) More information to beneficiaries, including, without limitation, remote beneficiaries, than is required under the trust instrument or by law.

4. Unless the court determines that ~~[there is clear and convincing evidence that]~~ the trustee was acting in good faith, a trustee who fails to provide an account when required pursuant to *the terms of the trust instrument* or NRS 165.122 to 165.149, inclusive, is personally liable to each ~~[beneficiary]~~ *person entitled to receive an account* who requested the account in writing for all costs reasonably incurred by each such ~~[beneficiary]~~ *person* to enforce *the terms of the trust* or NRS 165.122 to 165.149, inclusive, including, without limitation, reasonable attorney's fees and court costs. The trustee may not expend trust funds therefor.

Sec. 62. NRS 165.147 is hereby amended to read as follows:

165.147 1. *Except as otherwise provided in subsections 2, 3 and 4, a trustee shall provide to each beneficiary who is entitled to receive an account pursuant to NRS 165.135 and 165.137 notice of the existence of a trust for his or her benefit within 120 days after the beneficiary becomes entitled to an account or within 120 days after the trustee assumes the trusteeship, whichever occurs later.*

2. *The provisions of subsection 1 apply only to a trust created or amended on or after October 1, 2013, and do not apply as to a beneficiary whose sole interest is a discretionary interest, as described in NRS 163.4185, if the trust instrument expressly authorizes or directs the trustee not to disclose the existence of the trust to that beneficiary. Notwithstanding the provisions of this subsection:*

(a) Nothing in this subsection shall be construed to exempt the trustee from complying with the requirements of other applicable provisions of state or federal law, including, without limitation, the requirement to:

(1) Give notice to an interested party with respect to a hearing on a petition, an appeal or any other judicial proceeding;

(2) Give notice of a proposed action to a person who is entitled to receive such notice; and

(3) Comply with the applicable federal tax law, including, without limitation, the obligation to provide an Internal Revenue Service Form 1041 (Schedule K-1) or other tax form to any beneficiary who is entitled to receive such a form.

(b) Notwithstanding any provision in the trust instrument to the contrary, if the trustee, by taking any action in accordance with paragraph (a), discloses the existence of the trust to any beneficiary, the trustee is not liable for the disclosure and must not be considered in breach of his or her duties.

3. *The requirements of subsection 1 may be satisfied by sending the beneficiary any one of the following:*

(a) An account of the trustee;

(b) The notice permitted in NRS 164.021;

(c) *An Internal Revenue Service Form 1041 (Schedule K-1) showing the beneficiary's share of trust income; or*

(d) *A copy of the trust in compliance with subsection 6 or 7.*

4. *The requirements of subsection 1 do not apply to any beneficiary who has:*

(a) *Received notice of the trust's existence from a predecessor trustee;*

(b) *Acknowledged the trust's existence in writing; or*

(c) *Made an appearance in a court proceeding related to the trust.*

5. *Except as to a beneficiary for whom the requirements of subsection 1 have been satisfied or does not apply:*

(a) *Notice must be sent by first-class mail to each beneficiary's at his or her last known address.*

(b) *Notice to a minor beneficiary must be given to:*

(1) *The guardian of the estate of the minor appointed by the court, if a court has appointed such a guardian;*

(2) *The guardian of the person of the minor, if a court has appointed such a guardian but has not appointed a guardian of the estate of the minor; or*

(3) *A parent who has custody of the minor, if a court has not appointed a guardian of the estate of the minor or a guardian of the person of the minor.*

(c) *Notice to an adult beneficiary who is under a legal disability must be given to:*

(1) *The guardian of the estate of the beneficiary appointed by a court; or*

(2) *If a court has not appointed a guardian of the estate of the beneficiary, the guardian of the person of the beneficiary appointed by a court.*

(d) *If the address or identity of a beneficiary is not known and cannot be ascertained after due diligence, notice must be given by publishing a copy of the notice once each week for 3 consecutive weeks in a newspaper of general circulation in the county where the trust has its legal situs. A single published notice may be given for multiple beneficiaries as long as each known beneficiary's name is mentioned in the notice.*

(e) *Notwithstanding any other provision of this section, the court may authorize or require an alternative form of notice.*

6. Upon request by a beneficiary who is entitled to receive an account pursuant to the terms of NRS 165.122 to 165.149, inclusive, a trustee shall provide a copy of the trust instrument to that beneficiary except as expressly provided otherwise in the trust instrument.

~~{2-}~~ 7. Notwithstanding the provisions of subsection ~~{4}~~ 6 or any provision to the contrary in the trust instrument, the court may direct the trustee to provide a beneficiary who is entitled to receive an account pursuant to the terms of NRS 165.122 to 165.149, inclusive, a copy of the trust instrument, or such portions as the court deems to be pertinent to the

determination of the adequacy of the trustee's account and to the enforcement of the beneficiary's rights under the trust.

~~{2-}~~ 8. Except as otherwise provided in NRS 165.145 or by order of the court for good cause shown, the trustee must not be compelled to provide a copy of the trust instrument to a person who is not a beneficiary of the trust or a person who is not entitled to an account of the trust pursuant to the provisions of NRS 165.122 to 165.149, inclusive.

Sec. 63. NRS 166.120 is hereby amended to read as follows:

166.120 1. A spendthrift trust as defined in this chapter restrains and prohibits generally the assignment, alienation, acceleration and anticipation of any interest of the beneficiary under the trust by the voluntary or involuntary act of the beneficiary, or by operation of law or any process or at all. The trust estate, or corpus or capital thereof, shall never be assigned, aliened, diminished or impaired by any alienation, transfer or seizure so as to cut off or diminish the payments, or the rents, profits, earnings or income of the trust estate that would otherwise be currently available for the benefit of the beneficiary.

2. Payments by the trustee to the beneficiary, whether such payments are mandatory or discretionary, must be made only to or for the benefit of the beneficiary and not by way of acceleration or anticipation, nor to any assignee of the beneficiary, nor to or upon any order, written or oral, given by the beneficiary, whether such assignment or order be the voluntary contractual act of the beneficiary or be made pursuant to or by virtue of any legal process in judgment, execution, attachment, garnishment, bankruptcy or otherwise, or whether it be in connection with any contract, tort or duty. Any action to enforce the beneficiary's rights, to determine if the beneficiary's rights are subject to execution, to levy an attachment or for any other remedy must be made only in a proceeding commenced pursuant to chapter 153 of NRS, if against a testamentary trust, or NRS 164.010, if against a nontestamentary trust. ~~{A}~~ *The district court, as defined in NRS 132.116*, has exclusive jurisdiction over any proceeding pursuant to this section.

3. The beneficiary shall have no power or capacity to make any disposition whatever of any of the income by his or her order, voluntary or involuntary, and whether made upon the order or direction of any court or courts, whether of bankruptcy or otherwise; nor shall the interest of the beneficiary be subject to any process of attachment issued against the beneficiary, or to be taken in execution under any form of legal process directed against the beneficiary or against the trustee, or the trust estate, or any part of the income thereof, but the whole of the trust estate and the income of the trust estate shall go to and be applied by the trustee solely for the benefit of the beneficiary, free, clear, and discharged of and from any and all obligations of the beneficiary whatsoever and of all responsibility therefor.

4. The trustee of a spendthrift trust is required to disregard and defeat every assignment or other act, voluntary or involuntary, that is attempted contrary to the provisions of this chapter.

5. *As used in this section, "nontestamentary trust" ~~means a trust validly created pursuant to the provisions of chapter 163 of NRS, whether revocable or irrevocable, and whether or not any settlor thereof is living or deceased. The term does not include a trust created by the terms of a will of a person.~~ has the meaning ascribed to it in section 1.7 of this act.*

Sec. 64. NRS 166.170 is hereby amended to read as follows:

166.170 1. ~~{A}~~ Except as otherwise provided in this section, a person may not bring an action with respect to a ~~{transfer of property to a}~~ spendthrift trust ~~{:~~

~~(a) If the person is a creditor when the transfer is made,} that is unrelated to a transfer of property unless the action is commenced within {:~~

~~(1) Two} 2 years after the {transfer is made; or~~

~~(2) Six months after the person discovers or reasonably should have discovered the transfer,
 → whichever is later.~~

~~(b) If the} creation of the spendthrift trust. A person {becomes} who was a creditor {after the transfer is made, than unless the action is commenced within} of the transferor at the time the spendthrift trust was created may commence an action with respect to a spendthrift trust that is unrelated to a transfer of property more than 2 years after the {transfer is made.} creation of the trust as long as the action is commenced within 6 months after the person discovers or reasonably should have discovered the creation of the trust.~~

2. Except as otherwise provided in this subsection, a person may not bring an action that is related to a transfer of property to a spendthrift trust unless that action is brought within 2 years after the transfer of that property to the spendthrift trust. A person who was a creditor of the transferor at the time the transfer was made may commence an action related to the transfer of that property more than 2 years after the transfer is made to the spendthrift trust as long as the action is commenced within 6 months after the person discovers or reasonably should have discovered the transfer of the property to the spendthrift trust.

3. A person shall be deemed to have discovered a transfer at the time a public record is made of the transfer, including, without limitation, the conveyance of real property, or a document referencing the transfer of other property, that is recorded in the office of the county recorder of the county in which the property is located or the filing of a financing statement pursuant to chapter 104 of NRS.

~~{3.}~~ For the purposes of this subsection:

~~(a) A public record that references the transfer of an account, contract, certificate, note, judgment, business interest, safe deposit box or other property interest that is subject to additions or contributions does not need to be updated to reflect such additions or contributions and, subject to the~~

provisions of paragraph (b) of subsection 9, the limitation of this subsection applies separately to each addition or contribution.

(b) Income and capital appreciation that accrue with respect to trust property after the transfer of such property to a spendthrift trust are not considered additional transfers.

4. A person shall be deemed to have discovered the creation of a spendthrift trust at the time a public record is made of the spendthrift trust, including, without limitation, a transfer of property to the trust as provided in subsection 3 or a document that shows the existence of the trust, including, without limitation, the recording of a certification of trust that complies with the provisions of NRS 164.410.

5. Except as expressly provided for in the trust instrument, the property of a spendthrift trust is not subject to the claims of a creditor of the settlor. A creditor may not reach any property of a spendthrift trust to satisfy the creditor's claim against a settlor or beneficiary unless the creditor establishes that the specific property was not properly transferred to the trust or has been transferred from the trust pursuant to the terms of the trust instrument or that the trust is invalid as a spendthrift trust as to such specific property, subject to the following limitations:

(a) A creditor may not bring an action with respect to transfer of property to a spendthrift trust unless a creditor can prove by clear and convincing evidence that the transfer of specific property was ~~fraudulent transfer pursuant to chapter 112 of NRS or that the transfer violates a legal obligation owed to the creditor under a contract or a valid court order that is legally enforceable by that creditor. In the absence of such clear and convincing proof, the property transferred is not subject to the claims of the creditor.~~ made:

(1) With the actual intent to defraud such creditor; or

(2) In violation of an express provision or a written contract or a court order prohibiting the transferor from transferring the property that was legally enforceable by such creditor against the transferor at the time of the transfer.

(b) Proof by one creditor that a transfer of property was ~~fraudulent or wrongful~~ made in violation of subparagraph (1) or (2) of paragraph (a) does not constitute proof of a violation as to any other creditor and proof ~~of a fraudulent or wrongful~~ that a transfer of the specific property ~~as~~ is subject to the claims of one creditor ~~shall~~ does not invalidate that transfer as to any other creditor and does not invalidate any other transfer of property.

~~[4.]~~ 6. If property transferred to a spendthrift trust is conveyed to the settlor or to a beneficiary for the purpose of obtaining a loan secured by a mortgage or deed of trust on the property and then reconveyed to the trust, for the purpose of ~~subsection 1,~~ this section, the transfer is disregarded and the reconveyance relates back to the date the property was originally

transferred to the trust. The mortgage or deed of trust on the property shall be enforceable against the trust.

~~{5-}~~ 7. A person may not bring a claim against an adviser to the settlor or trustee of a spendthrift trust unless the person can show by clear and convincing evidence that the adviser acted in violation of the laws of this State, knowingly and in bad faith, and the adviser's actions directly caused the damages suffered by the person.

~~{6-}~~ 8. A person other than a beneficiary or settlor may not bring a claim against a trustee of a spendthrift trust unless the person can show by clear and convincing evidence that the trustee acted in violation of the laws of this State, knowingly and in bad faith, and the trustee's actions directly caused the damages suffered by the person. ~~{As used in this subsection, "trustee" includes a cotrustee, if any, and a predecessor trustee.}~~

~~7-}~~ 9. If more than one transfer is made to a spendthrift trust:

(a) The subsequent transfer to the spendthrift trust must be disregarded for the purpose of determining whether a person may bring an action pursuant to subsection ~~{1-}~~ 2 with respect to a prior transfer to the spendthrift trust; and

(b) Any distribution to a beneficiary from the spendthrift trust shall be deemed to have been made from the most recent transfer made to the spendthrift trust.

~~{8-}~~ 10. Notwithstanding any other provision of law ~~{, no}~~ :

(a) No action of any kind, including, without limitation, an action to enforce a judgment entered by a court or other body having adjudicative authority, may be brought at law or in equity against the trustee of a spendthrift trust if, as of the date the action is brought, an action by a creditor with respect to a transfer to the spendthrift trust would be barred pursuant to this section. {

~~9-}~~ (b) *No action of any kind, including, without limitation, an action to enforce a judgment entered by a court or other body having adjudicative authority, may be brought at law or in equity for an attachment or other provisional remedy against property that is owned by a spendthrift trust unless a creditor can provide either:*

(1) The proof required in paragraph (a) of subsection 5 that the settlor's transfer of such property is subject to the claims of that creditor; or

(2) Clear and convincing evidence that the trust is not valid as a spendthrift trust as to the creditor's claim.

11. For purposes of this section, if a trustee exercises his or her discretion or authority to distribute trust income or principal to or for a beneficiary of the spendthrift trust, by appointing the property of the original spendthrift trust in favor of a second spendthrift trust for the benefit of one or more of the beneficiaries as authorized by NRS 163.556, the time of the transfer for purposes of this section shall be deemed to have occurred on the date the settlor of the original spendthrift trust transferred assets into the original spendthrift trust, regardless of the fact that the property of the original spendthrift trust may have been transferred to a second spendthrift trust {

~~10.]~~ on a later date.

12. As used in this section:

(a) "Action that is related to a transfer of property to a spendthrift trust" includes any legal action seeking to obtain a court order, decree or judgment that would:

(1) Set aside one or more transfers of property to a spendthrift trust;

(2) Declare any property that was assigned to or transferred to the spendthrift trust or otherwise declared to be trust property not to be part of the trust estate, including, without limitation, the imposition of a constructive trust or a resulting trust that is inconsistent with the governing trust instrument of the spendthrift trust; or

(3) Subject any trust property to covenants, conditions, restrictions or obligations that are inconsistent with the terms of the trust instrument, not including covenants, conditions, restrictions or obligations of record that were existing at the time of the transfer of the property to the trust.

(b) "Action with respect to a spendthrift trust that is unrelated to a transfer of property" includes any legal action related to a spendthrift trust that is not covered by paragraph (a), including, without limitation, an action seeking to obtain a court order, decree or judgment which would:

(1) Declare that any trust property is available to satisfy any claim against a beneficiary, trustee or settlor of the trust;

(2) Disqualify the trust as a trust, as an irrevocable trust or as a spendthrift trust, whether in whole or in part;

(3) Impose a lien or other encumbrance on any asset of the spendthrift trust without the consent of the trustee and of each other person whose consent is required by the trust instrument;

(4) Impose a liability on an adviser;

(5) Compel a distribution to a beneficiary or to a creditor from a mandatory interest, as described in NRS 163.4185, in violation of the trust; or

(6) Compel a distribution to a beneficiary or to a creditor from a support interest, as described in NRS 163.4185, or from a discretionary interest, as described in NRS 163.4185.

(c) "Adviser" means any person, including, without limitation, an accountant, attorney or investment adviser, who gives advice concerning or was involved in the creation of, transfer of property to, or administration of the spendthrift trust or who participated in the preparation of accountings, tax returns or other reports related to the trust. {

~~(b)}~~ The term includes a trust protector designated in the trust instrument, whether or not that person is acting in a fiduciary capacity.

(d) "Creditor" ~~has the meaning ascribed to it in subsection 4 of NRS 112.150.~~ means a person who has a claim.

(e) "Trustee" includes a cotrustee, if any and a predecessor trustee.

Sec. 65. NRS 687B.260 is hereby amended to read as follows:

687B.260 1. If a policy of insurance, whether issued before, on or after January 1, 1972, is effected by any person on his or her own life, or on another life, in favor of a person other than himself or herself, *including, without limitation, a trust established by the insured or the person so effecting such insurance*, or, except in cases of transfer with intent to defraud creditors, if a policy of life insurance is assigned or in any way made payable to any such person, the lawful beneficiary or assignee thereof, *including, without limitation, a trust established by the insured or the person so effecting such insurance*, other than the insured or the person so effecting such insurance or executors or administrators of the insured or the person so effecting such insurance, is entitled to its proceeds and avails against the creditors and representatives of the insured and of the person effecting the same, whether or not the right to change the beneficiary is reserved or permitted and whether or not the policy is made payable to the person whose life is insured or to the executors or administrators of such person if the beneficiary or assignee predeceases the person. Except as otherwise provided in this subsection, such proceeds and avails are exempt from all liability for any debt of the beneficiary existing at the time the proceeds and avails are made available for the use of the beneficiary. Subject to the statute of limitations, the amount of any premiums for such insurance paid with intent to defraud creditors, with interest thereon, inures to the benefit of the creditors from the proceeds of the policy. The insurer issuing the policy is discharged of all liability thereon by payment of its proceeds in accordance with its terms, unless, before the payment, the insurer has received written notice at its home office, by or in behalf of a creditor, of a claim to recover for transfer made or premiums paid with intent to defraud creditors, with specification of the amount claimed along with such facts as will assist the insurer to ascertain the particular policy.

2. For the purposes of subsection 1, a policy shall also be deemed to be payable to a person other than the insured if and to the extent that a facility-of-payment clause or a similar clause in the policy permits the insurer to discharge its obligation after the death of the individual insured by paying the death benefits to a person as permitted by such a clause.

3. This section does not apply to insurance issued pursuant to this Code to a creditor covering his or her debtors to the extent that such proceeds are applied to payment of the obligation for the purpose of which the insurance was so issued.

4. *With respect to transfers of an insurance policy or proceeds of a policy to a spendthrift trust, as defined in NRS 166.020:*

(a) *The provisions of NRS 166.170 constitute the statute of limitations applicable to the provisions of subsection 1.*

(b) *Except as to any transfer that is established to be subject to the claims of a creditor under subsection 3 of NRS 166.170, all money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance policy are fully exempt from the claims of creditors if a spendthrift*

trust is the owner or is irrevocably designated as the beneficiary of that policy.

Sec. 66. NRS 687B.290 is hereby amended to read as follows:

687B.290 1. The benefits, rights, privileges and options which under any annuity contract issued prior to or after January 1, 1972, are due or prospectively due the annuitant shall not be subject to execution nor shall the annuitant be compelled to exercise any such rights, powers or options, nor shall creditors be allowed to interfere with or terminate the contract, except as to amounts paid for or as premium on any such annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice at its home office prior to the making of the payment to the annuitant out of which the creditor seeks to recover. Any such notice shall specify the amount claimed or such facts as will enable the insurer to ascertain such amount, and shall set forth such facts as will enable the insurer to ascertain the annuity contract, the annuitant and the payment sought to be avoided on the ground of fraud.

2. If the contract so provides, the benefits, rights, privileges or options accruing under such contract to a beneficiary or assignee shall not be transferable or subject to commutation, and the same exemptions and exceptions contained in this section for the annuitant shall apply with respect to such beneficiary or assignee.

3. *With respect to the amounts payable under any annuity contract to a spendthrift trust, as defined in NRS 166.020:*

(a) *The provisions of NRS 166.170 constitute the statute of limitations applicable to the provisions of subsection 1.*

(b) *Except as to any transfer that is established to be subject to the claims of a creditor pursuant to subsection 3 of NRS 166.170, the benefits, rights, privileges and options which are due or prospectively due to a spendthrift trust under any annuity contract are fully exempt from the claims of creditors.*

Sec. 67. NRS 163.4177, 163.418, 163.5539, 165.040, 165.045, 165.055 and 165.110 are hereby repealed.

LEADLINES OF REPEALED SECTIONS

163.4177 Factors which must not be considered exercising improper dominion or control over trust.

163.418 Clear and convincing evidence required to find settlor to be alter ego of trustee of irrevocable trust; certain factors insufficient for finding that settlor controls or is alter ego of trustee of irrevocable trust.

163.5539 "Excluded fiduciary" defined.

165.040 Intermediate accountings: General requirements; exceptions.

165.045 Intermediate accountings: Notice; hearing.

165.055 Final accounting: Notice.

165.110 Proceedings in court.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 241 to Senate Bill No. 307 provides a definition for “foreign jurisdiction” and “non-testamentary trust” in Chapter 132 of *Nevada Revised Statutes*. It provides a definition for “district court” be added in Section 116 of Chapter 132 of *Nevada Revised Statutes*. Finally, based upon the amendments, Sections 8, 9 and 17 of the bill are deleted.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 312.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 415.

"SUMMARY—Makes various changes concerning victim impact panels. (BDR 43-888)"

"AN ACT relating to driving under the influence; revising provisions concerning impact panels of victims of crimes involving driving under the influence of intoxicating liquor or a controlled substance ~~and~~ in certain counties; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a judge who sentences a defendant for a crime involving driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance is required to order the defendant to attend a live meeting of a panel of victims in person, unless such a meeting is not available within 60 miles of the defendant's residence. The judge or judges in each judicial district are responsible for maintaining a list of the panels of persons who have been injured or have had members of their families or close friends injured or killed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance and who have, by contacting the judge or judges in the district, expressed their willingness to discuss collectively the personal effect of those crimes. (NRS 484C.530) Sections 2-13 of this bill make various changes concerning such victim impact panels ~~and~~ in each judicial district in a county whose population is 100,000 or more (currently Clark and Washoe Counties). In particular, sections 2-13 make the Department of Motor Vehicles responsible for regulating the organizations that sponsor and conduct victim impact panels. Section 6 requires organizations that wish to sponsor victim impact panels to be registered with the Department and establishes the requirements for such registration. Section 7 requires that each meeting of a victim impact panel be conducted by a qualified coordinator and specifies the training, knowledge and experience required to serve as a coordinator. Section 8 requires victims who wish to make a presentation as a member of a victim impact panel to

submit to the sponsor information concerning the events that gave rise to the harms suffered by the victim and provides a criminal penalty for persons who make false statements in connection with such harms. ~~[Sections]~~ Section 9 ~~[and 14 establish]~~ establishes requirements for meetings of victim impact panels and ~~[authorize]~~ requires that, if such a meeting is conducted in person, there must be present at the site of the meeting security personnel who are trained in the detection of a person who is under the influence of a controlled substance or intoxicating liquor. Section 9 further authorizes a meeting of a victim impact panel to be conducted by means of videoconferencing or other form of electronic communication. Sections 10-12 establish various procedures for the receipt and disbursement of money generated from fees for attending meetings of panels, administrative fines and civil penalties. Section 13 requires the Department to adopt regulations to carry out its duties relating to sections 2-13. Section 14 of this bill adds references to the new requirements of sections 2-13 to the existing requirements for victim impact panels, which remain in effect for each judicial district in a county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties).

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

Section 1. Chapter 484C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this act.

Sec. 2. *As used in ~~[NRS 484C.530 and]~~ sections 2 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Registered sponsor" means an organization in this State that is registered with the Department to sponsor meetings of victim impact panels.*

Sec. 4. *"Victim" means a person who has been injured or has had a member of his or her family or a close friend injured or killed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430 or a law of any other jurisdiction that prohibits the same or similar conduct.*

Sec. 5. *"Victim impact panel" or "panel" means three or more victims who meet in the presence of persons who have been sentenced for crimes involving driving while under the influence of intoxicating liquor or a controlled substance to discuss collectively the personal effect on the victims of such crimes.*

Sec. 5.5. *The provisions of sections 2 to 13, inclusive, of this act do not apply to a county whose population is less than 100,000.*

Sec. 6. 1. *An organization that wishes to sponsor meetings of victim impact panels pursuant to subsections 2 and 4 of NRS 484C.530 and*

sections 2 to 13, inclusive, of this act, must be registered with the Department.

2. An application for registration must be submitted in the form prescribed by the Department. The application must include, without limitation:

(a) Proof that the organization is:

(1) A nonprofit organization that is recognized as exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), as amended, or a corporation for public benefit as defined in NRS 82.021; and

(2) Is registered with the Secretary of State, if registration is required by law.

(b) A list of the names of all victims who at the time of the application have:

(1) Expressed to the organization a willingness to serve as members of a panel; and

(2) Submitted the documentary or other evidence required pursuant to section 8 of this act.

(c) The name of at least one qualified coordinator who satisfies the requirements of section 7 of this act and who is available to conduct meetings of victim impact panels on behalf of the registered sponsor.

(d) A curriculum that describes the material to be covered during each meeting of a victim impact panel.

(e) If the sponsor intends to conduct a meeting of a victim impact panel by videoconference or other electronic means, a description of the facilities for such communication that the sponsor intends to use.

3. A registered sponsor must renew its registration annually in accordance with procedures established by the Department.

4. The Department may, at reasonable times and ~~upon reasonable~~ without notice, inspect the facilities and records of a registered sponsor.

5. If the Department determines that a person or organization has sponsored a victim impact panel without being registered pursuant to this section, the Department shall:

(a) Impose a \$5,000 administrative fine on the person or organization; and

(b) Refuse to accept an application for registration from the person or organization for 2 years after the date of the Department's determination.

Sec. 7. 1. Each meeting of a victim impact panel must be conducted by a qualified coordinator. A coordinator must:

(a) Have successfully completed specialized training in victim advocacy, including, without limitation, training offered by the National Organization for Victim Assistance or a comparable organization that is nationally recognized;

(b) Have at least 5 years of experience in victim advocacy; and

(c) Possess significant knowledge and experience in matters relevant to the conduct of a victim impact panel, including, without limitation, sudden violent death, critical and catastrophic injuries, the grieving process, the recovery process, post-traumatic stress disorder, survivor guilt, financial trauma, laws relating to driving under the influence of intoxicating liquor or a controlled substance, the preparation of victim impact statements and sensitivity to individual, gender, racial and cultural diversity.

➔ The training, experience and knowledge of the coordinator must have been gained with victims of crimes involving driving while under the influence of intoxicating liquor or a controlled substance.

2. A person may not serve as a coordinator of a victim impact panel if the person has ever been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to:

(a) A felony in this State or under the laws of any state, territory or possession of the United States; or

(b) A violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 or a law of any other jurisdiction that prohibits the same or similar conduct or a lesser charge, if the person's plea to the lesser charge was in exchange for the dismissal of a charge of a violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 or a law of any other jurisdiction that prohibits the same or similar conduct.

3. If the Department determines that a registered sponsor has violated any provision of this section, the Department shall revoke the registration of the sponsor.

Sec. 8. 1. Before a victim may make a presentation as a member of a victim impact panel in a meeting of the panel conducted pursuant to section 7 of this act, the victim must submit to the registered sponsor documentary and other information concerning the events that gave rise to the harms suffered by the victim. The information may include, without limitation:

(a) Reports of peace officers and statements of witnesses;

(b) Affidavits signed by the victim or other persons;

(c) Published or other media accounts;

(d) Photographs, video or film footage; and

(e) Medical records.

2. A registered sponsor shall verify the accuracy of the information provided by the victim and certify its accuracy to the Department.

3. A person who knowingly makes a false statement, certifies to an incorrect document or withholds information for the purpose of receiving or assisting another person in receiving victim compensation or some other benefit under subsections 2 and 4 of NRS 484C.530 and sections 2 to 13, inclusive, of this act to which he or she is not entitled is guilty of a misdemeanor and shall be punished by a fine of ~~+\$5,000~~ \$1,000 and the performance of 100 hours of community service pursuant to the conditions prescribed in NRS 176.087.

Sec. 9. 1. *A meeting of a victim impact panel conducted pursuant to section 7 of this act:*

(a) *Must include presentations by not fewer than three panel members. A registered sponsor shall not allow a victim to make a presentation as a member of a panel more than two times during any month;*

(b) *Must not include a presentation by a victim or any other person who:*

(1) *Injured or killed another person while driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430 or a law of any other jurisdiction that prohibits the same or similar conduct; or*

(2) *Was ~~not~~ an adult passenger who was not injured in a vehicle that injured or killed another person while being driven by such a person; ~~and~~*

(c) *May be conducted in person or by videoconference or other electronic means approved by the Department ~~not~~; and*

(d) *Must, if conducted in person, have present during the meeting at the site of the meeting security personnel who are trained in the detection of a person who is under the influence of:*

(1) *A controlled substance; and*

(2) *Intoxicating liquor.*

2. *If the Department determines that a registered sponsor has violated any provision of this section, the Department shall suspend the registration of the sponsor for 1 year and may impose an administrative fine of not more than \$1,000.*

Sec. 10. 1. *A registered sponsor shall collect the fees established by the court pursuant to subsection 2 of NRS 484C.530 from defendants who attend a meeting of a victim impact panel.*

2. *A registered sponsor shall not generate a profit from his or her sponsorship or conducting any meeting of a victim impact panel.*

3. *Of the money collected by a registered sponsor pursuant to this section:*

(a) *Not less than 20 percent must:*

(1) *If the Department adopts regulations providing for the conduct of programs of victim compensation by registered sponsors, be disbursed by the registered sponsor directly to a victim for services, including, without limitation:*

(I) *Funeral expenses;*

(II) *Medical expenses, expenses for psychological counseling and nonmedical remedial care and treatment rendered in accordance with a religious method of healing, which are actually and reasonably incurred as a result of the injury or death of a victim;*

(III) *Temporary assistance with the ordinary expenses of daily life, including, without limitation, housing, utilities and food;*

(IV) *Travel expenses, including, without limitation, airfare, car rental and hotel accommodations; and*

(V) Other reasonable services for the victim; or

(2) Be remitted to the Department for deposit with the State Treasurer for credit to a separate account in the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260 to provide compensation to victims of crimes involving driving while under the influence of intoxicating liquor or a controlled substance. Any money received pursuant to this subparagraph must be accounted for separately in the Fund in the separate account described in section 11 of this act.

(b) Not less than 10 percent must be disbursed by the registered sponsor in the form of grants to law enforcement agencies in this State to support activities relating to crimes involving driving while under the influence of intoxicating liquor or a controlled substance, including, without limitation, purchase of equipment, enforcement, specialized training and community education programs.

4. A registered sponsor shall, on a quarterly basis, submit a financial statement to the Department and shall submit an annual financial statement in connection with its application for the renewal of its registration. The financial statement must be in a format prescribed by the Department and include, without limitation:

- (a) The name and address of each victim and law enforcement agency to which the registered sponsor made a disbursement;*
- (b) The amount of each disbursement;*
- (c) The date of each disbursement; and*
- (d) An itemization of the services or purposes for which the money was disbursed.*

↪ Each disbursement must be supported by a receipt or other evidence of the disbursement.

5. If the Department determines that a registered sponsor has violated any provision:

- (a) Of this section, the Department shall suspend the registration of the sponsor for not more than 2 years; and*
- (b) Of subsection 1, the Department shall impose an administrative fine of \$5,000.*

Sec. 11. All administrative fines collected by the Department pursuant to ~~NRS 484C.530 and~~ sections 2 to 11, inclusive, of this act, must be deposited with the State Treasurer for credit to a separate account in the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260 to provide compensation to victims of crimes involving driving while under the influence of intoxicating liquor or a controlled substance.

Sec. 12. 1. In addition to any other penalty provided by law, a person convicted of a violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 is liable to the State for a civil penalty of \$5, payable to the Department.

2. Any money received by the Department pursuant to subsection 1 must be retained by the Department and used to defray the expenses incurred by

the Department to administer the provisions of subsections 2 and 4 of NRS 484C.530 and sections 2 to 13, inclusive, of this act.

Sec. 13. *The Department shall adopt regulations to carry out the provisions of sections 2 to 13, inclusive, of this act.*

Sec. 14. NRS 484C.530 is hereby amended to read as follows:

484C.530 1. The judge or judges in each judicial district in a county whose population is less than 100,000 shall cause the preparation and maintenance of a list of the panels of persons who:

(a) Have been injured or had members of their families or close friends injured or killed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430 or a law of any other jurisdiction that prohibits the same or similar conduct; and

(b) Have, by contacting the judge or judges in the district, expressed their willingness to discuss collectively the personal effect of those crimes.

~~→ sponsors of victim impact panels that are registered with the Department pursuant to section 6 of this act.~~ The list must include the name and telephone number of the person ~~registered sponsor~~ to be contacted regarding each such panel and a schedule of times and locations of the meetings of each such panel. The judge or judges shall establish, in cooperation with ~~the Department and~~ representatives of the members ~~registered sponsors~~ of the panels, a fee, if any, the fees to be paid by defendants who are ordered to attend a meeting of the panel. The amount of the fee, if any, fees must be reasonable. The panel may not be operated for profit.

2. The judge or judges in each judicial district in a county whose population is 100,000 or more shall cause the preparation and maintenance of a list of the registered sponsors of victim impact panels that are registered with the Department pursuant to section 6 of this act. The list must include the name and telephone number of the registered sponsor to be contacted regarding each such panel and a schedule of times and locations of the meetings of each such panel. The judge or judges shall establish, in cooperation with the Department and representatives of the registered sponsors of the panels, the fees to be paid by defendants who are ordered to attend a meeting of the panel. The amount of the fees must be reasonable.

3. Except as otherwise provided in this subsection, in a county whose population is less than 100,000, if a defendant pleads guilty or guilty but mentally ill to, or is found guilty or guilty but mentally ill of, any violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430, the court shall, in addition to imposing any other penalties provided by law, order the defendant to:

(a) Attend in person, ~~for by videoconference or other electronic means,~~ at the defendant's expense, a live meeting of a ~~victim impact~~ panel ~~of persons who have been injured or had members of their families or close~~

~~friends injured or killed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430 or a law of any other jurisdiction that prohibits the same or similar conduct,]~~ listed pursuant to subsection 1 in order to have the defendant understand the effect such a crime has on other persons; and

(b) Pay the fee, if any, ~~fees~~ established by the court pursuant to subsection 1.

↪ The court may, but is not required to, order the defendant to attend such a meeting if one is not available within 60 miles of the defendant's residence.
~~in person.~~

~~3-7~~ 4. Except as otherwise provided in this subsection, in a county whose population is 100,000 or more, if a defendant pleads guilty or guilty but mentally ill to, or is found guilty or guilty but mentally ill of, any violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430, the court shall, in addition to imposing any other penalties provided by law, order the defendant to:

(a) Attend in person or by videoconference or other electronic means if a live meeting of a panel is not available within 60 miles of the defendant's residence, at the defendant's own expense, a live meeting of a victim impact panel conducted pursuant to section 7 of this act in order to have the defendant understand the effect such a crime has on other persons; and

(b) Pay the fees established by the court pursuant to subsection 2.

5. A person ordered to attend a meeting pursuant to subsection ~~{2}~~ 3 or 4 shall, after attending the meeting, present evidence or other documentation satisfactory to the court that the person attended the meeting and remained for its entirety.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

Thank you, Mr. President. Amendment No. 415 to Senate Bill No. 312 limits the scope of the bill to counties with a population of 100,000 people or more. It also reduces the penalty from \$5,000 to \$1,000 for making a false statement with regard to the qualifications to serve as a victim impact panelist. The amendment adds a requirement that security personnel must be present at victim impact panels to ensure class participants are not under the influence of drugs or alcohol.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 362.

Bill read second time.

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

Amendment No. 381.

"SUMMARY—Makes various changes concerning certain health care facilities that employ nurses. (BDR 40-710)"

"AN ACT relating to health care facilities; requiring certain health care facilities ~~[that employ nurses to establish a staffing plan and to provide adequate staffing; requiring the maintenance of certain records concerning statistics relating to patients and staffing; requiring such a health care facility]~~ to establish policies pursuant to which a ~~[direct care]~~ licensed nurse or certified nursing assistant may refuse a work assignment; ~~[requiring public disclosure of certain information relating to a staffing plan; repealing requirements for certain hospitals and health care facilities concerning staffing committees and staffing plans;]~~ requiring certain hospitals to include certified nursing assistants in the membership of the staffing committees of the hospitals; requiring certain health care facilities to include certain staffing requirements and protocols within the documented staffing plans of the health care facilities; requiring certain health care facilities to ensure that the health care facility is staffed in accordance with its documented staffing plan; providing administrative ~~[and criminal]~~ penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires: (1) ~~[certain]~~ hospitals which are located in a county whose population is 100,000 or more (currently Clark and Washoe Counties) and which are licensed to have more than 70 beds to establish a staffing committee; and (2) ~~[certain]~~ health care facilities which are located in a county whose population is 100,000 or more and which are licensed to have more than 70 beds to make available to the Health Division of the Department of Health and Human Services a documented staffing plan. (NRS 449.242, 449.2421) ~~[Section 32 of this bill repeals those provisions.]~~

~~Instead, sections 9 and 24 of this bill require health care facilities in counties with a population of 100,000 or more (currently Clark and Washoe Counties) to submit annually to the Health Division a documented staffing plan for the provision of nursing services that the health care facility certifies is sufficient to ensure the adequate and appropriate delivery of health care services for the ensuing year. Section 10 of this bill requires that the staffing plan include ratios of the maximum number of patients that may be assigned to a direct care nurse. Section 10 also establishes nurse to patient ratios that vary depending on the nature of nursing care that is required for patients in particular units of the health care facility. In addition, section 10 provides exceptions to those ratios if: (1) the staffing plan is developed by a joint labor management committee or pursuant to a collective bargaining agreement; (2) the health care facility establishes a joint labor management committee to resolve disputes relating to nurse staffing issues; or (3) the State Board of Health establishes higher ratios pursuant to section 11 of this bill. Section 13 of this bill requires a health care facility to operate in conformity with its staffing plan. Sections 12-16 of this bill impose other operating requirements on a health care facility concerning its staffing plan. Sections 18-23 of this bill authorize the Labor Commissioner, the Health Division and the Department to enforce those parts of a health care facility's~~

~~staffing plan that fall within their respective jurisdictions.]~~ Section 30.6 of this bill requires those hospitals to include certified nursing assistants in the membership of the staffing committees. Section 30.9 of this bill requires those health care facilities to include in their documented staffing plans: (1) the number of certified nursing assistants in each unit of the health care facility; and (2) protocols for adequately staffing the health care facility in the event of an emergency. Section 30.9 also requires that each such health care facility ensure that the facility is staffed in accordance with its documented staffing plan.

Section 15 of this bill requires each health care facility described above to establish written policies pursuant to which a licensed nurse or certified nursing assistant may refuse a work assignment. Section 17 of the bill requires the Health Division of the Department of Health and Human Services to ensure general compliance with the provisions of the law which govern the written policies and staffing requirements as well as to adopt regulations to carry out those provisions. Sections 25-29 of this bill amend existing law to indicate that: (1) the Health Division may take certain actions to enforce the amendatory provisions of this bill; and (2) the amendatory provisions of this bill will be codified with and treated similarly to existing laws which govern the licensing and regulation of health care facilities.

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 24, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. *"Certified nursing assistant" means a person who has been certified by the State Board of Nursing pursuant to NRS 632.2852 to practice as a nursing assistant in this State.*

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. *1. As a condition of licensure, a health care facility which is located in a county whose population is 100,000 or more and which is licensed to have more than 70 beds must adopt and disseminate to ~~its direct care nursing staff~~ each licensed nurse and certified nursing assistant employed by the health care facility a written policy that sets forth the*

circumstances under which a ~~direct care~~ licensed nurse or certified nursing assistant may refuse a work assignment.

2. The written policy concerning work assignments must, at a minimum, allow a ~~direct care~~ licensed nurse or certified nursing assistant to refuse an assignment:

(a) For which the ~~direct care~~ licensed nurse or certified nursing assistant is not prepared because of lack of education, training or experience to fulfill safely and without compromising or jeopardizing the safety of the patients, the ability of the ~~direct care~~ licensed nurse or certified nursing assistant to meet foreseeable needs of the patients and the licensure of the ~~direct care nurse,~~ licensed nurse or certification of the certified nursing assistant; or

(b) Which otherwise violates any provision of NRS 449.241 to ~~449.2418,~~ 449.2421, inclusive, and sections 2 to 24, inclusive, of this act.

3. The written policy concerning work assignments must contain:

(a) Reasonable requirements for prior notice to the supervisor of the ~~direct care~~ licensed nurse or certified nursing assistant of the request, including supporting reasons, by the ~~direct care~~ licensed nurse or certified nursing assistant to be relieved of the work assignment;

(b) Reasonable requirements which provide, if feasible, an opportunity for the supervisor to review a request by the ~~direct care~~ licensed nurse or certified nursing assistant to be relieved of the work assignment, including any specific conditions supporting the request, and based upon that review:

(1) Relieve the ~~direct care~~ licensed nurse or certified nursing assistant of the work assignment as requested; or

(2) Deny the request; and

(c) A process pursuant to which a ~~direct care~~ licensed nurse or certified nursing assistant may exercise his or her right to refuse a work assignment if the supervisor denies the request ~~for the nurse~~ to be relieved of the work assignment if:

(1) The supervisor rejected the request without proposing a remedy or, if a remedy is proposed, the proposed remedy would be inadequate or untimely;

(2) The process for filing a complaint with the Health Division or any other appropriate regulatory entity, including any investigation that would be required, would be untimely to address the concerns of the ~~direct care~~ licensed nurse or certified nursing assistant in refusing a work assignment; and

(3) The ~~direct care~~ licensed nurse or certified nursing assistant in good faith believes that the work assignment meets the conditions established in the written policy justifying refusal.

Sec. 16. ~~(Deleted by amendment.)~~

Sec. 17. ~~The~~ For each health care facility which is located in a county whose population is 100,000 or more and which is licensed to have more than 70 beds, the Health Division shall ensure:

1. *Ensure the general compliance of ~~the~~ the health care facility with the provisions of NRS 449.241 to ~~449.2418,~~ 449.2421, inclusive, and sections 2 to 24, inclusive, of this act, including, without limitation, those provisions relating to documented staffing plans; and ~~adopt~~*

2. *Adopt such regulations as are necessary or appropriate to carry out the provisions of this section. ~~The regulations must, without limitation, provide:~~*

~~1. For unannounced, random visits at a health care facility to determine whether the facility is in compliance with NRS 449.241 to 449.2418, inclusive, and sections 2 to 24, inclusive, of this act;~~

~~2. An accessible and confidential system pursuant to which the nursing staff or the general public may report the failure of a health care facility to comply with the requirements of NRS 449.241 to 449.2418, inclusive, and sections 2 to 24, inclusive, of this act;~~

~~3. A systematic means for investigating and correcting violations of any provision of NRS 449.241 to 449.2418, inclusive, and sections 2 to 24, inclusive, of this act;~~

~~4. For public access to information regarding reports of inspections, results, deficiencies and corrections; and~~

~~5. A process for imposing the penalties for violations of the staffing requirements set forth in NRS 449.241 to 449.2418, inclusive, and sections 2 to 24, inclusive, of this act.]~~

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. NRS 449.0301 is hereby amended to read as follows:

449.0301 The provisions of NRS 449.030 to 449.240, inclusive, and 449.241 to ~~449.2418,~~ 449.2421, inclusive, and sections 2 to 24, inclusive, 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. 26. NRS 449.040 is hereby amended to read as follows:

449.040 Any person, state or local government or agency thereof desiring a license under the provisions of NRS 449.030 to 449.240, inclusive,

and 449.241 to ~~449.2418,~~ 449.2421, inclusive, and sections 2 to 24, 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 type of facility to be operated.
3. The location of the facility.
4. In specific terms, the nature of services and type of care to be offered, as defined in the regulations.
5. The number of beds authorized by the Director of the Department of Health and Human Services or, if such authorization is not required, the number of beds the facility will contain.
6. The name of the person in charge of the facility.
7. Such other information as may be required by the Health Division for the proper administration and enforcement of NRS 449.030 to 449.240, inclusive ~~[-], and 449.241 to ~~449.2418,~~ 449.2421, inclusive, and sections 2 to 24, inclusive, of this act.~~
8. 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 facility for which application is made. If the applicant is a political subdivision of the State or other governmental agency, similar evidence must be submitted as to the person in charge of the institution for which application is made.
9. Evidence satisfactory to the Health Division of the ability of the applicant to comply with the provisions of NRS 449.030 to 449.240, inclusive, and 449.241 to ~~449.2418,~~ 449.2421, inclusive, and sections 2 to 24, inclusive, of this act and the standards and regulations adopted by the Board.
10. Evidence satisfactory to the Health Division that the facility conforms to the zoning regulations of the local government within which the facility will be operated or that the applicant has applied for an appropriate reclassification, variance, permit for special use or other exception for the facility.

11. If the facility to be licensed is a residential establishment as defined in NRS 278.02384, and if the residential establishment is subject to the distance requirements set forth in subsection 3 of NRS 278.02386, evidence satisfactory to the Health Division that the residential establishment will be located and operated in accordance with the provisions of that subsection.

Sec. 27. NRS 449.089 is hereby amended to read as follows:

449.089 1. Each license issued pursuant to NRS 449.030 to 449.240, inclusive, and 449.241 to ~~449.2418,~~ 449.2421, inclusive, and sections 2 to 24, 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 NRS 449.050 unless the Health Division finds, after an investigation, that the facility has not:

(a) Satisfactorily complied with the provisions of NRS 449.030 to 449.240, inclusive, *and 449.241 to ~~449.2418,~~ 449.2421, inclusive, and sections 2 to 24, inclusive, of this act* or the standards and regulations adopted by the Board;

(b) Obtained the approval of the Director of the Department of Health and Human Services before undertaking a project, if such approval is required by NRS 439A.100; or

(c) Conformed to all applicable local zoning regulations.

2. Each reapplication for an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing, a residential facility for groups or a home for individual residential care must include, without limitation, a statement that the facility, agency or home is in compliance with the provisions of NRS 449.121 to 449.125, inclusive, and 449.174.

3. Each reapplication for an agency to provide personal care services in the home, a facility for intermediate care, a facility for skilled nursing, a facility for the care of adults during the day, a residential facility for groups or a home for individual residential care must include, without limitation, a statement that the holder of the license to operate, and the administrator or other person in charge and employees of, the facility, agency or home are in compliance with the provisions of NRS 449.093.

Sec. 28. 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 449.241 to ~~449.2418,~~ 449.2421, inclusive, and sections 2 to 24, inclusive, 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 sections 2 to 24, inclusive, 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. 29. 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 449.241 to ~~449.2418,~~ 449.2421, inclusive, and sections 2 to 24, 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 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~~ ~~Except as otherwise provided in section 19 of this act, 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~~ ~~Except as otherwise provided in section 19 of this act, 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 449.241 to 449.2418, 449.2421, inclusive, and sections 2 to 24, inclusive, 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 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. 30. NRS 449.241 is hereby amended to read as follows:

449.241 As used in NRS 449.241 to 449.2421, ~~449.2418,~~ inclusive, ~~and sections 2 to 24, inclusive, of this act~~ unless the context otherwise requires, the words and terms defined in NRS 449.2414, 449.2416 and 449.2418 ~~and sections 2 to 7, inclusive, of this act~~ have the meanings ascribed to them in those sections.

Sec. 30.3. NRS 449.2416 is hereby amended to read as follows:

449.2416 ~~"Nurse"~~ "Licensed nurse" means a person licensed pursuant to chapter 632 of NRS to practice nursing, including, without limitation, a

licensed practical nurse. The term does not include a certified nursing assistant or a medication aide - certified.

Sec. 30.6. NRS 449.242 is hereby amended to read as follows:

449.242 1. Each hospital located in a county whose population is 100,000 or more and which is licensed to have more than 70 beds shall establish a staffing committee to develop a documented staffing plan as required pursuant to NRS 449.2421. The staffing committee must consist of:

(a) Not less than one-half of the total members of the staffing committee from the licensed nursing staff and certified nursing assistants who are providing direct patient care at the hospital; and

(b) Not less than one-half of the total members of the staffing committee appointed by the administration of the hospital.

2. The staffing committee of a hospital shall meet at least quarterly.

3. Each hospital that is required to establish a staffing committee pursuant to this section shall prepare a written report concerning the establishment of the staffing committee, the activities and progress of the staffing committee and a determination of the efficacy of the staffing committee. The hospital shall submit the report on or before December 31 of each:

(a) Even-numbered year to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

(b) Odd-numbered year to the Legislative Committee on Health Care.

Sec. 30.9. NRS 449.2421 is hereby amended to read as follows:

449.2421 1. As a condition of licensing, a health care facility located in a county whose population is 100,000 or more and which is licensed to have more than 70 beds shall make available to the Health Division a documented staffing plan and a written certification that the documented staffing plan is adequate to meet the needs of the patients of the health care facility. The documented staffing plan must include, without limitation:

(a) A detailed written plan setting forth ~~the~~ :

(1) The number, skill mix and classification of licensed nurses required in each unit in the health care facility, which must take into account the experience of the clinical and nonclinical support staff with whom the licensed nurses collaborate, supervise or otherwise delegate assignments; and

(2) The number of certified nursing assistants required in each unit in the health care facility;

(b) A description of the types of patients who are treated in each unit, including, without limitation, the type of care required by the patients;

(c) A description of the activities in each unit, including, without limitation, discharges, transfers and admissions;

(d) A description of the size and geography of each unit;

(e) A description of any specialized equipment and technology available for each unit; ~~and~~

(f) Any foreseeable changes in the size or function of each unit ~~it~~; and

(g) Protocols for adequately staffing the health care facility in the event of an emergency.

2. A documented staffing plan must provide sufficient flexibility to allow for adjustments based upon changes in a unit of the health care facility.

3. The health care facility shall ensure that it is staffed in accordance with the documented staffing plan.

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. The Health Division of the Department of Health and Human Services shall not renew the license of any health care facility, as that term is defined in NRS 449.2414, ~~as amended by section 31 of this act,~~ if the health care facility has not submitted to the Health Division a documented staffing plan as required by ~~section 9~~ NRS 449.2421, as amended by section 30.9 of this act.

Sec. 34. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

†

TEXT OF REPEALED SECTIONS

~~449.242 Establishment of staffing committee by certain hospitals located in larger counties; membership; duty to develop documented staffing plan; quarterly meetings; reporting to Legislature.~~

~~1. Each hospital located in a county whose population is 100,000 or more and which is licensed to have more than 70 beds shall establish a staffing committee to develop a documented staffing plan as required pursuant to NRS 449.2421. The staffing committee must consist of:~~

~~(a) Not less than one half of the total members from the licensed nursing staff who are providing direct patient care at the hospital; and~~

~~(b) Not less than one half of the total members appointed by the administration of the hospital.~~

~~2. The staffing committee of a hospital shall meet at least quarterly.~~

~~3. Each hospital that is required to establish a staffing committee pursuant to this section shall prepare a written report concerning the establishment of the staffing committee, the activities and progress of the staffing committee and a determination of the efficacy of the staffing committee. The hospital shall submit the report on or before December 31 of each:~~

~~(a) Even numbered year to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.~~

~~(b) Odd numbered year to the Legislative Committee on Health Care.~~

~~449.2421 Certain health care facilities located in larger counties required to make available to Health Division documented staffing plan; requirements of plan and flexibility for adjustments.~~

~~1. As a condition of licensing, a health care facility located in a county whose population is 100,000 or more and which is licensed to have more than 70 beds shall make available to the Health Division a documented~~

~~staffing plan and a written certification that the documented staffing plan is adequate to meet the needs of the patients of the health care facility. The documented staffing plan must include, without limitation:~~

~~(a) A detailed written plan setting forth the number, skill mix and classification of licensed nurses required in each unit in the health care facility, which must take into account the experience of the clinical and nonclinical support staff with whom the nurses collaborate, supervise or otherwise delegate assignments;~~

~~(b) A description of the types of patients who are treated in each unit, including, without limitation, the type of care required by the patients;~~

~~(c) A description of the activities in each unit, including, without limitation, discharges, transfers and admissions;~~

~~(d) A description of the size and geography of each unit;~~

~~(e) A description of any specialized equipment and technology available for each unit; and~~

~~(f) Any foreseeable changes in the size or function of each unit.~~

~~2. A documented staffing plan must provide sufficient flexibility to allow for adjustments based upon changes in a unit of the health care facility.]~~

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 381 to Senate Bill No. 362 retains, with certain revisions, the current statutory provisions relating to documented staffing plans and deletes provisions relating to specific staffing ratios. It requires affected hospitals to include certified nursing assistants on their staffing committees. It further requires documented staffing plans to include the number of certified nursing assistants in a unit, and protocols to ensure adequate staffing in the event of an emergency. It also requires health care facilities to be staffed in accordance with their plan.

Amendment No. 381 to Senate Bill No. 362 expands the provisions so that each applicable health care facility must adopt and disseminate written policies governing when a certified nursing assistant or a licensed nurse may refuse a work assignment. It requires the Health Division to ensure general compliance with the provisions of the bill and to adopt necessary regulations to carry out certain provisions of the bill. Finally, the amendment strengthens the Health Division's ability to enforce the requirements of the measure as part of its existing inspection process.

Amendment adopted.

Senator Kieckhefer moved that Senate Bill No. 362 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. 391.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 452.

"SUMMARY—[Provides for the transfer of the administration of community colleges to the Department of Education.] Directs the Legislative Commission to appoint a committee to conduct an interim study concerning

the governance structure of and funding methods for community colleges in this State. (BDR ~~[34-952]~~ S-952)"

"AN ACT relating to education; ~~[providing in skeleton form for the transfer]~~ directing the Legislative Commission to appoint a committee to conduct an interim study concerning the governance structure of and funding methods for community colleges in this State; requiring the committee to determine the advisability of transferring the administration of community colleges to the Department of Education; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the administration of community colleges by the Board of Regents of the University of Nevada within the Nevada System of Higher Education. (NRS 396.020) ~~[This]~~ Section 2 of this bill directs the Legislative Commission to appoint a committee to conduct an interim study concerning the governance structure of and funding methods for community colleges in this State. Section 3 of this bill ~~[provides in skeleton form for the transfer of]~~ requires the committee to determine the advisability of transferring the administration of community colleges from the Board of Regents to the Department of Education.

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

Delete existing sections 1 through 21 of this bill and replace with the following new sections 1 through 4:

Section 1. The Legislature hereby finds and declares that:

1. The Nevada System of Higher Education, which is governed by the Board of Regents of the University of Nevada, encompasses several different types of institutions of higher education, including, without limitation, community colleges;

2. Community colleges are a key component of the State Plan for Economic Development developed by the Executive Director of the Office of Economic Development;

3. Certain community colleges have a regional presence for vast areas of rural Nevada;

4. Recent economic problems in this State highlight the need for community colleges to be responsive to the students, business communities and regions of this State that they serve; and

5. It is important to determine whether a new method of governing and funding community colleges in this State is necessary to improve and advance the purpose of the State's community colleges.

Sec. 2. 1. The Legislative Commission shall appoint a committee to conduct an interim study concerning the governance structure of and funding methods for community colleges in this State.

2. The committee must be composed of six Legislators as follows:

(a) Three members appointed by the Majority Leader of the Senate, at least one of whom must be appointed from the membership of the Senate

Standing Committee on Education during the 77th Session of the Nevada Legislature; and

(b) Three members appointed by the Speaker of the Assembly, at least one of whom must be appointed from the membership of the Assembly Standing Committee on Education during the 77th Session of the Nevada Legislature.

3. The committee shall consult with and solicit input from persons and organizations with expertise in matters relevant to the governance structures of and funding methods for community colleges in this State.

4. The committee shall submit a report of its findings, including, without limitation, any proposed changes to the governance structure of or funding methods for community colleges in this State and any recommendations for legislation, to the 78th Session of the Nevada Legislature.

Sec. 3. 1. In studying the governance structures of and funding methods for community colleges in this State, the committee appointed pursuant to section 2 shall:

(a) Determine whether it is advisable to transfer the administration of community colleges from the Board of Regents of the University of Nevada to the Department of Education;

(b) If the committee determines that such a transfer is advisable, determine the best methods of accomplishing the transfer; and

(c) If the committee determines that such a transfer is not advisable, determine whether there are other options available that would improve the governance structure of and funding methods for community colleges.

2. In determining the best methods of accomplishing a transfer as required by paragraph (b) of subsection 1, the committee may:

(a) Determine how the Department of Education will examine and audit the function, strengths and most efficient use of the facilities, resources and staff of each community college in this State to address the needs of the students enrolled in the community colleges;

(b) Examine how the Department of Education may appropriately tailor educational opportunities, programs and services offered by the community colleges to meet the needs of:

(1) Different categories of students and prospective students;

(2) Jobs and industries likely to be employing the students; and

(3) The State Plan for Economic Development;

(c) Determine how the Department of Education will prepare a comprehensive plan concerning the governance of community colleges that explains, for a specified period, anticipated new programs and expansions of existing programs, any associated costs and the amounts and sources of money available to meet those anticipated costs;

(d) Determine whether it is advisable for the Superintendent of Public Instruction to:

(1) Prescribe rules and adopt regulations relating to the governance of the community colleges and, if so, the types of rules and regulations the

Superintendent of Public Instruction would be authorized or required to adopt;

(2) Appoint a Chancellor for the community colleges and, if so, determine the qualifications and set the salary for the Chancellor; and

(3) Set the salaries of the academic staff of the community colleges; and
(e) Determine whether it is advisable for the Department of Education to control the expenditures of money for the support and maintenance of community colleges in this State.

Sec. 4. This act becomes effective on July 1, 2013.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Thank you, Mr. President. Amendment No. 452 to Senate Bill No. 391 converts the essential provisions of Senate Bill 391 into an interim study concerning the governance and funding of Nevada's community colleges. The amendment provides a legislative declaration concerning the importance of community colleges to the State's economic development efforts, their presence in underserved rural communities and their responsive nature to needs of employers and the surrounding communities within their service areas. It also requires the Legislative Commission to appoint a six-member committee to study methods of governance and financing for Nevada Community Colleges. I urge your support.

Amendment adopted.

Senator Smith moved that Senate Bill No. 391 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. 409.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 201.

"SUMMARY—Makes various changes relating to gaming.
 (BDR 41-1054)"

"AN ACT relating to gaming; exempting wagers made pursuant to an agreement entered into by the Governor and another state from certain crimes relating to gaming; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits: (1) accepting, receiving or allowing another person to accept or receive a wager from a person physically present in this State; and (2) placing, sending, transmitting or relaying a wager to another person from within or outside this State under certain circumstances. (NRS 465.092, 465.093) This bill exempts a person or establishment from such prohibitions if the wager was made pursuant to an agreement with another state, or authorized agency thereof, entered into by the Governor.

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

Section 1. NRS 465.094 is hereby amended to read as follows:

465.094 The provisions of NRS 465.092 and 465.093 do not apply to a wager placed by a person for the person's own benefit or, without compensation, for the benefit of another that is accepted or received by, placed with, or sent, transmitted or relayed to:

1. A race book or sports pool that is licensed pursuant to chapter 463 of NRS, if the wager is accepted or received within this State and otherwise complies with all other applicable laws and regulations concerning wagering;

2. A person who is licensed to engage in off-track pari-mutuel wagering pursuant to chapter 464 of NRS, if the wager is accepted or received within this State and otherwise complies with subsection 3 of NRS 464.020 and all other applicable laws and regulations concerning wagering;

3. A person who is licensed to operate a mobile gaming system pursuant to chapter 463 of NRS, if the wager is accepted or received within this State and otherwise complies with all other applicable laws and regulations concerning wagering; ~~or~~

4. Any other person or establishment that is licensed to engage in wagering pursuant to title 41 of NRS, if the wager is accepted or received within this State and otherwise complies with all other applicable laws and regulations concerning wagering ~~{} ; or~~

5. *Any other person or establishment that is licensed to engage in wagering in another state and is permitted to accept or receive a wager from patrons within this State under an agreement entered into by the Governor pursuant to section 6 of Assembly Bill No. 114 of this session.*

Sec. 2. 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. 201 to Senate Bill No. 409 adds Assemblyman Horne to the list of joint sponsors.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 410.

Bill read second time.

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

Amendment No. 356.

"SUMMARY—Revises provisions governing hypodermic devices. (BDR 40-451)"

"AN ACT relating to hypodermic devices; authorizing governmental entities and certain persons to establish a program for the safe distribution and disposal of hypodermic devices and certain other material; providing that the possession of a ~~residual~~ trace amount of a controlled substance is not a criminal offense in certain circumstances; removing hypodermic devices from the list of paraphernalia that is prohibited for delivery, sale, possession, manufacture or use in this State; providing that hypodermic devices may be

sold or furnished without a prescription if not prohibited by federal law in certain circumstances; repealing a provision which makes it a crime to misuse a hypodermic device; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 4 of this bill ~~[(1)]~~ authorizes a governmental entity, a nonprofit corporation, or a person who has a nonprofit corporation as a fiscal sponsor, to establish a program for the safe distribution and disposal of hypodermic devices. ~~[(1) and (2) requires a person that wishes to operate such a program to register with the county board of health or the district board of health for the county in which the program will operate.]~~ Sections 5-7 of this bill enact provisions governing the operation of a sterile hypodermic device program, including, without limitation, the training of the staff and volunteers of the program and the ~~[device.]~~ devices, material and information that a program may provide. Section 8 of this bill provides that ~~[a sterile hypodermic device program, and the staff and volunteers of such a program, are exempt from state prosecution for certain criminal offenses involving drug paraphernalia and controlled substances to the extent that the program or its staff or volunteers are acting in the course of operating the program. Section 8 also exempts]~~ the State, any of its political subdivisions and a sterile hypodermic device program and its staff and volunteers are exempt from civil liability relating to the operation of a sterile hypodermic device program. Section 9 of this bill: (1) provides for the confidentiality of any record which is obtained or created in the operation of a sterile hypodermic device program; (2) provides that such records are not discoverable or admissible in criminal proceedings; (3) prohibits the use of records obtained from a sterile hypodermic device program as a basis for initiating a criminal charge, or to substantiate a criminal charge, against a person who participates in the program; and (4) provides that the staff and volunteers of a sterile hypodermic device program cannot be compelled to provide evidence in criminal proceedings concerning information known to the staff member or volunteer through the program.

Existing law prohibits the possession of a controlled substance. (NRS 453.336) Section 11 of this bill provides that a person does not violate this provision if he or she has a ~~[residual]~~ trace amount of a controlled substance that is in or on a hypodermic device that was obtained from a sterile hypodermic device program.

Existing law prohibits the delivery, sale, possession or manufacture of certain drug paraphernalia when the person engaging in the act reasonably should know that it will be used for an illegal purpose. (NRS 453.560) Existing law further makes it a felony for a person to deliver drug paraphernalia to a minor who is at least 3 years younger than the person. (NRS 453.562) Section 12 of this bill removes hypodermic devices from the list of items that may be found to constitute drug paraphernalia.

Existing law authorizes the sale of hypodermic devices which are not restricted by federal law to being sold by prescription to be sold without a prescription for certain limited purposes. (NRS 454.480) Section 15 of this bill removes the restrictions so that hypodermic devices may be sold or furnished without a prescription for any purpose so long as the sale of such devices is not restricted by federal law.

Section 16 of this bill repeals a provision which makes it a misdemeanor to use or allow the use of a hypodermic device for a purpose other than that for which it was purchased, because the specific uses were removed in section 15.

WHEREAS, The human immunodeficiency virus, hepatitis and other infectious diseases that may be transmitted through the use of unsterile hypodermic devices such as syringes and needles pose a major health threat in the United States, causing thousands of deaths and millions of dollars in preventable health care costs each year; and

WHEREAS, The lack of availability of sterile hypodermic devices is a major cause of this serious health threat; and

WHEREAS, Hundreds of studies have demonstrated that making sterile hypodermic devices available to persons who inject drugs reduces the spread of infectious disease and does not encourage drug use; and

WHEREAS, The trend among states has been to deregulate the possession, sale and use of hypodermic devices and to make such devices more accessible; and

WHEREAS, Increasing access to sterile hypodermic devices is necessary to control the spread of life-threatening infectious diseases; now, therefore,

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *The Legislature hereby declares that the purpose of sections 2 to 10, inclusive, of this act is to enable the use of sterile hypodermic devices and other related material for use among people who inject drugs for the purpose of reducing the intravenous transmission of diseases. The provisions of sections 2 to 10, inclusive, of this act are intended to:*

1. *Ensure the availability and accessibility of sterile hypodermic devices by encouraging distribution of such devices by various means.*

2. *Provide for the effective operation of sterile hypodermic device programs that protect the human rights of people who use such programs.*

3. *Guarantee that sterile hypodermic devices and other sterile injection supplies are not deemed illegal.*

4. *Ensure that sterile hypodermic device programs operate in harmony with law enforcement activities.*

Sec. 3. *As used in sections 2 to 10, inclusive, of this act, "sterile hypodermic device program" or "program" means a program established*

pursuant to section 4 of this act for the safe distribution and disposal of hypodermic devices.

Sec. 4. ~~41.] A governmental entity, a nonprofit corporation or a person who has a fiscal sponsor that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), may establish a sterile hypodermic device program in this State .~~~~fff~~

~~(a) The program is operated by, or has a fiscal sponsor that is, a nonprofit corporation that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3); and~~

~~(b) The person registers the program with the county board of health or the district board of health for the county in which the program will operate.~~

~~2. The registration must include:~~

~~(a) The name of the sterile hypodermic device program and the nonprofit corporation;~~

~~(b) The address and telephone number of the program operating or sponsoring the program;~~

~~(c) The federal tax identification number of the nonprofit corporation operating or sponsoring the program;~~

~~(d) The designation of the primary and secondary locations at which the program will operate within the county; and~~

~~(e) A description of the mobile operation, if any, of the program.]~~

Sec. 5. A sterile hypodermic device program shall establish and follow procedures for the safe collection and disposal of used hypodermic devices and other related material pursuant to guidelines established by the county board of health or district board of health for the county in which the program operates.

Sec. 6. All staff and volunteers of a sterile hypodermic device program shall complete training which includes, without limitation, the following information:

1. The policies and procedures of the program and relevant regulations, including, without limitation, emergency and safety policies and procedures;

2. Legal and law enforcement issues and policies regarding hypodermic devices;

3. Overdose prevention, recognition and response;

4. The risk of blood-borne diseases that may result from the use of hypodermic devices;

5. Methods for preventing the transmission or contraction of blood-borne diseases;

6. The dangers of injecting drugs and the manner in which to access treatment;

7. Information concerning the human immunodeficiency virus and hepatitis virus and the prevention of the spread of these viruses;

8. The safe disposal of hypodermic devices, including, without limitation, procedures concerning accidental needle sticks; and

9. Cultural competency, including, without limitation, sensitivity to the needs of children, lesbian, gay, bisexual and transgendered individuals, racial and ethnic minorities, women, sex workers and any other participant population.

Sec. 7. A sterile hypodermic device program may provide:

1. Sterile hypodermic devices and other related material for safer injection drug use: ~~including, without limitation, sterile water ampoules, alcohol wipes, filters, safe acid preparations, cookers and other appropriate materials;~~

~~2. Material for safer smoking and inhalation of drugs, including, without limitation, pipes, stems, metal screens, alcohol wipes and lip balm;~~

~~3. Condoms and other safe sex materials, including, without limitation, water based lubricants, dental dams and information concerning reducing the risks of the human immunodeficiency virus and any other sexually transmitted diseases;~~ and

~~4.~~ 2. Information concerning:

(a) The risks associated with the use of controlled substances;

(b) Drug dependence treatment services and other health services;

(c) Support services for people with drug dependence and their families;

(d) The ~~proper~~ safer use of hypodermic devices ~~and any other equipment used to ingest, inject or inhale drugs;~~ to avoid disease and infection;

(e) Methods for preventing the transmission or contraction of blood-borne diseases;

(f) Employment and vocational training services and centers; and

(g) Legal aid services.

Sec. 8. ~~1. A sterile hypodermic device program and any staff member or volunteer of a hypodermic device program acting in the course of operating the program is exempt from state prosecution for:~~

~~(a) Possession or delivery of drug paraphernalia;~~

~~(b) Aiding and abetting another in the possession or delivery of drug paraphernalia; and~~

~~(c) Any other criminal offense in which the possession, delivery or production of drug paraphernalia is an element or in which providing advice, information or instruction concerning the safe use of a hypodermic device to inject a controlled substance is an element.~~

~~2. The exemption from state prosecution set forth in subsection 1 applies only to the extent that a sterile hypodermic device program or any staff member or volunteer of a sterile hypodermic device program is acting in the course of operating the program and in accordance with the provisions of sections 2 to 10, inclusive, of this act.~~

~~3.~~ The State, any political subdivision thereof, a sterile hypodermic device program and the staff and volunteers thereof are not subject to civil liability in relation to any act or failure to act in connection with the operation of a sterile hypodermic device program, if the act or failure to act

was in good faith for the purpose of executing the provisions of sections 2 to 10, inclusive, of this act, and was not a reckless act or failure to act.

Sec. 9. 1. Any record of a person which is created or obtained for use by a sterile hypodermic device program must be kept confidential and:

- (a) Is not open for public inspection or disclosure;*
- (b) Must not be shared with any other person or entity without the consent of the person to whom the record relates; and*
- (c) Must not be discoverable or admissible during any legal proceeding.*

2. A record described in subsection 1 must not be used:

- (a) To initiate or substantiate any criminal charge against a person who participates in the sterile hypodermic device program; or*
- (b) As grounds for conducting any investigation of a person who participates in the sterile hypodermic device program.*

3. The staff and volunteers of a sterile hypodermic device program shall not be compelled to provide evidence in any criminal proceeding conducted pursuant to the laws of this State concerning any information that was entrusted to them or became known to them through the program.

4. The use of any personal information of any person who participates in a sterile hypodermic device program or of the staff or volunteers of the sterile hypodermic device program in research and evaluation must be done in such a manner as to guarantee the anonymity of the person.

5. Aggregate data from a sterile hypodermic device program, including, without limitation, demographic information, the number of clients contacted and the types of referrals may be made available to the public.

Sec. 10. No person shall be subject to any discrimination in the operation of a sterile hypodermic device program on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, political ~~affiliations,~~ affiliation, disability, national origin, residence, frequency of injection or controlled substance used.

Sec. 11. NRS 453.336 is hereby amended to read as follows:

453.336 1. ~~[A]~~ Except as otherwise provided in subsection 5, a person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a prescription or order of a physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician, optometrist, advanced practitioner of nursing or veterinarian while acting in the course of his or her professional practice, or except as otherwise authorized by the provisions of NRS 453.005 to 453.552, inclusive.

2. Except as otherwise provided in subsections 3 and 4 and in NRS 453.3363, and unless a greater penalty is provided in NRS 212.160, 453.3385, 453.339 or 453.3395, a person who violates this section shall be punished:

- (a) For the first or second offense, 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) For a third or subsequent offense, if the controlled substance is listed in schedule I, II, III or IV, or if the offender has previously been convicted two or more times in the aggregate of any violation of the law of the United States or of any state, territory or district relating to a controlled substance, for a category D felony as provided in NRS 193.130, and may be further punished by a fine of not more than \$20,000.

(c) For the first offense, if the controlled substance is listed in schedule V, for a category E felony as provided in NRS 193.130.

(d) For a second or subsequent offense, if the controlled substance is listed in schedule V, for a category D felony as provided in NRS 193.130.

3. Unless a greater penalty is provided in NRS 212.160, 453.337 or 453.3385, a person who is convicted of the possession of flunitrazepam or gamma-hydroxybutyrate, or any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

4. Unless a greater penalty is provided pursuant to NRS 212.160, a person who is convicted of the possession of 1 ounce or less of marijuana:

(a) For the first offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than \$600; or

(2) Examined by an approved facility for the treatment of abuse of drugs to determine whether the person is a drug addict and is likely to be rehabilitated through treatment and, if the examination reveals that the person is a drug addict and is likely to be rehabilitated through treatment, assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.

(b) For the second offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than \$1,000; or

(2) Assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.

(c) For the third offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140.

(d) For a fourth or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. *It is not a violation of this section if a person possesses a ~~residual~~ trace amount of a controlled substance and that ~~residual~~ trace amount is in or on a hypodermic device obtained from a sterile hypodermic device program pursuant to sections 2 to 10, inclusive, of this act.*

6. As used in this section ~~[-"controlled"]~~:

(a) "Controlled substance" includes flunitrazepam, gamma hydroxybutyrate and each substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.

(b) "Sterile hypodermic device program" has the meaning ascribed to it in section 3 of this act.

Sec. 12. NRS 453.554 is hereby amended to read as follows:

453.554 ~~{As}~~

1. *Except as otherwise provided in subsection 2, as used in NRS 453.554 to 453.566, inclusive, unless the context otherwise requires, "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ~~{injecting,}~~ ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this chapter. The term includes, but is not limited to:*

~~{1.}~~ (a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

~~{2.}~~ (b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing or preparing controlled substances;

~~{3.}~~ (c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

~~{4.}~~ (d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

~~{5.}~~ (e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

~~{6.}~~ (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

~~{7.}~~ (g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

~~{8.}~~ (h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

~~{9.}~~ (i) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

~~{10.}~~ (j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances; and

~~{11.}~~ (k) Objects used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

~~{(a)}~~ (1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

~~{(b)}~~ (2) Water pipes;

~~{(c)}~~ (3) Smoking masks;

~~[(d)]~~ (4) Roach clips, which are objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

~~[(e)]~~ (5) Cocaine spoons and cocaine vials;

~~[(f)]~~ (6) Carburetor pipes and carburetion tubes and devices;

~~[(g)]~~ (7) Chamber pipes;

~~[(h)]~~ (8) Electric pipes;

~~[(i)]~~ (9) Air-driven pipes;

~~[(j)]~~ (10) Chillums;

~~[(k)]~~ (11) Bongs; and

~~[(l)]~~ (12) Ice pipes or chillers.

2. *The term does not include any type of hypodermic syringe, needle, instrument, device or implement intended or capable of being adapted for the purpose of administering drugs by subcutaneous, intramuscular or intravenous injection.*

Sec. 13. NRS 453.560 is hereby amended to read as follows:

453.560 Unless a greater penalty is provided in NRS 212.160, a person who delivers or sells, possesses with the intent to deliver or sell, or manufactures with the intent to deliver or sell any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, prepare, test, analyze, pack, repack, store, contain, conceal, ~~[inject,]~~ ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this chapter is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 14. NRS 453.566 is hereby amended to read as follows:

453.566 Any person who uses, or possesses with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, prepare, test, analyze, pack, repack, store, contain, conceal, ~~[inject,]~~ ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this chapter is guilty of a misdemeanor.

Sec. 15. NRS 454.480 is hereby amended to read as follows:

454.480 1. Hypodermic devices which are not restricted by federal law to sale by or on the order of a physician may be sold by a pharmacist, or by a person in a pharmacy under the direction of a pharmacist, on the prescription of a physician, dentist or veterinarian, or of an advanced practitioner of nursing who is a practitioner. Those prescriptions must be filed as required by NRS 639.236, and may be refilled as authorized by the prescriber. Records of refilling must be maintained as required by NRS 639.2393 to 639.2397, inclusive.

2. Hypodermic devices which are not restricted by federal law to sale by or on the order of a physician may be sold *or furnished* without a prescription. ~~[for the following purposes:~~

~~(a) For use in the treatment of persons having asthma or diabetes.~~

~~(b) For use in injecting intramuscular or subcutaneous medications prescribed by a practitioner for the treatment of human beings.~~

~~(c) For use in an ambulance or by a fire fighting agency for which a permit is held pursuant to NRS 450B.200 or 450B.210.~~

~~(d) For the injection of drugs in animals or poultry.~~

~~(e) For commercial or industrial use or use by jewelers or other merchants having need for those devices in the conduct of their business, or by hobbyists if the seller is satisfied that the device will be used for legitimate purposes.~~

~~(f) For use by funeral directors and embalmers, licensed medical technicians or technologists, or research laboratories.~~

Sec. 16. NRS 454.520 is hereby repealed.

Sec. 17. This act becomes effective on July 1, 2013.

TEXT OF REPEALED SECTION

454.520 Misuse of hypodermic device; penalty. Any person who has lawfully obtained a hypodermic device, as provided by NRS 454.480 to 454.530, inclusive, and uses, permits or causes, directly or indirectly, such a device to be used for any purpose other than that for which it was purchased is guilty of a misdemeanor.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 356 to Senate Bill No. 410 revises the structure of sterile hypodermic device programs, in the following ways: (1) it provides that only governmental agencies and nonprofit corporations may establish such a program; and (2) it removes the listing of items, other than sterile hypodermic devices and related material, that a program may provide. I would like to thank the sponsor of the bill for bringing it forward.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 414.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 340.

"SUMMARY—Prohibits transmitting or distributing certain ~~[violent]~~ images of bullying involving a child under certain circumstances. (BDR 15-70)"

"AN ACT relating to juveniles; prohibiting a minor from transmitting or distributing certain images of ~~[a violent offense]~~ bullying committed against another minor under certain circumstances; ~~[revising the definition of "cyber bullying";]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill prohibits a minor from knowingly and willfully using an electronic communication device, such as a cell phone, to transmit or distribute, or otherwise knowingly and willfully transmitting or distributing, an image of ~~[a violent offense]~~ bullying committed against another minor for the purpose of encouraging, furthering or promoting ~~[such an offense]~~

bullying or harming the minor. A minor who violates this provision is considered: (1) for a first violation, a child in need of supervision for the purposes of the laws governing juvenile justice; and (2) for a second or subsequent violation, to have committed a delinquent act.

~~Existing law requires the Department of Education to prescribe a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of bullying, cyber bullying, harassment and intimidation, including the provision of training to school personnel and requirements for reporting violations of the policy. (NRS 388.121-388.139) Section 3 of this bill revises the definition of "cyber bullying" to include the use of electronic communication by a minor to transmit or distribute an image of a violent offense committed against another minor.~~

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

Section 1. Chapter 200 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A minor shall not knowingly and willfully use an electronic communication device to transmit or distribute, or otherwise knowingly and willfully transmit or distribute, an image of ~~fa violent offense~~ bullying committed against a minor to another person with the intent to encourage, further or promote ~~such an offense~~ bullying or to cause harm to the minor.*

2. *A minor who violates subsection 1:*

(a) *For the first violation, is a child in need of supervision, as that term is used in title 5 of NRS, and is not a delinquent child; and*

(b) *For the second or a subsequent violation, commits a delinquent act, and the court may order the detention of the minor in the same manner as if the minor had committed an act that would have been a misdemeanor if committed by an adult.*

3. *For the purposes of this section, to determine whether a person who is depicted in an image of ~~fa violent offense~~ bullying is a minor, the court may:*

(a) *Inspect the person in question;*

(b) *View the image;*

(c) *Consider the opinion of a witness to the image regarding the person's age;*

(d) *Consider the opinion of a medical expert who viewed the image; or*

(e) *Use any other method authorized by the rules of evidence at common law.*

4. *As used in this section:*

(a) *"Bullying" has the meaning ascribed to it in NRS 388.122.*

(b) *"Electronic communication device" means any electronic device that is capable of transmitting or distributing an image of ~~fa violent offense~~ bullying, including, without limitation, a cellular telephone, personal digital assistant, computer, computer network and computer system.*

~~[(b)]~~ (c) "Image of ~~fa violent offense~~" bullying" means any visual depiction, including, without limitation, any photograph or video, of ~~fa person committing any offense involving the use or threatened use of force or violence against~~ a minor ~~f-] bullying another minor.~~

~~[(c)]~~ (d) "Minor" means a person who is under 18 years of age.

Sec. 2. 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; ~~for~~

(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 ~~[-]~~; or

(e) Transmits or distributes an image of ~~fa violent offense~~ bullying committed against a minor in violation of section 1 of this act.

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) "Bullying" has the meaning ascribed to it in NRS 388.122.

(b) "Electronic communication device" has the meaning ascribed to it in NRS 200.737.

~~[(b) "Image of a violent offense" has the meaning ascribed to it in section 1 of this act.]~~

(c) "Sexual image" has the meaning ascribed to it in NRS 200.737.

Sec. 3. ~~[NRS 388.123 is hereby amended to read as follows:~~

~~388.123 1. "Cyber bullying" means bullying through the use of electronic communication. The term includes the use of electronic communication to transmit or distribute a sexual image of a minor [-] or to transmit or distribute an image of a violent offense committed against a minor in violation of section 1 of this act.~~

~~2. As used in this section [-, "sexual"]:-~~

~~(a) "Image of a violent offense" has the meaning ascribed to it in section 1 of this act.~~

~~(b) "Sexual image" has the meaning ascribed to it in NRS 200.737.]~~

(Deleted by amendment.)

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 340 to Senate Bill No. 414 removes the revisions

to the definition of “cyber-bullying” and instead provides that the measure prohibits a minor from transmitting or distributing certain images of bullying committed against another minor.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 421.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 424.

"SUMMARY—Requires a court to excuse a juror for cause under certain circumstances. (BDR 2-1109)"

"AN ACT relating to juries; requiring a court to excuse a juror for cause under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a juror may be challenged for cause on certain grounds by either party to a jury trial and that any such challenge must be tried by the court. (NRS 16.050, 16.060, 175.036) Section 1 of this bill ~~[- (1)]~~ revises the provisions establishing the grounds on which challenges for cause may be taken and includes, as an additional ground for such a challenge, ~~any showing that~~ the existence of a state of mind in the juror that the juror is ~~more likely than not to be~~ biased for or against any party to the proceeding. ~~[- and (2) establishes a presumption that the juror is more likely than not to be biased if certain grounds for challenge apply to the juror. Sections 2 and 3 of this bill require]~~ requires a court in a civil action to excuse any juror the court determines is more likely than not to be biased.

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

Section 1. NRS 16.050 is hereby amended to read as follows:

16.050 1. Challenges for cause may be taken on one or more of the following grounds:

(a) A want of any of the qualifications prescribed by statute to render a person competent as a juror.

(b) Consanguinity or affinity within the third degree to either party.

(c) Standing in the relation of debtor and creditor, guardian and ward, master and servant, employer and clerk, or principal and agent, to either party; or being a member of the family of either party or a partner, or united in business with either party; or being security on any bond or obligation for either party.

(d) Having served as a juror or been a witness on a previous trial between the same parties for the same cause of action; or being then a witness therein.

(e) ~~Interest~~ Any *financial interest* on the part of the juror in the event of the action, or in the main question involved in the action; except the interest of the juror as a member or citizen of a municipal corporation.

(f) Having formed or expressed ~~[an unqualified]~~ any opinion or belief as to the merits of the action, or the main question involved therein; but the reading of newspaper accounts of the subject matter before the court shall not disqualify a juror either for bias or opinion.

(g) ~~The existence of a state of mind in the juror [evinced enmity against or bias to either party.] [Any showing] that the juror is [more likely than not to be] biased for or against any party to the proceeding.~~

2. ~~[There is a presumption that the juror is biased if the court finds that any provision of paragraph (e), (f) or (g) of subsection 1 applies.]~~

~~3.]~~ A challenge for cause for standing in the relation of debtor and creditor when the party to an action is a public utility as defined in NRS 704.020 may be allowed only where the circumstances as determined by the court so warrant.

Sec. 2. NRS 16.060 is hereby amended to read as follows:

16.060 Challenges for cause ~~[shall]~~ *must* be tried by the court ~~[and may be held in chambers.]~~ The juror challenged and any other person may be examined as a witness on the trial of the challenge. ~~[The]~~ *In civil actions, the court shall excuse any juror who the court determines is more likely than not to be biased for or against any party to the proceeding.*

Sec. 3. ~~[NRS 175.036 is hereby amended to read as follows:]~~

~~175.036 1. Either side may challenge an individual juror for disqualification or for any cause or favor which would prevent the juror from adjudicating the facts fairly.~~

~~2. Challenges for cause [shall] must be tried by the court. The juror challenged and any other person may be examined as a witness on the trial of the challenge. The court shall excuse any juror who the court determines is more likely than not to be biased for or against any party to the proceeding.]~~
(Deleted by amendment.)

Sec. 4. This act expires by limitation on June 30, 2015.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 424 to Senate Bill No. 421 provides that the provisions of the bill apply only in civil actions. It also clarifies that a challenge for cause may be taken on the grounds of any financial interest on the part of a juror. The amendment clarifies that a challenge for cause may be taken on the grounds that there is an existence of a state of mind in the juror that the juror is biased for or against any party to the proceeding.

Finally it provides that challenges for cause may be held in chambers and provides a sunset of June 30, 2015, for the provisions of the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 424.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 348.

"SUMMARY—Revises provisions relating to foreclosures. (BDR 3-1113)"

"AN ACT relating to real property; revising provisions governing the sale of real property by certain banking and financial institutions after a foreclosure sale or trustee's sale; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill provides that if a banking or other financial institution forecloses on real property, purchases that real property at the foreclosure sale or trustee's sale and intends to ~~accept an offer to~~ sell the real property for an amount less than the amount of the indebtedness, the banking or other financial institution must afford the debtor a right of first refusal if: (1) the real property is a single-family dwelling and the debtor was the owner of the real property; (2) the debtor used the loan to purchase the real property; and (3) the debtor occupied the real property continuously after obtaining the loan. Under this bill, the right of first refusal must be conditioned on the same terms that the judgment creditor or beneficiary of the deed of trust intends to accept in a subsequent sale of the real property.

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

Section 1. Chapter 40 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If the judgment creditor or the beneficiary of the deed of trust is a banking or other financial institution, purchases the real property at a foreclosure sale and intends to ~~accept an offer to~~ sell the real property for an amount less than the amount of the indebtedness, the judgment creditor or beneficiary of the deed of trust must afford the right of first refusal to the debtor or grantor of the deed of trust if:*

(a) The real property is a single-family dwelling and the debtor or the grantor was the owner of the real property at the time of the foreclosure sale;

(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property; and

(c) The debtor or grantor continuously occupied the real property as the debtor's or grantor's principal residence after securing the mortgage or deed of trust.

2. Any right of first refusal pursuant to subsection 1 must be conditioned upon the same terms the judgment creditor or the beneficiary of the deed of trust intends to accept in a subsequent sale of the real property.

3. As used in this section:

(a) "Banking or other financial institution" has the meaning ascribed to it in NRS 40.458.

(b) "Foreclosure sale" has the meaning ascribed to it in NRS 40.462.

Sec. 2. NRS 40.451 is hereby amended to read as follows:

40.451 As used in NRS 40.451 to 40.463, inclusive, *and section 1 of this act*, "indebtedness" means the principal balance of the obligation secured by a mortgage or other lien on real property, together with all interest accrued and unpaid prior to the time of foreclosure sale, all costs and fees of such a sale, all advances made with respect to the property by the beneficiary, and all other amounts secured by the mortgage or other lien on the real property in favor of the person seeking the deficiency judgment. Such amount constituting a lien is limited to the amount of the consideration paid by the lienholder.

Sec. 3. 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. 348 to Senate Bill No. 424 adds a provision that any right of first refusal must be conditioned upon the same terms the judgment creditor or the beneficiary of the deed of trust intends to accept in a subsequent sale of the real property.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 425.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 423.

"SUMMARY—~~[Repeals]~~ Revises certain provisions relating to pari-mutuel wagering. (BDR 41-1111)"

"AN ACT relating to gaming; ~~[repealing]~~ revising certain ~~[prohibitions]~~ provisions relating to pari-mutuel wagering; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits a person who is licensed to engage in off-track pari-mutuel wagering from: (1) accepting less than the full face value of an off-track pari-mutuel wager; (2) agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager; or (3) increasing the payoff of or paying a bonus on a winning off-track pari-mutuel wager. (NRS 464.075) This bill ~~[repeals these prohibitions on]~~ instead authorizes a person who is licensed to engage in off-track pari-mutuel wagering to accept certain wagers, agree to refunds, ~~[or]~~ or rebates, increase payoffs or pay bonuses on off-track pari-mutuel wagers, ~~[or]~~, unless the Nevada Gaming Commission otherwise prohibits such conduct by regulation.

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

Section 1. ~~[NRS 464.100 is hereby amended to read as follows:~~

~~464100—[Except as otherwise provided in NRS 464.075, a] 4 violation of any of the provisions of this chapter or the regulations adopted pursuant to this chapter is a misdemeanor.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 464.075 is hereby repealed.]~~ (Deleted by amendment.)

Sec. 3. NRS 464.075 is hereby amended to read as follows:

464.075 1. Except as otherwise provided in ~~[subsection]~~
~~subsections 4, 5,~~ and 5, a person who is licensed to engage in off-track
pari-mutuel wagering ~~[shall not.]~~ may:

(a) Accept from a patron less than the full face value of an off-track
pari-mutuel wager;

(b) Agree to refund or rebate to a patron any portion or percentage of the
full face value of an off-track pari-mutuel wager; or

(c) Increase the payoff of, or pay a bonus on, a winning off-track
pari-mutuel wager.

2. A person who is licensed to engage in off-track pari-mutuel wagering
and who:

(a) Attempts to evade the provisions of subsection ~~[1]~~ 4 by offering to a
patron a wager that is not posted and offered to all patrons; or

(b) Otherwise violates the provisions of subsection ~~[1]~~ 4.

↪ is subject to the investigatory and disciplinary proceedings that are set
forth in NRS 463.310 to 463.318, inclusive, and shall be punished as
provided in those sections.

3. The Nevada Gaming Commission ~~[shall]~~ may adopt regulations to
carry out the provisions of subsections ~~[1 and] 2 [of this section.]~~ and 4.

4. The Nevada Gaming Commission may, by regulation, ~~[exempt]~~
prohibit certain bets, refunds, rebates, payoffs or bonuses ~~[from]~~ under the
provisions of subsection 1 if the Commission determines that such
~~[exemptions]~~ prohibitions are in the best interests of the State of Nevada and
licensed gaming in this state. ~~[Any]~~

5. A person who is licensed to engage in off-track pari-mutuel wagering
may not accept bets, agree to refunds, ~~[or]~~ rebates, increase payoffs or pay
bonuses that would result in the amount of such bets, refunds, rebates,
payoffs or bonuses being directly or indirectly deductible from gross revenue
- ~~[may not be exempt.]~~

Sec. 4. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations;
and

2. On October 1, 2013, for all other purposes.

TEXT OF REPEALED SECTION

~~464.075 Altering value of wager for patron prohibited; regulations;
exemptions.~~

~~1. Except as otherwise provided in subsection 4, a person who is licensed
to engage in off track pari mutuel wagering shall not:~~

~~(a) Accept from a patron less than the full face value of an off track
pari-mutuel wager;~~

~~(b) Agree to refund or rebate to a patron any portion or percentage of the
full face value of an off track pari-mutuel wager; or~~

~~(e) Increase the payoff of, or pay a bonus on, a winning off track pari-mutuel wager.~~

~~2. A person who is licensed to engage in off track pari-mutuel wagering and who:~~

~~(a) Attempts to evade the provisions of subsection 1 by offering to a patron a wager that is not posted and offered to all patrons; or~~

~~(b) Otherwise violates the provisions of subsection 1,
is subject to the investigatory and disciplinary proceedings that are set forth in NRS 463.310 to 463.318, inclusive, and shall be punished as provided in those sections.~~

~~3. The Nevada Gaming Commission shall adopt regulations to carry out the provisions of subsections 1 and 2 of this section.~~

~~4. The Nevada Gaming Commission may, by regulation, exempt certain bets, refunds, rebates, payoffs or bonuses from the provisions of subsection 1 if the Commission determines that such exemptions are in the best interests of the State of Nevada and licensed gaming in this state. Any bets, refunds, rebates, payoffs or bonuses that would result in the amount of such bets, refunds, rebates, payoffs or bonuses being directly or indirectly deductible from gross revenue may not be exempt.]~~

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 423 to Senate Bill No. 425 authorizes a person who is licensed to engage in off-track pari-mutuel wagering to accept certain wagers, agree to refunds, or rebates, increase payoffs or pay bonuses on off-track pari-mutuel wagers, unless the Nevada Gaming Commission otherwise prohibits such conduct by regulation. It also provides that the measure is effective upon passage and approval.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 441.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 349.

"SUMMARY—Makes various changes to provisions governing business entities. (BDR 7-166)"

"AN ACT relating to business associations; providing for personal jurisdiction for certain nonresident persons associated with business entities; revising provisions governing attendance at certain meetings of corporations and limited-liability corporations; revising provisions governing the statute of limitations for certain actions relating to the dissolution of corporations and limited-liability corporations; authorizing insurance companies to organize as nonprofit companies; ~~revising provisions governing limited liability companies;~~ revising provisions governing the dissolution and winding up of affairs of limited-liability companies; revising provisions governing domestication of undomesticated organizations; revising provisions relating to the right of dissent to certain corporate actions;

clarifying certain provisions relating to the demand for payment by a dissenter; providing for a change of venue for certain actions in business court; revising various provisions governing certain business entities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law allows certain legal proceedings to be brought against directors and officers of corporations who violate their authority as directors and officers. (NRS 78.135) The Nevada Supreme Court recently ~~held that~~ addressed the issue of whether Nevada courts can properly exercise personal jurisdiction over nonresident officers and directors who directly harm a Nevada corporation. (*Consipio Holding v. Carlberg*, 128 Nev. Adv. Op. 43, 282 P.3d 751 (2012)) Section 1 of this bill: (1) provides that a director, officer, manager, managing member, general partner or trustee of certain business entities consents to personal jurisdiction; and (2) provides for the service of legal process on such persons.

Existing law provides that, unless otherwise restricted by the articles of incorporation or bylaws, certain persons may participate in board or stockholder meetings through electronic communications, videoconferencing, teleconferencing or other available technology. (NRS 78.315, 78.320) Sections 3 and 4 of this bill authorize certain persons to participate in such meetings if the corporation has implemented reasonable measures to verify the identity of the person and to provide an opportunity to participate ~~concurrently~~ in a substantially concurrent manner with such proceedings.

Existing law provides for a 2-year statute of limitations after the dissolution of a corporation or a limited-liability company for purposes of any remedy or cause of action. (NRS 78.585, 86.505) Sections 6 and 20 of this bill clarify that the 2-year statute of limitations applies to any remedy or cause of action in which the plaintiff learns or should have learned of the underlying facts before the date of dissolution, or within ~~2~~ 3 years after the date of dissolution with respect to any other remedy or cause of action.

Existing law prohibits an insurance company and certain related entities from organizing as a nonprofit corporation. (NRS 82.071) Sections 8 and 33 of this bill authorize an insurance company to organize as a nonprofit corporation provided that such a business complies with all laws before operating and does not infringe on the laws of any other state or country.

~~Existing law provides that a limited liability company may, but is not required to, adopt an operating agreement. (NRS 86.286) Section 13 of this bill provides that unless the articles of organization or operating agreement provide otherwise, a member or manager of a limited liability company does not owe a fiduciary duty to the limited liability company or to certain other persons, solely by being a member or manager.~~

Existing law provides for the dissolution and winding up of affairs of limited-liability companies under certain circumstances. (NRS 86.490-86.541) Section 18 of this bill provides exceptions to the

general rule for dissolution if: (1) the personal representative of the last remaining member agrees in writing to continue the company; or (2) a person is admitted as a member subsequent to there being no remaining members. Section 19 of this bill authorizes the Secretary of State or any person who is adversely affected by the failure of a limited-liability company to dissolve to petition the court for the dissolution of the company. Section 20 provides that within 2 years after the effective date of the articles of dissolution, certain actions must be commenced if the plaintiff learned or should have learned of the underlying facts before the date of dissolution, and that all other causes of action must be commenced within ~~2~~ 3 years after the date of dissolution. Section 21 of this bill provides that except when dissolution occurs before the commencement of business, a limited-liability company must prepare and sign articles of dissolution as soon as practicable after dissolution. Section 22 of this bill provides that the manager or managers in office at the time of dissolution or the members or ~~survivors~~ personal representatives become trustees of a dissolved limited-liability company with the power to wind up and liquidate the company's business and affairs.

Existing law establishes the process by which the place of trial may be changed. (NRS 13.050) Section 32 of this bill authorizes a court to change the place of trial when a defendant in a county without a business court requests a change of venue to a county with a business court.

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

Section 1. Chapter 75 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Every nonresident of this State who, on or after October 1, 2013, accepts election or appointment, including reelection or reappointment, as a management person of an entity, or who, on or after October 1, 2014, serves in such capacity, and every resident of this State who accepts election or appointment or serves in such capacity and thereafter removes residence from this State shall be deemed, by the acceptance or by the service, to have consented to the appointment of the registered agent of the entity as an agent upon whom service of process may be made in all civil actions or proceedings brought in this State by, on behalf of or against the entity in which the management person is a necessary or proper party, or in any action or proceeding against the management person for a violation of a duty in such capacity, whether or not the person continues to serve as the management person at the time the action or proceeding is commenced. The acceptance or the service by the management person shall be deemed to be signification of the consent of the management person that any process so served has the same legal force and validity as if served upon the management person within this State.*

2. *Service of process must be effected by serving the registered agent with a true copy in the manner provided by law for service of process. In addition, the clerk of the court in which the civil action or proceeding is*

pending shall, within 7 days after service, send by registered or certified mail, postage prepaid, true and attested copies of the process, together with a statement that service is being made pursuant to this section, addressed to the management person at the address as it appears on the records of the Secretary of State, or if no such address appears, at the address last known to the party desiring to make the service.

3. The appointment of the registered agent is irrevocable. If any entity or management person fails to appoint a registered agent, or fails to file a statement of change of registered agent pursuant to NRS 77.340 before the effective date of a vacancy in the agency pursuant to NRS 77.330 or 77.370, on the production of a certificate of the Secretary of State showing either fact, which is conclusive evidence of the fact so certified to be made a part of the return of service, or if the street address of the registered agent of the entity is not staffed as required pursuant to NRS 14.020, which fact is to be made part of the return of service, the management person may be served with any and all legal process, or a demand or notice described in NRS 14.020, by delivering a copy to the Secretary of State or, in the absence of the Secretary of State, to any deputy secretary of state, and such service is valid to all intents and purposes. The copy must:

(a) Include a specific citation to the provisions of this section. The Secretary of State may refuse to accept such service if the proper citation is not included.

(b) Be accompanied by a fee of \$10.

➡ The Secretary of State shall keep a copy of the legal process received pursuant to this section in the Office of the Secretary of State for at least 1 year after receipt thereof and shall make those records available for public inspection during normal business hours.

4. In all cases of service pursuant to subsection 3, the defendant has 40 days, exclusive of the day of service, within which to answer or plead. Before such service is authorized, the plaintiff shall make or cause to be made and filed an affidavit setting forth the facts, showing that due diligence has been used to ascertain the whereabouts of the management person to be served, and the facts showing that direct or personal service on, or notice to, the management person cannot be made.

5. If it appears from the affidavit that there is a last known address of the management person, the plaintiff shall, in addition to and after such service on the Secretary of State, mail or cause to be mailed to the management person at such address, by registered or certified mail, a copy of the summons and a copy of the complaint, and in all such cases the defendant has 40 days after the date of the mailing within which to appear in the action.

6. Service pursuant to subsection 3 provides an additional manner of serving process, and does not affect the validity of any other valid service.

7. In any action in which any management person has been served with process pursuant to subsection 2, the time in which a defendant is required to

appear and file a responsive pleading must be computed from the date of mailing by the clerk of the court. The court may grant an extension of time as may be necessary to afford the management person reasonable opportunity to defend the action.

8. *In a charter or other writing, a management person or owner of any entity may consent to be subject to the nonexclusive jurisdiction of the courts of, or arbitration in, a specified jurisdiction, or the exclusive jurisdiction of the courts of this State, or the exclusivity of arbitration in a specified jurisdiction or this State, and to be served with process in the manner prescribed in the charter or other writing. Notwithstanding any other provision of this subsection, except by agreeing to arbitrate any arbitrable matter in a specified jurisdiction or in this State, an owner of an entity who is not a management person may not waive its right to maintain a legal action or proceeding in the courts of this State with respect to matters relating to the organization or internal affairs of an entity. Without limiting or affecting the enforceability under the laws of this State governing corporations of any consent or agreement by a management person or stockholder of a corporation, this subsection does not apply to an entity which is a corporation.*

9. *This section does not limit or affect the right to serve process in any other manner now existing or hereafter enacted. This section is an extension of, and not a limitation upon, the right otherwise existing of service of legal process upon nonresidents.*

10. *As used in this section:*

(a) *"Charter" means the articles of organization or an operating agreement of a limited-liability company, the certificate of limited partnership or partnership agreement of a limited partnership or the certificate of trust or governing instrument of a business trust.*

(b) *"Entity" means a domestic:*

- (1) *Corporation, whether or not for profit;*
- (2) *Limited-liability company;*
- (3) *Limited partnership; or*
- (4) *Business trust.*

(c) *"Management person" means a director, officer, manager, managing member, general partner or trustee of an entity.*

(d) *"Owner" means a member of a limited-liability company, limited partner of a limited partnership or beneficial owner of a business trust.*

(e) *"Registered agent" has the meaning ascribed to it in NRS 77.230.*

Sec. 2. NRS 78.139 is hereby amended to read as follows:

78.139 1. Except as otherwise provided in subsection 2 or the articles of incorporation, directors and officers ~~[confronted]~~, in connection with a change or potential change in control of the corporation, have:

(a) The duties imposed upon them by subsection 1 of NRS 78.138; ~~[and]~~

(b) The benefit of the presumptions established by subsection 3 of ~~[that section.]~~ NRS 78.138; and

(c) *The prerogative to undertake and act upon consideration pursuant to subsections 2, 4 and 5 of NRS 78.138.*

2. If directors ~~and~~ or officers take action to resist a change or potential change in control of a corporation, which *action* impedes the exercise of the right of stockholders to vote for or remove directors:

(a) The directors must have reasonable grounds to believe that a threat to corporate policy and effectiveness exists; and

(b) The action taken which impedes the exercise of the stockholders' rights must be reasonable in relation to that threat.

➤ If those facts are found, the directors and officers have the benefit of the presumption established by subsection 3 of NRS 78.138.

3. The provisions of subsection 2 do not apply to:

(a) Actions that only affect the time of the exercise of stockholders' voting rights; or

(b) The adoption or signing of plans, arrangements or instruments that deny rights, privileges, power or authority to a holder of a specified number or fraction of shares or fraction of voting power.

4. The provisions of subsections 2 and 3 do not permit directors or officers to abrogate any right conferred by statute or the articles of incorporation.

5. Directors may resist a change or potential change in control of the corporation if the directors by a majority vote of a quorum determine that the change or potential change is opposed to or not in the best interest of the corporation:

(a) Upon consideration of the interests of the corporation's stockholders ~~and~~ or any of the matters set forth in subsection 4 of NRS 78.138; or

(b) Because the amount or nature of the indebtedness and other obligations to which the corporation or any successor to the property of either may become subject, in connection with the change or potential change, ~~in control,~~ provides reasonable grounds to believe that, within a reasonable time:

(1) The assets of the corporation or any successor would be or become less than its liabilities;

(2) The corporation or any successor would be or become insolvent; or

(3) Any voluntary or involuntary proceeding ~~pursuant to the federal bankruptcy laws~~ concerning the corporation or any successor would be commenced by any person ~~pursuant to the federal bankruptcy laws~~.

Sec. 3. NRS 78.315 is hereby amended to read as follows:

78.315 1. Unless the articles of incorporation or the bylaws provide for a greater or lesser proportion, a majority of the board of directors of the corporation then in office, at a meeting duly assembled, is necessary to constitute a quorum for the transaction of business, and the act of directors holding a majority of the voting power of the directors, present at a meeting at which a quorum is present, is the act of the board of directors.

2. Unless otherwise restricted by the articles of incorporation or bylaws, any action required or permitted to be taken at a meeting of the board of directors or of a committee thereof may be taken without a meeting if, before or after the action, a written consent thereto is signed by all the members of the board or of the committee, except that such written consent is not required to be signed by:

(a) A common or interested director who abstains in writing from providing consent to the action. If a common or interested director abstains in writing from providing consent:

(1) The fact of the common directorship, office or financial interest must be known to the board of directors or committee before a written consent is signed by all the members of the board of the committee.

(2) Such fact must be described in the written consent.

(3) The board of directors or committee must approve, authorize or ratify the action in good faith by unanimous consent without counting the abstention of the common or interested director.

(b) A director who is a party to an action, suit or proceeding who abstains in writing from providing consent to the action of the board of directors or committee. If a director who is a party to an action, suit or proceeding abstains in writing from providing consent on the basis that he or she is a party to an action, suit or proceeding, the board of directors or committee must:

(1) Make a determination pursuant to NRS 78.751 that indemnification of the director is proper under the circumstances.

(2) Approve, authorize or ratify the action of the board of directors or committee in good faith by unanimous consent without counting the abstention of the director who is a party to an action, suit or proceeding.

3. Unless otherwise restricted by the articles of incorporation or bylaws, members of the board of directors or the governing body of any corporation, or of any committee designated by such board or body, may participate in a meeting of the board, body or committee through electronic communications, videoconferencing, teleconferencing or other available technology ~~[which allows the members to communicate simultaneously or sequentially.]~~ if the corporation has implemented reasonable measures to:

(a) Verify the identity of each person participating through such means as a director or member of the governing body or committee, as the case may be; and

(b) Provide the directors or members a reasonable opportunity to participate in the meeting and to vote on matters submitted to the directors or members, as the case may be, including an opportunity to communicate and to read or hear the proceedings of the meeting in a substantially ~~in real time~~ concurrent manner with such proceedings.

4. Participation in a meeting pursuant to ~~[this]~~ subsection 3 constitutes presence in person at the meeting.

Sec. 4. NRS 78.320 is hereby amended to read as follows:

78.320 1. Unless this chapter, the articles of incorporation or the bylaws provide for different proportions:

(a) A majority of the voting power, which includes the voting power that is present in person or by proxy, regardless of whether the proxy has authority to vote on all matters, constitutes a quorum for the transaction of business; and

(b) Action by the stockholders on a matter other than the election of directors is approved if the number of votes cast in favor of the action exceeds the number of votes cast in opposition to the action.

2. Unless otherwise provided in the articles of incorporation or the bylaws, any action required or permitted to be taken at a meeting of the stockholders may be taken without a meeting if, before or after the action, a written consent thereto is signed by stockholders holding at least a majority of the voting power, except that if a different proportion of voting power is required for such an action at a meeting, then that proportion of written consents is required.

3. In no instance where action is authorized by written consent need a meeting of stockholders be called or notice given.

4. Unless otherwise restricted by the articles of incorporation or bylaws, stockholders may participate in a meeting of stockholders through electronic communications, videoconferencing, teleconferencing or other available technology ~~[which allows the stockholders to communicate simultaneously or sequentially]~~ *[.] if the corporation has implemented reasonable measures to:*

(a) Verify the identity of each person participating through such means as a stockholder; and

(b) Provide the stockholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the stockholders, including an opportunity to communicate, and to read or hear the proceedings of the meetings in a substantially ~~in real time~~ concurrent manner with such proceedings.

5. Participation in a meeting pursuant to ~~[this]~~ subsection 4 constitutes presence in person at the meeting.

~~{5.}~~ 6. Unless this chapter, the articles of incorporation or the bylaws provide for different proportions, if voting by a class or series of stockholders is permitted or required:

(a) A majority of the voting power of the class or series that is present in person or by proxy, regardless of whether the proxy has authority to vote on all matters, constitutes a quorum for the transaction of business; and

(b) An act by the stockholders of each class or series is approved if a majority of the voting power of a quorum of the class or series votes for the action.

Sec. 5. NRS 78.350 is hereby amended to read as follows:

78.350 1. Unless otherwise provided in the articles of incorporation, or in the resolution providing for the issuance of the stock adopted by the board

of directors pursuant to authority expressly vested in it by the provisions of the articles of incorporation, every stockholder of record of a corporation is entitled at each meeting of stockholders thereof to one vote for each share of stock standing in his or her name on the records of the corporation. If the articles of incorporation, or the resolution providing for the issuance of the stock adopted by the board of directors pursuant to authority expressly vested in it by the articles of incorporation, provides for more or less than one vote per share for any class or series of shares on any matter, every reference in this chapter to a majority or other proportion of stock shall be deemed to refer to a majority or other proportion of the voting power of all of the shares or those classes or series of shares, as may be required by the articles of incorporation, or in the resolution providing for the issuance of the stock adopted by the board of directors pursuant to authority expressly vested in it by the provisions of the articles of incorporation, or the provisions of this chapter.

2. Unless a period of more than 60 days or a period of less than 10 days is prescribed or fixed in the articles of incorporation, the directors may prescribe a period not exceeding 60 days before any meeting of the stockholders during which no transfer of stock on the books of the corporation may be made, or may fix, in advance, a record date not more than 60 or less than 10 days before the date of any such meeting as the date as of which stockholders entitled to notice of and to vote at such meetings must be determined. Only stockholders of record on that date are entitled to notice or to vote at such a meeting. If a record date is not fixed, the record date is at the close of business on the day before the day on which the first notice is given or, if notice is waived, at the close of business on the day before the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders applies to an adjournment of the meeting unless the board of directors fixes a new record date for the adjourned meeting. The board of directors must fix a new record date if the meeting is adjourned to a date more than 60 days later than the date set for the original meeting.

3. The board of directors may adopt a resolution prescribing a date upon which the stockholders of record entitled to give written consent pursuant to NRS 78.320 must be determined. The date prescribed by the board of directors may not precede or be more than 10 days after the date the resolution is adopted by the board of directors. If the board of directors does not adopt a resolution prescribing a date upon which the stockholders of record entitled to give written consent pursuant to NRS 78.320 must be determined and:

(a) No prior action by the board of directors is required by this chapter or chapter 92A of NRS before the matter is submitted for consideration by the stockholders, the date is the first date on which ~~a valid, written consent is delivered in accordance with the provisions of NRS 78.320.~~ *any stockholder delivers to the corporation such consent signed by the stockholder.*

(b) Prior action by the board of directors is required by this chapter or chapter 92A of NRS before the matter is submitted for consideration by the stockholders, the date is at the close of business on the day the board of directors adopts the resolution.

4. The provisions of this section do not restrict the directors from taking action to protect the interests of the corporation and its stockholders, including, but not limited to, adopting or signing plans, arrangements or instruments that grant or deny rights, privileges, power or authority to a holder or holders of a specified number of shares or percentage of share ownership or voting power.

Sec. 6. NRS 78.585 is hereby amended to read as follows:

78.585 1. The dissolution of a corporation does not impair any remedy or cause of action available to or against it or its directors, officers or ~~shareholders arising before its dissolution and~~ stockholders commenced within 2 years after the date of the dissolution ~~[-] with respect to any remedy or cause of action in which the plaintiff learns, or in the exercise of reasonable diligence should have learned of, the underlying facts on or before the date of dissolution, or within ~~2~~ 3 years after the date of dissolution with respect to any other remedy or cause of action. Any such remedy or cause of action not commenced within the applicable period is barred.~~ The corporation continues as a body corporate for the purpose of prosecuting and defending suits, actions, proceedings and claims of any kind or character by or against it and of enabling it gradually to settle and close its business, to collect its assets, to collect and discharge its obligations, to dispose of and convey its property, to distribute its money and other property among the stockholders, after paying or adequately providing for the payment of its liabilities and obligations, and to do every other act to wind up and liquidate its business and affairs, but not for the purpose of continuing the business for which it was established.

2. *Nothing in this section shall be so construed as to lengthen any shorter statute of limitations otherwise applicable provided that no provision of this chapter or other specific statute has the effect of applying any statute of limitations that is longer than provided for in this section with respect to any such remedy or cause of action. Nothing in this section shall be construed to create any remedy or cause of action available to or against the corporation or its directors, officers or stockholders.*

Sec. 7. NRS 80.050 is hereby amended to read as follows:

80.050 1. Except as otherwise provided in subsection 3, foreign corporations shall pay the same fees to the Secretary of State as are required to be paid by corporations organized pursuant to the laws of this State, but the amount of fees to be charged must not exceed:

(a) The sum of \$35,000 for filing records for initial qualification; or

(b) The sum of ~~[\$35,000]~~ \$34,925 for each subsequent filing of a certificate increasing authorized capital stock.

2. If the corporate records required to be filed set forth only the total number of shares of stock the corporation is authorized to issue without reference to value, the authorized shares shall be deemed to be without par value and the filing fee must be computed pursuant to paragraph (b) of subsection 3 of NRS 78.760.

3. Foreign corporations which are nonprofit corporations and which do not have or issue shares of stock shall pay the same fees to the Secretary of State as are required to be paid by nonprofit corporations organized pursuant to the laws of this State.

4. The fee for filing a notice of withdrawal from the State of Nevada by a foreign corporation is \$100.

Sec. 8. NRS 82.071 is hereby amended to read as follows:

82.071 1. *An insurance company may be organized under this chapter, but such a corporation may not:*

(a) Transact any such business within this State until it has first complied with all laws concerning or affecting the right to engage in such business; or

(b) Infringe on the laws of any other state or country in which it may intend to engage in business, by so organizing under this chapter.

2. No ~~[insurance company]~~ stock fire insurance company, surety company, express company, trust company, stock savings and loan association, or corporation organized for the purpose of conducting a banking business may be organized under this chapter.

Sec. 9. NRS 82.106 is hereby amended to read as follows:

82.106 1. Except as otherwise provided in this subsection, the Secretary of State shall not accept for filing pursuant to this chapter any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed or existing pursuant to this chapter if the name of the corporation contains the words "trust," "engineer," "engineered," "engineering," "professional engineer" or "licensed engineer." The provisions of this subsection concerning the use of the word "trust" do not apply to any corporation formed or existing pursuant to this chapter that is doing business solely as a community land trust.

2. The Secretary of State shall not accept for filing pursuant to this chapter any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed or existing pursuant to this chapter if the name of the corporation contains the words "architect," "architecture," "registered architect," "licensed architect," "registered interior designer," "registered interior design," "residential designer," "registered residential designer," "licensed residential designer" or "residential design."

3. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed or existing under this chapter ~~[when]~~ if it appears from the articles or the certificate of amendment that the business to be carried on by the corporation is subject to supervision by the Commissioner

of Insurance ~~[-]~~, *unless the articles or certificate of amendment is approved by the Commissioner of Insurance.*

4. The Secretary of State shall not accept for filing pursuant to this chapter any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed or existing pursuant to this chapter if the name of the corporation contains the word "accountant," "accounting," "accountancy," "auditor" or "auditing."

5. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed or existing pursuant to the laws of this State which provides that the name of the corporation contains the words "common-interest community," "community association," "master association," "unit-owners' association" or "homeowners' association" or if it appears in the articles of incorporation or certificate of amendment that the purpose of the corporation is to operate as a unit-owners' association pursuant to chapter 116 or 116B of NRS unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the corporation has:

(a) Registered with the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels pursuant to NRS 116.31158 or 116B.625; and

(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155 or 116B.620.

6. As used in this section:

(a) "Community land trust" means an organization that:

(1) Acquires parcels of land that are:

(I) Held in perpetuity; and

(II) Primarily for conveyance under long-term ground leases;

(2) Transfers ownership of any structural improvements located on the leased parcels to the lessees;

(3) When leasing parcels, retains as a condition of the lease a right to purchase any structural improvements at a price determined by a formula that is designed to ensure that the improvements remain affordable to low- and moderate-income persons in perpetuity; and

(4) Has its corporate membership open to any adult resident of a particular geographic area that is specified in the bylaws of the organization.

(b) "Ground lease" means a lease of land only.

Sec. 10. NRS 82.541 is hereby amended to read as follows:

82.541 1. A corporation governed by this chapter may indemnify any person against expenses as provided in NRS 78.7502 and 78.751. For the purposes of this section, the word "stockholders" in NRS 78.751 is equivalent to the word "members."

2. A corporation governed by this chapter may purchase and maintain insurance or make other financial arrangements on behalf of any person for any liability asserted against the person as provided in NRS 78.752.

Sec. 11. Chapter 86 of NRS is hereby amended by adding thereto the provisions set forth as sections 12 and 13 of this act.

Sec. 12. *"Personal representative" means:*

1. *In reference to a natural person, the executor, administrator, guardian, conservator or other legal representative thereof.*

2. *In reference to a person other than a natural person, the legal representative or successor thereof.*

Sec. 13. ~~*[Unless otherwise provided in the articles of organization or an operating agreement:*~~

~~*1. A member of a limited liability company does not have any fiduciary duty to the limited liability company, to any series of the limited liability company, to any other member or to another person that is a party to or otherwise bound by the articles of organization or operating agreement, solely by reason of being a member.*~~

~~*2. A manager of a limited liability company does not have any fiduciary duty to the limited liability company, to any series of the limited liability company, to any member of the limited liability company or to another person that is a party to or otherwise bound by the articles of organization or operating agreement, solely by reason of being a manager.]*~~ (Deleted by amendment.)

Sec. 14. NRS 86.011 is hereby amended to read as follows:

86.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 86.022 to 86.1255, inclusive, *and section 12 of this act* have the meanings ascribed to them in those sections.

Sec. 15. NRS 86.151 is hereby amended to read as follows:

86.151 1. One or more persons may form a limited-liability company by signing and filing with the Secretary of State articles of organization for the company.

2. Upon the filing of the articles of organization with the Secretary of State and the payment of the required filing fees, the Secretary of State shall issue to the company a certificate that the articles, containing the required statement of facts, have been filed.

3. A signer of the articles of organization or a manager designated in the articles does not thereby become a member of the company. ~~*[At]*~~ *Except as otherwise provided in NRS 86.491*, all times after commencement of business by the company, the company must have one or more members. The filing of the articles does not, by itself, constitute commencement of business by the company.

Sec. 16. NRS 86.286 is hereby amended to read as follows:

86.286 1. A limited-liability company may, but is not required to, adopt an operating agreement. An operating agreement may be adopted only by the unanimous vote or unanimous written consent of the members, which may be in any tangible or electronic format, or by the sole member. If any operating agreement provides for the manner in which it may be amended, including by requiring the approval of a person who is not a party to the

operating agreement or the satisfaction of conditions, it may be amended only in that manner or as otherwise permitted by law and any attempt to otherwise amend the operating agreement shall be deemed void and of no legal force or effect unless otherwise provided in the operating agreement. Unless otherwise provided in the operating agreement, amendments to the agreement may be adopted only by the unanimous vote or unanimous written consent of the persons who are members at the time of amendment.

2. An operating agreement may be adopted before, after or at the time of the filing of the articles of organization and, whether entered into before, after or at the time of the filing, may become effective at the formation of the limited-liability company or at a later date specified in the operating agreement. If an operating agreement is adopted:

(a) Before the filing of the articles of organization or before the effective date of formation specified in the articles of organization, the operating agreement is not effective until the effective date of formation of the limited-liability company.

(b) After the filing of the articles of organization or after the effective date of formation specified in the articles of organization, the operating agreement binds the limited-liability company and may be enforced whether or not the limited-liability company assents to the operating agreement.

3. An operating agreement may provide that a certificate of limited-liability company interest issued by the limited-liability company may evidence a member's interest in a limited-liability company.

4. An operating agreement:

(a) May provide ~~[rights]~~, but is not required to provide to any person, including a person who is not a party to the operating agreement, to the extent set forth therein ~~[]~~:

(1) Rights to any person, including a person who is not a party to the operating agreement, to the extent set forth therein;

(2) For the admission of any person as a member of the company dependent upon any fact or event that may be ascertained outside the articles of organization or the operating agreement, if the manner in which the fact or event may operate on the determination of the person or the admission of the person as a member of the company is set forth in the articles of organization or the operating agreement;

(3) That the personal representative of the last remaining member is obligated to agree in writing to the admission of the personal representative, or its nominee or designee, as a member of the company effective upon the occurrence of the event that terminated the last remaining member's status as a member of the company;

(4) For the admission of any person as a member of the company upon or after the death, retirement, resignation, expulsion, bankruptcy, dissolution or dissociation of, or any other event affecting, a member or the last remaining member, or after there is no longer a member of the company; or

(5) *Any other provision, not inconsistent with law or the articles of organization, which the members elect to set out in the operating agreement for the regulation of the internal affairs of the company.*

(b) Must be interpreted and construed to give the maximum effect to the principle of freedom of contract and enforceability.

5. ~~5. To~~ If, and to the extent that, a member or manager or other person has duties to a limited-liability company, to another member or manager, or to another person that is a party to or is otherwise bound by the operating agreement, the member, manager or other person's such duties may be expanded, restricted or eliminated by provisions in the operating agreement, except that an ~~4th~~ operating agreement may not eliminate the implied contractual covenant of good faith and fair dealing.

6. Unless otherwise provided in an operating agreement, a member, ~~or~~ manager or other person is not liable *for breach of duties, if any*, to a limited-liability company, ~~another member or manager,~~ *to any of the members or managers* or to another person that is a party to or otherwise bound by ~~an~~ the operating agreement for ~~breach of fiduciary duty for the member, manager~~ *conduct undertaken in the member's, manager's or other person's good faith reliance on the provisions of the operating agreement.*

7. An operating agreement may provide for the limitation or elimination of any and all liabilities for breach of contract and breach of duties, *if any*, of a member, manager or other person to a limited-liability company, to ~~another member or manager,~~ *any of the members or managers*, or to another person that is a party to or is otherwise bound by the operating agreement. An operating agreement may not limit or eliminate liability for any ~~act or omission~~ *conduct* that constitutes a bad faith violation of the implied contractual covenant of good faith and fair dealing.

8. The Secretary of State may make available a model operating agreement for use by and at the discretion of a limited-liability company according to such terms and limitations as established by the Secretary of State. The use of such an operating agreement does not create a presumption that the contents of the operating agreement are accurate or that the operating agreement is valid.

Sec. 17. NRS 86.326 is hereby amended to read as follows:

86.326 1. A person is admitted as an initial member of a limited-liability company:

(a) If the company is a limited-liability company managed by its members, upon the filing of the articles of organization with the Secretary of State or upon a later date specified in the articles of organization; or

(b) If the company is a limited-liability company managed by a manager or managers, as of the time set forth in and upon compliance with the operating agreement or, if the operating agreement does not so provide or if the company has no operating agreement, as of the time of such person's admission as reflected in the records of the company.

2. Unless otherwise provided in the articles of organization, after the admission of the initial member or members of a limited-liability company in accordance with subsection 1, a person is admitted as a member:

(a) In the case of a person who is not a transferee of a member's interest, including a person being admitted as a noneconomic member and a person acquiring a member's interest directly from the company, as of the time set forth in and upon compliance with the operating agreement or, if the operating agreement does not so provide or if the company has no operating agreement, upon the consent of all the members and as of the time of such person's admission as reflected in the records of the company;

(b) In the case of a transferee of a member's interest who is a substituted member pursuant to NRS 86.351, as provided in NRS 86.351 or 86.491 and as of the time set forth in and upon compliance with the operating agreement or, if the operating agreement does not so provide or if the company has no operating agreement, as of the time of such person's admission as reflected in the records of the company;

(c) In the case of a person being admitted as a member of a surviving or resulting limited-liability company pursuant to a merger, conversion or exchange approved in accordance with NRS 92A.150, as of the time set forth in and upon compliance with the operating agreement of the surviving or resulting limited-liability company or in the plan of merger, conversion or exchange, and in the event of any inconsistency, the terms of the plan of merger, conversion or exchange control; and

(d) In the case of a person being admitted as a member of a limited-liability company pursuant to a merger, conversion or exchange in which such limited-liability company is not the surviving or resulting entity, as of the time set forth in and upon compliance with the operating agreement of such limited-liability company.

3. In connection with the domestication of an undomesticated organization as a limited-liability company in this State in accordance with NRS 92A.270, a person is admitted as a member of the company as of the time set forth in and upon compliance with the articles of domestication or in the operating agreement of the resulting domestic limited-liability company or, if the articles of domestication and the operating agreement do not so provide or if the articles of domestication do not so provide and the company has no operating agreement, as of the time of such person's admission as reflected in the records of the resulting domestic limited-liability company.

4. Unless otherwise provided in the articles of organization, the operating agreement or another agreement approved or adopted by all of the members, no member has a preemptive right to acquire any unissued member's interests or other interests in a limited-liability company.

5. *Unless otherwise provided in the articles of organization or operating agreement:*

(a) *A person may be admitted as a member of a limited-liability company and may receive a member's interest in the company without making or being obligated to make a contribution to the capital of the company.*

(b) *A person may be admitted as a member or the sole member of a limited-liability company:*

(1) *Without acquiring a member's interest in the company; or*

(2) *Without making or being obligated to make a contribution to the capital of the company.*

Sec. 18. NRS 86.491 is hereby amended to read as follows:

86.491 1. A limited-liability company must be dissolved and its affairs wound up:

(a) At the time, if any, *so* specified in the articles of organization;

(b) Upon the occurrence of an event *so* specified in ~~the~~ *the articles of organization or operating agreement;*

(c) Unless otherwise provided in the articles of organization or operating agreement, upon the affirmative vote or written agreement of all the members; ~~or~~

(d) Upon entry of a decree of judicial dissolution *of the company* pursuant to NRS 86.495 ~~1~~; *or*

(e) *Except as otherwise provided in subsection 5, within 180 days, or such other period provided in the articles of organization or operating agreement, after the company ceases to have any members, but the company is not required to be so dissolved and its affairs wound up if, within such period:*

(1) *The personal representative of the last remaining member agrees in writing to continue the company and the personal representative or its nominee or designee is admitted as a member; or*

(2) *Any person is admitted as a member pursuant to a provision of the operating agreement providing for the admission of a person as a member after there is no longer a member of the company.*

2. The affairs of a series of a limited-liability company must be wound up:

(a) At the time, if any, *so* specified in the articles of organization;

(b) Upon the occurrence of an event *so* specified in the *articles of organization or the operating agreement;*

(c) Unless otherwise provided in the articles of organization or operating agreement, upon the affirmative vote or written agreement of all the members associated with the series; ~~or~~

(d) Upon entry of a decree of judicial termination of the series pursuant to NRS 86.495 ~~1~~; *or*

(e) *Except as otherwise provided in subsection 5, within 180 days, or such other period provided in the articles of organization or operating agreement, after the series ceases to have any associated members, but the affairs of the series are not required to be so wound up if, within such period:*

(1) *The personal representative of the last remaining member associated with the series agrees in writing to continue the series and the*

personal representative or its nominee or designee is admitted as a member associated with the series; or

(2) Any person is admitted as a member associated with the series pursuant to a provision of the operating agreement providing for the admission of a person as a member associated with the series after there is no longer a member associated with the series.

3. Unless otherwise provided in the articles of organization or operating agreement, upon ~~the~~ :

(a) The occurrence of an event requiring the affairs of a limited-liability company to be wound up, a manager of the company who has not wrongfully terminated the company or, if none, the members, or a person approved by all the members, may wind up the affairs of the company, and the person or persons winding up the affairs of the company:

(1) May take all actions necessary or proper to wind up the affairs of the company; and

(2) Shall distribute the assets of the company as provided in NRS 86.521 to the creditors of the company and the members of the company.

(b) The occurrence of an event requiring the affairs of a series to be wound up, a manager of the series who has not wrongfully terminated the series or, if none, the members associated with a series, or a person approved by all those members, may wind up the affairs of the series ~~[. Unless otherwise provided in the articles of organization or operating agreement,]~~, and the person or persons winding up the affairs of the series:

~~[(a)]~~ *(1) May take all actions necessary or proper to wind up the affairs of the series; and*

~~[(b)]~~ *(2) Shall distribute the assets of the series as provided in NRS 86.521 to the creditors of the series and the members associated with the series.*

4. Except as otherwise provided in *this section*, the articles of organization or *the* operating agreement, the death, retirement, resignation, expulsion, bankruptcy, dissolution or dissociation of a member or any other event affecting a member, including, without limitation, a sole member, does not:

(a) Terminate the status of the person as a member; or

(b) Cause the limited-liability company, *or the series of the company with which the member is associated*, to be dissolved or its affairs to be wound up.

5. Except as otherwise provided in the articles of organization or operating agreement, upon the death of a natural person who is the sole member of a limited-liability company or the sole member associated with a series, the status of the member, including the member's interest, may pass to the heirs, successors and assigns of the member by will or applicable law. The heir, successor or assign of the member's interest becomes a substituted member pursuant to NRS 86.351, subject to administration as provided by

applicable law, without the permission or consent of the heirs, successors or assigns or those administering the estate of the deceased member.

Sec. 19. NRS 86.495 is hereby amended to read as follows:

86.495 1. Upon application by or for a member, the district court may decree dissolution of a limited-liability company whenever it is not reasonably practicable to carry on the business of the company in conformity with the articles of organization or operating agreement.

2. Upon application by or for a member of a series, the district court may decree the termination of the series only, and not the dissolution of the company, whenever it is not reasonably practicable to carry on the business of the series in conformity with the articles of organization or operating agreement.

3. *If a limited-liability company is required to be dissolved pursuant to NRS 86.491 and articles of dissolution have not been filed within 180 days after the date on which the company is required to be dissolved, upon application by or for the Secretary of State or any person who is adversely affected by the failure of the company to dissolve, the district court may decree dissolution of the company.*

Sec. 20. NRS 86.505 is hereby amended to read as follows:

86.505 1. The dissolution of a limited-liability company does not impair any remedy or cause of action available to or against it or its managers or members ~~[arising before its dissolution and]~~ commenced, within 2 years after the effective date of the articles of dissolution ~~[+]~~, with respect to any remedy or cause of action as to which the plaintiff learns, or in the exercise of reasonable diligence should have learned of, the underlying facts on or before the date of dissolution, or within ~~two~~ 3 years after the date of dissolution with respect to any other remedy or cause of action. Any such remedy or cause of action not commenced within the applicable period is barred. A dissolved company continues as a company for the purpose of prosecuting and defending suits, actions, proceedings and claims of any kind or nature by or against it and of enabling it gradually to settle and close its business, to collect and discharge its obligations, to dispose of and convey its property, and to distribute its assets, but not for the purpose of continuing the business for which it was established.

2. *Nothing in this section shall be so construed as to lengthen any shorter statute of limitations otherwise applicable provided that no provision of this chapter or other specific statute has the effect of applying any statute of limitations that is longer than provided in this section with respect to any such remedy or cause of action. Nothing in this section shall be construed to create any remedy or cause of action available to or against the company or its managers or members.*

Sec. 21. NRS 86.531 is hereby amended to read as follows:

86.531 1. ~~[When all debts, liabilities and obligations have been paid and discharged or adequate provision has been made therefor and all of the remaining property and assets have been distributed to the members,] Except~~

in the case of a dissolution pursuant to NRS 86.490, as soon as practicable after the dissolution of a limited-liability company, articles of dissolution must be prepared and signed setting forth:

- (a) The name of the limited-liability company;
- (b) That ~~{all debts, obligations and liabilities have been paid and discharged or that adequate provision has been made therefor;}~~ *the company has been or will be dissolved; and*
- (c) ~~{That all the remaining property and assets have been distributed among its members in accordance with their respective rights and interests; and~~
- (d) ~~That there are no suits pending against the company in any court or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit.}~~ *The effective date and time of the dissolution, which may not be later than the effective date and time of the articles of dissolution.*

2. The articles of dissolution must be signed by {a} :

- (a) A manager ~~{, or if there is no manager by a member,}~~ of the company ~~{,}~~, *if management of the company is vested in a manager;*
- (b) A member of the company, *if management of the company is not vested in a manager; or*
- (c) *The personal representative of the last remaining member, if there is no remaining manager or member, unless otherwise provided in the articles of organization or operating agreement.*

Sec. 22. NRS 86.541 is hereby amended to read as follows:

86.541 1. The signed articles of dissolution must be filed with the Secretary of State. Articles of dissolution are effective at the time of the filing of the articles with the Secretary of State or upon a later date and time as specified in the articles, which date must not be more than 90 days after the date on which the articles are filed. If the articles filed pursuant to this section specify a later effective date but do not specify an effective time, the articles are effective at 12:01 a.m. in the Pacific time zone on the specified later date.

2. ~~{At the time of the filing of the articles of dissolution with the Secretary of State, upon a later date and time as specified in the articles, which date must not be more than 90 days after the date on which the articles are filed or, if the articles filed pursuant to this section specify a later effective date but do not specify an effective time, at 12:01 a.m. in the Pacific time zone on the specified later date, whichever is applicable, the existence of the company ceases, except for the purpose of suits, other proceedings and appropriate action as provided in this chapter.}~~ The manager or managers in office at the time of dissolution, or the ~~{survivors of them,}~~ *members, if there are no managers, or the ~~{survivors,}~~ personal representatives,* are thereafter trustees ~~{for the members and creditors}~~ of the dissolved company ~~{and as such have authority to distribute any property of the company discovered after dissolution, convey real estate and take such other action as may be~~

~~necessary on behalf of and in the name of the dissolved company.], with full power to prosecute and defend suits, actions, proceedings and claims of any kind or character by or against the company, to enable the company gradually to settle and close its business, to collect its assets, to collect and discharge its obligations, to dispose of and convey its property, to distribute its money and other property among the members, after paying or adequately providing for the payment of its liabilities and obligations, and to do every other act to wind up and liquidate its business and affairs, but not for the purpose of continuing the business for which the company was established.~~

Sec. 23. NRS 87.440 is hereby amended to read as follows:

87.440 1. To become a registered limited-liability partnership, a partnership shall file with the Secretary of State a certificate of registration stating each of the following:

- (a) The name of the partnership.
- (b) The street address of its principal office.
- (c) The information required pursuant to NRS 77.310.
- (d) The name and business address of each managing partner . ~~[in this State.]~~
- (e) That the partnership thereafter will be a registered limited-liability partnership.
- (f) Any other information that the partnership wishes to include.

2. The certificate of registration must be signed by a majority in interest of the partners or by one or more partners authorized to sign such a certificate.

3. The certificate of registration must be accompanied by a fee of \$75.

4. The Secretary of State shall register as a registered limited-liability partnership any partnership that submits a completed certificate of registration with the required fee.

5. The registration of a registered limited-liability partnership is effective at the time of the filing of the certificate of registration.

Sec. 24. NRS 92A.270 is hereby amended to read as follows:

92A.270 1. Any undomesticated organization may become domesticated in this State as a domestic entity by:

- (a) Paying to the Secretary of State the fees required pursuant to this title for filing the charter document; and
- (b) Filing with the Secretary of State:

(1) Articles of domestication which must be signed by an authorized representative of the undomesticated organization approved in compliance with subsection 6;

(2) The appropriate charter document for the type of domestic entity;

(3) The information required pursuant to NRS 77.310;

(4) A certified copy of the charter document , *or the equivalent, if any*, of the undomesticated organization; and

(5) A certificate of good standing, or the equivalent, from the jurisdiction where the undomesticated organization was chartered

immediately before filing the articles of domestication pursuant to subparagraph (1).

2. The articles of domestication must set forth the:

(a) Date when and the jurisdiction where the undomesticated organization was first formed, incorporated, organized or otherwise created and, if applicable, any date when and jurisdiction where the undomesticated organization was chartered after its formation;

(b) Name of the undomesticated organization immediately before filing the articles of domestication;

(c) Name and type of domestic entity as set forth in its charter document pursuant to subsection 1; and

(d) Jurisdiction that constituted the principal place of business or central administration of the undomesticated organization, or any other equivalent thereto pursuant to applicable law, immediately before filing the articles of domestication.

3. Upon filing the articles of domestication and the charter document with the Secretary of State, and the payment of the requisite fee for filing the charter document of the domestic entity, the undomesticated organization is domesticated in this State as the domestic entity described in the charter document filed pursuant to subsection 1. The existence of the domestic entity begins on the date the undomesticated organization began its existence in the jurisdiction in which the undomesticated organization was first formed, incorporated, organized or otherwise created.

4. The domestication of any undomesticated organization does not affect any obligations or liabilities of the undomesticated organization incurred before its domestication.

5. The filing of the charter document of the domestic entity pursuant to subsection 1 does not affect the choice of law applicable to the undomesticated organization. From the date the charter document of the domestic entity is filed, the law of this State applies to the domestic entity to the same extent as if the undomesticated organization was organized and created as a domestic entity on that date.

6. Before filing articles of domestication, the domestication must be approved in the manner required by:

(a) The document, instrument, agreement or other writing governing the internal affairs of the undomesticated organization and the conduct of its business; and

(b) Applicable foreign law.

7. When a domestication becomes effective, all rights, privileges and powers of the undomesticated organization, all property owned by the undomesticated organization, all debts due to the undomesticated organization, and all causes of action belonging to the undomesticated organization are vested in the domestic entity and become the property of the domestic entity to the same extent as vested in the undomesticated organization immediately before domestication. The title to any real property

vested by deed or otherwise in the undomesticated organization is not reverted or impaired by the domestication. All rights of creditors and all liens upon any property of the undomesticated organization are preserved unimpaired and all debts, liabilities and duties of an undomesticated organization that has been domesticated attach to the domestic entity resulting from the domestication and may be enforced against it to the same extent as if the debts, liability and duties had been incurred or contracted by the domestic entity.

8. When an undomesticated organization is domesticated, the domestic entity resulting from the domestication is for all purposes deemed to be the same entity as the undomesticated organization. Unless otherwise agreed by the owners of the undomesticated organization or as required pursuant to applicable foreign law, the domestic entity resulting from the domestication is not required to wind up its affairs, pay its liabilities or distribute its assets. The domestication of an undomesticated organization does not constitute the dissolution of the undomesticated organization. The domestication constitutes a continuation of the existence of the undomesticated organization in the form of a domestic entity. If, following domestication, an undomesticated organization that has become domesticated pursuant to this section continues its existence in the foreign country or foreign jurisdiction in which it was existing immediately before the domestication, the domestic entity and the undomesticated organization are for all purposes a single entity formed, incorporated, organized or otherwise created and existing pursuant to the laws of this State and the laws of the foreign country or other foreign jurisdiction. *If, following domestication, an undomesticated organization that has become domesticated pursuant to this section does not continue its existence in the foreign country or foreign jurisdiction in which it existed immediately before the domestication, the domestic entity resulting from the domestication continues and is not required to wind up its affairs, pay its liabilities or distribute its assets.*

9. The owner liability of an undomesticated organization that is domesticated in this State:

(a) Is not discharged, pursuant to the laws of the previous jurisdiction of the organization, to the extent the owner liability arose before the effective date of the articles of domestication;

(b) Does not attach, pursuant to the laws of the previous jurisdiction of the organization, to any debt, obligation or liability of the organization that arises after the effective date of the articles of domestication;

(c) Is governed by the law of the previous jurisdiction of the organization, as if the domestication has not occurred, for the collection or discharge of owner liability not discharged pursuant to paragraph (a);

(d) Is subject to the right of contribution from any other shareholder, member, trustee, partner, limited partner or other owner of the undomesticated organization pursuant to the laws of the previous jurisdiction of the organization, as if the domestication has not occurred, for the

collection or discharge of owner liability not discharged pursuant to paragraph (a); and

(e) Applies only to the debts, obligations or liabilities of the organization that arise after the effective date of the articles of domestication if the owner becomes subject to owner liability or some or all of the debts, obligations or liabilities of the undomesticated entity as a result of its domestication in this State.

10. As used in this section:

(a) "Owner liability" means the liability of a shareholder, member, trustee, partner, limited partner or other owner of an organization for debts of the organization, including the responsibility to make additional capital contributions to cover such debts.

(b) "Undomesticated organization" means any incorporated organization, private law corporation, whether or not organized for business purposes, public law corporation, limited-liability company, general partnership, registered limited-liability partnership, limited partnership or registered limited-liability limited partnership, proprietorship, joint venture, foundation, business trust, real estate investment trust, common-law trust or any other unincorporated business formed, organized, created or the internal affairs of which are governed by the laws of any foreign country or jurisdiction other than this State.

Sec. 25. NRS 92A.390 is hereby amended to read as follows:

92A.390 1. There is no right of dissent with respect to a plan of merger, conversion or exchange in favor of stockholders of any class or series which is:

(a) A covered security under section 18(b)(1)(A) or (B) of the Securities Act of 1933, 15 U.S.C. § 77r(b)(1)(A) or (B), as amended;

(b) Traded in an organized market and has at least 2,000 stockholders and a market value of at least \$20,000,000, exclusive of the value of such shares held by the corporation's subsidiaries, senior executives, directors and beneficial stockholders owning more than 10 percent of such shares; or

(c) Issued by an open end management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940, 15 U.S.C. §§ 80a-1 et seq., as amended, and which may be redeemed at the option of the holder at net asset value,

↪ unless the articles of incorporation of the corporation issuing the class or series *or the resolution of the board of directors approving the plan of merger, conversion or exchange expressly* provide otherwise.

2. The applicability of subsection 1 must be determined as of:

(a) The record date fixed to determine the stockholders entitled to receive notice of and to vote at the meeting of stockholders to act upon the corporate action requiring dissenter's rights; or

(b) The day before the effective date of such corporate action if there is no meeting of stockholders.

3. Subsection 1 is not applicable and dissenter's rights are available pursuant to NRS 92A.380 for the holders of any class or series of shares who are required by the terms of the corporate action requiring dissenter's rights to accept for such shares anything other than cash or shares of any class or any series of shares of any corporation, or any other proprietary interest of any other entity, that satisfies the standards set forth in subsection 1 at the time the corporate action becomes effective.

4. There is no right of dissent for any holders of stock of the surviving domestic corporation if the plan of merger does not require action of the stockholders of the surviving domestic corporation under NRS 92A.130.

5. There is no right of dissent for any holders of stock of the parent domestic corporation if the plan of merger does not require action of the stockholders of the parent domestic corporation under NRS 92A.180.

Sec. 26. NRS 92A.410 is hereby amended to read as follows:

92A.410 1. If a proposed corporate action creating ~~{dissenters'}~~ *dissenter's* rights is submitted to a vote at a stockholders' meeting, the notice of the meeting must state that stockholders are, are not or may be entitled to assert ~~{dissenters'}~~ *dissenter's* rights under NRS 92A.300 to 92A.500, inclusive. If the domestic corporation concludes that dissenter's rights are or may be available, a copy of NRS 92A.300 to 92A.500, inclusive, must accompany the meeting notice sent to those record stockholders entitled to exercise dissenter's rights.

2. If the corporate action creating ~~{dissenters'}~~ *dissenter's* rights is taken by written consent of the stockholders or without a vote of the stockholders, the domestic corporation shall notify in writing all stockholders entitled to assert ~~{dissenters'}~~ *dissenter's* rights that the action was taken and send them the dissenter's notice described in NRS 92A.430.

Sec. 27. NRS 92A.420 is hereby amended to read as follows:

92A.420 1. If a proposed corporate action creating ~~{dissenters'}~~ *dissenter's* rights is submitted to a vote at a stockholders' meeting, a stockholder who wishes to assert dissenter's rights with respect to any class or series of shares:

(a) Must deliver to the subject corporation, before the vote is taken, written notice of the stockholder's intent to demand payment for his or her shares if the proposed action is effectuated; and

(b) Must not vote, or cause or permit to be voted, any of his or her shares of such class or series in favor of the proposed action.

2. If a proposed corporate action creating ~~{dissenters'}~~ *dissenter's* rights is taken by written consent of the stockholders, a stockholder who wishes to assert ~~{dissenters'}~~ *dissenter's* rights with respect to any class or series of shares must not consent to or approve the proposed corporate action with respect to such class or series.

3. A stockholder who does not satisfy the requirements of subsection 1 or 2 and NRS 92A.400 is not entitled to payment for his or her shares under this chapter.

Sec. 28. NRS 92A.430 is hereby amended to read as follows:

92A.430 1. The subject corporation shall deliver a written dissenter's notice to all stockholders *of record* entitled to assert ~~[dissenters']~~ *dissenter's* rights ~~[]~~ *in whole or in part, and any beneficial stockholder who has previously asserted dissenter's rights pursuant to NRS 92A.400.*

2. The dissenter's notice must be sent no later than 10 days after the effective date of the corporate action specified in NRS 92A.380, and must:

(a) State where the demand for payment must be sent and where and when certificates, if any, for shares must be deposited;

(b) Inform the holders of shares not represented by certificates to what extent the transfer of the shares will be restricted after the demand for payment is received;

(c) Supply a form for demanding payment that includes the date of the first announcement to the news media or to the stockholders of the terms of the proposed action and requires that the person asserting dissenter's rights certify whether or not the person acquired beneficial ownership of the shares before that date;

(d) Set a date by which the subject corporation must receive the demand for payment, which may not be less than 30 nor more than 60 days after the date the notice is delivered and state that the stockholder shall be deemed to have waived the right to demand payment with respect to the shares unless the form is received by the subject corporation by such specified date; and

(e) Be accompanied by a copy of NRS 92A.300 to 92A.500, inclusive.

Sec. 29. NRS 92A.460 is hereby amended to read as follows:

92A.460 1. Except as otherwise provided in NRS 92A.470, within 30 days after receipt of a demand for payment ~~[]~~ *pursuant to NRS 92A.440*, the subject corporation shall pay in cash to each dissenter who complied with NRS 92A.440 the amount the subject corporation estimates to be the fair value of the dissenter's shares, plus accrued interest. The obligation of the subject corporation under this subsection may be enforced by the district court:

(a) Of the county where the subject corporation's principal office is located;

(b) If the subject corporation's principal office is not located in this State, in the county in which the corporation's registered office is located; or

(c) At the election of any dissenter residing or having its principal or registered office in this State, of the county where the dissenter resides or has its principal or registered office.

➤ The court shall dispose of the complaint promptly.

2. The payment must be accompanied by:

(a) The subject corporation's balance sheet as of the end of a fiscal year ending not more than 16 months before the date of payment, a statement of income for that year, a statement of changes in the stockholders' equity for that year or, where such financial statements are not reasonably available,

then such reasonably equivalent financial information and the latest available quarterly financial statements, if any;

(b) A statement of the subject corporation's estimate of the fair value of the shares; and

(c) A statement of the dissenter's rights to demand payment under NRS 92A.480 and that if any such stockholder does not do so within the period specified, such stockholder shall be deemed to have accepted such payment in full satisfaction of the corporation's obligations under this chapter.

Sec. 30. NRS 92A.470 is hereby amended to read as follows:

92A.470 1. A subject corporation may elect to withhold payment from a dissenter unless the dissenter was the beneficial owner of the shares before the date set forth in the dissenter's notice as the first date of any announcement to the news media or to the stockholders of the terms of the proposed action.

2. To the extent the subject corporation elects to withhold payment, within 30 days after receipt of a demand for payment ~~[-]~~ *pursuant to NRS 92A.440*, the subject corporation shall notify the dissenters described in subsection 1:

(a) Of the information required by paragraph (a) of subsection 2 of NRS 92A.460;

(b) Of the subject corporation's estimate of fair value pursuant to paragraph (b) of subsection 2 of NRS 92A.460;

(c) That they may accept the subject corporation's estimate of fair value, plus interest, in full satisfaction of their demands or demand appraisal under NRS 92A.480;

(d) That those stockholders who wish to accept such an offer must so notify the subject corporation of their acceptance of the offer within 30 days after receipt of such offer; and

(e) That those stockholders who do not satisfy the requirements for demanding appraisal under NRS 92A.480 shall be deemed to have accepted the subject corporation's offer.

3. Within 10 days after receiving the stockholder's acceptance pursuant to subsection 2, the subject corporation shall pay in cash the amount offered under paragraph (b) of subsection 2 to each stockholder who agreed to accept the subject corporation's offer in full satisfaction of the stockholder's demand.

4. Within 40 days after sending the notice described in subsection 2, the subject corporation shall pay in cash the amount offered under paragraph (b) of subsection 2 to each stockholder described in paragraph (e) of subsection 2.

Sec. 31. NRS 92A.490 is hereby amended to read as follows:

92A.490 1. If a demand for payment *pursuant to NRS ~~92A.460~~* 92A.480 remains unsettled, the subject corporation shall commence a proceeding within 60 days after receiving the demand and petition the court

to determine the fair value of the shares and accrued interest. If the subject corporation does not commence the proceeding within the 60-day period, it shall pay each dissenter whose demand remains unsettled the amount demanded by each dissenter pursuant to NRS 92A.480 plus interest.

2. A subject corporation shall commence the proceeding in the district court of the county where its principal office is located in this State. If the principal office of the subject corporation is not located in this State, the right to dissent arose from a merger, conversion or exchange and the principal office of the surviving entity, resulting entity or the entity whose shares were acquired, whichever is applicable, is located in this State, it shall commence the proceeding in the county where the principal office of the surviving entity, resulting entity or the entity whose shares were acquired is located. In all other cases, if the principal office of the subject corporation is not located in this State, the subject corporation shall commence the proceeding in the district court in the county in which the corporation's registered office is located.

3. The subject corporation shall make all dissenters, whether or not residents of Nevada, whose demands remain unsettled, parties to the proceeding as in an action against their shares. All parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

4. The jurisdiction of the court in which the proceeding is commenced under subsection 2 is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers have the powers described in the order appointing them, or any amendment thereto. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

5. Each dissenter who is made a party to the proceeding is entitled to a judgment:

(a) For the amount, if any, by which the court finds the fair value of the dissenter's shares, plus interest, exceeds the amount paid by the subject corporation; or

(b) For the fair value, plus accrued interest, of the dissenter's after-acquired shares for which the subject corporation elected to withhold payment pursuant to NRS 92A.470.

Sec. 32. NRS 13.050 is hereby amended to read as follows:

13.050 1. If the county designated for that purpose in the complaint be not the proper county, the action may, notwithstanding, be tried therein, unless the defendant before the time for answering expires demand in writing that the trial be had in the proper county, and the place of trial be thereupon changed by consent of the parties, or by order of the court, as provided in this section.

2. The court may, on motion, change the place of trial in the following cases:

(a) When the county designated in the complaint is not the proper county.

(b) When there is reason to believe that an impartial trial cannot be had therein.

(c) When the convenience of the witnesses and the ends of justice would be promoted by the change.

(d) *When any defendant in a case commenced in a county without a business court requests a change to a county:*

(1) *With a business court; and*

(2) *In which the case, if originally commenced in such county, would be eligible for assignment to the business court.*

3. When the place of trial is changed, all other proceedings shall be had in the county to which the place of trial is changed, unless otherwise provided by the consent of the parties in writing duly filed, or by order of the court, and the papers shall be filed or transferred accordingly.

4. *As used in this section, "business court" means, as designated pursuant to the rules of the applicable district court:*

(a) *A business court docket;*

(b) *A business matter designation; or*

(c) *At least one business court judge.*

Sec. 33. NRS 695B.050 is hereby amended to read as follows:

695B.050 Persons desiring to form a nonprofit hospital, medical or dental service corporation shall incorporate pursuant to the provisions of this chapter, and the provisions of the nonprofit corporation laws of the State of Nevada, *including NRS 81.410 to 81.540, inclusive, or chapter 82 of NRS, as applicable*, so far as the provisions of such laws are applicable and not inconsistent with this chapter.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 349 to Senate Bill No. 441 replaces the term "in real time" with "concurrent manner." It clarifies that the two-year statute of limitations applies to any remedy or cause of action in which the plaintiff learns or should have learned of the underlying facts before the date of dissolution, or within three years after the date of dissolution with respect to any other remedy or cause of action. The amendment deletes Section 13 of the bill, which provides that unless the articles of organization or operating agreement provide otherwise, a member or manager of a limited liability company does not owe a fiduciary duty to the limited liability company or to certain other persons, solely by being a member or manager.

Amendment No. 349 to Senate Bill No. 441 replaces the term "survivors" with "personal representatives" and replaces Section 460 of Chapter 92A of *Nevada Revised Statutes* with Section 480 of Chapter 92A of *Nevada Revised Statutes*.

It also adds language: if, and to the extent that, a member, manager or other person has duties to a limited liability company, to another member or manager, or to another person that is a party to or is otherwise bound by the operating agreement, such duties may be expanded, restricted or eliminated by provisions in the operating agreement.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 448.

Bill read second time.

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

Amendment No. 517.

"SUMMARY—~~[Enacts provisions]~~ Instructs the Legislative Committee on Health Care to consider methods to promote federally qualified health centers and rural health clinics. (BDR ~~[40-95]~~ S-95)"

"AN ACT relating to health care; ~~[enacting provisions to promote federally qualified health centers; authorizing a county or district hospital to take actions necessary to establish one or more new or existing facilities as federally qualified health centers;]~~ instructing the Legislative Committee on Health Care to consider methods to promote federally qualified health centers and rural health clinics as part of its interim review of health care; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Existing law allows the establishment of county or district hospitals to provide public health care services. (Chapter 450 of NRS) This bill authorizes a county or district hospital to take any actions that are necessary to establish one or more new or existing facilities as federally qualified health centers to enhance the provision of primary care services in any medically underserved urban or rural communities in the county.]~~

Under federal law, a nonprofit entity may qualify as a federally qualified health center if it: (1) is receiving a federal grant under section 330 of the federal Public Health Service Act (42 U.S.C. § 254b) because it serves certain populations that are medically underserved; (2) is receiving funding from such a federal grant under a contract with the recipient of the grant and the entity otherwise meets the requirements for receiving such a federal grant; or (3) is not receiving such a federal grant but the Secretary of the United States Department of Health and Human Services determines that the entity otherwise meets the requirements for receiving such a federal grant based on the recommendation of the Health Resources and Services Administration of the Department. (42 U.S.C. § 1396d(l)(2)(B))

Additionally under federal law, a rural health clinic is a public or private clinic that is certified by the Secretary of the Department to receive special Medicare and Medicaid reimbursement for the purpose of improving access to primary care services in underserved rural areas. (42 U.S.C. § 1395x(aa)(2))

Section 2 of this bill instructs the Legislative Committee on Health Care to consider methods to promote federally qualified health centers and rural health clinics as part of its review of health care during the 2013-2015 legislative interim and to submit a report to the next session of the Legislature with any recommendations for legislation.

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

Section 1. ~~[Chapter 450 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. A county or district hospital may take any actions that are necessary to establish one or more new or existing facilities as federally qualified health centers to enhance the provision of primary care services in any medically underserved urban or rural communities in the county or district, respectively.~~

~~2. As used in this section, "federally qualified health center" has the meaning ascribed to it in 42 U.S.C. § 1396d(l)(2)(B).]~~ (Deleted by amendment.)

Sec. 2. 1. As part of its review of health care during the 2013-2015 legislative interim, the Legislative Committee on Health Care shall consider methods to promote federally qualified health centers and rural health clinics in this State which must include, without limitation, consideration of:

(a) The strategies used by other states that have had success with federally qualified health centers and rural health clinics and whether those strategies could be used to increase the number of federally qualified health centers and rural health clinics in this State.

(b) The locations in this State which have been designated as medically underserved urban or rural communities and which would benefit from federally qualified health centers or rural health clinics.

(c) The likely impacts of establishing one or more new or existing facilities as federally qualified health centers or rural health clinics, including, without limitation, the economic impacts and the impacts on access to primary care services for recipients of Medicare and Medicaid, the underinsured and the uninsured.

(d) The types of federal benefits and federal funding options that are available to support the establishment of federally qualified health centers and rural health clinics.

(e) The feasibility of a county or district hospital establishing one or more new or existing facilities as federally qualified health centers or rural health clinics to enhance the provision of primary care services in any medically underserved urban or rural communities in the county or district, respectively.

2. On or before February 2, 2015, the Legislative Committee on Health Care shall submit to the Legislature a written report concerning its consideration of the methods to promote federally qualified health centers and rural health clinics in this State, which must include, without limitation, any recommendations for legislation.

3. As used in this section:

(a) "Federally qualified health center" has the meaning ascribed to it in 42 U.S.C. § 1396d(l)(2)(B).

(b) "Rural health clinic" has the meaning ascribed to it in 42 U.S.C. § 1395x(aa)(2).

~~/Sec. 2./~~ 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. 517 to Senate Bill No. 448 instructs the Legislative Committee on Health Care to consider and evaluate methods to promote federally qualified health centers and rural health clinics as part of its review of health care during the upcoming Legislative Interim, and to report its findings and recommendations to the Legislature.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 453.

Bill read second time.

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

Amendment No. 354.

"SUMMARY—Provides for schools to obtain and administer auto-injectable epinephrine. (BDR 40-1195)"

"AN ACT relating to public health; allowing a physician to ~~prescribe~~ issue an order for auto-injectable epinephrine to a public or private school; providing for public and private schools to obtain auto-injectable epinephrine under certain conditions; requiring public and private schools, if feasible, to provide certain training to employees and to develop a comprehensive plan concerning anaphylaxis; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law allows the parent or legal guardian of a pupil in a public school to request that the pupil be allowed to carry and self-administer medication for the treatment of asthma or anaphylaxis in certain circumstances. If this request is granted, the school is allowed to store additional doses of the medication for the pupil's use and the board of trustees of the school district, the school district and the school and the employees or agents thereof are immune from liability for any injury to or death of the pupil as a result of self-administration or a failure to self-administer the medication. (NRS 392.425)

Sections 14 and 16 of this bill allow a physician or osteopathic physician to ~~prescribe~~ issue an order for auto-injectable epinephrine to a public or private school to be maintained at the school for the treatment of anaphylaxis that may be experienced by any person at the school. Sections 14 and 16 also provide that a physician or osteopathic physician is not subject to disciplinary action for issuing such ~~a prescription~~ an order to a school. ~~[Sections 2, 3 and 18 of this bill allow such a prescription to be written in the name of the school.]~~

Section 7 of this bill requires each public school, including, without limitation, each charter school, to obtain ~~a prescription~~ an order from a physician or osteopathic physician for auto-injectable epinephrine to maintain the drug at the school. Section 12 of this bill similarly authorizes a private school to obtain and maintain auto-injectable epinephrine at the

school. If a public or private school obtains ~~[a prescription]~~ an order for auto-injectable epinephrine, sections ~~4, 5, 7 and 12~~ 3.5, 7 and 12 of this bill allow a school nurse or other designated employee of the public or private school, as applicable, who has received training in the storage and administration of auto-injectable epinephrine to possess and administer auto-injectable epinephrine ~~[prescribed to the school]~~ to a ~~[person]~~ pupil on the premises of the school during the school day who is reasonably believed to be experiencing anaphylaxis. Sections 4, 10 and 12 of this bill require training in the storage and administration of epinephrine to be provided to designated employees of a public or private school. Section 15 of this bill provides that a nurse is not subject to disciplinary action for administering auto-injectable epinephrine pursuant to a valid ~~[prescription]~~ order issued pursuant to section 14 or 16.

Sections 9 and 13 of this bill require each public or private school, to the extent feasible: (1) to provide training concerning food allergies to certain employees; and (2) to develop a comprehensive action plan for anaphylaxis.

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

Section 1. ~~NRS 454.213 is hereby amended to read as follows:~~

~~454.213 A drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by:~~

~~1. A practitioner.~~

~~2. A physician assistant licensed pursuant to chapter 630 or 633 of NRS, at the direction of his or her supervising physician or a licensed dental hygienist acting in the office of and under the supervision of a dentist.~~

~~3. Except as otherwise provided in subsection 4, a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician or advanced practitioner of nursing, or pursuant to a chart order, for administration to a patient at another location.~~

~~4. In accordance with applicable regulations of the Board, a registered nurse licensed to practice professional nursing or licensed practical nurse who is:~~

~~(a) Employed by a health care agency or health care facility that is authorized to provide emergency care, or to respond to the immediate needs of a patient, in the residence of the patient; and~~

~~(b) Acting under the direction of the medical director of that agency or facility who works in this State.~~

~~5. A medication aide certified at a designated facility under the supervision of an advanced practitioner of nursing or registered nurse and in accordance with standard protocols developed by the State Board of Nursing. As used in this subsection, "designated facility" has the meaning ascribed to it in NRS 632.0145.~~

~~6. Except as otherwise provided in subsection 7, an intermediate emergency medical technician or an advanced emergency medical technician, as authorized by regulation of the State Board of Pharmacy and in accordance with any applicable regulations of:~~

~~(a) The State Board of Health in a county whose population is less than 100,000;~~

~~(b) A county board of health in a county whose population is 100,000 or more; or~~

~~(c) A district board of health created pursuant to NRS 439.362 or 439.370 in any county.~~

~~7. An intermediate emergency medical technician or an advanced emergency medical technician who holds an endorsement issued pursuant to NRS 450B.1975, under the direct supervision of a local health officer or a designee of the local health officer pursuant to that section.~~

~~8. A respiratory therapist employed in a health care facility. The therapist may possess and administer respiratory products only at the direction of a physician.~~

~~9. A dialysis technician, under the direction or supervision of a physician or registered nurse only if the drug or medicine is used for the process of renal dialysis.~~

~~10. A medical student or student nurse in the course of his or her studies at an approved college of medicine or school of professional or practical nursing, at the direction of a physician and:~~

~~(a) In the presence of a physician or a registered nurse; or~~

~~(b) Under the supervision of a physician or a registered nurse if the student is authorized by the college or school to administer the drug or medicine outside the presence of a physician or nurse.~~

~~11. A medical student or student nurse may administer a dangerous drug in the presence or under the supervision of a registered nurse alone only if the circumstances are such that the registered nurse would be authorized to administer it personally.~~

~~12. Any person designated by the head of a correctional institution.~~

~~13. An ultimate user or any person designated by the ultimate user pursuant to a written agreement.~~

~~14. A nuclear medicine technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.~~

~~15. A radiologic technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.~~

~~16. A chiropractic physician, but only if the drug or medicine is a topical drug used for cooling and stretching external tissue during therapeutic treatments.~~

~~17. A physical therapist, but only if the drug or medicine is a topical drug which is:~~

~~(a) Used for cooling and stretching external tissue during therapeutic treatments; and~~

~~(b) Prescribed by a licensed physician for:~~

~~(1) Iontophoresis; or~~

~~(2) The transmission of drugs through the skin using ultrasound.~~

~~17. In accordance with applicable regulations of the State Board of Health, an employee of a residential facility for groups, as defined in NRS 449.017, pursuant to a written agreement entered into by the ultimate user.~~

~~18. A veterinary technician or a veterinary assistant at the direction of his or her supervising veterinarian.~~

~~19. In accordance with applicable regulations of the Board, a registered pharmacist who:~~

~~(a) Is trained in and certified to carry out standards and practices for immunization programs;~~

~~(b) Is authorized to administer immunizations pursuant to written protocols from a physician; and~~

~~(c) Administers immunizations in compliance with the "Standards for Immunization Practices" recommended and approved by the Advisory Committee on Immunization Practices.~~

~~20. A registered pharmacist pursuant to written guidelines and protocols developed and approved pursuant to NRS 639.2809.~~

~~21. A person who is enrolled in a training program to become a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician if the person possesses and administers the drug or medicine in the same manner and under the same conditions that apply, respectively, to a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician who may possess and administer the drug or medicine, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.~~

~~22. A medical assistant, in accordance with applicable regulations of the:~~

~~(a) Board of Medical Examiners, at the direction of the prescribing physician and under the supervision of a physician or physician assistant.~~

~~(b) State Board of Osteopathic Medicine, at the direction of the prescribing physician and under the supervision of a physician or physician assistant.~~

~~23. A school nurse or other employee of a public or private school, but only with respect to auto injectable epinephrine maintained by the school pursuant to section 7 or 12 of this act if the school nurse or other employee~~

~~has received training in the proper storage and administration of auto-injectable epinephrine.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 454.223 is hereby amended to read as follows:~~

~~454.223 1. Except as otherwise provided in subsection 4, each prescription for a dangerous drug must be written on a prescription blank or as an order on the chart of a patient. A chart of a patient may be used to order multiple prescriptions for that patient.~~

~~2. A written prescription must contain:~~

~~(a) The name of the practitioner, the signature of the practitioner if the prescription was not transmitted orally and the address of the practitioner if not immediately available to the pharmacist;~~

~~(b) The classification of his or her license;~~

~~(c) The name of the patient [,] or, if a prescription is provided to a public or private school pursuant to section 14 or 16 of this act, the name of the school for which the prescription was written and the address of the patient or school, as applicable, if not immediately available to the pharmacist;~~

~~(d) The name, strength and quantity of the drug or drugs prescribed;~~

~~(e) The symptom or purpose for which the drug is prescribed, if included by the practitioner pursuant to NRS 639.2352;~~

~~(f) Directions for use; and~~

~~(g) The date of issue.~~

~~3. Directions for use must be specific in that they must indicate the portion of the body to which the medication is to be applied, or, if to be taken into the body by means other than orally, the orifice or canal of the body into which the medication is to be inserted or injected.~~

~~4. The Board shall adopt regulations concerning the electronic transmission of a prescription for a dangerous drug, which must be consistent with federal law and the provisions of NRS 439.581 to 439.595, inclusive, and the regulations adopted pursuant thereto.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 454.231 is hereby amended to read as follows:~~

~~454.231 [No] Except as otherwise provided in sections 14 and 16 of this act, a pharmacist shall not knowingly fill or refill any prescription for a dangerous drug for use by any person other than the one for whom the prescription was originally issued.] (Deleted by amendment.)~~

Sec. 3.5. Chapter 454 of NRS is hereby amended by adding thereto a new section to read as follows:

A school nurse or other employee of a public or private school who is authorized pursuant to section 7 or 12 of this act to administer auto-injectable epinephrine may possess and administer auto-injectable epinephrine maintained by the school if the school nurse or other employee has received training in the proper storage and administration of auto-injectable epinephrine as required by section 7 or 12 of this act.

Sec. 4. Chapter 386 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each charter school shall designate one or more employees of the school who is authorized to administer auto-injectable epinephrine.

2. Each charter school shall ensure that each person so designated receives training ~~[concerning]~~ in the proper storage and administration of auto-injectable epinephrine. ~~from the district health officer or his or her designee or, if none, the State Health Officer or his or her designee.~~

~~3. Each district health officer and the State Health Officer shall coordinate with each charter school in this State to carry out the provisions of this section.~~

Sec. 5. NRS 386.490 is hereby amended to read as follows:

386.490 As used in NRS 386.490 to 386.610, inclusive, and section 4 of this act, the words and terms defined in NRS 386.495, 386.500 and 386.503 have the meanings ascribed to them in those sections.

Sec. 6. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 7, 8 and 9 of this act.

Sec. 7. 1. Each public school, including, without limitation, each charter school, shall obtain ~~for a prescription]~~ an order from a physician or osteopathic physician for auto-injectable epinephrine pursuant to section 14 or 16 of this act and acquire at least two doses of the medication to be maintained at the school. If a dose of auto-injectable epinephrine maintained by the public school is used or expires, the public school shall ensure that at least two doses of the medication are available at the school and obtain additional doses to replace the used or expired doses if necessary.

2. Auto-injectable epinephrine maintained by a public school pursuant to this section may be administered:

(a) At a public school other than a charter school, by a school nurse or any other employee of the public school who has been designated by the school nurse and has received training in the proper storage and administration of auto-injectable epinephrine; or

(b) At a charter school, by the employee designated to be authorized to administer auto-injectable epinephrine pursuant to section 4 of this act if the person has received the training in the proper storage and administration of auto-injectable epinephrine.

3. A school nurse or other designated employee of a public school may administer auto-injectable epinephrine maintained at the school to any ~~person]~~ pupil on the premises of the public school during ~~the school day]~~ regular school hours whom the school nurse or other designated employee reasonably believes is experiencing anaphylaxis.

4. A public school may accept gifts, grants and donations from any source for the support of the public school in carrying out the provisions of this section, including, without limitation, the acceptance of auto-injectable epinephrine from a manufacturer or wholesaler of auto-injectable epinephrine.

Sec. 8. 1. Each public school shall ensure that auto-injectable epinephrine maintained at the school is stored in a designated, secure location that is unlocked and easily accessible.

2. Each school district shall establish a policy for the schools within the district, ~~other than charter schools,~~ regarding the proper handling and transportation of auto-injectable epinephrine. ~~Each charter school shall establish such a policy for the charter school in consultation with the district health officer or his or her designee or, if none, the State Health Officer or his or her designee.~~

3. Not later than 30 days after the last day of each school year, each school district and charter school shall submit a report to the Health Division of the Department of Health and Human Services identifying the number of doses of auto-injectable epinephrine that were administered at each public school within the school district or charter school, as applicable, during the school year.

Sec. 9. Each public school, including, without limitation, each charter school, shall, to the extent feasible:

1. Provide training concerning food allergies to each employee who works with food at the school and to such other employees as deemed appropriate by the school nurse in collaboration with the principal or other person in charge of the school; and

2. Develop a comprehensive action plan concerning anaphylaxis, which includes, without limitation, information relating to:

- (a) The risks that may cause anaphylaxis;
- (b) Ways to avoid risks that may cause anaphylaxis;
- (c) The signs and symptoms of a person experiencing anaphylaxis;
- (d) How to access auto-injectable epinephrine when necessary; and
- (e) Medical care that should be received after the administration of auto-injectable epinephrine.

Sec. 10. NRS 391.207 is hereby amended to read as follows:

391.207 1. The provision of nursing services in a school district by school nurses and other qualified personnel must be under the direction and supervision of a chief nurse who is a registered nurse as provided in NRS 632.240 and who:

(a) Holds an endorsement to serve as a school nurse issued pursuant to regulations adopted by the Commission; or

(b) Is employed by a state, county, city or district health department and provides nursing services to the school district in the course of that employment.

2. A school district shall not employ a person to serve as a school nurse unless the person holds an endorsement to serve as a school nurse issued pursuant to regulations adopted by the Commission.

3. The chief nurse shall ensure that each school nurse:

(a) Coordinates with the principal of each school to designate employees of the school who are authorized to administer auto-injectable epinephrine; and

(b) Provides the employees so designated with training concerning the proper storage and administration of auto-injectable epinephrine.

Sec. 11. Chapter 394 of NRS is hereby amended by adding thereto the provisions set forth as sections 12 and 13 of this act:

Sec. 12. 1. A private school may obtain ~~for a prescription~~ an order from a physician or osteopathic physician for auto-injectable epinephrine pursuant to section 14 or 16 of this act to be maintained at the school. If a dose of auto-injectable epinephrine maintained by the private school is used or expires, the private school may obtain additional doses of auto-injectable epinephrine to replace the used or expired auto-injectable epinephrine.

2. Auto-injectable epinephrine maintained by a private school pursuant to this section may be administered by a school nurse or any other employee of the private school who has received training in the proper storage and administration of auto-injectable epinephrine.

3. A school nurse or other trained employee may administer auto-injectable epinephrine maintained at the school to any ~~person~~ pupil on the premises of the private school during ~~the school day~~ regular school hours whom the school nurse or other trained employee reasonably believes is experiencing anaphylaxis.

4. A private school shall ensure that auto-injectable epinephrine maintained at the school is stored in a designated, secure location that is unlocked and easily accessible.

Sec. 13. The governing body of each private school shall, to the extent feasible:

1. Provide training concerning food allergies to each employee who works with food at the school and to such other employees as deemed appropriate by the principal or other person in charge of the school; and

2. Develop a comprehensive action plan concerning anaphylaxis, which includes, without limitation, information relating to:

(a) The risks that may cause anaphylaxis;

(b) Ways to avoid risks that may cause anaphylaxis;

(c) The signs and symptoms of a person experiencing anaphylaxis;

(d) How to access auto-injectable epinephrine when necessary; and

(e) Medical care that should be received after the administration of auto-injectable epinephrine.

Sec. 14. Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A physician may ~~prescribe auto-injectable epinephrine~~ issue to a public or private school an order to allow the school to obtain and maintain ~~the~~ auto-injectable epinephrine at the school, regardless of whether any person at the school has been diagnosed with a condition which may cause the person to require such medication for the treatment of anaphylaxis.

2. An order issued pursuant to subsection 1 must contain:

(a) The name and signature of the physician and the address of the physician if not immediately available to the pharmacist;

(b) The classification of his or her license;

(c) The name of the public or private school to which the order is issued;

(d) The name, strength and quantity of the drug authorized to be obtained and maintained by the order; and

(e) The date of issue.

3. A physician is not subject to disciplinary action solely for issuing a valid ~~(prescription)~~ order pursuant to subsection 1 to an entity ~~(rather)~~ other than a natural person and without knowledge of a specific natural person who requires the medication.

~~f3-1~~ 4. As used in this section:

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

(b) "Public school" has the meaning ascribed to it in NRS 385.007.

Sec. 15. NRS 632.320 is hereby amended to read as follows:

632.320 1. The Board may deny, revoke or suspend any license or certificate applied for or issued pursuant to this chapter, or take other disciplinary action against a licensee or holder of a certificate, upon determining that the licensee or certificate holder:

(a) Is guilty of fraud or deceit in procuring or attempting to procure a license or certificate pursuant to this chapter.

(b) Is guilty of any offense:

(1) Involving moral turpitude; or

(2) Related to the qualifications, functions or duties of a licensee or holder of a certificate,

↪ in which case the record of conviction is conclusive evidence thereof.

(c) Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

(d) Is unfit or incompetent by reason of gross negligence or recklessness in carrying out usual nursing functions.

(e) Uses any controlled substance, dangerous drug as defined in chapter 454 of NRS, or intoxicating liquor to an extent or in a manner which is dangerous or injurious to any other person or which impairs his or her ability to conduct the practice authorized by the license or certificate.

(f) Is a person with mental incompetence.

(g) Is guilty of unprofessional conduct, which includes, but is not limited to, the following:

(1) Conviction of practicing medicine without a license in violation of chapter 630 of NRS, in which case the record of conviction is conclusive evidence thereof.

(2) Impersonating any applicant or acting as proxy for an applicant in any examination required pursuant to this chapter for the issuance of a license or certificate.

(3) Impersonating another licensed practitioner or holder of a certificate.

(4) Permitting or allowing another person to use his or her license or certificate to practice as a licensed practical nurse, registered nurse, nursing assistant or medication aide - certified.

(5) Repeated malpractice, which may be evidenced by claims of malpractice settled against the licensee or certificate holder.

(6) Physical, verbal or psychological abuse of a patient.

(7) Conviction for the use or unlawful possession of a controlled substance or dangerous drug as defined in chapter 454 of NRS.

(h) Has willfully or repeatedly violated the provisions of this chapter. The voluntary surrender of a license or certificate issued pursuant to this chapter is prima facie evidence that the licensee or certificate holder has committed or expects to commit a violation of this chapter.

(i) Is guilty of aiding or abetting any person in a violation of this chapter.

(j) Has falsified an entry on a patient's medical chart concerning a controlled substance.

(k) Has falsified information which was given to a physician, pharmacist, podiatric physician or dentist to obtain a controlled substance.

(l) Has knowingly procured or administered 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:

(1) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(2) 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

(3) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS.

(m) Has been disciplined in another state in connection with a license to practice nursing or a certificate to practice as a nursing assistant or medication aide - certified, or has committed an act in another state which would constitute a violation of this chapter.

(n) Has engaged in conduct likely to deceive, defraud or endanger a patient or the general public.

(o) Has willfully failed to comply with a regulation, subpoena or order of the Board.

(p) Has operated a medical facility at any time during which:

(1) The license of the facility was suspended or revoked; or

(2) An act or omission occurred which resulted in the suspension or revocation of the license pursuant to NRS 449.160.

➡ This paragraph applies to an owner or other principal responsible for the operation of the facility.

2. For the purposes of this section, a plea or verdict of guilty or guilty but mentally ill or a plea of nolo contendere constitutes a conviction of an offense. The Board may take disciplinary action pending the appeal of a conviction.

3. *A licensee or certificate holder is not subject to disciplinary action solely for administering auto-injectable epinephrine pursuant to a valid ~~prescription~~ order issued pursuant to section 14 or 16 of this act.*

Sec. 16. Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *An osteopathic physician may ~~prescribe auto-injectable epinephrine~~ issue to a public or private school an order to allow the school to obtain and maintain ~~the~~ auto-injectable epinephrine at the school, regardless of whether any person at the school has been diagnosed with a condition which may cause the person to require such medication for the treatment of anaphylaxis.*

2. *An order issued pursuant to subsection 1 must contain:*

(a) The name and signature of the osteopathic physician and the address of the osteopathic physician if not immediately available to the pharmacist;

(b) The classification of his or her license;

(c) The name of the public or private school to which the order is issued;

(d) The name, strength and quantity of the drug authorized to be obtained and maintained by the order; and

(e) The date of issue.

3. *An osteopathic physician is not subject to disciplinary action solely for issuing a valid ~~prescription~~ order pursuant to subsection 1 to an entity ~~rather~~ other than a natural person and without knowledge of a specific natural person who requires the medication.*

~~3.~~ 4. *As used in this section:*

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

(b) "Public school" has the meaning ascribed to it in NRS 385.007.

Sec. 17. ~~[NRS 639.013 is hereby amended to read as follows:~~

~~639.013 1. "Prescription" means:~~

~~(a) An order given individually for the person for whom prescribed, directly from the practitioner to a pharmacist or indirectly by means of an order signed by the practitioner or by an electronic transmission from the practitioner to a pharmacist.~~

~~(b) A chart order written for an inpatient specifying drugs which the inpatient is to take home upon discharge.~~

~~(c) An order given to a public or private school to obtain and maintain auto-injectable epinephrine pursuant to section 14 or 16 of this act.~~

~~2. The term does not include a chart order written for an inpatient for use while he or she is an inpatient. (Deleted by amendment.)~~

Sec. 18. ~~[NRS 639.2353 is hereby amended to read as follows:~~

~~639.2353 Except as otherwise provided in a regulation adopted pursuant to NRS 453.385 or 639.2357:~~

~~1. A prescription must be given:~~

~~(a) Directly from the practitioner to a pharmacist;~~
~~(b) Indirectly by means of an order signed by the practitioner;~~
~~(c) By an oral order transmitted by an agent of the practitioner; or~~
~~(d) Except as otherwise provided in subsection 5, by electronic transmission or transmission by a facsimile machine, including, without limitation, transmissions made from a facsimile machine to another facsimile machine, a computer equipped with a facsimile modem to a facsimile machine or a computer to another computer, pursuant to the regulations of the Board.~~

~~2. A written prescription must contain:~~

~~(a) Except as otherwise provided in this section, the name and signature of the practitioner, and the address of the practitioner if not immediately available to the pharmacist;~~
~~(b) The classification of his or her license;~~
~~(c) The name of the patient [.] or, if a prescription is provided to a public or private school pursuant to section 14 or 16 of this act, the name of the school for which the prescription was written, and the address of the patient or school, as applicable, if not immediately available to the pharmacist;~~
~~(d) The name, strength and quantity of the drug prescribed;~~
~~(e) The symptom or purpose for which the drug is prescribed, if included by the practitioner pursuant to NRS 639.2352;~~
~~(f) Directions for use; and~~
~~(g) The date of issue.~~

~~3. The directions for use must be specific in that they indicate the portion of the body to which the medication is to be applied or, if to be taken into the body by means other than orally, the orifice or canal of the body into which the medication is to be inserted or injected.~~

~~4. Each written prescription must be written in such a manner that any registered pharmacist would be able to dispense it. A prescription must be written in Latin or English and may include any character, figure, cipher or abbreviation which is generally used by pharmacists and practitioners in the writing of prescriptions.~~

~~5. A prescription for a controlled substance must not be given by electronic transmission or transmission by a facsimile machine unless authorized by federal law and NRS 439.581 to 439.595, inclusive, and the regulations adopted pursuant thereto.~~

~~6. A prescription that is given by electronic transmission is not required to contain the signature of the practitioner if:~~

~~(a) It contains a facsimile signature, security code or other mark that uniquely identifies the practitioner;~~
~~(b) A voice recognition system, biometric identification technique or other security system approved by the Board is used to identify the practitioner; or~~
~~(c) It complies with the provisions of NRS 439.581 to 439.595, inclusive, and the regulations adopted pursuant thereto.] (Deleted by amendment.)~~

Sec. 19. NRS 639.2357 is hereby amended to read as follows:

639.2357 1. Upon the request of a patient or a public or private school for which ~~the prescription~~ an order was ~~written~~ issued pursuant to section 14 or 16 of this act, a registered pharmacist shall transfer a prescription ~~for the patient or school, as applicable,~~ or order to another registered pharmacist.

2. A registered pharmacist who transfers a prescription or order pursuant to subsection 1 shall comply with any applicable regulations adopted by the Board relating to the transfer.

3. The provisions of this section do not authorize or require a pharmacist to transfer a prescription or order in violation of:

- (a) Any law or regulation of this State;
- (b) Federal law or regulation; or
- (c) A contract for payment by a third party if the patient is a party to that contract.

Sec. 20. ~~NRS 639.238 is hereby amended to read as follows:~~

~~639.238 1. Prescriptions filled and on file in a pharmacy are not a public record. Except as otherwise provided in NRS 439.538 and 639.2357, a pharmacist shall not divulge the contents of any prescription or provide a copy of any prescription, except to:~~

~~(a) The patient, public school or private school for whom the original prescription was issued;~~

~~(b) The practitioner who originally issued the prescription;~~

~~(c) A practitioner who is then treating the patient;~~

~~(d) A member, inspector or investigator of the Board or an inspector of the Food and Drug Administration or an agent of the Investigation Division of the Department of Public Safety;~~

~~(e) An agency of state government charged with the responsibility of providing medical care for the patient;~~

~~(f) An insurance carrier, on receipt of written authorization signed by the patient or his or her legal guardian, authorizing the release of such information;~~

~~(g) Any person authorized by an order of a district court;~~

~~(h) Any member, inspector or investigator of a professional licensing board which licenses a practitioner who orders prescriptions filled at the pharmacy;~~

~~(i) Other registered pharmacists for the limited purpose of and to the extent necessary for the exchange of information relating to persons who are suspected of:~~

~~(1) Misusing prescriptions to obtain excessive amounts of drugs; or~~

~~(2) Failing to use a drug in conformity with the directions for its use or taking a drug in combination with other drugs in a manner that could result in injury to that person;~~

~~(j) A peace officer employed by a local government for the limited purpose of and to the extent necessary;~~

~~(1) For the investigation of an alleged crime reported by an employee of the pharmacy where the crime was committed; or~~

~~(2) To carry out a search warrant or subpoena issued pursuant to a court order; or~~

~~(k) A county coroner, medical examiner or investigator employed by an office of a county coroner for the purpose of:~~

~~(1) Identifying a deceased person;~~

~~(2) Determining a cause of death; or~~

~~(3) Performing other duties authorized by law.~~

~~2. Any copy of a prescription for a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is issued to a county coroner, medical examiner or investigator employed by an office of a county coroner must be limited to a copy of the prescription filled or on file for:~~

~~(a) The person whose name is on the container of the controlled substance or dangerous drug that is found on or near the body of a deceased person; or~~

~~(b) The deceased person whose cause of death is being determined.~~

~~3. Except as otherwise provided in NRS 639.2357, any copy of a prescription for a controlled substance or a dangerous drug as defined in chapter 454 of NRS, issued to a person authorized by this section to receive such a copy, must contain all of the information appearing on the original prescription and be clearly marked on its face "Copy, Not Refillable For Reference Purposes Only." The copy must bear the name or initials of the registered pharmacist who prepared the copy.~~

~~4. If a copy of a prescription for any controlled substance or a dangerous drug as defined in chapter 454 of NRS is furnished to the customer, the original prescription must be voided and notations made thereon showing the date and the name of the person to whom the copy was furnished.~~

~~5. As used in this section, "peace officer" does not include:~~

~~(a) A member of the Police Department of the Nevada System of Higher Education.~~

~~(b) A school police officer who is appointed or employed pursuant to NRS 391.100.} (Deleted by amendment.)~~

Sec. 21. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 22. 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. 354 to Senate Bill No. 453 clarifies that the bill only applies to students during school hours on school grounds. It also clarifies that school districts do not have responsibility for implementation at charter schools within the district. The amendment removes provisions that require the State or district health officer to provide training in the proper storage and administration of auto injectable epinephrine to charter schools. Finally, it clarifies that a physician may issue an order, instead of a prescription, allowing a public or private school to obtain and maintain auto-injectable epinephrine.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 463.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 102.

Section 9 of Senate Bill No. 463 is hereby amended as follows:

Sec. 9. 1. *The annual base salary of each judge of the Court of Appeals is \$165,000.*

2. *A judge of the Court of Appeals who has served as a justice of the Supreme Court, judge of the Court of Appeals or judge of a district court, or any combination thereof, for at least 4 years is entitled to an additional salary of 2 percent of his or her annual base salary for each year of service. The additional salary must not exceed 22 percent of his or her annual base salary.*

3. *The salary provided for in this section is payable in biweekly installments as other state officers are paid.*

Section 144 of Senate Bill No. 463 is hereby amended as follows:

Sec. 144. NRS 239.110 is hereby amended to read as follows:

239.110 1. In addition to any other requirement of this section, the Clerk of the Supreme Court, a deputy clerk of the Supreme Court, a county clerk, the clerk of a district court, a deputy clerk of a district court, a deputy clerk of a justice court or a clerk of a municipal court may destroy a court record only in accordance with a schedule for the retention and disposition of court records which is approved by the Supreme Court.

2. The Clerk of the Supreme Court, a deputy clerk of the Supreme Court, a county clerk, the clerk of a district court or a deputy clerk of a district court who destroys a court record pursuant to this section may do so only if an image of the court record has been placed on microfilm or has been saved in an electronic recordkeeping system which permits the retrieval of the information contained in the court record and the reproduction of the court record.

3. Except as otherwise prohibited by law, a deputy clerk of a justice court or a clerk of a municipal court may destroy a court record pursuant to a schedule for the retention and disposition of court records established by the Supreme Court without placing an image of the court record on microfilm or saving an image of the court record in an electronic recordkeeping system.

4. A reproduction of an image of a court record that has been placed on microfilm or saved pursuant to this section shall be deemed to be the original court record, regardless of whether the original exists.

5. A microfilmed image of a court record or an image of a court record saved in an electronic recordkeeping system pursuant to this section must be durable, accurate, complete and clear.

6. If, pursuant to this section, an image of a court record is placed on microfilm or is saved in an electronic recordkeeping system, the clerk who does so shall promptly store at least one copy of the microfilm or any tape, disc or other medium used for the storage of the saved image in a manner and place:

- (a) So as to protect it reasonably from loss or damage; and
- (b) As prescribed by the Supreme Court.

7. The Supreme Court may provide by rule for the destruction, without prior microfilming, of such other documents of the several courts of this State as are held in the offices of the clerks but which:

- (a) No longer serve any legal, financial or administrative purpose; and
- (b) Do not have any historical value.

8. The Court Administrator may request the Division to advise and assist the Supreme Court in its establishment of the rules or of a schedule for the retention and disposition of court records.

9. As used in this section, "court record" means any document, device or item, regardless of physical form or characteristic, that:

(a) Is created by, received by or comes under the jurisdiction of the Supreme Court, the Court of Appeals or a district court, justice court or municipal court; and

(b) Documents the organization, functions, policies, decisions, procedures, operations or any other activities of the Supreme Court, *Court of Appeals*, district court, justice court or municipal court.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 102 to Senate Bill No. 463 provides that if a judge of the court of appeals who has served as a justice of the Supreme Court, judge of the Court of Appeals or judge of a district court, or any combination thereof, for at least four years, is entitled to an additional salary of two percent of his or her base salary for each year of service. The additional salary must not exceed 22 percent of his or her annual base salary.

Amendment adopted.

Senator Smith moved that Senate Bill No. 463 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. 478.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 350.

"SUMMARY—Revises provisions relating to the employment of offenders. (BDR 16-1202)"

"AN ACT relating to offenders; requiring the Director of the Department of Corrections to provide certain information to the Committee on Industrial Programs; requiring private employers who enter into contracts for the employment of offenders to ~~provide~~ comply with certain ~~information~~;

requirements; revising the duties of the Committee; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Director of the Department of Corrections to establish programs for the employment of offenders who are committed to the custody of the Department. (NRS 209.461) Section 1 of this bill requires: (1) the Director to submit to the Director of the Legislative Counsel Bureau a report every 5 years concerning contracts with private employers for the employment of offenders and the impacts such employment may have on private industry; (2) the Director to appear before the Committee on Industrial Programs and submit certain information if a state-sponsored program for the employment of offenders does not operate profitably under certain circumstances; and (3) all private employers who contract for the employment of offenders to ~~provide certain information to the Department,~~ comply with certain requirements.

Existing law establishes the Committee on Industrial Programs and directs the Committee to review and report on certain issues relating to programs for the employment of offenders. (NRS 209.4817, 209.4818) Section 2 of this bill: (1) requires the Committee to review and make recommendations on certain information concerning any proposed new contract with a private employer for the employment of offenders; and (2) revises provisions relating to the review of state-sponsored industrial programs for profitability.

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

Section 1. NRS 209.461 is hereby amended to read as follows:

209.461 1. The Director shall:

(a) To the greatest extent possible, approximate the normal conditions of training and employment in the community.

(b) Except as otherwise provided in this section, to the extent practicable, require each offender, except those whose behavior is found by the Director to preclude participation, to spend 40 hours each week in vocational training or employment, unless excused for a medical reason or to attend educational classes in accordance with NRS 209.396. The Director shall require as a condition of employment that an offender sign an authorization for the deductions from his or her wages made pursuant to NRS 209.463. Authorization to make the deductions pursuant to NRS 209.463 is implied from the employment of an offender and a signed authorization from the offender is not required for the Director to make the deductions pursuant to NRS 209.463.

(c) Use the earnings from services and manufacturing conducted by the institutions and the money paid by private employers who employ the offenders to offset the costs of operating the prison system and to provide wages for the offenders being trained or employed.

(d) Provide equipment, space and management for services and manufacturing by offenders.

(e) Employ craftsmen and other personnel to supervise and instruct offenders.

(f) Contract with governmental agencies and private employers for the employment of offenders, including their employment on public works projects under contracts with the State and with local governments.

(g) Contract for the use of offenders' services and for the sale of goods manufactured by offenders.

(h) *On or before January 1, 2014, and every 5 years thereafter, submit a report to the Director of the Legislative Counsel Bureau for distribution to the Committee on Industrial Programs. The report must include, without limitation, an analysis of existing contracts with private employers for the employment of offenders and the potential impact of those contracts on private industry in this State.*

2. Every program for the employment of offenders established by the Director must:

(a) Employ the maximum number of offenders possible;

(b) Except as otherwise provided in NRS 209.192, provide for the use of money produced by the program to reduce the cost of maintaining the offenders in the institutions;

(c) Have an insignificant effect on the number of jobs available to the residents of this State; and

(d) Provide occupational training for offenders.

3. An offender may not engage in vocational training, employment or a business that requires or permits the offender to:

(a) Telemarket or conduct opinion polls by telephone; or

(b) Acquire, review, use or have control over or access to personal information concerning any person who is not incarcerated.

4. Each fiscal year, the cumulative profits and losses, if any, of the programs for the employment of offenders established by the Director must result in a profit for the Department. The following must not be included in determining whether there is a profit for the Department:

(a) Fees credited to the Fund for Prison Industries pursuant to NRS 482.268, any revenue collected by the Department for the leasing of space, facilities or equipment within the institutions or facilities of the Department, and any interest or income earned on the money in the Fund for Prison Industries.

(b) The selling expenses of the Central Administrative Office of the programs for the employment of offenders. As used in this paragraph, "selling expenses" means delivery expenses, salaries of sales personnel and related payroll taxes and costs, the costs of advertising and the costs of display models.

(c) The general and administrative expenses of the Central Administrative Office of the programs for the employment of offenders. As used in this paragraph, "general and administrative expenses" means the salary of the Deputy Director of Industrial Programs and the salaries of any other

personnel of the Central Administrative Office and related payroll taxes and costs, the costs of telephone usage, and the costs of office supplies used and postage used.

5. *If any state-sponsored program incurs a net loss for 2 consecutive fiscal years, the Director shall appear before the Committee on Industrial Programs to explain the reasons for the net loss and provide a plan for the generation of a profit in the next fiscal year. If the program does not generate a profit in the third fiscal year, the Director shall take appropriate steps to resolve the issue.*

6. Except as otherwise provided in subsection 3, the Director may, with the approval of the Board:

(a) Lease spaces and facilities within any institution of the Department to private employers to be used for the vocational training and employment of offenders.

(b) Grant to reliable offenders the privilege of leaving institutions or facilities of the Department at certain times for the purpose of vocational training or employment.

~~{6.}~~ 7. *Before entering into any contract with a private employer for the employment of offenders pursuant to subsection 1, the Director shall obtain from the private employer:*

(a) *A personal guarantee, a surety bond in the sum of \$1,000,000 made payable to the State of Nevada in an amount fixed by the Director but not less than 50 percent of the amount of the contract and conditioned upon the faithful performance of the contract in accordance with the terms and conditions of the contract, or a security agreement to secure any debt, obligation or other liability of the private employer under the contract, including, without limitation, lease payments, wages earned by offenders and compensation earned by personnel of the Department.*

(b) *A detailed written analysis on the estimated impact of the contract on private industry in this State. The written analysis must include, without limitation:*

(1) *The number of private companies in this State currently providing the types of products and services offered in the proposed contract.*

(2) *The number of residents of this State currently employed by such private companies.*

(3) *The number of offenders that would be employed under the contract.*

(4) *The skills that the offenders would acquire under the contract.*

(c) *Proof of the publication of the intent to provide the types of products and services offered in the proposed contract in an industry or trade publication designed to most effectively provide notice to private companies that may be impacted by the contract.*

(d) *Written assurances that the private employer has performed due diligence in meeting with all labor organizations and local private companies that may be impacted by the contract.*

8. The provisions of this chapter do not create a right on behalf of the offender to employment or to receive the federal or state minimum wage for any employment and do not establish a basis for any cause of action against the State or its officers or employees for employment of an offender or for payment of the federal or state minimum wage to an offender.

9. *As used in this section, "state-sponsored program" means a program for the vocational training or employment of offenders which does not include a contract of employment with a private employer.*

Sec. 2. NRS 209.4818 is hereby amended to read as follows:

209.4818 1. The Committee on Industrial Programs shall:

(a) Be informed on issues and developments relating to industrial programs for correctional institutions;

(b) Submit a semiannual report to the Interim Finance Committee before July 1 and December 1 of each year on the status of current and proposed industrial programs for correctional institutions;

(c) Report to the Legislature on any other matter relating to industrial programs for correctional institutions that it deems appropriate;

(d) Meet at least quarterly and at the call of the Chair to review the operation of current and proposed industrial programs;

(e) Recommend three persons to the Director for appointment as the Deputy Director for Industrial Programs whenever a vacancy exists;

(f) Before any new industrial program is established by the Director, ~~in an institution of the Department,~~ review the proposed program for compliance with the requirements of subsections 2, 3, ~~and~~ 4 and 7 of NRS 209.461 and submit to the Director its recommendations concerning the proposed program; and

(g) Review each *state-sponsored* industry program established pursuant to subsection 2 of NRS 209.461 to determine whether the program is operating profitably. ~~within 3 years after its establishment.~~ If the Committee determines that a program ~~is not operating profitably within 3 years after its establishment,~~ *has incurred a net loss in 3 consecutive fiscal years,* the Committee shall report its finding to the Director with a recommendation regarding whether the program should be continued or terminated. *If the Director does not accept the recommendation of the Committee, the Director shall submit a written report to the Committee setting forth his or her reasons for rejecting the recommendation.*

2. Upon the request of the Committee on Industrial Programs, the Director and the Deputy Director for Industrial Programs shall provide to the Committee any information that the Committee determines is relevant to the performance of the duties of the Committee.

3. *As used in this section, "state-sponsored industry program" means a program for the vocational training or employment of offenders which does not include a contract of employment with a private employer.*

Sec. 3. 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. 350 to Senate Bill No. 478 provides for a surety bond made payable to the State of Nevada in an amount fixed but not less than 50 percent of the amount of the contract and conditioned upon the faithful performance of the contract in accordance with the terms and conditions of the contract.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that Senate Bill No. 496 be taken from the Secretary's Desk and placed at the top of the Second Reading File for this legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 496.

Bill read second time.

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

Amendment No. 548.

"SUMMARY—Revises certain provisions governing portable electronics insurance. (BDR 57-1095)"

"AN ACT relating to insurance; providing that a vendor of portable electronics is not required to have certain written materials concerning portable electronics insurance filed with or approved by the Commissioner of Insurance; allowing an insurer who issues a policy of portable electronics insurance to change a term or condition of the policy more than once in a 6 month period; allowing an insurer who issues a policy of portable electronics insurance to terminate the policy for nonpayment without first providing notice to the customer of the customer's failure to pay a premium for the policy; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, portable electronics are portable electronic devices and their accessories, and portable electronics insurance is insurance to cover the cost of the repair or replacement of those devices and accessories. (NRS 691D.060, 691D.070)

Existing law requires a vendor of portable electronics to make available to prospective customers certain printed brochures or other written material concerning the coverage available under policies of portable electronics insurance. If a customer elects to enroll in coverage under a policy of portable electronics insurance, the printed brochures or other written material may serve as a certificate of coverage if the material satisfies certain requirements. (NRS 691D.310) Section 1 of this bill states that the printed brochures or other written material need not be filed with or approved by the Commissioner of Insurance. However, section 1 requires that an insurer file a

portable electronics insurance policy form with the Commissioner before the insurer uses the form.

Existing law sets forth provisions for billing, collection of charges and accounting of money received by a vendor for policies of portable electronics insurance. (NRS 691D.320) Section 2 of this bill deems an insurer who provides portable electronics insurance to have received the payment of a premium when an enrolled customer makes a payment to the vendor.

Under existing law, an insurer who issues a policy of portable electronics insurance is restricted as to the manner in which the insurer may terminate the policy or change the terms of the policy. (NRS 691D.330) Section ~~2~~ 3 of this bill: (1) eliminates a provision which prohibits an insurer from changing a term or condition of a policy of portable electronics insurance more than once in any 6-month period; (2) reduces from 15 days to 10 days the period within which an insurer must notify a vendor and an enrolled customer of the insurer's intent to terminate an enrolled customer's coverage under a vendor's policy of portable electronics insurance after the discovery of fraud or material misrepresentation by the enrolled customer; and (3) allows an insurer to terminate an enrolled customer's coverage under a vendor's policy of portable electronics insurance for failure on the part of the customer to pay a premium, even if the insurer does not first notify the customer of the customer's failure to pay.

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

Section 1. NRS 691D.310 is hereby amended to read as follows:

691D.310 1. A vendor shall make available to a prospective customer, at each location where the vendor sells or offers coverage under a policy of portable electronics insurance, a printed brochure or other written material concerning the coverage available under the policy of portable electronics insurance. The written material must:

(a) Disclose that coverage under a policy of portable electronics insurance may duplicate coverage already provided to the customer by a policy of property insurance or other source of coverage;

(b) State that the customer is not required to enroll for coverage under the vendor's policy of portable electronics insurance as a condition of the purchase or lease of any portable electronics or related services;

(c) Summarize the material terms of the coverage provided under the policy of portable electronics insurance, including:

(1) The identity of the insurer;

(2) The identity of the supervising entity;

(3) The amount of any applicable deductible and how it is to be paid;

(4) Benefits of the coverage; and

(5) Key terms and conditions of the coverage, including, without limitation, whether portable electronics may be repaired or replaced with a similar make and model that has been reconditioned or with nonoriginal manufacturer parts or equipment;

(d) Summarize the process for filing a claim, including a description of how to return portable electronics and the maximum fee applicable if the enrolled customer fails to comply with any equipment return requirements; and

(e) State that the enrolled customer may cancel his or her enrollment for coverage under the policy of portable electronics insurance at any time and, in the event of such cancellation, the person paying the premium for the coverage will receive a refund of any applicable unearned premium.

2. ~~{If a customer elects to enroll in coverage under a policy of portable electronics insurance, the}~~ The printed brochure or other written material ~~{may serve as a certificate of coverage if the material satisfies the requirements of subsection 1. A policy of}~~ that a vendor is required to make available to a prospective customer in accordance with subsection 1 need not be:

(a) Filed with the Commissioner; or

(b) Approved by the Commissioner.

3. An insurer must file a portable electronics insurance ~~{}~~ policy form, including ~~{the}~~ any certificate of coverage ~~{of the policy, must be filed}~~ ~~{, if applicable,}~~ with the Commissioner not later than 15 days before the ~~{effective date of the policy.}~~ use of the form by the insurer.

Sec. 2. NRS 691D.320 is hereby amended to read as follows:

691D.320 1. If a customer purchases a policy of portable electronics insurance from a vendor or elects to enroll in coverage under the vendor's policy of portable electronics insurance, the vendor may bill and collect the charges for the portable electronics insurance coverage.

2. Any charge to the customer for portable electronics insurance coverage that is not included in the cost associated with the purchase or lease of portable electronics or related services must be separately itemized on the customer's bill.

3. If portable electronics insurance coverage is included with the purchase or lease of portable electronics or related services, the vendor must clearly and conspicuously disclose to the customer that the portable electronics insurance coverage is included with the purchase of the portable electronics or related services.

4. A vendor which bills and collects charges for portable electronics insurance coverage on behalf of an insurer is not required to maintain such money in a segregated account if the vendor:

(a) Is authorized by the insurer to hold such money in an alternative manner; and

(b) Remits such amounts to the supervising entity within 60 days after receipt.

➔ All money collected by a vendor from an enrolled customer for the sale of portable electronics insurance shall be deemed to be held in trust by the vendor in a fiduciary capacity for the benefit of the insurer ~~{}~~ and the insurer shall be deemed to have received the premium from the enrolled

customer upon payment of the premium by the enrolled customer to the vendor. A vendor is entitled to receive compensation for billing and collection services.

~~[Sec. 2.]~~ Sec. 3. NRS 691D.330 is hereby amended to read as follows:
691D.330 Notwithstanding any other provision of law:

1. Except as otherwise provided in this section, an insurer that issues a policy of portable electronics insurance may not terminate the policy before the expiration of the agreed term of the policy unless, not less than 30 days before the effective date of the termination, the insurer provides notice to:

(a) The holder of the policy of portable electronics insurance; and
(b) If the policy is a group policy issued to a vendor under which individual customers may elect to enroll for coverage, each enrolled customer.

2. ~~[An insurer shall not change any term or condition of a policy of portable electronics insurance more than once in any 6-month period.]~~ If the insurer changes a term or condition of a policy of portable electronics insurance, the insurer shall, not less than 30 days before the effective date of the change, provide:

(a) The policyholder with a revised policy or endorsement; and
(b) Each enrolled customer with a revised certificate of coverage, endorsement, brochure or other evidence of coverage which:
(1) Declares that the insurer has changed a term or condition of the policy which may affect the enrolled customer's coverage; and
(2) Provides a summary of the material changes.

3. An insurer may terminate an enrolled customer's coverage under a vendor's policy of portable electronics insurance upon the discovery of fraud or material misrepresentation by the enrolled customer in obtaining the coverage or in presenting a claim thereunder if the insurer provides notice of the termination to the vendor and the enrolled customer within ~~[15]~~ 10 days after discovery of the fraud or material misrepresentation.

4. ~~[An insurer may terminate an enrolled customer's coverage under a vendor's policy of portable electronics insurance if the enrolled customer fails to pay a premium and the insurer gives the enrolled customer not less than 10 days' notice of his or her failure to pay the premium.]~~

~~5.]~~ An insurer may immediately terminate an enrolled customer's coverage under a vendor's policy of portable electronics insurance ~~[:] if the enrolled customer:~~

(a) ~~[If the enrolled customer ceases]~~ Fails to pay a premium;
(b) Ceases to have an active service with the vendor; or
~~[(b) If the enrolled customer exhausts]~~
(c) Exhausts the aggregate limit of liability, if any, under the terms of the policy of portable electronics insurance and the insurer provides notice of termination to the customer within 30 calendar days after exhaustion of the limit. If the insurer fails to provide timely notice as required by this paragraph, the enrolled customer's coverage under the policy continues until

the insurer provides notice of termination to the enrolled customer notwithstanding the exhaustion of the aggregate limit of liability.

~~{6-}~~ 5. A vendor or other holder of a group policy of portable electronics insurance shall not terminate the policy unless, not less than 30 days before the effective date of the termination, the insurer provides notice to each enrolled customer of the termination of the policy and the effective date of termination. An insurer may authorize a vendor to provide notice to an enrolled customer on behalf of the insurer pursuant to this subsection.

~~{7-}~~ 6. Any notice that is required pursuant to this section must be in writing and be:

(a) Mailed or delivered to the enrolled customer, vendor or other policyholder at his or her last known address; or

(b) Sent by electronic mail or other electronic means in accordance with regulations adopted by the Commissioner to the enrolled customer, vendor or other policyholder at the electronic mail address of the enrolled customer, vendor or other policyholder last known by the insurer.

➤ An insurer or vendor who provides notice pursuant to this subsection must maintain proof of mailing or delivery in a form authorized or accepted by the United States Postal Service or other commercial mail delivery service or an electronic record or other proof that the notice was sent.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senators Atkinson and Kieckhefer.

SENATOR ATKINSON:

Thank you, Mr. President. Amendment No. 548 to Senate Bill No. 496 requires that an insurer file a portable electronic insurance policy with the Commissioner before the insurer uses the form. It also provides that an insurer who provides portable electronics insurance to have received the payment of a premium when an enrolled customer makes a payment to the vendor.

SENATOR KIECKHEFER:

Thank you, Mr. President. It was brought to my attention that this amendment is different from what was passed out of Committee. I am looking at the bottom of page 3 of Amendment No. 548 to Senate Bill No. 496. Can you explain how this amendment is different from what the Committee approved?

SENATOR ATKINSON:

Thank you, Mr. President. Amendment No. 548 to Senate Bill No. 496 is actually not different from what was approved by the Committee. There was an error on the original amendment. The requestor of the bill caught the error and asked us to redraft it. This new amendment is the result.

SENATOR KIECKHEFER:

Thank you, Mr. President. I want to be clear because there appears to be a big difference between the old amendment and Amendment No. 548 to Senate Bill No. 496. In Section 1, Subsection 3, it says, "an insurer must file" in Amendment No. 548 and that language was eliminated in the original amendment. The intent of the Committee was that this section would be stricken?

SENATOR ATKINSON:

Yes. Thank you.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 503.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 426.

"SUMMARY—Revises provisions relating to drivers' licenses and identification cards. (BDR 43-1159)"

"AN ACT relating to motor vehicles; ~~providing for the issuance of drivers' licenses, identification cards, commercial drivers' licenses and motorcycle drivers' licenses that are federally qualified;~~ providing for the issuance of drivers' licenses, identification cards and commercial drivers' licenses valid for a period other than 4 years; providing for the issuance of certain nonresident commercial drivers' licenses; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Existing law requires a person who applies for a driver's license, identification card, commercial driver's license or motorcycle driver's license to provide certain information to the Department of Motor Vehicles and meet certain requirements. (NRS 483.290, 483.340, 483.850, 483.860, 483.928, 486.081) Sections 5, 6, 12-14, 20 and 27 of this bill require the Department to issue a license or identification card that is federally qualified to a person who: (1) wishes to obtain a license or identification card that is federally qualified; and (2) provides proof of the person's lawful status. Sections 8 and 15 of this bill require a person to provide proof acceptable to the Department when certain information on a license or identification card changes.]~~

Certain sections of NRS previously provided that a driver's license, identification card or motorcycle driver's license expired on the fourth anniversary of the holder's birthday from the birthday nearest the date of issuance or renewal. These provisions expired by limitation on the date of expiration of any extension of time granted to this State by the Secretary of Homeland Security to comply with the provisions of the Real ID Act of 2005, which occurred on January 15, 2013. These provisions were replaced by provisions that require the Department to adopt regulations prescribing when a license or identification card expires. (NRS 483.380, 483.875, 486.161) Sections 9-11 and 18 of this bill allow the Department to ~~issue licenses and identification cards valid for a period other than 4 years by charging a fee equal to the yearly cost of a license or identification card valid for a period of 4 years multiplied by the number of years that the license or identification card is valid.] charge existing fees for licenses and identification cards which expire on or before the fourth anniversary of the person's birthday and to charge twice certain existing fees for licenses and~~

identification cards which expire on the eighth anniversary of the person's birthday or the eighth anniversary of the date of issuance, as applicable.

Various other sections of NRS expired by limitation or were replaced by new sections effective upon this expiration on January 15, 2013, of the extension of time granted to this State by the Secretary of Homeland Security to comply with the provisions of the Real ID Act of 2005. (NRS 481.052, 483.290, 483.340, 483.345, 483.380, 483.840, 483.850, 483.860, 483.875, 486.081, 486.161) These provisions will be removed or changed as appropriate upon the next codification of NRS.

Existing law allows for the issuance of a commercial driver's license to nonresidents in certain circumstances. (NRS 483.934, 483.936) Federal regulations additionally allow for a nonresident to obtain a commercial driver's license or commercial learner's permit if the person is a resident of a state that is prohibited from issuing commercial driver's licenses pursuant to 49 C.F.R. § 384.405. (49 C.F.R. § 383.78) Sections 21 and 22 of this bill provide for the issuance of a nonresident commercial driver's license or nonresident commercial learner's permit to such a person.

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

Section 1. ~~{Chapter 483 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.}~~ (Deleted by amendment.)

Sec. 2. ~~["Federally qualified" means a license or identification card which complies with the provisions of the Real ID Act of 2005, Public Law 109-13, Division B, Title II, 119 Stat. 302, 49 U.S.C. § 30301, and any regulations adopted pursuant thereto and which may be accepted by a federal agency for any official purpose.}~~ (Deleted by amendment.)

Sec. 3. ~~["Lawful status" has the meaning ascribed to it in 6 C.F.R. § 37.3.}~~ (Deleted by amendment.)

Sec. 4. ~~{NRS 483.020 is hereby amended to read as follows:
483.020 As used in NRS 483.010 to 483.630, inclusive, and sections 2 and 3 of this act, unless the context otherwise requires, the words and terms defined in NRS 483.030 to 483.190, inclusive, and sections 2 and 3 of this act have the meanings ascribed to them in those sections.}~~ (Deleted by amendment.)

Sec. 5. ~~{NRS 483.290 is hereby amended to read as follows:
483.290 1. Every application for an instruction permit or for a driver's license must:~~

- ~~(a) Be made upon a form furnished by the Department;~~
- ~~(b) Be verified by the applicant before a person authorized to administer oaths. Officers and employees of the Department may administer those oaths without charge;~~
- ~~(c) Be accompanied by the required fee.~~

~~(d) State the full legal name, date of birth, sex, address of principal residence and mailing address, if different from the address of principal residence, of the applicant and briefly describe the applicant.~~

~~(e) State whether the applicant has theretofore been licensed as a driver, and, if so, when and by what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for the suspension, revocation or refusal.~~

~~(f) State whether the application is for a driver's license that is federally qualified.~~

~~(g) Include such other information as the Department may require to determine the competency and eligibility of the applicant.~~

~~2. Every applicant must furnish proof of his or her full legal name, [and] age [by displaying an original or certified copy of the required documents as prescribed by regulation], address of principal residence, social security number or ineligibility to receive a social security number and, if the applicant is applying for a driver's license that is federally qualified, lawful status.~~

~~3. The Department shall adopt regulations prescribing the documents or other means by which an applicant may [use to] furnish proof [of his or her full legal name and age] pursuant to subsection 2 to the Department.~~

~~4. At the time of applying for a driver's license, an applicant may, if eligible, register to vote pursuant to NRS 293.524.~~

~~5. [Every applicant who has been assigned a social security number must furnish proof of his or her social security number by displaying:~~

~~(a) An original card issued to the applicant by the Social Security Administration bearing the social security number of the applicant; or~~

~~(b) Other proof acceptable to the Department, including, without limitation, records of employment or federal income tax returns.~~

~~6.] The Department may refuse to accept a driver's license issued by another state, the District of Columbia or any territory of the United States if the Department determines that the other state, the District of Columbia or the territory of the United States has less stringent standards than the State of Nevada for the issuance of a driver's license.~~

~~[7.] 6. With respect to any document presented by a person who was born outside of the United States to prove his or her full legal name, [and] age [,] or lawful status, the Department:~~

~~(a) May, if the document has expired, refuse to accept the document or refuse to issue a driver's license to the person presenting the document, or both; and~~

~~(b) Shall issue to the person presenting the document a driver's license that is valid only during the time the applicant is authorized to stay in the United States, or if there is no definite end to the time the applicant is authorized to stay, the driver's license is valid for 1 year beginning on the date of issuance.~~

~~[8.] 7. The Administrator shall adopt regulations setting forth criteria pursuant to which the Department will issue or refuse to issue a driver's license in accordance with this section to a person who is a citizen of any state, the District of Columbia, any territory of the United States or a foreign country. The criteria pursuant to which the Department shall issue or refuse to issue a driver's license to a citizen of a foreign country must be based upon the purpose for which that person is present within the United States.~~

~~[9.] 8. Notwithstanding any other provision of this section, the Department shall not accept a consular identification card as proof of the age or identity of an applicant for an instruction permit or for a driver's license. As used in this subsection, "consular identification card" has the meaning ascribed to it in NRS 232.006.] (Deleted by amendment.)~~

Sec. 6. ~~[NRS 483.340 is hereby amended to read as follows:~~

~~483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive [.] and whether the driver's license is federally qualified.~~

~~2. The Department shall adopt regulations prescribing the information that must be contained on a driver's license.~~

~~3. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations, criminal investigators employed by the Secretary of State while engaged in undercover investigations and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency, the Attorney General, the Secretary of State or his or her designee or the Chair of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.~~

~~4. Except as otherwise provided in NRS 239.0115, information pertaining to the issuance of a driver's license pursuant to subsection 3 is confidential.~~

~~5. It is unlawful for any person to use a driver's license issued pursuant to subsection 3 for any purpose other than the special investigation for which it was issued.~~

~~6. At the time of the issuance or renewal of the driver's license, the Department shall:~~

~~(a) Give the holder the opportunity to have indicated on his or her driver's license that the holder wishes to be a donor of all or part of his or her body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his or her body or part thereof.~~

~~(b) Give the holder the opportunity to have indicated whether he or she wishes to donate \$1 or more to the Anatomical Gift Account created by NRS 460.150.~~

~~(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.~~

~~(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his or her driver's license.~~

~~7. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.~~

~~8. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 6 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.] (Deleted by amendment.)~~

Sec. 7. ~~[NRS 483.380 is hereby amended to read as follows:~~

~~483.380 1. Except as otherwise provided in NRS 483.283 [.] and paragraph (b) of subsection 6 of NRS 483.290, every driver's license expires as prescribed by regulation.~~

~~2. The Department shall adopt regulations prescribing when a driver's license expires.~~

~~The Department may, by regulation, defer the expiration of the driver's license of a person who is on active duty in the Armed Forces of the United States upon such terms and conditions as it may prescribe. The Department may similarly defer the expiration of the license of the spouse or dependent son or daughter of that person if the spouse or child is residing with the person.] (Deleted by amendment.)~~

Sec. 8. ~~[NRS 483.390 is hereby amended to read as follows:~~

~~483.390 1. Whenever any person after applying for or receiving a driver's license moves from the address named in the application or in the license issued to the person, or when the name of a licensee is changed, that person shall within 30 days thereafter notify the Department of his or her new and old addresses, or of such former and new names, and of the number~~

~~of any license then held by the person [...] and provide proof acceptable to the Department of his or her new address or name.~~

~~2. The Department shall adopt regulations to carry out the provisions of this section.~~ (Deleted by amendment.)

Sec. 9. NRS 483.410 is hereby amended to read as follows:

483.410 1. Except as otherwise provided in subsection 6 ~~7~~ and NRS 483.417, for every driver's license, including a motorcycle driver's license, issued and service performed, the following fees must be charged:

An original or renewal license issued to a person 65 years of age or older \$13.50

An original or renewal license issued to any person less than 65 years of age which expires on the eighth anniversary of the licensee's birthday 37.00

An original or renewal license issued to any person less than 65 years of age which expires on or before the fourth anniversary of the licensee's birthday 18.50

Administration of the examination required by NRS 483.330 for a noncommercial driver's license 25.00

Each readministration to the same person of the examination required by NRS 483.330 for a noncommercial driver's license 10.00

Reinstatement of a license after suspension, revocation or cancellation, except a revocation for a violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430, or pursuant to NRS 484C.210 and 484C.220 75.00

Reinstatement of a license after revocation for a violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430, or pursuant to NRS 484C.210 and 484C.220 120.00

A new photograph, change of name, change of other information, except address, or any combination 5.00

A duplicate license 14.00

~~2. If the Department issues a driver's license that is valid for a period other than 4 years, the Department shall charge a fee determined by dividing the fee assessed pursuant to subsection 1 by 4 and multiplying the result by the number of years for which the driver's license is valid. If the division and multiplication described in this subsection would yield a fee with a fractional number of cents, the fee must be rounded down to the nearest whole cent.~~

~~3.~~ For every motorcycle endorsement to a driver's license, a fee of \$5 must be charged.

3. ~~4.~~ If no other change is requested or required, the Department shall not charge a fee to convert the number of a license from the licensee's social security number, or a number that was formulated by using the licensee's social security number as a basis for the number, to a unique number that is not based on the licensee's social security number.

4. ~~5.~~ Except as otherwise provided in NRS 483.417, the increase in fees authorized by NRS 483.347 and the fees charged pursuant to NRS 483.415 must be paid in addition to the fees charged pursuant to subsections 1 and 2.

5. ~~2 and 3.~~

~~6.~~ A penalty of \$10 must be paid by each person renewing a license after it has expired for a period of 30 days or more as provided in NRS 483.386 unless the person is exempt pursuant to that section.

6. ~~7.~~ The Department may not charge a fee for the reinstatement of a driver's license that has been:

- (a) Voluntarily surrendered for medical reasons; or
- (b) Cancelled pursuant to NRS 483.310.

7. ~~8.~~ All fees and penalties are payable to the Administrator at the time a license or a renewal license is issued.

8. ~~9.~~ Except as otherwise provided in NRS 483.340, subsection 3 of NRS 483.3485, NRS 483.415 and 483.840, and subsection 3 of NRS 483.863, all money collected by the Department pursuant to this chapter must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

Sec. 10. NRS 483.415 is hereby amended to read as follows:

483.415 1. The Department of Motor Vehicles shall charge and collect a fee of ~~50~~ 50 :

(a) Fifty cents, in addition to the fees set forth in NRS 483.410, for every driver's license, including a motorcycle driver's license, issued or renewed ~~1~~ which expires on or before the fourth anniversary of the licensee's birthday.

(b) One dollar, in addition to the fees set forth in NRS 483.410, for every driver's license, including a motorcycle driver's license, issued or renewed which expires on the eighth anniversary of the licensee's birthday.

~~2. If the Department issues or renews a driver's license that is valid for a period other than 4 years, the Department shall charge a fee determined by dividing the fee assessed pursuant to subsection 1 by 4 and multiplying the result by the number of years for which the driver's license is valid. If the division and multiplication described in this subsection would yield a fee with a fractional number of cents, the fee must be rounded down to the nearest whole cent.~~

~~3.~~ The Department of Motor Vehicles shall deposit the money into the Highway and Safety Administrative Account which is hereby created in the State Highway Fund. The money in the Account may be used only by the Department of Transportation for:

(a) The support of the position of Motor Vehicle Recovery and Transportation Planner created pursuant to NRS 408.234; and

(b) The support of the position of Highway Safety Information and Outreach Coordinator created pursuant to NRS 408.228, and to carry out the provisions of that section.

Sec. 11. NRS 483.820 is hereby amended to read as follows:

483.820 1. A person who applies for an identification card in accordance with the provisions of NRS 483.810 to 483.890, inclusive, and who is not ineligible to receive an identification card pursuant to NRS 483.861, is entitled to receive an identification card if the person is:

(a) A resident of this State and is 10 years of age or older and does not hold a valid driver's license or identification card from any state or jurisdiction; or

(b) A seasonal resident who does not hold a valid Nevada driver's license.

2. Except as otherwise provided in NRS 483.825, the Department shall charge and collect the following fees for the issuance of an original, duplicate or changed identification card:

An original or duplicate identification card issued to a person 65 years of age or older	\$4
<u>An original or duplicate identification card issued to a person under 18 years of age which expires on the eighth anniversary of the person's birthday</u>	<u>6</u>
<u>A renewal of an identification card for a person under 18 years of age which expires on the eighth anniversary of the person's birthday</u>	<u>6</u>
An original or duplicate identification card issued to a person under 18 years of age <u>which expires on or before the fourth anniversary of the person's birthday</u>	3
A renewal of an identification card for a person under 18 years of age <u>which expires on or before the fourth anniversary of the person's birthday</u>	3
<u>An original or duplicate identification card issued to any person at least 18 years of age, but less than 65 years of age, which expires on the eighth anniversary of the person's birthday</u>	<u>18</u>
<u>A renewal of an identification card for any person at least 18 years of age, but less than 65 years of age, which expires on the eighth anniversary of the person's birthday</u>	<u>18</u>
An original or duplicate identification card issued to any ~~other~~ person <u>at least 18 years of age, but less than 65 years of age, which expires on or before the fourth anniversary of the person's birthday</u>	9
A renewal of an identification card for any person at least 18 years of age, but less than 65 years of age, <u>which expires on or before the fourth anniversary of the person's birthday</u>	9
A new photograph or change of name, or both	4

~~3. If the Department issues an original or renewed identification card that is valid for a period other than 4 years, the Department shall charge a fee determined by dividing the fee assessed pursuant to subsection 2 by 4 and multiplying the result by the number of years for which the identification card is valid. This subsection does not apply to a duplicate identification card that is valid for a period other than 4 years. If the division and multiplication described in this subsection would yield a fee with a fractional number of cents, the fee must be rounded down to the nearest whole cent.~~

~~4.~~ The Department shall not charge a fee for:

- (a) An identification card issued to a person who has voluntarily surrendered his or her driver's license pursuant to NRS 483.420; or
- (b) A renewal of an identification card for a person 65 years of age or older.

4. ~~5.~~ Except as otherwise provided in NRS 483.825, the increase in fees authorized in NRS 483.347 must be paid in addition to the fees charged pursuant to this section.

5. ~~6.~~ As used in this section, "photograph" has the meaning ascribed to it in NRS 483.125.

Sec. 12. ~~[NRS 483.840 is hereby amended to read as follows:~~

~~483.840 1. The form of the identification cards must be similar to that of drivers' licenses but distinguishable in color or otherwise.~~

~~2. Identification cards do not authorize the operation of any motor vehicles.~~

~~3. Each identification card issued by the Department must contain an indicator of whether the identification card is federally qualified. As used in this subsection, "federally qualified" has the meaning ascribed to it in section 2 of this act.~~

~~4. The Department shall adopt regulations prescribing the information that must be contained on an identification card.~~

~~[4.] 5. At the time of the issuance or renewal of the identification card, the Department shall:~~

~~(a) Give the holder the opportunity to have indicated on his or her identification card that the holder wishes to be a donor of all or part of his or her body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his or her body or part thereof.~~

~~(b) Give the holder the opportunity to indicate whether he or she wishes to donate \$1 or more to the Anatomical Gift Account created by NRS 460.150.~~

~~(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.~~

~~(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on an identification card pursuant to NRS 483.863, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his or her identification card.~~

~~[5.] 6. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.~~

~~[6.] 7. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (e) of subsection [4] 5 information from the records of the Department relating to persons who have identification cards issued by the Department that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.]~~
(Deleted by amendment.)

Sec. 13. ~~[NRS 483.850 is hereby amended to read as follows:~~
~~483.850 1. Every application for an identification card must be made upon a form provided by the Department and include, without limitation:~~

~~(a) The applicant's:~~

~~(1) Full legal name.~~

~~(2) Date of birth.~~

~~(3) State of legal residence.~~

~~(4) Current address of principal residence and mailing address, if different from his or her address of principal residence, in this State, unless the applicant is on active duty in the military service of the United States.~~

~~(b) A statement from:~~

~~(1) A resident stating that he or she does not hold a valid driver's license or identification card from any state or [jurisdiction;] territory of the United States; or~~

~~(2) A seasonal resident stating that he or she does not hold a valid Nevada driver's license.~~

~~(c) A statement of whether the application is for an identification card that is federally qualified. As used in this paragraph, "federally qualified" has the meaning ascribed to it in section 2 of this act.~~

~~(d) Such other information as the Department may require to determine the eligibility of the applicant.~~

~~2. When the form is completed, the applicant must sign the form and verify the contents before a person authorized to administer oaths.~~

~~3. [An applicant who has been issued a social security number must provide to the Department for inspection:~~

~~(a) An original card issued to the applicant by the Social Security Administration bearing the social security number of the applicant; or~~

~~(b) Other proof acceptable to the Department bearing the social security number of the applicant, including, without limitation, records of employment or federal income tax returns.~~

~~4.] At the time of applying for an identification card, an applicant may, if eligible, register to vote pursuant to NRS 293.524.~~

~~[5.] 4. A person who possesses a driver's license or identification card issued by another state, the District of Columbia or [jurisdiction] a territory of the United States and who wishes to apply for an identification card pursuant to this section shall surrender to the Department the driver's license or identification card issued by the other state, the District of Columbia or [jurisdiction] territory at the time the person applies for an identification card pursuant to this section. The Department shall notify the other state, the District of Columbia or territory of the United States of the surrender of the driver's license or identification card.~~ (Deleted by amendment.)

Sec. 14. ~~[NRS 483.860 is hereby amended to read as follows:~~

~~483.860 1. Every applicant for an identification card must furnish proof of his or her full legal name, [and] age [by presenting an original or certified copy of the required documents as prescribed by regulation.], address of principal residence, social security number or ineligibility to receive a social security number and, if the applicant is applying for an identification card that is federally qualified, lawful status.~~

~~2. The Director shall adopt regulations:~~

~~(a) Prescribing the documents or other means by which an applicant may [use to] furnish proof [of his or her full legal name and age] pursuant to subsection 1 to the Department; and~~

~~(b) Setting forth criteria pursuant to which the Department will issue or refuse to issue an identification card in accordance with this section to a person who is a citizen of a state, the District of Columbia, any territory of the United States or a foreign country. The criteria pursuant to which the Department shall issue or refuse to issue an identification card to a citizen of a foreign country must be based upon the purpose for which that person is present within the United States.~~

~~3. With respect to any document presented by a person who was born outside of the United States to prove his or her full legal name, age or lawful status, the Department:~~

~~(a) May, if the document has expired, refuse to accept the document or refuse to issue an identification card to the person presenting the document, or both; and~~

~~(b) Shall issue to the person presenting the document an identification card that is valid only during the time the applicant is authorized to stay in the United States, or if there is no definite end to the time the applicant is authorized to stay, the identification card is valid for 1 year beginning on the date of issuance.~~

~~4. Notwithstanding any other provision of this section, the Department shall not accept a consular identification card as proof of the age or identity of an applicant for an identification card. As used in this subsection, "consular identification card" has the meaning ascribed to it in NRS 232.006.~~

~~5. As used in this section:~~

~~(a) "Federally qualified" has the meaning ascribed to it in section 2 of this act.~~

~~(b) "Lawful status" has the meaning ascribed to it in section 3 of this act.]~~
(Deleted by amendment.)

Sec. 15. ~~[NRS 483.870 is hereby amended to read as follows:~~

~~483.870 1. Except as otherwise provided in NRS 483.875, an identification card that is issued to:~~

~~(a) A seasonal resident remains valid until its expiration date so long as the person does not become licensed in Nevada to drive a motor vehicle and the facts and circumstances declared in the application and stated on the card do not change. An identification card must be surrendered by a seasonal resident upon issuance of a Nevada driver's license.~~

~~(b) A resident remains valid until its expiration date so long as the person does not become licensed in any state or jurisdiction to drive a motor vehicle and the facts and circumstances declared in the application and stated on the card do not change. An identification card must be surrendered by a resident upon issuance of a driver's license from any state or jurisdiction.~~

~~2. The holder of an identification card shall promptly report any change in the information declared in the application and stated in the card to the Department [.] and provide proof acceptable to the Department of the change in the information.~~

~~3. Any change occurring in the holder's address or name as the result of marriage or otherwise or any loss of an identification card must be reported within 30 days after the occurrence to the Department [.] , and the holder shall provide proof acceptable to the Department of his or her new address or name, if applicable.~~

~~4. The Department shall adopt regulations to carry out the provisions of this section.]~~ (Deleted by amendment.)

Sec. 16. ~~[NRS 483.875 is hereby amended to read as follows:~~

~~483.875 1. Except as otherwise provided in NRS 483.860, 483.861 and 483.870, an identification card and a renewal of an identification card issued pursuant to NRS 483.810 to 483.890, inclusive, expires as prescribed by regulation.~~

~~2. The Department shall adopt regulations prescribing when an identification card expires.~~

~~3. An identification card is renewable at any time before its expiration upon application and payment of the required fee.~~

~~4. The Department shall issue an identification card that is valid only during the time the applicant is authorized to stay in the United States, or if there is no definite end to the time the applicant is authorized to stay, the identification card is valid for 1 year beginning on the date of issuance.]~~

(Deleted by amendment.)

Sec. 17. ~~[NRS 483.904 is hereby amended to read as follows:~~

~~483.904 As used in NRS 483.900 to 483.940, inclusive, unless the context otherwise requires:~~

~~1. "Commercial driver's license" means a license issued to a person which authorizes the person to drive a class or type of commercial motor vehicle.~~

~~2. "Commercial Driver's License Information System" means the information system maintained by the Secretary of Transportation pursuant to 49 U.S.C. § 31309 to serve as a clearinghouse for locating information relating to the licensing, identification and disqualification of operators of commercial motor vehicles.~~

~~3. "Federally qualified" has the meaning ascribed to it in section 2 of this act.~~

~~4. "Lawful status" has the meaning ascribed to it in section 3 of this act.~~

~~5. "Out of service order" means a temporary prohibition against:~~

~~(a) A person operating a commercial motor vehicle as such a prohibition is described in 49 C.F.R. § 395.13; or~~

~~(b) The operation of a commercial motor vehicle as such a prohibition is described in 49 C.F.R. § 396.9(e).] (Deleted by amendment.)~~

Sec. 18. NRS 483.910 is hereby amended to read as follows:

483.910 1. The Department shall charge and collect the following fees:

For an original commercial driver's license or nonresident commercial driver's license which expires on the eighth anniversary of the date of issuance of the license \$108

For an original commercial driver's license, [which requires the Department to administer a driving skills test] \$84

For an original commercial driver's license which does not require the Department to administer a driving skills test] ~~for~~ nonresident commercial driver's license, commercial learner's permit or nonresident commercial learner's permit which expires on or before the fourth anniversary of the birthday of the licensee or permit holder 54

For renewal of a commercial driver's license or nonresident commercial driver's license which expires on the eighth anniversary of the date of issuance of the license 108

For renewal of a commercial driver's license, [which requires the Department to administer a driving skills test] 84

For renewal of a commercial driver's license which does not require the Department to administer a driving skills test] ~~for~~ nonresident commercial driver's license, commercial learner's permit or nonresident commercial learner's permit which expires on or before the fourth anniversary of the birthday of the licensee or permit holder 54

For reinstatement of a commercial driver's license after suspension or revocation of the license for a violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430, or pursuant to NRS 484C.210 and 484C.220, or pursuant to 49 C.F.R. § 383.51(b)(2)(i) or (ii) 145

For reinstatement of a commercial driver's license after suspension, revocation, cancellation or disqualification of the license, except a suspension or revocation for a violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430, or pursuant to NRS 484C.210 and 484C.220, or pursuant to 49 C.F.R. § 383.51(b)(2)(i) or (ii)..... 110

~~For the transfer of a commercial driver's license from another jurisdiction, which requires the Department to administer a driving skills test..... 84~~

~~For the transfer of a commercial driver's license from another jurisdiction, which does not require the Department to administer a driving skills test..... 54~~

For a duplicate commercial driver's license 19

For any change of information on a commercial driver's license 9

For each endorsement added after the issuance of an original commercial driver's license 14

For the administration of a driving skills test *for the issuance, renewal or transfer of a commercial driver's license or to change any information on, or add an endorsement to, an existing commercial driver's license* 30

~~For an original commercial learner's permit or nonresident commercial learner's permit or for renewal of a commercial learner's permit or nonresident commercial learner's permit..... 33~~

2. ~~If the Department issues a commercial driver's license, nonresident commercial driver's license, commercial learner's permit or nonresident commercial learner's permit that is valid for a period other than 4 years, the Department must charge a fee determined by dividing the fee assessed by subsection 1 by 4 and multiplying the result by the number of years for which the commercial driver's license, nonresident commercial driver's license, commercial learner's permit or nonresident commercial learner's permit is valid. If the division and multiplication described in this subsection would yield a fee with a fractional number of cents, the fee must be rounded down to the nearest whole cent.~~

~~3.7~~ The Department shall charge and collect an annual fee of \$555 from each person who is authorized by the Department to administer a driving skills test pursuant to NRS 483.912.

3. ~~4.7~~ An additional charge of \$3 must be charged for each knowledge test administered to a person who has twice failed the test.

4. ~~5.7~~ An additional charge of \$25 must be charged for each driving skills test administered to a person who has twice failed the test.

5. ~~6.7~~ The increase in fees authorized in NRS 483.347 must be paid in addition to the fees charged pursuant to this section.

6. ~~7.7~~ The Department shall charge an applicant for a hazardous materials endorsement an additional fee for the processing of fingerprints.

The Department shall establish the additional fee by regulation, except that the amount of the additional fee must not exceed the sum of the amount charged by the Central Repository for Nevada Records of Criminal History and each applicable federal agency to process the fingerprints for a background check of the applicant in accordance with Section 1012 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, 49 U.S.C. § 5103a.

Sec. 19. ~~[NRS 483.926 is hereby amended to read as follows:~~

~~483.926 1. Any person to whom a valid commercial driver's license has been issued may exercise the privilege thereby granted upon all streets and highways of this State and shall not be required to obtain any other license to exercise the privilege by any county, municipal or local board or body having authority to adopt local police regulations.~~

~~2. Except persons expressly exempted in regulations adopted by the Department pursuant to NRS 483.908, a person shall not steer or exercise any degree of physical control of a vehicle being towed by a motor vehicle upon a highway unless the person has a license to drive the type or class of vehicle being towed.~~

~~3. The Department shall not issue a commercial driver's license to a person until the person surrenders to the Department all valid licenses or identification cards in his or her possession issued to the person by this or any other jurisdiction. Surrendered licenses issued by another jurisdiction must be returned by the Department to that jurisdiction.] state, District of Columbia or territory of the United States. The Department shall notify the other state, District of Columbia or territory of the United States of the surrender of the license or identification card.~~

~~4. A person shall not have more than one valid driver's license.] (Deleted by amendment.)~~

Sec. 20. ~~[NRS 483.928 is hereby amended to read as follows:~~

~~483.928 1. A person who wishes to be issued a commercial driver's license by this State must:~~

~~[1.] (a) Apply to the Department for a commercial driver's license;~~

~~[2.] (b) In accordance with standards contained in regulations adopted by the Department:~~

~~[(a)] (1) Pass a knowledge test for the type of motor vehicle the person operates or expects to operate; and~~

~~[(b)] (2) Pass a driving skills test for driving a commercial motor vehicle taken in a motor vehicle which is representative of the type of motor vehicle the person operates or expects to operate;~~

~~[3.] (c) Comply with all other requirements contained in the regulations adopted by the Department pursuant to NRS 483.908;~~

~~[4.] (d) Not be ineligible to be issued a commercial driver's license pursuant to NRS 483.929; [and~~

~~5.] (e) For the issuance of a commercial driver's license with an endorsement for hazardous materials, submit a complete set of fingerprints and written permission authorizing the Department to forward the fingerprints to the Central Repository for Nevada Records of Criminal History and all applicable federal agencies to process the fingerprints for a background check of the applicant in accordance with Section 1012 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, 49 U.S.C. § 5103a[.]; and~~

~~(f) State whether the person wishes to be issued a commercial driver's license that is federally qualified.~~

~~2. Every person who wishes to be issued a commercial driver's license by this State must furnish proof of his or her full legal name, age, address of principal residence, social security number or ineligibility to receive a social security number and, if the applicant is applying for a commercial driver's license that is federally qualified, lawful status.~~

~~3. The Department shall adopt regulations prescribing the documents or other means by which a person who wishes to be issued a commercial driver's license by this State may furnish proof pursuant to subsection 2 to the Department.~~

~~4. As used in this section:~~

~~(a) "Federally qualified" has the meaning ascribed to it in section 2 of this act.~~

~~(b) "Lawful status" has the meaning ascribed to it in section 3 of this act.] (Deleted by amendment.)~~

Sec. 21. NRS 483.934 is hereby amended to read as follows:

483.934 Except as otherwise provided in NRS 483.936, the Department may not issue a commercial driver's license *or commercial learner's permit* to a person unless the person is a resident of this State.

Sec. 22. NRS 483.936 is hereby amended to read as follows:

483.936 A person who is a resident of a foreign jurisdiction which the Federal Highway Administrator has determined does not test drivers and issue commercial drivers' licenses in accordance with federal standards *or who is a resident of a state while that state is prohibited from issuing commercial drivers' licenses pursuant to 49 C.F.R. § 384.405* and who wishes to be issued a nonresident commercial driver's license *or nonresident commercial learner's permit* by this State must:

1. Apply to the Department for a nonresident commercial driver's license ~~[-] or nonresident commercial learner's permit; and~~

2. Comply with all other requirements contained in the regulations adopted by the Department pursuant to NRS 483.908.

Sec. 23. ~~[Chapter 486 of NRS is hereby amended by adding thereto the provisions set forth as sections 24 and 25 of this act.] (Deleted by amendment.)~~

Sec. 24. ~~["Federally qualified" has the meaning ascribed to it in section 2 of this act.]~~ (Deleted by amendment.)

Sec. 25. ~~["Lawful status" has the meaning ascribed to it in section 3 of this act.]~~ (Deleted by amendment.)

Sec. 26. ~~[NRS 486.011 is hereby amended to read as follows:~~

~~486.011 As used in NRS 486.011 to 486.381, inclusive, and sections 24 and 25 of this act, unless the context otherwise requires, the words and terms defined in NRS 486.031 to 486.057, inclusive, and sections 24 and 25 of this act have the meanings ascribed to them in those sections.]~~ (Deleted by amendment.)

Sec. 27. ~~[NRS 486.081 is hereby amended to read as follows:~~

~~486.081 1. Every application for a motorcycle driver's license must be made upon a form furnished by the Department and must be verified by the applicant before a person authorized to administer oaths. Officers and employees of the Department may administer those oaths without charge.~~

~~2. Every application must:~~

~~(a) State the full legal name, date of birth, sex, address of principal residence and mailing address, if different from the address of principal residence;~~

~~(b) Briefly describe the applicant;~~

~~(c) State whether the applicant has previously been licensed as a driver, and, if so, when and by what state or country;~~

~~(d) State whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation or refusal; [and]~~

~~(e) State whether the application is for a motorcycle driver's license that is federally qualified; and~~

~~(f) Give such other information as the Department requires to determine the competency and eligibility of the applicant.~~

~~3. Every applicant [shall] must furnish proof of his or her full legal name, [and] age [by displaying an original or certified copy of the required documents as prescribed by regulation.], address of principal residence, social security number or ineligibility to receive a social security number and, if the applicant is applying for a motorcycle driver's license that is federally qualified, lawful status.~~

~~4. The Department shall adopt regulations prescribing the documents or other means by which an applicant may [use to] furnish proof [of his or her full legal name and age] pursuant to subsection 3 to the Department.~~

~~5. [Every applicant who has been assigned a social security number must furnish proof of the social security number by displaying:~~

~~(a) An original card issued to the applicant by the Social Security Administration bearing the social security number of the applicant; or~~

~~(b) Other proof acceptable to the Department, including, without limitation, records of employment or federal income tax returns.~~

~~6.] The Department may refuse to accept a driver's license issued by another state, the District of Columbia or any territory of the United States if the Department determines that the other state, the District of Columbia or the territory of the United States has less stringent standards than the State of Nevada for the issuance of a driver's license.~~

~~[7.] 6. With respect to any document that has expired:~~

~~(a) The Department may refuse to accept the document or refuse to issue a driver's license to the person presenting the document, or both; and~~

~~(b) If the document indicates that the person is authorized to stay in the United States, the Department shall issue to the person presenting the document a driver's license that is valid only during the time the applicant is authorized to stay in the United States, or if there is no definite end to the time the applicant is authorized to stay, the driver's license is valid for 1 year beginning on the date of issuance.~~

~~[8.] 7. The Director shall adopt regulations setting forth criteria pursuant to which the Department will issue or refuse to issue a driver's license in accordance with this section to a person who is a citizen of a state, the District of Columbia, any territory of the United States or a foreign country. The criteria pursuant to which the Department shall issue or refuse to issue a driver's license to a citizen of a foreign country must be based upon the purpose for which that person is present within the United States.~~

~~[9.] 8. Notwithstanding any other provision of this section, the Department shall not accept a consular identification card as proof of the age or identity of an applicant for a motorcycle driver's license. As used in this subsection, "consular identification card" has the meaning ascribed to it in NRS 232.006.] (Deleted by amendment.)~~

~~Sec. 28. [The Department of Motor Vehicles shall adopt the regulations necessary to carry out the provisions of this act on or before January 1, 2014.] (Deleted by amendment.)~~

Sec. 29. 1. This section and sections 1 to 8, inclusive, 12 to 17, inclusive, 19, 20 and 23 to 28, inclusive, of this act become effective upon passage and approval.

2. Sections 9, 10 and 11 of this act become effective on January 1, 2014.

3. Sections 18, 21 and 22 of this act become effective on July 8, 2014.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

Thank you, Mr. President. Amendment No. 426 to Senate Bill No. 503 removes all sections and provisions requiring the Department of Motor Vehicles to issue a license or identification card that is federally qualified.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 321.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 547.

"SUMMARY—Enacts a "Homeowner's Bill of Rights." (BDR 9-748)"

"AN ACT relating to real property; revising provisions governing the foreclosure of owner-occupied property securing a residential mortgage loan; providing civil remedies for failure to comply with certain provisions governing the foreclosure of owner-occupied property securing a residential mortgage loan; authorizing a defendant in a judicial foreclosure action to elect mediation; ~~requiring a person who services a residential mortgage loan secured by real property located in this State to obtain a license from the Commissioner of Mortgage Lending of the Department of Business and Industry; requiring the Commissioner to adopt regulations prescribing the procedures for applying for licensure as a residential mortgage service, establishing a fee for such a license and regulating the business of a residential mortgage loan servicer;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the trustee under a deed of trust concerning owner-occupied housing has the power to sell the property to which the deed of trust applies, subject to certain restrictions. (NRS 107.080, 107.085, 107.086) Existing law also provides for a judicial foreclosure action under certain circumstances for the recovery of any debt or for the enforcement of any right secured by a mortgage or other lien upon real estate. (NRS 40.430) Sections 2-16 of this bill establish additional restrictions on the exercise of the trustee's power of sale and the judicial foreclosure which apply only to a residential mortgage loan secured by owner-occupied housing. Under section 7.5 of this bill, these additional restrictions do not apply to a credit union that, during its immediately preceding annual reporting period, as established with its primary regulator, has foreclosed on 100 or fewer owner-occupied homes located in this State. Under section 30 of this bill, these additional restrictions apply only to a notice of default and election to sell which is recorded on or after October 1, 2013.

Section 10 of this bill provides that at least 30 days before recording a notice of default and election to sell or commencing a judicial foreclosure action and at least 30 days after the borrower's default, the mortgage servicer, mortgagee or beneficiary of the deed of trust must provide to the borrower certain information concerning the borrower's account, the foreclosure prevention alternatives offered by the mortgage servicer, mortgagee or beneficiary and a statement of the facts supporting the right of the mortgagee or beneficiary to foreclose. Section 11 of this bill prohibits the recording of a notice of default and election to sell or the commencement of a judicial foreclosure action until the mortgage servicer complies with certain requirements regarding contact with, or attempts to contact, the borrower. Section 13 of this bill prohibits the practice commonly known as "dual-tracking" by prohibiting a mortgage servicer, trustee, mortgagee or beneficiary of a deed of trust from continuing the foreclosure process while

an application for a foreclosure prevention alternative is pending or while the borrower is current on his or her obligation under a foreclosure prevention alternative. Section 14 of this bill requires a mortgage servicer to provide a single point of contact for a borrower who requests a foreclosure prevention alternative. Section 15 of this bill requires that under certain circumstances, a mortgage servicer, mortgagee or beneficiary of a deed of trust must cause to be dismissed a judicial foreclosure action or cause to be withdrawn any recorded notice of default and election or notice of sale. Section 16 of this bill provides for certain civil remedies for a material violation of the provisions of sections 2-16 ~~and provides that a material violation of such provisions is a deceptive trade practice.~~

Section 18 of this bill provides that a defendant in a judicial foreclosure action concerning owner-occupied property may elect to participate in the Foreclosure Mediation Program.

~~f Under existing law, the Commissioner of Mortgage Lending issues licenses to and regulates residential mortgage loan servicers located in this State under the existing laws governing escrow agencies and agents. (NRS 645A.020) Under existing law, residential mortgage loan servicers who are not located in this State but who service mortgage loans secured by real property located in this State are only required to register with the Commissioner. (NRS 80.015, 86.5483, 87A.615, 88.602, 645F.265) Existing law provides that certain entities are exempt from the requirement to obtain a license from the Commissioner, including, without limitation, certain financial institutions regulated under the laws of this State, any other state or the United States. (NRS 645B.015, 645E.150) Sections 21, 23, 28 and 30 of this bill: (1) require any person who services a residential mortgage loan secured by real property located in this State, other than certain entities exempt under existing law from the requirement to obtain a license from the Commissioner, to obtain a license from the Commissioner; and (2) require the Commissioner to adopt regulations establishing the requirements and procedures for obtaining such a license, prescribing a reasonable fee for application and licensure as a residential mortgage loan servicer and regulating the business practices of residential mortgage loan servicers.~~

WHEREAS, The State of Nevada has been severely affected by the mortgage foreclosure crisis and consistently ranks as one of the top states for underwater home mortgage loans, mortgage defaults and foreclosures; and

WHEREAS, The dramatic increase in foreclosures during the mortgage foreclosure crisis has led to predatory and illegal practices by mortgage servicers and outside firms hired by mortgage servicers; and

WHEREAS, The Nevada Attorney General investigated and sued certain large financial institutions for engaging in illegal practices relating to the servicing of mortgage loans in default and entered into consent agreements and settlements requiring certain large financial institutions to adopt certain practices when servicing a mortgage loan in default; and

WHEREAS, The consent agreements and settlements only apply to the large financial institutions and are not permanent; and

WHEREAS, All homeowners in the State of Nevada deserve better consumer protections and fair and honest treatment in the servicing of mortgage loans in default; now therefore,

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

Section 1. Chapter 107 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this act.

Sec. 2. *As used in sections 2 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Borrower" means a natural person who is a mortgagor or grantor of a deed of trust under a residential mortgage loan. The term does not include a natural person who:*

1. Has surrendered the secured property as evidenced by a letter confirming the surrender or the delivery of the keys to the property to the mortgagee, trustee, beneficiary of the deed of trust or an authorized agent of such a person.

2. Has contracted with an organization, person or entity whose primary business is advising persons who have decided to leave their homes on how to extend the foreclosure process and avoid their contractual obligations to mortgagees or beneficiaries of deeds of trust.

3. Has filed a case under 11 U.S.C. Chapter 7, 11, 12 or 13 and the bankruptcy court has not entered an order closing or dismissing the bankruptcy case, or granting relief from a stay of foreclosure or trustee's sale.

Sec. 4. *"Foreclosure prevention alternative" means a modification of a loan secured by the most senior mortgage or deed of trust on the property that is the subject of the notice of default and election to sell or any other loss mitigation option.*

Sec. 5. *"Foreclosure sale" means the exercise of the trustee's power of sale pursuant to NRS 107.080 or a sale directed by a court pursuant to NRS 40.430.*

Sec. 6. *"Mortgage servicer" means a person or entity who directly services a residential mortgage loan, or who is responsible for interacting with a borrower, managing a loan account on a daily basis, including, without limitation, collecting and crediting periodic loan payments, managing any escrow account or enforcing the note and security instrument, either as the current owner of the promissory note or as the authorized agent of the current owner of the promissory note. The term includes a person or entity providing such services by contract as a subservicing agent to a master servicer by contract. The term does not include a trustee under a deed of trust, or the trustee's authorized agent, acting under a power of sale pursuant to a deed of trust.*

Sec. 7. *"Residential mortgage loan" means a loan which is primarily for personal, family or household use and which is secured by a mortgage, deed of trust or other equivalent, consensual security interest on owner-occupied housing as defined in NRS 107.086.*

Sec. 7.5. The provisions of sections 2 to 16, inclusive, of this act do not apply to a credit union, as defined in NRS 678.070, that, during its immediately preceding annual reporting period, as established with its primary regulator, has foreclosed on 100 or fewer real properties located in this State which constitute owner-occupied housing, as defined in NRS 107.086.

Sec. 8. 1. *In addition to the requirements of NRS 107.085 and 107.086, the exercise of a trustee's power of sale pursuant to NRS 107.080 with respect to a deed of trust securing a residential mortgage loan is subject to the provisions of sections 2 to 16, inclusive, of this act.*

2. *In addition to the requirements of NRS 40.430 to 40.4639, inclusive, an action for the recovery of any debt, or for the enforcement of any right, under a residential mortgage loan secured by a mortgage or other lien upon real estate that is not barred by NRS 40.430 is subject to the requirements of sections 2 to 16, inclusive, of this act.*

Sec. 9. 1. *Any duty of a mortgage servicer to maximize net present value under a pooling and servicing agreement is owed to all parties in a loan pool, or to all investors under a pooling and servicing agreement, not to any particular party in the loan pool or investor under a pooling and servicing agreement.*

2. *A mortgage servicer acts in the best interests of all parties to the loan pool or investors in the pooling and servicing agreement if the mortgage servicer agrees to or implements a foreclosure prevention alternative for which both of the following apply:*

(a) The residential mortgage loan is in default or default is reasonably foreseeable.

(b) Anticipated recovery under the foreclosure prevention alternative exceeds the anticipated recovery through foreclosure on a net present value basis.

Sec. 10. 1. *At least 30 days before recording a notice of default and election to sell pursuant to subsection 2 of NRS 107.080 or commencing a civil action for the recovery of any debt, or for the enforcement of any right, under a residential mortgage loan that is not barred by NRS 40.430 and at least 30 days after the borrower's default, the mortgage servicer, mortgagee or beneficiary of the deed of trust shall mail, by first-class mail, a notice addressed to the borrower at the borrower's primary address as indicated in the records of the mortgage servicer, mortgagee or beneficiary of the deed of trust, which contains:*

(a) A statement that if the borrower is a servicemember or a dependent of a servicemember, he or she may be entitled to certain protections under the federal Servicemembers Civil Relief Act, 50 U.S.C. §§ 501 et seq., regarding

the servicemember's interest rate and the risk of foreclosure, and counseling for covered servicemembers that is available from Military OneSource and the United States Armed Forces Legal Assistance or any other similar agency.

(b) A summary of the borrower's account which sets forth:

(1) The total amount of payment necessary to cure the default and reinstate the residential mortgage loan or to bring the residential mortgage loan into current status;

(2) The amount of the principal obligation under the residential mortgage loan;

(3) The date through which the borrower's obligation under the residential mortgage loan is paid;

(4) The date of the last full payment by the borrower;

(5) The current interest rate in effect for the residential mortgage loan, if the rate is effective for at least 30 days;

(6) The date on which the interest rate for the residential mortgage loan may next reset or adjust, unless the rate changes more frequently than once every 30 days;

(7) The amount of the prepayment fee charged under the residential mortgage loan, if any;

(8) A description of any late payment fee charged under the residential mortgage loan;

(9) A telephone number or electronic mail address that the borrower may use to obtain information concerning the residential mortgage loan; and

(10) The names, addresses, telephone numbers and Internet website addresses of one or more counseling agencies or programs approved by the United States Department of Housing and Urban Development.

(c) A statement of the facts establishing the right of the mortgage servicer, mortgagee or beneficiary of the deed of trust to cause the trustee to exercise the trustee's power of sale pursuant to NRS 107.080 or to commence a civil action for the recovery of any debt, or for the enforcement of any right, under a residential mortgage loan that is not barred by NRS 40.430.

(d) A statement of the foreclosure prevention alternatives offered by, or through, the mortgage servicer, mortgagee or beneficiary of the deed of trust.

(e) A statement that the borrower may request:

(1) A copy of the borrower's promissory note or other evidence of indebtedness;

(2) A copy of the borrower's mortgage or deed of trust;

(3) A copy of any assignment, if applicable, of the borrower's mortgage or deed of trust required to demonstrate the right of the mortgage servicer, mortgagee or beneficiary of the deed of trust to cause the trustee to exercise the trustee's power of sale pursuant to NRS 107.080 or to commence a civil action for the recovery of any debt, or for the enforcement of any right, under a residential mortgage loan that is not barred by NRS 40.430; and

(4) A copy of the borrower's payment history since the borrower was last less than 60 days past due.

2. Unless a borrower has exhausted the process described in sections 12 and 13 of this act for applying for a foreclosure prevention alternative offered by, or through, the mortgage servicer, mortgagee or beneficiary of the deed of the trust, not later than 5 business days after a notice of default and election to sell is recorded pursuant to subsection 2 of NRS 107.080 or a civil action for the recovery of any debt, or for the enforcement of any right, under a residential mortgage loan that is not barred by NRS 40.430 is commenced, the mortgage servicer, mortgagee or beneficiary of the deed of trust that offers one or more foreclosure prevention alternatives must send to the borrower a written statement:

(a) That the borrower may be evaluated for a foreclosure prevention alternative or, if applicable, foreclosure prevention alternatives;

(b) Whether an application is required to be submitted by the borrower if the borrower wants to be considered for a foreclosure prevention alternative; and

(c) Of the means and process by which a borrower may obtain an application for a foreclosure prevention alternative.

Sec. 11. 1. A mortgage servicer, mortgagee, trustee, beneficiary of a deed of trust or an authorized agent of such a person may not record a notice of default and election to sell pursuant to subsection 2 of NRS 107.080 or commence a civil action for the recovery of any debt, or for the enforcement of any right, under a residential mortgage loan that is not barred by NRS 40.430 until:

(a) The mortgage servicer, mortgagee or beneficiary of the deed of trust has satisfied the requirements of section 10 of this act;

(b) Thirty days after initial contact is made with the borrower as required by subsection 2 or 30 days after satisfying the requirements of subsection 5; and

(c) The mortgage servicer complies with sections 12 and 13 of this act, if the borrower submits an application for a foreclosure prevention alternative offered by, or through, the mortgage servicer, mortgagee or beneficiary of the deed of trust.

2. The mortgage servicer shall contact the borrower in person or by telephone to assess the borrower's financial situation and to explore options for the borrower to avoid a foreclosure sale. During the initial contact, the mortgage servicer shall advise the borrower that he or she has the right to request a subsequent meeting and, if requested, the mortgage servicer must schedule the meeting to occur within 14 days after the request. The assessment of the borrower's financial situation and discussion of the options to avoid a foreclosure sale may occur during the initial contact or at the subsequent meeting scheduled for that purpose. In either case, the borrower must be provided the toll-free telephone number made available by the United States Department of Housing and Urban Development to find a

housing counseling agency certified by that Department. Any meeting pursuant to this subsection may occur by telephone.

3. The loss mitigation personnel of a mortgage servicer may participate by telephone during any contact with a borrower required by this section.

4. A borrower may designate, with consent given in writing, a housing counseling agency certified by the United States Department of Housing and Urban Development, an attorney or any other adviser to discuss with the mortgage servicer, on the borrower's behalf, the borrower's financial situation and options for the borrower to avoid a foreclosure sale. Contact with a person or agency designated by a borrower pursuant to this subsection satisfies the requirements of subsection 2. A foreclosure prevention alternative offered during any contact with a person or agency designated by a borrower pursuant to this subsection is subject to the approval of the borrower.

5. If a mortgage servicer has not contacted a borrower as required by subsection 2, a notice of default and election to sell may be recorded pursuant to subsection 2 of NRS 107.080 or a civil action for the recovery of any debt, or for the enforcement of any right, under a residential mortgage loan that is not barred by NRS 40.430 may be commenced, if the mortgage servicer has taken all the following actions:

(a) The mortgage servicer attempts to contact the borrower by mailing by first-class mail to the borrower a letter informing the borrower of his or her right to discuss foreclosure prevention alternatives and providing the toll free telephone number made available by the United States Department of Housing and Urban Development to find a housing counseling agency approved by that Department.

(b) After mailing the letter required by paragraph (a), the mortgage servicer attempts to contact the borrower by telephone at least 3 times at different hours on different days. Telephone calls made pursuant to this paragraph must be made to the primary telephone number of the borrower which is on file with the mortgage servicer. A mortgage servicer may attempt to contact a borrower pursuant to this paragraph by using an automated system to dial borrowers if, when the telephone call is answered, the call is connected to a live representative of the mortgage servicer. A mortgage servicer satisfies the requirements of this paragraph if it determines, after attempting to contact a borrower pursuant to this paragraph, that the primary telephone number of the borrower which is on file with the mortgage servicer and any secondary telephone numbers on file with the mortgage servicer have been disconnected.

(c) If the borrower does not respond within 2 weeks after the mortgage servicer satisfies the requirements of paragraph (b), the mortgage servicer mails by certified mail, return receipt requested, a letter that includes the information required by paragraph (a).

(d) The mortgage servicer provides a means for the borrower to contact the mortgage servicer in a timely manner, including, without limitation, a

toll-free telephone number that will provide access to a live representative during business hours.

(e) The mortgage servicer posts on the homepage of its Internet website, if any, a prominent link to the following information:

(1) Options that may be available to borrowers who are unable to afford payments under a residential mortgage loan and who wish to avoid a foreclosure sale, and instructions to such borrowers advising them on steps to take to explore those options.

(2) A list of financial documents the borrower should collect and be prepared to present to the mortgage servicer when discussing options to avoid a foreclosure sale.

(3) A toll-free telephone number for borrowers who wish to discuss with the mortgage servicer options for avoiding a foreclosure sale.

(4) The toll-free telephone number made available by the United States Department of Housing and Urban Development to find a housing counseling agency certified by that Department.

6. If the property is subject to the requirements of sections 2 to 16, inclusive, of this act, a notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 or a complaint commencing a civil action for the recovery of any debt, or for the enforcement of any right, under a residential mortgage loan that is not barred by NRS 40.430, must contain a declaration that the mortgage servicer has contacted the borrower as required by subsection 2, has attempted to contact the grantor or the person who holds title of record as required by subsection 5 of this act or that no contact was required.

Sec. 12. 1. Not later than 5 days after receiving an application for a foreclosure prevention alternative or any document in connection with such an application, a mortgage servicer, mortgagee or beneficiary of the deed of trust shall send to the borrower written acknowledgment of the receipt of the application or document.

2. The mortgage servicer, mortgagee or beneficiary of the deed of trust shall include in the initial acknowledgment of receipt of an application for a foreclosure prevention alternative:

(a) A description of the process for considering the application, including, without limitation, an estimate of when a decision on the application will be made and the length of time the borrower will have to consider an offer for a foreclosure prevention alternative;

(b) A statement of any deadlines that affect the processing of an application for a foreclosure prevention alternative, including, without limitation, the deadline for submitting any missing documentation; and

(c) A statement of the expiration dates for any documents submitted by the borrower.

3. If a borrower submits an application for a foreclosure prevention alternative but does not initially submit all the documents or information required to complete the application, the mortgage servicer must:

(a) Include in the initial acknowledgment of receipt of the application required by subsection 2 a statement of any deficiencies in the borrower's application; and

(b) Allow the borrower not less than 30 calendar days to submit any documents or information required to complete the application.

Sec. 13. 1. *If a borrower submits an application for a foreclosure prevention alternative offered by, or through, the borrower's mortgage servicer or mortgagee or the beneficiary of the deed of trust, then the mortgage servicer, mortgagee, trustee, beneficiary of the deed of trust or an authorized agent of such a person may not commence a civil action for the recovery of any debt, or for the enforcement of any right, under a residential mortgage loan that is not barred by NRS 40.430, record a notice of default and election to sell pursuant to subsection 2 of NRS 107.080 or a notice of sale pursuant to subsection 4 of NRS 107.080, or conduct a foreclosure sale until one of the following has occurred:*

(a) The borrower fails to submit all the documents or information required to complete the application within 30 calendar days after the date of the initial acknowledgment of receipt of the application sent to the borrower pursuant to section 12 of this act.

(b) The mortgage servicer or beneficiary of the deed of trust makes a written determination that the borrower is not eligible for a foreclosure prevention alternative, and any appeal period pursuant to subsection 4 has expired.

(c) The borrower does not accept a written offer for a foreclosure prevention alternative within 14 days after the date of the offer.

(d) The borrower accepts a written offer for a foreclosure prevention alternative, but defaults on, or otherwise breaches the borrower's obligations under, the foreclosure prevention alternative.

2. *If a borrower accepts an offer for a foreclosure prevention alternative, the mortgage servicer must provide the borrower with a copy of the complete agreement evidencing the foreclosure prevention alternative, signed by the mortgagee or beneficiary of the deed of trust or an agent or authorized representative of the mortgagee or beneficiary.*

3. *If a borrower submits a complete application for a foreclosure prevention alternative and the borrower's application is denied, the mortgage servicer must send to the borrower a written statement of:*

(a) The reason or reasons for the denial;

(b) The amount of time the borrower has to request an appeal of the denial, which must be not less than 30 days; and

(c) Instructions regarding how to appeal the denial, including, without limitation, how to provide evidence that the denial was in error.

4. *If a borrower submits a complete application for a foreclosure prevention alternative and the borrower's application is denied, the mortgage servicer, mortgagee, trustee, beneficiary of the deed of trust, or an authorized agent of such a person may not commence a civil action for the*

recovery of any debt, or for the enforcement of any right, under a residential mortgage loan that is not barred by NRS 40.430, record a notice of default and election to sell pursuant to subsection 2 of NRS 107.080 or a notice of sale pursuant to subsection 4 of NRS 107.080, or conduct a foreclosure sale until the later of:

(a) Thirty-one days after the borrower is sent the written statement required by subsection 3; and

(b) If the borrower appeals the denial, the later of:

(1) Fifteen days after the denial of the appeal;

(2) If the appeal is successful, 14 days after a first lien loan modification or another foreclosure prevention alternative offered after appeal is declined by the borrower; and

(3) If the appeal is successful and a first lien loan modification or another foreclosure prevention alternative is offered and accepted, the date on which the borrower fails to timely submit the first payment or otherwise breaches the terms of the offer.

5. A mortgage servicer shall not charge or collect any:

(a) Application, processing or other fee for a foreclosure prevention alternative; or

(b) Late fees for periods during which:

(1) A foreclosure prevention alternative is under consideration or a denial is being appealed;

(2) The borrower is making timely payments under a foreclosure prevention alternative; or

(3) A foreclosure prevention alternative is being evaluated or exercised.

6. A mortgage servicer is not required to evaluate an application from a borrower who has already been evaluated or afforded a fair opportunity to be evaluated for a foreclosure prevention alternative before October 1, 2013, or who has been evaluated or afforded a fair opportunity to be evaluated consistent with the requirements of this section, unless:

(a) There has been a material change in the borrower's financial circumstances since the date of the borrower's previous application; and

(b) That change is documented by the borrower and submitted to the mortgage servicer.

7. For purposes of this section, an application is complete when a borrower has supplied the mortgage servicer with all documents required by the mortgage servicer within the reasonable timeframes specified by the mortgage servicer.

Sec. 14. 1. If a borrower requests a foreclosure prevention alternative, the mortgage servicer must promptly establish a single point of contact and provide to the borrower one or more direct means of communication with the single point of contact.

2. A single point of contact is responsible for:

(a) Communicating the process by which a borrower may apply for an available foreclosure prevention alternative and the deadline for any

required submissions to be considered for the foreclosure prevention alternatives.

(b) Coordinating receipt of all documents associated with the available foreclosure prevention alternatives and notifying the borrower of any missing documents necessary to complete an application for a foreclosure prevention alternative.

(c) Having access to current information and personnel sufficient to timely, accurately and adequately inform the borrower of the current status of the foreclosure prevention alternative.

(d) Ensuring that the borrower is considered for all foreclosure prevention alternatives offered by, or through, the mortgage servicer and for which the borrower is or may be eligible.

(e) Having access to a person or persons with the ability and authority to stop the foreclosure process when necessary.

3. A single point of contact must remain assigned to the borrower's account until the mortgage servicer determines that all foreclosure prevention alternatives offered by, or through, the mortgage servicer have been exhausted or the borrower's account becomes current.

4. The mortgage servicer shall ensure that a single point of contact refers and transfers a borrower to an appropriate supervisor upon request of the borrower, if the single point of contact has a supervisor.

5. If the responsibilities of a single point of contact are performed by a team of personnel, the mortgage servicer must ensure that each member of the team is knowledgeable about the borrower's situation and current status in the process of seeking a foreclosure prevention alternative.

6. As used in this section, "single point of contact" means a person or team of personnel each of whom has the ability and authority to perform the responsibilities described in this section.

Sec. 15. 1. The mortgage servicer, mortgagee or beneficiary of the deed of trust shall cause to be dismissed with prejudice a civil action commenced for the recovery of any debt, or for the enforcement of any right, under a residential mortgage loan that is not barred by NRS 40.430, or cause to be withdrawn any notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 or any notice of sale recorded pursuant to subsection 4 of NRS 107.080, and shall cancel any pending foreclosure sale, if:

(a) The borrower accepts a permanent foreclosure prevention alternative;

(b) A notice of sale is not recorded within 9 months after the notice of default and election to sell is recorded pursuant to subsection 2 of NRS 107.080; or

(c) A foreclosure sale is not conducted within 90 days after a notice of sale is recorded pursuant to subsection 4 of NRS 107.080.

2. If, pursuant to subsection 1, a civil action is dismissed, a notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 or any notice of sale recorded pursuant to subsection 4 of NRS 107.080 is

withdrawn, or any pending foreclosure sale is cancelled, the mortgagee or beneficiary of the deed of trust is thereupon restored to its former position and has the same rights as though an action for a judicial foreclosure had not been commenced or a notice of default and election to sell had not been recorded.

Sec. 16. 1. *If a trustee's deed upon sale has not been recorded pursuant to subsection 9 of NRS 107.080, a borrower may bring an action for injunctive relief to enjoin a material violation of sections 2 to 16, inclusive, of this act. If a sheriff has not recorded the sale of the property pursuant to subsection 5 of NRS 40.430, a borrower may obtain an injunction to enjoin a material violation of sections 2 to 16, inclusive, of this act. An injunction issued pursuant to this subsection remains in place and any foreclosure sale must be enjoined until the court determines that the mortgage servicer, mortgagee, beneficiary of the deed of trust or an authorized agent of such a person has corrected and remedied the violation giving rise to the action for injunctive relief. An enjoined entity may move to dissolve an injunction based on a showing that the material violation has been corrected and remedied.*

2. *After a trustee's deed upon sale has been recorded pursuant to subsection 9 of NRS 107.080 or after a sheriff has recorded the sale of the property pursuant to subsection 5 of NRS 40.430, a borrower may bring a civil action in the district court in the county in which the property is located to recover his or her actual economic damages resulting from a material violation of sections 2 to 16, inclusive, of this act by the mortgage servicer, mortgagee, beneficiary of the deed of trust or an authorized agent of such a person, if the material violation was not corrected and remedied before the recording of the trustee's deed upon sale pursuant to subsection 9 of NRS 107.080 or the recording of the sale of the property pursuant to subsection 5 of NRS 40.430. If the court finds that the material violation was intentional or reckless, or resulted from willful misconduct by a mortgage servicer, mortgagee, beneficiary of the deed of trust or an authorized agent of such a person, the court may award the borrower the greater of treble actual damages or statutory damages of \$50,000.*

3. *A mortgage servicer, mortgagee, beneficiary of the deed of trust or an authorized agent of such a person is not liable for any violation of sections 2 to 16, inclusive, of this act that it has corrected and remedied, or that has been corrected and remedied on its behalf by a third party, before the recording of the trustee's deed upon sale pursuant to subsection 9 of NRS 107.080 or the recording of the sale of the property pursuant to subsection 5 of NRS 40.430.*

4. *A violation of sections 2 to 16, inclusive, of this act does not affect the validity of a sale to a bona fide purchaser for value and any of its encumbrancers for value without notice.*

5. *A signatory to a consent judgment entered in the case entitled United States of America et al. v. Bank of America Corporation et al., filed in the*

United States District Court for the District of Columbia, case number 1:12 cv-00361 RMC, that is in compliance with the relevant terms of the Settlement Term Sheet of that consent judgment with respect to the borrower who brought an action pursuant to this section while the consent judgment is in effect is not liable for a violation of sections 2 to 16, inclusive, of this act.

6. *A court may award a prevailing borrower costs and reasonable attorney's fees in an action brought pursuant to this section.*

7. ~~*[A material violation of sections 2 to 16, inclusive, of this act is a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.]*~~

~~8.~~ *The rights, remedies and procedures provided by this section are in addition to and independent of any other rights, remedies or procedures provided by law.*

Sec. 17. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 106.210, 107.085 and 107.086, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) Except as otherwise provided in paragraph (b), in the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment.

(b) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS 107.086, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment.

(c) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of the election to sell or cause to be sold the property

to satisfy the obligation which, except as otherwise provided in this paragraph, includes a notarized affidavit of authority to exercise the power of sale stating, based on personal knowledge and under the penalty of perjury:

(1) The full name and business address of the trustee or the trustee's personal representative or assignee, the current holder of the note secured by the deed of trust, the current beneficiary of record and the servicers of the obligation or debt secured by the deed of trust;

(2) The full name and last known business address of every prior known beneficiary of the deed of trust;

(3) That the beneficiary under the deed of trust, the successor in interest of the beneficiary or the trustee is in actual or constructive possession of the note secured by the deed of trust;

(4) That the trustee has the authority to exercise the power of sale with respect to the property pursuant to the instruction of the beneficiary of record and the current holder of the note secured by the deed of trust;

(5) The amount in default, the principal amount of the obligation or debt secured by the deed of trust, a good faith estimate of all fees imposed and to be imposed because of the default and the costs and fees charged to the debtor in connection with the exercise of the power of sale; and

(6) The date, recordation number or other unique designation of the instrument that conveyed the interest of each beneficiary and a description of the instrument that conveyed the interest of each beneficiary.

➡ The affidavit described in this paragraph is not required for the exercise of the trustee's power of sale with respect to any trust agreement which concerns a time share within a time share plan created pursuant to chapter 119A of NRS if the power of sale is being exercised for the initial beneficiary under the deed of trust or an affiliate of the initial beneficiary.

(d) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2, or the period provided in paragraph (b) of subsection 2, commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor or, to the person who holds the title of record on the date the notice of default and election to sell is recorded, and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must:

(a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the

notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2; ~~and~~

(b) If the property is subject to the requirements of sections 2 to 16, inclusive, of this act, the declaration required by subsection 6 of section 11 of this act; and

(c) If the property is a residential foreclosure, comply with the provisions of NRS 107.087.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3 month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor, any other person entitled to notice pursuant to this section and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health, by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in a public place in the county where the property is situated;

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated or, if the property is a time share, by posting a copy of the notice on an Internet website and publishing a statement in a newspaper in the manner required by subsection 3 of NRS 119A.560; and

(d) If the property is a residential foreclosure, complying with the provisions of NRS 107.087.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and any successors in interest without equity or right of redemption. A sale made pursuant to this section must be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section or any applicable provision of NRS 107.086 and 107.087;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to

each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. If, in an action brought by the grantor or the person who holds title of record in the district court in and for the county in which the real property is located, the court finds that the beneficiary, the successor in interest of the beneficiary or the trustee did not comply with any requirement of subsection 2, 3 or 4, the court must award to the grantor or the person who holds title of record:

(a) Damages of \$5,000 or treble the amount of actual damages, whichever is greater;

(b) An injunction enjoining the exercise of the power of sale until the beneficiary, the successor in interest of the beneficiary or the trustee complies with the requirements of subsections 2, 3 and 4; and

(c) Reasonable attorney's fees and costs,
➡ unless the court finds good cause for a different award. The remedy provided in this subsection is in addition to the remedy provided in subsection 5.

8. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

9. After a sale of property is conducted pursuant to this section, the trustee shall:

(a) Within 30 days after the date of the sale, record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located; or

(b) Within 20 days after the date of the sale, deliver the trustee's deed upon sale to the successful bidder. Within 10 days after the date of delivery of the deed by the trustee, the successful bidder shall record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located.

10. If the successful bidder fails to record the trustee's deed upon sale pursuant to paragraph (b) of subsection 9, the successful bidder:

(a) Is liable in a civil action to any party that is a senior lienholder against the property that is the subject of the sale in a sum of up to \$500 and for reasonable attorney's fees and the costs of bringing the action; and

(b) Is liable in a civil action for any actual damages caused by the failure to comply with the provisions of subsection 9 and for reasonable attorney's fees and the costs of bringing the action.

11. The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect:

(a) A fee of \$150 for deposit in the State General Fund.

(b) A fee of \$45 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The Account must be

administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.

(c) A fee of \$5 to be paid over to the county treasurer on or before the fifth day of each month for the preceding calendar month. The county recorder may direct that 1.5 percent of the fees collected by the county recorder pursuant to this paragraph be transferred into a special account for use by the office of the county recorder. The county treasurer shall remit quarterly to the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent all the money received from the county recorder pursuant to this paragraph.

12. The fees collected pursuant to paragraphs (a) and (b) of subsection 11 must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the State General Fund or the Account for Foreclosure Mediation as prescribed pursuant to subsection 11. The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder pursuant to this subsection to the State Controller for credit to the State General Fund or the Account as prescribed in subsection 11.

13. The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection 11.

14. As used in this section:

(a) "Residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this paragraph, "single family residence":

(1) Means a structure that is comprised of not more than four units.

(2) Does not include vacant land or any time share or other property regulated under chapter 119A of NRS.

(b) "Trustee" means the trustee of record.

Sec. 18. Chapter 40 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If an action for the recovery of any debt, or for the enforcement of any right secured by a mortgage or other lien upon real estate that is not barred by NRS 40.430 is commenced in a court of competent jurisdiction:*

(a) The copy of the complaint served on the defendant must include a separate document containing:

(1) Contact information which the defendant may use to reach a person with authority to negotiate a loan modification on behalf of the plaintiff;

(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development;

(3) A notice provided by the Mediation Administrator indicating that the plaintiff has the right to seek mediation pursuant to this section; and

(4) A form upon which the defendant may indicate an election to enter into mediation or to waive mediation pursuant to this section and one envelope addressed to the plaintiff and one envelope addressed to the Mediation Administrator, which the grantor or the person who holds the title of record may use to comply with the provisions of subsection 2; and

(b) The plaintiff must submit a copy of the complaint to the Mediation Administrator.

2. The defendant shall, not later than the date on which an answer to the complaint is due, complete the form required by subparagraph (4) of paragraph (a) of subsection 1 and file the form with the court and return a copy of the form to the plaintiff by certified mail, return receipt requested. If the plaintiff indicates on the form an election to enter into mediation, the plaintiff shall notify any person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the election of the defendant to enter into mediation and file the form with the Mediation Administrator, who shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. The judicial foreclosure action must be stayed until the completion of the mediation. If the defendant indicates on the form an election to waive mediation or fails to file the form with the court and return a copy of the form to the plaintiff as required by this subsection, no mediation is required in the action.

3. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection 8 of NRS 107.086. The plaintiff or a representative, and the defendant or his or her representative, shall attend the mediation. The plaintiff shall bring to the mediation the original or a certified copy of the mortgage or deed of trust, the mortgage note and each assignment of the mortgage or deed of trust or mortgage note. If the plaintiff is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the plaintiff or have access at all times during the mediation to a person with such authority.

4. If the plaintiff or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not bring to the mediation each document required by subsection 3 or does not have the authority or access to a person with the authority required by subsection 3, the mediator shall prepare and submit to the Mediation Administrator and the court a petition and recommendation concerning the imposition of sanctions against the beneficiary of the deed of trust or the representative. The court may issue an order imposing such sanctions against the plaintiff or the representative as the court determines appropriate, including, without

limitation, requiring a loan modification in the manner determined proper by the court.

5. If the defendant elected to enter into mediation and fails to attend the mediation, no mediation is required and the judicial foreclosure action must proceed as if the plaintiff had not elected to enter into mediation.

6. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the court and the Mediation Administrator a recommendation that the mediation be terminated. The court may terminate the mediation and proceed with the judicial foreclosure action.

7. The rules adopted by the Supreme Court pursuant to subsection 8 of NRS 107.086 apply to a mediation conducted pursuant to this section, and the Supreme Court may adopt any additional rules necessary to carry out the provisions of this section.

8. Except as otherwise provided in subsection 10, the provisions of this section do not apply if:

(a) The defendant has surrendered the property, as evidenced by a letter confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or

(b) A petition in bankruptcy has been filed with respect to the defendant under 11 U.S.C. Chapter 7, 11, 12 or 13 and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

9. A noncommercial lender is not excluded from the application of this section.

10. The Mediation Administrator and each mediator who acts pursuant to this section in good faith and without gross negligence are immune from civil liability for those acts.

11. As used in this section:

(a) "Mediation Administrator" has the meaning ascribed to it in NRS 107.086.

(b) "Noncommercial lender" has the meaning ascribed to it in NRS 107.086.

(c) "Owner-occupied housing" has the meaning ascribed to it in NRS 107.086.

Sec. 19. NRS 40.430 is hereby amended to read as follows:

40.430 1. Except in cases where a person proceeds under subsection 2 of NRS 40.495 or subsection 1 of NRS 40.512, and except as otherwise provided in NRS 118C.220, there may be but one action for the recovery of any debt, or for the enforcement of any right secured by a mortgage or other lien upon real estate. That action must be in accordance with the provisions of NRS 40.430 to 40.459, inclusive ~~and~~, and section 18 of this act. In that action, the judgment must be rendered for the amount found due the plaintiff, and the court, by its decree or judgment, may direct a sale of the encumbered

property, or such part thereof as is necessary, and apply the proceeds of the sale as provided in NRS 40.462.

2. This section must be construed to permit a secured creditor to realize upon the collateral for a debt or other obligation agreed upon by the debtor and creditor when the debt or other obligation was incurred.

3. At any time not later than 5 business days before the date of sale directed by the court, if the deficiency resulting in the action for the recovery of the debt has arisen by failure to make a payment required by the mortgage or other lien, the deficiency may be made good by payment of the deficient sum and by payment of any costs, fees and expenses incident to making the deficiency good. If a deficiency is made good pursuant to this subsection, the sale may not occur.

4. A sale directed by the court pursuant to subsection 1 must be conducted in the same manner as the sale of real property upon execution, by the sheriff of the county in which the encumbered land is situated, and if the encumbered land is situated in two or more counties, the court shall direct the sheriff of one of the counties to conduct the sale with like proceedings and effect as if the whole of the encumbered land were situated in that county.

5. Within 30 days after a sale of property is conducted pursuant to this section, the sheriff who conducted the sale shall record the sale of the property in the office of the county recorder of the county in which the property is located.

6. As used in this section, an "action" does not include any act or proceeding:

(a) To appoint a receiver for, or obtain possession of, any real or personal collateral for the debt or as provided in NRS 32.015.

(b) To enforce a security interest in, or the assignment of, any rents, issues, profits or other income of any real or personal property.

(c) To enforce a mortgage or other lien upon any real or personal collateral located outside of the State which does not, except as required under the laws of that jurisdiction, result in a personal judgment against the debtor.

(d) For the recovery of damages arising from the commission of a tort, including a recovery under NRS 40.750, or the recovery of any declaratory or equitable relief.

(e) For the exercise of a power of sale pursuant to NRS 107.080.

(f) For the exercise of any right or remedy authorized by chapter 104 of NRS or by the Uniform Commercial Code as enacted in any other state.

(g) For the exercise of any right to set off, or to enforce a pledge in, a deposit account pursuant to a written agreement or pledge.

(h) To draw under a letter of credit.

(i) To enforce an agreement with a surety or guarantor if enforcement of the mortgage or other lien has been automatically stayed pursuant to 11 U.S.C. § 362 or pursuant to an order of a federal bankruptcy court under any other provision of the United States Bankruptcy Code for not less than

120 days following the mailing of notice to the surety or guarantor pursuant to subsection 1 of NRS 107.095.

(j) To collect any debt, or enforce any right, secured by a mortgage or other lien on real property if the property has been sold to a person other than the creditor to satisfy, in whole or in part, a debt or other right secured by a senior mortgage or other senior lien on the property.

(k) Relating to any proceeding in bankruptcy, including the filing of a proof of claim, seeking relief from an automatic stay and any other action to determine the amount or validity of a debt.

(l) For filing a claim pursuant to chapter 147 of NRS or to enforce such a claim which has been disallowed.

(m) Which does not include the collection of the debt or realization of the collateral securing the debt.

(n) Pursuant to NRS 40.507 or 40.508.

(o) Which is exempted from the provisions of this section by specific statute.

(p) To recover costs of suit, costs and expenses of sale, attorneys' fees and other incidental relief in connection with any action authorized by this subsection.

Sec. 20. NRS 40.433 is hereby amended to read as follows:

40.433 As used in NRS 40.430 to 40.459, inclusive, *and section 18 of this act*, unless the context otherwise requires, a "mortgage or other lien" includes a deed of trust, but does not include a lien which arises pursuant to chapter 108 of NRS, pursuant to an assessment under chapter 116, 117, 119A or 278A of NRS or pursuant to a judgment or decree of any court of competent jurisdiction.

Sec. 21. ~~NRS 645A.010 is hereby amended to read as follows:~~

~~645A.010 As used in this chapter, unless the context otherwise requires:~~

~~1. "Commissioner" means the Commissioner of Mortgage Lending;~~

~~2. "Construction control" has the meaning ascribed to it in NRS 627.050;~~

~~3. "Division" means the Division of Mortgage Lending of the Department of Business and Industry;~~

~~4. "Escrow" means any transaction wherein one person, for the purpose of effecting the sale, transfer, encumbering or leasing of real or personal property to another person, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person until the happening of a specified event or the performance of a prescribed condition, when it is then to be delivered by such third person to a grantee, grantor, promisee, promisor, obligee, obligor, bailee, bailor or any agent or employee of any of the latter. The term includes [the collection of payments and the performance of related services by a third person in connection with a loan secured by a lien on real property and] the performance of the services of a construction control;~~

~~5. "Escrow agency" means:~~

~~(a) Any person who employs one or more escrow agents; or~~

~~(b) An escrow agent who administers escrows on his or her own behalf.~~

~~6. "Escrow agent" means any person engaged in the business of administering escrows for compensation.} (Deleted by amendment.)~~

~~Sec. 22. [Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 23 to 29, inclusive, of this act.] (Deleted by amendment.)~~

~~Sec. 23. [As used in sections 23 to 29, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 24 to 27, inclusive, of this act have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

~~Sec. 24. ["Licensee" means a person licensed as a residential mortgage loan servicer pursuant to sections 23 to 29, inclusive, of this act.] (Deleted by amendment.)~~

~~Sec. 25. ["Residential mortgage loan" means a loan which is primarily for personal, family or household use and which is secured by a mortgage, deed of trust or other equivalent, consensual security interest on a dwelling located in this State or residential real property located in this State upon which is constructed or intended to be constructed a dwelling. As used in this section, "dwelling" has the meaning ascribed to it in NRS 645B.0112.] (Deleted by amendment.)~~

~~Sec. 26. ["Residential mortgage loan servicer" means a person or institution that directly or indirectly services residential mortgage loans.] (Deleted by amendment.)~~

~~Sec. 27. ["Service" means the collection or remittance, or the right to collect or remit, for any lender, mortgage banker, note owner, note holder, or for the person's own account, any payment of principal, interest or an amount to be placed into escrow, including, without limitation, any amount for the payment of hazard insurance or taxes on a residential mortgage loan, in accordance with the terms of the residential mortgage loan, a mortgage servicing agreement for a residential mortgage loan or an agreement with the mortgagor of a residential mortgage loan.] (Deleted by amendment.)~~

~~Sec. 28. [The provisions of sections 23 to 29, inclusive, do not apply to:~~

~~1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, industrial loan companies, credit unions, thrift companies or insurance companies, including, without limitation, a subsidiary or a holding company of such a bank, company, association or union;~~

~~2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required;~~

~~3. Agencies and instrumentalities of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System;~~

~~4. A nonprofit agency or organization that qualifies as a tax exempt organization pursuant to 26 U.S.C. § 501(c)(3).~~

~~5. Any person doing any act under an order of any court.] (Deleted by amendment.)~~

Sec. 29. ~~[1. No person shall service a residential mortgage loan with respect to property located in this State without first obtaining a license as a residential mortgage loan servicer from the Commissioner.~~

~~2. An application for a license as a residential mortgage loan servicer must:~~

~~(a) Be on a form prescribed by the Commissioner;~~
~~(b) Include all information required to complete the application; and~~
~~(c) Include a complete set of the fingerprints of the applicant or, if the applicant is not a natural person, a complete set of the fingerprints of each person who will have an interest in the residential mortgage loan servicer as a principal, partner, officer, director, trustee, member or shareholder, and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.~~

~~3. The Commissioner shall adopt regulations:~~

~~(a) Establishing the information required to be provided in an application for the issuance or renewal of a license as a residential mortgage loan servicer.~~

~~(b) Establishing the requirements for the issuance and renewal of a license as a residential mortgage loan servicer, including, without limitation, requirements:~~

~~(1) For an investigation of the background and history of an applicant for the issuance of a license as a residential mortgage loan servicer, and each person who will have an interest in the residential mortgage loan servicer as a principal, partner, officer, director, trustee, member or shareholder, to determine whether the applicant is suitable for a license as a residential mortgage loan servicer;~~

~~(2) For the appropriate initial minimum net worth of an applicant and the appropriate minimum net worth that must be maintained by a residential mortgage loan servicer; and~~

~~(3) For the deposit with the Commissioner of a surety bond in an amount determined by the Commissioner or an appropriate substitute for a surety bond and for the maintenance of such a surety bond or substitute for a surety bond.~~

~~(c) Establishing a standard for determining whether an applicant is suitable for a license as a residential mortgage loan servicer.~~

~~(d) Establishing the grounds for the issuance, renewal or denial of a license as a residential mortgage loan servicer.~~

~~(e) Imposing a reasonable fee for application and licensure as a residential mortgage loan servicer which must not exceed the actual cost to~~

~~the Division of administering and enforcing the provisions of sections 23 to 29, inclusive, of this act~~

~~(f) Imposing any requirements on a residential mortgage loan servicer as the Commissioner deems necessary and appropriate for the protection of consumers in this State.~~

~~(g) Defining and prohibiting improper and fraudulent business practices in connection with the servicing of residential mortgage loans.~~

~~(h) Establishing procedures for the examination and investigation of licensees.~~

~~(i) Establishing the grounds and procedures for the suspension or revocation of a license as a residential mortgage loan servicer or the imposition of any other penalty determined to be appropriate by the Commissioner.~~

~~(j) To carry out the provisions of sections 23 to 29, inclusive, of this act.~~

~~4. A licensee shall service residential mortgage loans in compliance with all federal laws and regulations governing the servicing of residential mortgage loans and the provisions of sections 23 to 29, inclusive, of this act and any regulations adopted pursuant thereto.~~

~~5. For the purposes of this section, a person is a member or shareholder of an applicant for a license as a residential mortgage loan servicer or a licensee if:~~

~~(a) The person owns, or has the power to vote directly or indirectly, any percentage of a class of voting shares or voting interests of an applicant or licensee, if the applicant or licensee has 20 or fewer members or shareholders.~~

~~(b) The person owns, or has the power to vote directly or indirectly, 10 percent or more of a class of voting shares or voting interests of an applicant or licensee, if the applicant or licensee has more than 20 members or shareholders.] (Deleted by amendment.)~~

Sec. 30. 1. Sections 2 to 16, inclusive, of this act apply only with respect to trust agreements for which a notice of default is recorded on or after October 1, 2013, and to a judicial foreclosure action commenced on or after October 1, 2013.

2. The amendatory provisions of section 17 of this act apply only with respect to trust agreements for which a notice of default is recorded on or after October 1, 2013.

3. The amendatory provisions of section 18 of this act apply only to an action commenced on or after October 1, 2013.

Sec. 31. ~~[NRS 645F.265 is hereby repealed.] (Deleted by amendment.)~~

~~TEXT OF REPEALED SECTION~~

~~645F.265 Registration of certain persons and institutions engaged in business of servicing mortgage loans required. A person or institution engaged in the business of servicing mortgage loans that intends to conduct business in this State for the purpose of servicing mortgage loans secured by~~

~~a lien on real property located in this State shall register with the Commissioner on a form prescribed by the Commissioner. The form must:~~

- ~~1. Identify the state in which the institution is domiciled;~~
- ~~2. Identify the principal place of business of the institution; and~~
- ~~3. Provide such other information as the Commissioner may require.]~~

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 547 to Senate Bill No. 321 deletes Sections 21 through 29 of the bill, as introduced. It reinstates Section 265 of Chapter 645F of *Nevada Revised Statutes*, which provides for the registration of certain persons and institutions engaged in the business of servicing mortgage loans. The amendment provides that the additional restrictions outlined in the measure do not apply to a credit union that, during its immediately preceding annual reporting period as established with its primary regulator, has foreclosed on 100 or fewer owner-occupied homes located in Nevada.

Finally, it deletes Section 16, Subsection 7 of the bill, which relates to deceptive trade practice and adds Senators Brower, Hammond and Hutchison as cosponsors of the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 211.

Bill read second time.

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

Amendment No. 324.

"SUMMARY—Requires certain health care practitioners to communicate certain information to the public. (BDR 54-14)"

"AN ACT relating to health care; requiring that advertisements for certain health care services include certain information; requiring certain health care practitioners to communicate certain information to the public; limiting the use of the term "board certified" by certain health care practitioners; providing for the professional discipline of health care practitioners under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill requires that an advertisement for health care services identify the type of license held by each health care practitioner named in the advertisement. Such an advertisement must not include any deceptive or misleading information regarding a health care practitioner. This bill further requires a health care practitioner who provides health care services in this State to communicate his or her specific licensure to all current and prospective patients by: (1) conspicuously displaying in each office in which the health care practitioner practices a written patient disclosure statement that clearly identifies the type of license he or she holds; and (2) if the health care practitioner wears a name tag while delivering health care services, including his or her licensure on the tag. This bill prohibits health care practitioners who are physicians and osteopathic physicians from using the term "board certified" unless the board is a specialty certifying board of the

American Board of Medical Specialties or the American Osteopathic Association or meets certain other requirements. This bill provides that a health care practitioner who violates an advertising or patient disclosure requirement is subject to professional discipline. This bill also ~~[exempts]~~ establishes certain [health care practitioners] exemptions from the requirements for advertising and patient disclosure.

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

Section 1. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsection 2:*

(a) *An advertisement for health care services that names a health care practitioner must identify the type of license held by the health care practitioner and must not contain any deceptive or misleading information.*

(b) *A health care practitioner who provides health care services in this State shall affirmatively communicate his or her specific licensure to all current and prospective patients. Such communication must include, without limitation:*

(1) *A written patient disclosure statement that is conspicuously displayed in the office of the health care practitioner which clearly identifies the type of license held by the health care practitioner. The writing must be of sufficient size to be visible and apparent to all current and prospective patients.*

(2) *If the health care practitioner wears a name tag during the course of providing health care services, an indication of his or her specific licensure on the tag.*

(c) *A health care practitioner who practices in more than one office shall comply with the requirements set forth in this section in each office in which he or she practices.*

(d) *A physician or osteopathic physician shall not hold himself or herself out to the public as board certified in a specialty or subspecialty unless the physician or osteopathic physician discloses the full and correct name of the board by which he or she is certified, and the board:*

(1) *Is a member board of the American Board of Medical Specialties or the American Osteopathic Association; or*

(2) *Requires for certification in a specialty or subspecialty:*

(I) ~~44~~ The successful completion of a postgraduate training program that is approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association and which provides complete training in the specialty or subspecialty;

(II) *Prerequisite certification by the American Board of Medical Specialties or the American Osteopathic Association in the specialty or subspecialty; and*

(III) *Successful completion of an examination in the specialty or subspecialty.*

↪ *An advertisement for health care services must not include a statement that a physician or osteopathic physician is board certified in a specialty or subspecialty unless the requirements of this subsection are met.*

(e) If an advertisement for health care services is in writing, the information concerning licensure and board certification that is required pursuant to this section must be prominently displayed in the advertisement using a font size and style to make the information readily apparent.

(f) A health care practitioner who violates any provision of this section is guilty of unprofessional conduct and is subject to professional discipline by the board, agency or other entity in this State by which he or she is licensed or regulated.

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

(a) An advertisement for health care services or a health care practitioner who provides health care services if the health care services are provided in a medical facility licensed pursuant to chapter 449 of NRS or a county or public hospital established pursuant to chapter 450 of NRS; or

(b) The following health care practitioners:

~~the~~ *(1) A veterinarian or other person licensed under chapter 638 of NRS.*

~~the~~ *(2) A person who works in or is licensed to operate, conduct, issue a report from or maintain a medical laboratory under chapter 652 of NRS unless the person provides services directly to a patient or the public.*

3. *As used in this section:*

(a) "Advertisement" means any printed, electronic or oral communication or statement that names a health care practitioner in relation to the practice, profession or institution in which the health care practitioner is employed, volunteers or otherwise provides health care services. The term includes, without limitation, any business card, letterhead, patient brochure, pamphlet, newsletter, telephone directory, electronic mail, Internet website, physician database, audio or video transmission, direct patient solicitation, billboard and any other communication or statement used in the course of business.

(b) "Deceptive or misleading information" means any information that falsely describes or misrepresents the profession, skills, training, expertise, education, board certification or licensure of a health care practitioner.

(c) "Health care practitioner" means any person who engages in acts related to the treatment of human ailments or conditions and who is subject to licensure or regulation by this title.

(d) "Medical laboratory" has the meaning ascribed to it in NRS 652.060.

(e) "Osteopathic physician" has the meaning ascribed to it in NRS 633.091.

(f) "Physician" has the meaning ascribed to it in NRS 630.014.

Sec. 2. This act becomes effective on January 1, 2014.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senators Cegavske and Hardy.

SENATOR CEGAVSKE:

Thank you, Mr. President. Amendment No. 324 to Senate Bill No. 211 allows a physician or osteopathic physician to use the term “board certified” if he or she successfully completes a postgraduate program approved by the Accreditation Council for Medical Education of the American Osteopathic Association. It also exempts health care services or a health care practitioner who provides services in a hospital or certain medical facilities from the requirements for advertising and patient disclosure.

SENATOR HARDY:

Thank you, Mr. President. I rise in support of Amendment No. 324 to Senate Bill No. 211.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Assistant Secretary of the Senate signed Senate Resolutions Nos. 5, 6.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Brower, the privilege of the Floor of the Senate Chamber for this day was extended to City of Reno Councilwoman Hillary Schieve; also to the McQueen High School Austrian students, teachers and chaperones; students: Julia Hönigl, Armin Kammerhofer, Sarah König, Manuel Marko, Nicole Mozisch, Robert Paus, Valentina Pschorn, Lukas Reiger, Juliana Reisenbahn, Lisa Reitbauer, Tobias Schmid, Maximilian Thummerer, Alexander Übelacker, Victoria Zitterer; Austrian teachers: Anita Auer, Maria Riegler; American teachers: Chris Case, Rebecca Young; and American chaperones: Bill Langley and Katie Langley.

On request of Senator Cegavske, the privilege of the Floor of the Senate Chamber for this day was extended to Adam Cegavske.

On request of Senator Goicoechea, the privilege of the Floor of the Senate Chamber for this day was extended to Mayor Clifford Eklund from the City of Carlin, and City Manager Curtis Calder and Councilwoman Mandy Simons, both from the City of Elko.

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to City Manager Shaun Carey and Councilman Ed Lawson from the City of Sparks; and also to the students, teachers and bus driver from Esmeralda County School District; students: Rory Bradley, Adrian Cortez, Levi Graf, Sydney Graf, Sarah Grant, Carlos Guerrero, Stephanie Miramontes, Sammual Munk, Skyla Ogilvie, Meghan Richardson, Darian Tezanos, Megan Thackeray; and chaperones: Jose Cortez, Leticia Cortez, Gary Gazaway and Linda Gazaway.

On request of Senator Hardy, the privilege of the Floor of the Senate Chamber for this day was extended to Aaron Baker from the City of Mesquite and Councilwoman Gerri Schroder from the City of Henderson.

On request of Senator Hutchison, the privilege of the Floor of the Senate Chamber for this day was extended to Kelsey Tueller and Piers Tueller.

On request of Senator Kieckhefer, the privilege of the Floor of the Senate Chamber for this day was extended to Councilwoman Neoma Jardon from the City of Reno.

On request of Senator Kihuen, the privilege of the Floor of the Senate Chamber for this day was extended to Elvira Diaz and Cory Hernandez.

On request of Senator Settelmeyer, the privilege of the Floor of the Senate Chamber for this day was extended to Councilman Roy Edgington Jr., City Manager Chris Good and Councilwoman Susan Seidl, all from the City of Fernley.

On request of Senator Smith, the privilege of the Floor of the Senate Chamber for this day was extended to Reverend Neal Anderson, and Mayor Geno Martini and Councilwoman Julia Ratti, both from the City of Sparks.

On request of Senator Spearman, the privilege of the Floor of the Senate Chamber for this day was extended to City of Reno Councilwoman Jenny Brekhus.

Senator Denis moved that the Senate adjourn until Monday, April 22, 2013, at 11:30 a.m.

Motion carried.

Senate adjourned at 6:25 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate