

**THE ONE HUNDRED AND THIRTEENTH DAY**

---

CARSON CITY (Monday), May 27, 2013

Senate called to order at 12:47 p.m.

President Krolicki presiding.

PRESIDENT KROLICKI:

Good morning everyone. Happy Memorial Day. Before we get started, let us take a moment to reflect on this day when so many have given so much for this Country.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Eternal Father, in this moment of prayer, when there is silence in the Chamber, may there not be silence in Your presence. May our prayers be heard.

May no short circuits be made by our lack of faith, our high professions joined to low attainments, our fine words hiding shabby thoughts or friendly faces masking cold hearts. Out of the same old needs, conscious of the same old faults, we pray on the same old terms for new mercies and new blessings.

We pray today to the One who has given us assurance that You will hear and answer our prayers.

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 Finance, to which were referred Senate Bills Nos. 485, 515; Assembly Bills Nos. 481, 482, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which was referred Senate Bill No. 481, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Finance, to which were re-referred Senate Bills Nos. 56, 165, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair**Mr. President:*

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 91, 146, 195, 422, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

TICK SEGERBLOM, *Chair*

*Mr. President:*

Your Committee on Legislative Operations and Elections, to which was referred Senate Concurrent Resolution No. 1, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and be adopted as amended.

PAT SPEARMAN, *Chair*

#### MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 24, 2013

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 258, 267, 419, 441, 448, 449, 453, 457, 458, 468, 496, 497, 503, 505, 506, 507, 509.

Also, I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 419.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 27, Amendments Nos. 724, 845; Senate Bill No. 49, Amendment No. 779; Senate Bill No. 55, Amendment No. 620; Senate Bill No. 72, Amendments Nos. 688, 836; Senate Bill No. 107, Amendment No. 746; Senate Bill No. 131, Amendments Nos. 728, 840; Senate Bill No. 177, Amendment No. 730; Senate Bill No. 179, Amendments Nos. 731, 871; Senate Bill No. 210, Amendments Nos. 846, 862; Senate Bill No. 220, Amendments Nos. 745, 861; Senate Bill No. 224, Amendments Nos. 732, 879; Senate Bill No. 229, Amendment No. 680; Senate Bill No. 230, Amendment No. 843; Senate Bill No. 237, Amendment No. 880; Senate Bill No. 262, Amendments Nos. 629, 784; Senate Bill No. 269, Amendment No. 834; Senate Bill No. 280, Amendment No. 777; Senate Bill No. 301, Amendment No. 711; Senate Bill No. 302, Amendment No. 699; Senate Bill No. 312, Amendment No. 733; Senate Bill No. 314, Amendment No. 747; Senate Bill No. 319, Amendments Nos. 782, 824; Senate Bill No. 321, Amendments Nos. 684, 822; Senate Bill No. 327, Amendments Nos. 646, 873; Senate Bill No. 347, Amendment No. 887; Senate Bill No. 364, Amendment No. 722; Senate Bill No. 383, Amendment No. 685; Senate Bill No. 384, Amendments Nos. 856, 886; Senate Bill No. 399, Amendments Nos. 823, 875; Senate Bill No. 425, Amendment No. 751; Senate Bill No. 427, Amendment No. 664; Senate Bill No. 442, Amendment No. 642; Senate Bill No. 443, Amendment No. 641; Senate Bill No. 450, Amendment No. 776; Senate Bill No. 456, Amendment No. 701; Senate Bill No. 478, Amendment No. 687; Senate Bill No. 493, Amendment No. 647; Senate Bill No. 508, Amendment No. 697, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 287, 336, 412, 435, 466.

MATTHEW BAKER

*Assistant Chief Clerk of the Assembly*

ASSEMBLY CHAMBER, Carson City, May 25, 2013

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 256, 370.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Assembly Concurrent Resolution No. 7.

MATTHEW BAKER

*Assistant Chief Clerk of the Assembly*

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that all bills and resolutions, just reported out of Committee be immediately placed on the appropriate reading file for this legislative day.

Motion carried.

Senator Smith moved that Senate Concurrent Resolution No. 1 be taken from the Resolution File and placed on the Secretary's Desk.

Motion carried.

Assembly Concurrent Resolution No. 7.

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

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 256.

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

Motion carried.

Assembly Bill No. 287.

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

Motion carried.

Assembly Bill No. 336.

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

Motion carried.

Assembly Bill No. 370.

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

Motion carried.

Assembly Bill No. 412.

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

Motion carried.

Assembly Bill No. 419.

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

Motion carried.

Assembly Bill No. 435.

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

Motion carried.

Assembly Bill No. 466.

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

Motion carried.

## SECOND READING AND AMENDMENT

Senate Bill No. 481.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 851.

"SUMMARY—Extends the temporary waiver from certain minimum expenditure requirements for textbooks for school districts, ~~and the temporary allowance for an increase in class sizes for grades 1 through 3~~ (BDR S-1132)"

"AN ACT relating to education; extending the prospective expiration of the temporary waiver from certain requirements governing expenditures for textbooks, instructional supplies, instructional software and instructional hardware by school districts, charter schools and university schools for profoundly gifted pupils; extending the prospective expiration of the temporary waiver from certain requirements governing expenditures for library books, software for computers, the purchase of equipment relating to instruction and the maintenance and repair of equipment, vehicles, and buildings and facilities by school districts; ~~authorizing school districts to increase class sizes for grades 1 through 3 by two pupils for the 2013-2015 biennium;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Department of Education to determine the amount of money that each school district, charter school and university school for profoundly gifted pupils is required to expend during each fiscal year on textbooks, instructional supplies, instructional software and instructional hardware. (NRS 387.206) Existing law also authorizes the board of trustees of a school district, the governing body of a charter school or the governing body of a university school for profoundly gifted pupils that is experiencing an economic hardship to submit a request to the Department for a waiver of all or a portion of the minimum expenditure requirements. (NRS 387.2065) Assembly Bill No. 5 of the 26th Special Session provided a temporary waiver for the 2009-2011 biennium from these requirements without requiring the school districts, charter schools or university schools for profoundly gifted pupils to submit a request for such a waiver. (Chapter 6, Statutes of Nevada 2010, 26th Special Session, p. 41) The 2011 Legislative Session extended the temporary waiver from these minimum expenditure requirements for the 2011-2013 biennium. This temporary waiver is scheduled to expire on June 30, 2013. (Chapter 417, Statutes of Nevada 2011, p. 2569) ~~[Sections 1 and 2 of this]~~ This bill extends the prospective expiration of the temporary waiver to June 30, 2015, thereby extending the temporary waiver from the minimum expenditure requirements for the 2013-2015 biennium.

Existing law requires each school district to expend each school year for library books, software for computers, the purchase of equipment relating to instruction and the maintenance and repair of equipment, vehicles, and

buildings and facilities an amount of money, expressed as an amount per pupil, that is at least equal to the average of the total amount of money that was expended per year for those items in the immediately preceding 3 years. (NRS 387.207) The 2011 Legislative Session provided a temporary waiver for the 2011-2013 biennium to each school district from these minimum expenditure requirements, which is scheduled to expire on June 30, 2013. (Chapter 417, Statutes of Nevada 2011, p. 2569) ~~[Sections 1 and 2 of this bill extend]~~ This bill ~~extends~~ extends the prospective expiration of the temporary waiver to June 30, 2015, thereby extending the temporary waiver from the minimum expenditure requirements for the 2013-2015 biennium.

~~[ Existing law prescribes certain ratios of pupils per licensed teacher in grades 1 through 3. (NRS 388.700) The 26th Special Session of the Nevada Legislature temporarily revised provisions governing class size reduction, in recognition of budget shortfalls, by allowing a school district to elect to increase class sizes by not more than two pupils to achieve ratios of 18 pupils per teacher in grades 1 and 2, and 21 pupils per teacher in grade 3. (Chapter 7, Statutes of Nevada 2010, 26th Special Session, pp. 42-45) If a school district elected to increase class sizes in this manner, all money that would have otherwise been expended by the school district to achieve the lower class sizes in grades 1 through 3 must have been used by the school district to minimize the impact of the budget reductions on class sizes in grades 4 through 12. This temporary increase in class sizes applied to the 2010-2011 school year and expired by limitation on June 30, 2011. The 2011 Legislative Session also authorized school districts, in recognition of the impact of budget reductions, to temporarily increase class sizes by two pupils for grades 1 through 3 for the 2011-2013 biennium. (Chapter 370, Statutes of Nevada 2011, p. 2146) Section 3 of this bill similarly authorizes school districts to increase class sizes by two pupils for grades 1 through 3 for the 2013-2015 biennium.]~~

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

Section 1. Section 1 of chapter 6, Statutes of Nevada 2010, 26th Special Session, as amended by chapter 417, Statutes of Nevada 2011, at page 2569, is hereby amended to read as follows:

Section 1. 1. Notwithstanding the provisions of NRS 387.206, 387.2065 and 387.207 to the contrary for the ~~{2011-2013}~~ 2013-2015 biennium:

(a) The Department of Education is not required to comply with the provisions of NRS 387.206 and 387.2065.

(b) Each school district, charter school and university school for profoundly gifted pupils is not required to comply with the provisions governing the minimum amount of money that must be expended for each fiscal year in that biennium for textbooks, instructional supplies, instructional software and instructional hardware as prescribed pursuant to NRS 387.206 and is not required to submit a request for a

waiver pursuant to NRS 387.2065. The restrictions on the use of the money that would have otherwise been expended by the school district, charter school or university school for profoundly gifted pupils to meet the requirements of NRS 387.206 as set forth in subsection 7 of NRS 387.2065 apply during this period.

(c) Each school district is not required to comply with the provisions governing the minimum amount of money that must be expended for each school year in that biennium for library books, software for computers, the purchase of equipment relating to instruction and the maintenance and repair of equipment, vehicles, and buildings and facilities as prescribed pursuant to NRS 387.207.

2. If, before the effective date of this act, the board of trustees of a school district, the governing body of a charter school or the governing body of a university school for profoundly gifted pupils submitted a request for a waiver pursuant to NRS 387.2065, the Department of Education shall return the request to the applicant.

Sec. 2. Section 2 of chapter 6, Statutes of Nevada 2010, 26th Special Session, as amended by chapter 417, Statutes of Nevada 2011, at page 2569, is hereby amended to read as follows:

Sec. 2. This act becomes effective upon passage and approval and applies retroactively from and after July 1, 2009, and expires by limitation on June 30, ~~{2013.}~~ 2015.

Sec. 3. ~~{1. The Legislature hereby finds and declares that:~~

~~(a) The intended goal of the Legislature is to achieve a pupil teacher ratio of not more than 15 pupils per teacher or 30 pupils per two teachers in kindergarten and grades 1, 2 and 3 where core curriculum is taught; and~~

~~(b) Available money is estimated to provide a sufficient number of teachers to achieve in each school district pupil teacher ratios of 16 pupils per teacher in selected kindergarten classrooms in which pupils are most at risk of failure and in grades 1 and 2 in Fiscal Years 2013-2014 and 2014-2015, and to achieve a pupil teacher ratio in grade 3 of 19 pupils per teacher in Fiscal Years 2013-2014 and 2014-2015; and~~

~~2. For the 2013-2014 Fiscal Year and the 2014-2015 Fiscal Year, available money is estimated to achieve the ratios set forth in paragraph (a) of subsection 1. However, in recognition of the significant downturn in the national and state economies and to allow school districts flexibility in addressing budget shortfalls during this fiscal crisis and notwithstanding the provisions of NRS 388.700, 388.710 and 388.720 to the contrary, a school district may, for the 2013-2014 school year and the 2014-2015 school year, elect to increase the class size by not more than two pupils per teacher to achieve ratios of 18 pupils per teacher in grades 1 and 2, and 21 pupils per teacher in grade 3. If a school district elects to increase class size as authorized by this subsection:~~

~~(a) All money that would have otherwise been expended by the school district to achieve the class sizes set forth in paragraph (a) of subsection 1~~

~~must be used to minimize the impact of budget reductions on class sizes in grades 4 to 12, inclusive;~~

~~(b) The reduction of class sizes in grades 4 to 12, inclusive, must be fiscally neutral such that the plan to reduce the ratios in those grades will not cost more to carry out than complying with the ratios prescribed by paragraph (a) of subsection 1; and~~

~~(c) All plans and reports concerning class size made by the school district to the Department of Education must include the pupil-teacher ratios achieved for each grade level, including grades 1, 2 and 3 and grades 4 to 12, inclusive.~~ (Deleted by amendment.)

Sec. 4. ~~[1.]~~ This act becomes effective upon passage and approval.

~~2. Section 3 of this act expires by limitation on June 30, 2015.]~~

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 851 makes a couple of technical changes to Senate Bill No. 481. The changes are necessary to give our schools the flexibility they need to function over the next couple of years, primarily, related to class size reduction and text book expenditures.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 485.

Bill read second time and ordered to third reading.

Senate Bill No. 515.

Bill read second time and ordered to third reading.

Assembly Bill No. 91.

Bill read second time and ordered to third reading.

Assembly Bill No. 146.

Bill read second time and ordered to third reading.

Assembly Bill No. 195.

Bill read second time and ordered to third reading.

Assembly Bill No. 422.

Bill read second time and ordered to third reading.

Assembly Bill No. 481.

Bill read second time and ordered to third reading.

Assembly Bill No. 482.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 56.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 877.

"SUMMARY—Revises provisions governing state financial administration. (BDR 18-378)"

"AN ACT relating to state financial administration; revising provisions governing certain data made available on the Internet by the State Controller; making various changes relating to ~~the designation of~~ certain funds and accounts; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the State Controller to make available to the public on the State Controller's Internet website certain financial data relating to expenditures and revenues of this State during the current biennium and the immediately preceding biennium. (NRS 227.295) Section 1 of this bill instead requires that such information be made available for the current fiscal year and the immediately preceding fiscal year.

Sections 2-32 of this bill revise the designation of various funds and accounts ~~and~~ and clarify that any money remaining in certain funds and accounts at the end of a fiscal year does not revert to the State General Fund. Sections 3 and 5 redesignate the Catalyst Fund and the Knowledge Fund as the Catalyst Account and Knowledge Account, respectively, and require that certain interest and income earned on unexpended appropriations made from the State General Fund to the Catalyst Account and Knowledge Account remain in the respective Accounts. Sections 3 and 5 additionally clarify that, in addition to any other money remaining in the Accounts, any portion of such unexpended appropriations that remains in the Accounts at the end of a fiscal year does not revert to the State General Fund.

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

Section 1. NRS 227.295 is hereby amended to read as follows:

227.295 In addition to any record required to be open to inspection pursuant to NRS 227.290 or 239.010, the State Controller shall, on an Internet website established and maintained by him or her, make available for public inspection current data maintained in the records of the State Controller concerning the expenditures and revenues of this State, including, without limitation:

1. A table displaying all revenues received during each month from:
  - (a) Fees;
  - (b) Fines;
  - (c) Interest;
  - (d) Licensing revenue;
  - (e) Taxes; and
  - (f) Transfers from the Federal Government;
2. A table displaying all expenditures made each month for:
  - (a) Education;
  - (b) Government, including, without limitation, the operation of the courts of this State;



- (c) Health and social services;
- (d) Law enforcement;
- (e) Programs for housing, industrial insurance and unemployment insurance;
- (f) Public safety;
- (g) Recreation and resource development;
- (h) The regulation of businesses; and
- (i) Transportation;

3. For each category of expenditures specified in subsection 2, a graph displaying cumulative expenditures by month for the current ~~{biennium}~~ *fiscal year* and the immediately preceding ~~{biennium}~~ *fiscal year*; and

4. For each source of revenue totaling more than \$100,000,000 as set forth in the legislatively approved budget for a ~~{biennium}~~ *fiscal year*:

(a) The total amount projected in that budget to be received during that ~~{biennium}~~ *fiscal year*; and

(b) A graph displaying the cumulative revenue by month for that ~~{biennium}~~ *fiscal year* and the immediately preceding ~~{biennium}~~ *fiscal year*.

Sec. 2. NRS 231.005 is hereby amended to read as follows:

231.005 "Development resource" means any funding or other resource for economic development, including, without limitation, a structured lease of real property. The term does not include any funding for administrative or operating purposes or any grant, loan or allocation of money from the Catalyst ~~{Fund}~~ *Account* created by NRS 231.1573 or the Knowledge ~~{Fund}~~ *Account* created by NRS 231.1592.

Sec. 3. NRS 231.1573 is hereby amended to read as follows:

231.1573 1. The Catalyst ~~{Fund}~~ *Account* is hereby created ~~{as a special revenue fund}~~ in the State ~~{Treasury}~~ *General Fund*.

2. ~~{The Catalyst Fund is a continuing fund without reversion.}~~ The interest and income earned on ~~{money}~~ :

(a) Money in the Catalyst ~~{Fund}~~ *Account*, after deducting any applicable charges ~~{ }~~ ; and

(b) Unexpended appropriations made to the Account from the State General Fund.

↪ must be credited to the Catalyst ~~{Fund}~~ *Account*.

3. All payments of principal and interest on any loan made with money from the Catalyst ~~{Fund}~~ *Account* must be deposited in the ~~{State Treasury for credit to the Fund}~~ *Account*.

4. Any money ~~{remaining}~~ in the Catalyst Account and any unexpended appropriations made to the Account from the State General Fund remaining at the end of a fiscal year ~~{does}~~ do not revert to the State General Fund, and the balance in the Catalyst Account must be carried forward to the next fiscal year.

5. The Executive Director shall administer the Catalyst ~~[Fund]~~ *Account* and may apply for and accept any gift, grant, donation, bequest or other source of money for deposit in the Catalyst ~~[Fund]~~ *Account*.

Sec. 4. NRS 231.1577 is hereby amended to read as follows:

231.1577 1. The Executive Director shall, after considering the advice and recommendations of the Board, establish procedures for applying to the Office for a development resource or a grant or loan of money from the Catalyst ~~[Fund]~~ *Account* created by NRS 231.1573. The procedures must:

(a) Include, without limitation, a requirement that applications for development resources, grants or loans must set forth:

(1) The proposed use of the development resource, grant or loan;

(2) The plans, projects and programs for which the development resource, grant or loan will be used;

(3) The expected benefits of the development resource, grant or loan; and

(4) A statement of the short-term and long-term impacts of the use of the development resource, grant or loan; and

(b) Allow an applicant to revise his or her application upon the recommendation of the Executive Director.

2. In accordance with the procedures established pursuant to subsection 1 and subject to the requirements of this subsection:

(a) A regional development authority which is a local government or composed solely of two or more local governmental entities; or

(b) A private nonprofit regional development authority acting in partnership with a regional development authority which is a local government or composed solely of two or more local governments,

↪ may apply for a grant or loan of money from the Catalyst ~~[Fund]~~ *Account*. If a private nonprofit regional development authority acting in partnership with a regional development authority which is a local government or composed solely of two or more local governments applies for a grant or loan of money from the Catalyst ~~[Fund]~~ *Account*, the regional development authority which is a local government or composed solely of two or more local governments must be the entity which submits the application and receives and distributes the grant or loan.

3. In accordance with the procedures established pursuant to subsection 1 and subject to the requirements of this subsection, a regional development authority may apply for a development resource. A private nonprofit regional development authority applying for a development resource which is a grant or loan of money must apply in partnership with a regional development authority which is a local government or composed solely of two or more local governments. Any development resource which is a grant or loan of money must be received and distributed by the regional development authority which is a local government or composed solely of two or more local governments.

4. Upon receipt of an application pursuant to subsection 2 or 3, the Executive Director shall review the application and determine whether the approval of the application would promote the economic development of this State and aid the implementation of the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053. If the Executive Director determines that approving the application will promote the economic development of this State and aid the implementation of the State Plan for Economic Development, the Executive Director may approve the application and provide a development resource or make a grant or loan of money from the Catalyst ~~Fund~~ Account to the applicant.

5. Except as otherwise provided in this subsection or another specific statute, each development resource or grant or loan of money from the Catalyst ~~Fund~~ Account which the Office provides to a regional development authority must be used to provide development resources, grants or loans to or to make investments in, businesses seeking to create or expand in this State or relocate to this State. The Executive Director may provide a development resource or a grant or loan of money to a regional development authority to be used for administrative or operating purposes, but no money from the Catalyst ~~Fund~~ Account may be used by any organization for economic development for such purposes.

6. After considering the advice and recommendations of the Board, the Executive Director shall:

(a) Require each regional development authority to which the Executive Director proposes to provide a development resource or a grant or loan of money from the Catalyst ~~Fund~~ Account to enter into an agreement with the Executive Director that sets forth terms and conditions of the development resource, grant or loan, which must include, without limitation, a provision requiring the regional development authority to enter into a separate agreement with each business to which the regional development authority provides any portion of the development resource, grant or loan which requires the business to return the development resource, grant or loan to the Office if it is not used in accordance with the agreement between the regional development authority and the Executive Director.

(b) Establish the requirements for reports from regional development authorities concerning the use of development resources and grants and loans of money from the Catalyst ~~Fund~~ Account. The requirements must include, without limitation, a requirement that the recipient of a grant or loan of money include in such a report:

- (1) A description of each activity undertaken with money from the grant or loan and the amount of money used for each such activity;
- (2) The return on the money provided by the grant or loan;
- (3) A statement of the benefit to the public from the grant or loan; and
- (4) Such documentation as the Executive Director deems appropriate to support the information provided in the report.

7. On or before November 1, 2012, and on or before November 1 of every year thereafter, the Executive Director shall submit a report to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee, if the report is received during an odd-numbered year, or to the next session of the Legislature, if the report is received during an even-numbered year. The report must include, without limitation:

(a) The amount of grants and loans awarded from the Catalyst ~~{Fund;}~~ Account;

(b) The amount of all grants, gifts and donations to the Catalyst ~~{Fund;}~~ Account from public and private sources;

(c) The number of businesses which have been created or expanded in this State, or which have relocated to this State, because of grants and loans from the Catalyst ~~{Fund;}~~ Account; and

(d) The number of jobs which have been created or saved because of grants and loans from the Catalyst ~~{Fund;}~~ Account.

Sec. 5. NRS 231.1592 is hereby amended to read as follows:

231.1592 1. The Knowledge ~~{Fund}~~ Account is hereby created in the State ~~{Treasury;}~~ General Fund.

2. ~~{The Knowledge Fund is a continuing fund without reversion.}~~ The interest and income earned on ~~{money}~~ :

(a) Money in the Knowledge ~~{Fund;}~~ Account, after deducting any applicable charges ~~{;}~~ ; and

(b) Unexpended appropriations made to the Account from the State General Fund.

~~{;}~~ must be credited to the Knowledge ~~{Fund;}~~ Account.

3. Any money ~~remaining~~ in the Knowledge Account and any unexpended appropriations made to the Account from the State General Fund remaining at the end of a fiscal year ~~does~~ do not revert to the State General Fund, and the balance in the Knowledge Account must be carried forward to the next fiscal year.

4. The Executive Director:

(a) Shall administer the Knowledge ~~{Fund}~~ Account in a manner that is consistent with the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053;

(b) May apply for and accept any gift, grant, donation, bequest or other source of money for deposit in the Knowledge ~~{Fund;}~~ Account; and

(c) Subject to any restrictions imposed by such a grant, gift, donation or appropriation, may allocate money in the Knowledge ~~{Fund}~~ Account among the research universities, the Desert Research Institute, the technology outreach program established pursuant to NRS 231.1596 and the technology transfer offices of the research universities and the Desert Research Institute to support commercialization and technology transfer to the private sector.

Sec. 6. NRS 231.1593 is hereby amended to read as follows:

231.1593 1. The Executive Director may enter into agreements, when the Executive Director deems such an agreement to be appropriate, with the research universities and the Desert Research Institute for the allocation of commercialization revenue between the Office, the research universities and the Desert Research Institute. Any commercialization revenue received by the Office pursuant to such an agreement must be deposited in the Knowledge ~~[Fund]~~ Account created by NRS 231.1592.

2. In consideration of the money and services provided or agreed to be provided by the Office, the research universities and the Desert Research Institute shall agree to allocate commercialization revenue in accordance with any agreement entered into pursuant to subsection 1.

3. As used in this section, "commercialization revenue" means dividends, realized capital gains, license fees, royalty fees and other revenues received by a research university or the Desert Research Institute as a result of commercial applications developed as a result of the programs established pursuant to NRS 231.1591 to 231.1597, inclusive, less:

- (a) The portion of those revenues allocated to the inventor; and
- (b) Expenditures incurred by the research university or the Desert Research Institute to legally protect the intellectual property.

Sec. 7. NRS 231.1594 is hereby amended to read as follows:

231.1594 1. After considering the advice and recommendations of the Board, the Executive Director shall establish procedures for applying for an allocation of money from the Knowledge ~~[Fund]~~ Account created by NRS 231.1592. The procedures must include, without limitation, a requirement that applications for allocations of money set forth:

- (a) The proposed use of the money;
- (b) The plans, projects and programs for which the money will be used;
- (c) The expected benefits of the money; and
- (d) A statement of the short-term and long-term impacts of the use of the money.

2. In accordance with the procedures established pursuant to subsection 1, a research university or the Desert Research Institute may apply for an allocation of money from the Knowledge ~~[Fund]~~ Account. Upon receipt of an application for an allocation from the Knowledge ~~[Fund]~~ Account, the Executive Director shall review the application and determine whether the approval of the application would promote the economic development of this State and aid the implementation of the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053. If the Executive Director determines that approving the application will promote the economic development of this State and aid the implementation of the State Plan for Economic Development, the Executive Director may approve the application and make an allocation of money from the Knowledge ~~[Fund]~~ Account to the applicant.

3. If a research university or the Desert Research Institute receives an allocation of money from the Knowledge ~~Fund~~ *Account*, the money must be used for the purposes set forth in NRS 231.1597.

4. In making allocations of money from the Knowledge ~~Fund~~ *Account* created pursuant to NRS 231.1592, the Executive Director must consider:

(a) The extent to which an allocation will promote the economic development of this State and aid the implementation of the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053; and

(b) Whether the research universities and the Desert Research Institute have received an equitable share of the allocations of money from the Knowledge ~~Fund~~ *Account*.

Sec. 8. NRS 231.1595 is hereby amended to read as follows:

231.1595 1. In consultation with the Board and the Chancellor, the Executive Director shall:

(a) Establish, for the programs established pursuant to NRS 231.1591 to 231.1597, inclusive, economic development goals which are consistent with the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053 and the strategic plans of the research universities and the Desert Research Institute.

(b) In cooperation with the administration of the research universities and the Desert Research Institute, expand science and technology research at the research universities and the Desert Research Institute.

(c) Enhance technology transfer and commercialization of research and technologies developed at the research universities and the Desert Research Institute to create high-quality jobs and new industries in this State.

(d) Establish economic development objectives for the programs established pursuant to NRS 231.1591 to 231.1597, inclusive.

(e) Verify that the programs established pursuant to NRS 231.1591 to 231.1597, inclusive, are being enhanced by research grants and that such programs are meeting the Board's economic development objectives.

(f) Monitor all research plans that are part of the programs established pursuant to NRS 231.1591 to 231.1597, inclusive, at the research universities and the Desert Research Institute to determine that allocations from the Knowledge ~~Fund~~ *Account* created by NRS 231.1592 are being spent in accordance with legislative intent and to maximize the benefit and return to this State.

(g) Develop methods and incentives to encourage investment in and contributions to the programs established pursuant to NRS 231.1591 to 231.1597, inclusive, from the private sector.

(h) Establish requirements for periodic reports from the research universities and the Desert Research Institute concerning the use of allocations from the Knowledge ~~Fund~~ *Account* pursuant to NRS 231.1597. The requirements must include, without limitation, a requirement that the recipient of the allocation include in such a report:

(1) A description of each activity undertaken with money from the allocation and the amount of money used for each such activity; and

(2) Such documentation as the Executive Director deems appropriate to support the information provided in the report.

(i) On or before November 1, 2012, and on or before November 1 of every year thereafter, submit a report to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee, if the report is received during an odd-numbered year, or to the next session of the Legislature, if the report is received during an even-numbered year. The report must include, without limitation:

(1) The number of research teams and faculty recruited, hired and retained pursuant to NRS 231.1597 and the amount of funding provided to those research teams;

(2) A description of the research being conducted by the research teams and faculty for which the Executive Director has provided funding pursuant to NRS 231.1597;

(3) The number of patents which have been filed as a result of the programs established pursuant to NRS 231.1591 to 231.1597, inclusive;

(4) The amount of research grants awarded to the research teams and faculty recruited, hired and retained pursuant to NRS 231.1597;

(5) The amount of all grants, gifts and donations to the Knowledge ~~Fund~~ *Account* from public and private sources;

(6) The number of businesses which have been created or expanded in this State, or relocated to this State, because of the programs established pursuant to NRS 231.1591 to 231.1597, inclusive; and

(7) The number of jobs which have been created or saved as a result of the activities of the Office.

2. The Executive Director may enter into any agreements necessary to obtain private equity investment in the programs established pursuant to NRS 231.1591 to 231.1597, inclusive.

Sec. 9. NRS 231.1596 is hereby amended to read as follows:

231.1596 1. The Executive Director shall use money in the Knowledge ~~Fund~~ *Account* created by NRS 231.1592 to establish a technology outreach program at locations distributed strategically throughout this State.

2. The Executive Director shall ensure that the technology outreach program acts as a resource to:

(a) Broker ideas, new technologies and services to entrepreneurs and businesses throughout a defined service area;

(b) Engage local entrepreneurs and faculty and staff at state colleges and community colleges by connecting them to the research universities and the Desert Research Institute;

(c) Assist professors and researchers in finding entrepreneurs and investors for the commercialization of their ideas and technologies;

(d) Connect market ideas and technologies in new or existing businesses or industries or in state colleges and community colleges with the expertise of the research universities and the Desert Research Institute;

(e) Assist businesses, the research universities, state colleges, community colleges and the Desert Research Institute in developing commercial applications for their research; and

(f) Disseminate and share discoveries and technologies emanating from the research universities and the Desert Research Institute to local entrepreneurs, businesses, state colleges and community colleges.

3. In designing and operating the technology outreach program, the Board shall work cooperatively with the technology transfer offices at the research universities and the Desert Research Institute.

Sec. 10. NRS 231.1597 is hereby amended to read as follows:

231.1597 In consultation with the Board and the Chancellor, the Executive Director shall allocate money in the Knowledge ~~Fund~~ Account created by NRS 231.1592 to the research universities and the Desert Research Institute to provide funding for:

1. The recruitment, hiring and retention of research teams and faculty to conduct research in science and technology which has the potential to contribute to economic development in this State;

2. Research laboratories and related equipment located or to be located in this State;

3. The construction of research clinics, institutes and facilities and related buildings located or to be located in this State; and

4. Matching funds for federal and private sector grants and contract opportunities that support economic development consistent with the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053.

Sec. 11. NRS 388.1325 is hereby amended to read as follows:

388.1325 1. The Bullying Prevention ~~Fund~~ Account is hereby created in the State General Fund, to be administered by the Superintendent of Public Instruction. The Superintendent of Public Instruction may accept gifts and grants from any source for deposit into the ~~Fund~~ Account. The interest and income earned on the money in the ~~Fund~~ Account must be credited to the ~~Fund~~ Account.

2. In accordance with the regulations adopted by the State Board pursuant to NRS 388.1327, a school district that applies for and receives a grant of money from the Bullying Prevention ~~Fund~~ Account shall use the money for one or more of the following purposes:

(a) The establishment of programs to create a school environment that is free from bullying, cyber-bullying, harassment and intimidation;

(b) The provision of training on the policies adopted by the school district pursuant to NRS 388.134 and the provisions of NRS 388.121 to 388.139, inclusive; or



(c) The development and implementation of procedures by which the public schools of the school district and the pupils enrolled in those schools can discuss the policies adopted pursuant to NRS 388.134 and the provisions of NRS 388.121 to 388.139, inclusive.

Sec. 12. NRS 388.1327 is hereby amended to read as follows:

388.1327 The State Board shall adopt regulations:

1. Establishing the process whereby school districts may apply to the State Board for a grant of money from the Bullying Prevention ~~[Fund]~~ *Account* pursuant to NRS 388.1325.

2. As are necessary to carry out the provisions of NRS 388.121 to 388.139, inclusive.

Sec. 13. NRS 407.065 is hereby amended to read as follows:

407.065 1. The Administrator, subject to the approval of the Director:

(a) Except as otherwise provided in this paragraph, may establish, name, plan, operate, control, protect, develop and maintain state parks, monuments and recreational areas for the use of the general public. The name of an existing state park, monument or recreational area may not be changed unless the Legislature approves the change by statute.

(b) Shall protect state parks and property controlled or administered by the Division from misuse or damage and preserve the peace within those areas. The Administrator may appoint or designate certain employees of the Division to have the general authority of peace officers.

(c) May allow multiple use of state parks and real property controlled or administered by the Division for any lawful purpose, including, but not limited to, grazing, mining, development of natural resources, hunting and fishing, in accordance with such regulations as may be adopted in furtherance of the purposes of the Division.

(d) Shall impose and collect reasonable fees for entering, camping and boating in state parks and recreational areas. The Division shall issue, upon application therefor and proof of residency and age, an annual permit for entering, camping and boating in all state parks and recreational areas in this State to any person who is 65 years of age or older and has resided in this State for at least 5 years immediately preceding the date on which the application is submitted. The permit must be issued without charge, except that the Division shall charge and collect an administrative fee for the issuance of the permit in an amount sufficient to cover the costs of issuing the permit.

(e) May conduct and operate such special services as may be necessary for the comfort and convenience of the general public, and impose and collect reasonable fees for such special services.

(f) May rent or lease concessions located within the boundaries of state parks or of real property controlled or administered by the Division to public or private corporations, to groups of natural persons, or to natural persons for a valuable consideration upon such terms and conditions as the Division

deems fit and proper, but no concessionaire may dominate any state park operation.

(g) May establish such capital projects construction funds as are necessary to account for the parks improvements program approved by the Legislature. The money in these funds must be used for the construction and improvement of those parks which are under the supervision of the Administrator.

(h) In addition to any concession specified in paragraph (f), may establish concessions within the boundaries of any state park to provide for the sale of food, drinks, ice, publications, sundries, gifts and souvenirs, and other such related items as the Administrator determines are appropriately made available to visitors. Any money received by the Administrator for a concession established pursuant to this paragraph must be deposited in the ~~[Fund]~~ *Account* for State Park Interpretative and Educational Programs and Operation of Concessions ~~[ ]~~ *created by NRS 407.0755.*

2. The Administrator:

(a) Shall issue an annual permit to a person who pays a reasonable fee as prescribed by regulation which authorizes the holder of the permit to enter each state park and each recreational area in this State and, except as otherwise provided in subsection 3, use the facilities of the state park or recreational area without paying the entrance fee; and

(b) May issue an annual permit to a person who pays a reasonable fee as prescribed by regulation which authorizes the holder of the permit to enter a specific state park or specific recreational area in this State and, except as otherwise provided in subsection 3, use the facilities of the state park or recreational area without paying the entrance fee.

3. An annual permit issued pursuant to subsection 2 does not authorize the holder of the permit to engage in camping or boating, or to attend special events. The holder of such a permit who wishes to engage in camping or boating, or to attend special events, must pay any fee established for the respective activity.

4. Except as otherwise provided in subsection 1 of NRS 407.0762 and subsection 1 of NRS 407.0765, the fees collected pursuant to paragraphs (d), (e) and (f) of subsection 1 or subsection 2 must be deposited in the State General Fund.

Sec. 14. NRS 407.0755 is hereby amended to read as follows:

407.0755 1. The ~~[Fund]~~ *Account* for State Park Interpretative and Educational Programs and Operation of Concessions is hereby created ~~for as an enterprise fund~~ *in the State General Fund* for the use of the Division to receive all revenues derived from sales of concessions and vending machines operated within state parks and other special revenue generating activities.

2. ~~[Money in the Fund must be invested as the money in other state funds is invested.]~~ The interest and income earned on the money in the ~~[Fund]~~ *Account*, after deducting any applicable charges, must be credited to the

~~{Fund,}~~ *Account*. Claims against the ~~{Fund}~~ *Account* must be paid as other claims against the State are paid.

3. In addition to any expenditure required by subsection 4, the cost of any goods and services used for the sale of concessions and the coordination of special revenue generating activities must be expended from the ~~{Fund,}~~ *Account*.

4. Money deposited in the ~~{Fund}~~ *Account* must be expended:

(a) By the Administrator, upon approval by the Director, for special interpretative or educational programs and special park projects that enhance the interpretative and educational mission of the Division; or

(b) For any other purpose authorized by the Legislature or by the Interim Finance Committee if the Legislature is not in session.

5. Any ~~{balance}~~ money remaining in the ~~{Fund does not revert to the State General Fund}~~ *Account* at the end of ~~{any}~~ a fiscal year ~~{,}~~ *does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.*

Sec. 15. NRS 422.3785 is hereby amended to read as follows:

422.3785 1. There is hereby created in the State ~~{Treasury the}~~ *General Fund the Account* to Increase the Quality of Nursing Care, to be administered by the Division.

2. ~~{The Fund to Increase the Quality of Nursing Care must be a separate and continuing fund, and no money in the Fund reverts to the State General Fund at any time.}~~ The interest and income on the money in the ~~{Fund,}~~ *Account to Increase the Quality of Nursing Care*, after deducting any applicable charges, must be credited to the ~~{Fund,}~~ *Account*.

3. Any money received by the Division pursuant to NRS 422.3755 to 422.379, inclusive, must be deposited in the ~~{State Treasury for credit to the Fund}~~ *Account* to Increase the Quality of Nursing Care, and must be expended, to the extent authorized by federal law, to obtain federal financial participation in the Medicaid Program, and in the manner set forth in subsection 4.

4. Expenditures from the ~~{Fund}~~ *Account* to Increase the Quality of Nursing Care must be used only:

(a) To increase the rates paid to nursing facilities for providing services pursuant to the Medicaid Program; and

(b) To administer the provisions of NRS 422.3755 to 422.379, inclusive. The amount expended pursuant to this paragraph must not exceed 1 percent of the money received from the fees assessed pursuant to NRS 422.3755 to 422.379, inclusive, and must not exceed the amount authorized for expenditure by the Legislature for administrative expenses in a fiscal year.

5. *Any money remaining in the Account to Increase the Quality of Nursing Care at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.*

6. If federal law or regulation prohibits the money in the ~~[Fund]~~ *Account to Increase the Quality of Nursing Care* from being used in the manner set forth in this section, the rates paid to nursing facilities for providing services pursuant to the Medicaid Program must be changed to the rates provided for by the Division.

Sec. 16. NRS 432.017 is hereby amended to read as follows:

432.017 1. The Account to Assist Persons Formerly in Foster Care is hereby ~~established~~ *created* in the ~~[Department of Health and Human Services' Gift]~~ *State General Fund*.

2. The Account must be administered by the Administrator.

3. The money in the Account must be used to assist persons who attained the age of 18 years while children in foster care in this State to make the transition from foster care to economic self-sufficiency, and may, consistent with that purpose, be:

(a) Disbursed on behalf of such persons, on the basis of need, to obtain goods and services, including, without limitation:

- (1) Job training;
- (2) Housing assistance; and
- (3) Medical insurance;

(b) Granted to nonprofit community organizations; or

(c) Expended to provide matching money required as a condition of any federal grant.

4. A request for the disbursement of money from the Account pursuant to paragraph (a) of subsection 3 must be made to the Division in writing. The request must include information to demonstrate that all other resources for money to pay for the goods and services have been exhausted.

5. The Division shall adopt such regulations as necessary for the administration of this section.

6. ~~[Money]~~ *Any money remaining* in the Account at the end of ~~[any]~~ *a fiscal year* ~~[remains in the Account and]~~ *does not revert to [any other fund.] the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.*

Sec. 17. NRS 482.480 is hereby amended to read as follows:

482.480 There must be paid to the Department for the registration or the transfer or reinstatement of the registration of motor vehicles, trailers and semitrailers, fees according to the following schedule:

1. Except as otherwise provided in this section, for each stock passenger car and each reconstructed or specially constructed passenger car registered to a person, regardless of weight or number of passenger capacity, a fee for registration of \$33.

2. Except as otherwise provided in subsection 3:

(a) For each of the fifth and sixth such cars registered to a person, a fee for registration of \$16.50.

(b) For each of the seventh and eighth such cars registered to a person, a fee for registration of \$12.

(c) For each of the ninth or more such cars registered to a person, a fee for registration of \$8.

3. The fees specified in subsection 2 do not apply:

(a) Unless the person registering the cars presents to the Department at the time of registration the registrations of all the cars registered to the person.

(b) To cars that are part of a fleet.

4. For every motorcycle, a fee for registration of \$33 and for each motorcycle other than a trimobile, an additional fee of \$6 for motorcycle safety. The additional fee must be deposited in the State ~~{Highway}~~ General Fund for credit to the Account for the Program for the Education of Motorcycle Riders ~~{ }~~ created by NRS 486.372.

5. For each transfer of registration, a fee of \$6 in addition to any other fees.

6. Except as otherwise provided in subsection 7 of NRS 485.317, to reinstate the registration of a motor vehicle that is suspended pursuant to that section:

(a) A fee as specified in NRS 482.557 for a registered owner who failed to have insurance on the date specified by the Department, which fee is in addition to any fine or penalty imposed pursuant to NRS 482.557; or

(b) A fee of \$50 for a registered owner of a dormant vehicle who cancelled the insurance coverage for that vehicle or allowed the insurance coverage for that vehicle to expire without first cancelling the registration for the vehicle in accordance with subsection 3 of NRS 485.320,

↪ both of which must be deposited in the Account for Verification of Insurance which is hereby created in the State Highway Fund. The money in the Account must be used to carry out the provisions of NRS 485.313 to 485.318, inclusive.

7. For every travel trailer, a fee for registration of \$27.

8. For every permit for the operation of a golf cart, an annual fee of \$10.

9. For every low-speed vehicle, as that term is defined in NRS 484B.637, a fee for registration of \$33.

10. To reinstate the registration of a motor vehicle that is suspended pursuant to NRS 482.451, a fee of \$33.

Sec. 18. NRS 486.372 is hereby amended to read as follows:

486.372 1. The Director shall:

(a) Establish the Program ~~{ }~~ for the Education of Motorcycle Riders.

(b) Appoint an Administrator to carry out the Program.

(c) Consult regularly with the Advisory ~~{Committee for}~~ Board on Motorcycle Safety concerning the content and implementation of the Program.

(d) Approve courses of instruction provided by public or private organizations which comply with the requirements established for the Program.

(e) Adopt rules and regulations which are necessary to carry out the Program.

2. The Director may contract for the provision of services necessary for the Program.

3. *The Account for the Program for the Education of Motorcycle Riders is hereby created in the State General Fund. The Director shall administer the Account.*

4. The money in the Account for the Program for the Education of Motorcycle Riders may be used:

(a) To pay the expenses of the Program, including reimbursement to instructors licensed pursuant to NRS 486.375 for services provided for the Program; or

(b) For any other purpose authorized by the Legislature.

~~[4.]~~ 5. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.

6. *Any money remaining in the Account for the Program for the Education of Motorcycle Riders at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.*

Sec. 19. NRS 490.067 is hereby amended to read as follows:

490.067 1. The Commission on Off-Highway Vehicles is hereby created.

2. The Commission consists of 11 members as follows:

(a) One member who is an authorized dealer, appointed by the Governor;

(b) One member who is a sportsman, appointed by the Governor from a list of persons submitted by the Director of the Department of Wildlife;

(c) One member who is a rancher, appointed by the Governor from a list of persons submitted by the Director of the State Department of Agriculture;

(d) One member who is a representative of the Nevada Association of Counties, appointed by the Governor from a list of persons submitted by the Executive Director of the Association;

(e) One member who is a representative of law enforcement, appointed by the Governor from a list of persons submitted by the Nevada Sheriffs' and Chiefs' Association;

(f) One member, appointed by the Governor from a list of persons submitted by the Director of the State Department of Conservation and Natural Resources, who:

(1) Possesses a degree in soil science, rangeland ecosystems science or a related field;

(2) Has at least 5 years of experience working in one of the fields described in subparagraph (1); and

(3) Is knowledgeable about the ecosystems of the Great Basin Region of central Nevada or the Mojave Desert;

(g) One member, appointed by the Governor, who is a representative of an organization that represents persons who use off-highway vehicles to access areas to participate in recreational activities that do not primarily involve off-highway vehicles; and

(h) Four members, appointed by the Governor, who reside in the State of Nevada and have participated in recreational activities for off-highway vehicles for at least 5 years using the type of off-highway vehicle owned or operated by the persons they will represent, as follows:

(1) One member who represents persons who own or operate all-terrain vehicles;

(2) One member who represents persons who own or operate all-terrain motorcycles;

(3) One member who represents persons who own or operate snowmobiles; and

(4) One member who represents persons who own or operate, and participate in the racing of, off-highway motorcycles.

3. The Governor shall not appoint to the Commission any member described in paragraph (h) of subsection 2 unless the member has been recommended to the Governor by an off-highway vehicle organization. As used in this subsection, "off-highway vehicle organization" means a profit or nonprofit corporation, association or organization formed pursuant to the laws of this State and which promotes off-highway vehicle recreation or racing.

4. After the initial terms, each member of the Commission serves for a term of 3 years. A vacancy on the Commission must be filled in the same manner as the original appointment.

5. Except as otherwise provided in this subsection, a member of the Commission may not serve more than two consecutive terms on the Commission. A member who has served two consecutive terms on the Commission may be reappointed if the Governor does not receive any applications for that member's seat or if the Governor determines that no qualified applicants are available to fill that member's seat.

6. The Governor shall ensure that, insofar as practicable, the members appointed to the Commission reflect the geographical diversity of this State.

7. Each member of the Commission:

(a) Is entitled to receive, if money is available for that purpose from the fees collected pursuant to NRS 490.084, the per diem allowance and travel expenses provided for state officers and employees generally.

(b) Shall swear or affirm that he or she will work to create and promote responsible off-highway vehicle recreation in the State. The Governor may remove a member from the Commission if the member violates the oath described in this paragraph.

8. The Commission may employ an Executive Secretary, who must not be a member of the Commission, to assist in its daily operations and in administering the ~~Fund~~ *Account for Off-Highway Vehicles created by NRS 490.069*.

9. The Commission may adopt regulations for the operation of the Commission. Upon request by the Commission, the nonvoting advisers

solicited by the Commission pursuant to NRS 490.068 may provide assistance to the Commission in adopting those regulations.

Sec. 20. NRS 490.068 is hereby amended to read as follows:

490.068 1. The Commission shall:

(a) Elect a Chair, Vice Chair, Secretary and Treasurer from among its members.

(b) Meet at the call of the Chair.

(c) Meet at least four times each year.

(d) Solicit nine nonvoting advisers to the Commission to serve for terms of 2 years as follows:

(1) One adviser from the Bureau of Land Management.

(2) One adviser from the United States Forest Service.

(3) One adviser who is:

(I) From the Natural Resources Conservation Service of the United States Department of Agriculture; or

(II) A teacher, instructor or professor at an institution of the Nevada System of Higher Education and who provides instruction in environmental science or a related field.

(4) One adviser from the State Department of Conservation and Natural Resources.

(5) One adviser from the Department of Wildlife.

(6) One adviser from the Department of Motor Vehicles.

(7) One adviser from the Commission on Tourism.

(8) One adviser from the Nevada Indian Commission.

(9) One adviser from the United States Fish and Wildlife Service.

2. The Commission may award a grant of money from the ~~[Fund]~~ *Account for Off-Highway Vehicles created by NRS 490.069*. Any such grant must comply with the requirements set forth in NRS 490.069. The Commission shall:

(a) Adopt regulations setting forth who may apply for a grant of money from the ~~[Fund]~~ *Account for Off-Highway Vehicles* and the manner in which such a person may submit the application to the Commission. The regulations adopted pursuant to this paragraph must include, without limitation, requirements that:

(1) Any person requesting a grant provide proof satisfactory to the Commission that the appropriate federal, state or local governmental agency has been consulted regarding the nature of the project to be funded by the grant and regarding the area affected by the project;

(2) The application for the grant address all applicable laws and regulations, including, without limitation, those concerning:

(I) Threatened and endangered species in the area affected by the project;

(II) Ecological, cultural and archaeological sites in the area affected by the project; and



(III) Existing land use authorizations and prohibitions, land use plans, special designations and local ordinances for the area affected by the project; and

(3) Any compliance information provided by an appropriate federal, state or local governmental agency, and any information or advice provided by any agency, group or individual be submitted with the application for the grant.

(b) Adopt regulations for awarding grants from the ~~[[Fund]]~~ Account.

(c) Adopt regulations for determining the acceptable performance of work on a project for which a grant is awarded.

(d) Approve the completion of, and payment of money for, work performed on a project for which a grant is awarded, if the Commission determines the work is acceptable.

(e) Monitor the accounting activities of the ~~[[Fund]]~~ Account.

3. The nonvoting advisers solicited by the Commission pursuant to paragraph (d) of subsection 1 shall assist the Commission in carrying out the duties set forth in this section and shall review for completeness and for compliance with the requirements of paragraph (a) of subsection 2 all applications for grants.

4. For each regular session of the Legislature, the Commission shall prepare a comprehensive report, including, without limitation, a summary of any grants that the Commission awarded and of the accounting activities of the ~~[[Fund]]~~ Account, and any recommendations of the Commission for proposed legislation. The report must be submitted to the Director of the Legislative Counsel Bureau for distribution to the Legislature not later than September 1 of each even-numbered year.

Sec. 21. NRS 490.069 is hereby amended to read as follows:

490.069 1. The ~~[[Fund]]~~ Account for Off-Highway Vehicles is hereby created in the State ~~[[Treasury]]~~ General Fund as a revolving ~~[[fund]]~~ account. The Commission shall administer the ~~[[Fund]]~~ Account. Any money remaining in the ~~[[Fund]]~~ Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the ~~[[Fund]]~~ Account must be carried forward ~~[-]~~ to the next fiscal year.

2. During the period beginning on July 1, 2012, and ending on June 30, 2013, money in the ~~[[Fund]]~~ Account may only be used by the Commission for the reasonable administrative costs of the Commission and to inform the public of the requirements of this chapter.

3. On or after July 1, 2013, money in the ~~[[Fund]]~~ Account may only be used by the Commission as follows:

(a) Not more than 5 percent of the money that is in the ~~[[Fund]]~~ Account as of January 1 of each year may be used for the reasonable administrative costs of the ~~[[Fund]]~~ Account.

(b) Except as otherwise provided in subsection 4, 20 percent of any money in the ~~[[Fund]]~~ Account as of January 1 of each year that is not used pursuant to paragraph (a) must be used for law enforcement, as recommended by the

Office of Criminal Justice Assistance of the Department of Public Safety, or its successor, and any remaining portion of that money may be used as follows:

(1) Sixty percent of the money may be used for projects relating to:

(I) Studies or planning for trails and facilities for use by owners and operators of off-highway vehicles. Money received pursuant to this sub-subparagraph may be used to prepare environmental assessments and environmental impact studies that are required pursuant to 42 U.S.C. §§ 4321 et seq.

(II) The mapping and signing of those trails and facilities.

(III) The acquisition of land for those trails and facilities.

(IV) The enhancement and maintenance of those trails and facilities.

(V) The construction of those trails and facilities.

(VI) The restoration of areas that have been damaged by the use of off-highway vehicles.

(2) Fifteen percent of the money may be used for safety training and education relating to off-highway vehicles.

4. If money is used for the projects described in paragraph (b) of subsection 3, not more than 30 percent of such money may be allocated to any one category of projects described in subparagraph (1) of that paragraph.

Sec. 22. NRS 490.070 is hereby amended to read as follows:

490.070 1. Upon the request of an off-highway vehicle dealer, the Department may authorize the off-highway vehicle dealer to receive and submit to the Department applications for the:

(a) Issuance of certificates of title and registration for off-highway vehicles; and

(b) Renewal of registration for off-highway vehicles.

2. An authorized dealer shall:

(a) Except as otherwise provided in paragraph (b) and subsection 4, submit to the State Treasurer for allocation to the Department or to the ~~Fund~~ *Account for Off-Highway Vehicles created by NRS 490.069* all fees collected by the authorized dealer from each applicant and properly account for those fees each month;

(b) Submit to the State Treasurer for deposit into the ~~Fund~~ *Account for Off-Highway Vehicles* all fees charged and collected and required to be deposited in the ~~Fund~~ *Account* pursuant to NRS 490.084;

(c) Comply with the regulations adopted pursuant to subsection 5; and

(d) Bear any cost of equipment which is required to receive and submit to the Department the applications described in subsection 1, including any computer software or hardware.

3. Except as otherwise provided in subsection 4, an authorized dealer is not entitled to receive compensation for the performance of any services pursuant to this section.

4. An authorized dealer may charge and collect a fee of not more than \$2 for each application for a certificate of title or registration received by the

authorized dealer pursuant to this section. An authorized dealer may retain any fee collected by the authorized dealer pursuant to this subsection.

5. The Department shall adopt regulations to carry out the provisions of this section. The regulations must include, without limitation, provisions for:

(a) The expedient and secure issuance of:

(1) Forms for applying for the issuance of certificates of title for, or registration of, off-highway vehicles;

(2) Certificates of title and registration by the Department to each applicant whose application is approved by the Department; and

(3) Renewal notices for registrations before the date of expiration of the registrations;

(b) The renewal of registrations by mail or the Internet;

(c) The collection of a fee of not less than \$20 or more than \$30 for the renewal of a registration of an off-highway vehicle;

(d) The submission by mail or electronic transmission to the Department of an application for:

(1) The issuance of a certificate of title for, or registration of, an off-highway vehicle; or

(2) The renewal of registration of an off-highway vehicle;

(e) The replacement of a lost, damaged or destroyed certificate of title or registration certificate, sticker or decal; and

(f) The revocation of the authorization granted to a dealer pursuant to subsection 1 if the authorized dealer fails to comply with the regulations.

Sec. 23. NRS 490.084 is hereby amended to read as follows:

490.084 1. The Department shall determine the fee for issuing a certificate of title for an off-highway vehicle, but such fee must not exceed the fee imposed for issuing a certificate of title pursuant to NRS 482.429. Money received from the payment of the fees described in this subsection must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

2. The Commission shall determine the fee for the annual registration of an off-highway vehicle, but such fee must not be less than \$20 or more than \$30. Money received from the payment of the fees described in this subsection must be distributed as follows:

(a) During the period beginning on July 1, 2012, and ending on June 30, 2013:

(1) Eighty-five percent must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

(2) To the extent that any portion of the fee for registration is not for the operation of the off-highway vehicle on a highway, 15 percent must be deposited into the ~~Fund~~ *Account for Off-Highway Vehicles created by NRS 490.069.*

(b) On or after July 1, 2013:

(1) Fifteen percent must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

(2) To the extent that any portion of the fee for registration is not for the operation of the off-highway vehicle on a highway, 85 percent must be deposited into the ~~[Fund]~~ *Account for Off-Highway Vehicles*.

Sec. 24. NRS 490.085 is hereby amended to read as follows:

490.085 1. The Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration is hereby created ~~as a special account~~ in the ~~[Motor Vehicle]~~ *State Highway Fund*.

2. The Department shall use the money in the Account to pay the expenses of administering the provisions of this chapter relating to the titling and registration of off-highway vehicles.

3. Money in the Account must be used only for the purposes specified in subsection 2.

4. Any money remaining in the Account at the end of ~~the~~ a fiscal year does not revert to the State ~~[General]~~ *Highway Fund*, and the balance in the Account must be carried forward to the next fiscal year.

Sec. 25. NRS 490.086 is hereby amended to read as follows:

490.086 1. The Revolving Account for the Assistance of the Department is hereby created ~~as a special account~~ in the ~~[Motor Vehicle]~~ *State Highway Fund*.

2. All money received by the Department from the Federal Government or any other source to assist the Department in carrying out the provisions of this chapter relating to the titling and registration of off-highway vehicles must be deposited into the Account.

3. Money in the Account must be used only for the purposes specified in subsection 2.

4. Any money remaining in the Account at the end of ~~the~~ a fiscal year does not revert to the State ~~[General]~~ *Highway Fund*, and the balance in the Account must be carried forward to the next fiscal year.

Sec. 26. NRS 501.356 is hereby amended to read as follows:

501.356 1. Money received by the Department from:

- (a) The sale of licenses;
- (b) Fees pursuant to the provisions of NRS 488.075 and 488.1795;
- (c) Remittances from the State Treasurer pursuant to the provisions of NRS 365.535;
- (d) Appropriations made by the Legislature; and

(e) All other sources, including, without limitation, the Federal Government, except money derived from the forfeiture of any property described in NRS 501.3857 or money deposited in the Wildlife Heritage Trust Account pursuant to NRS 501.3575, the Wildlife Trust Fund pursuant to NRS 501.3585, the Energy Planning and Conservation ~~[Fund]~~ *Account* created by NRS 701.630 or the ~~[Fund]~~ *Account* for the Recovery of Costs created by NRS 701.640,

↪ must be deposited with the State Treasurer for credit to the Wildlife Fund Account in the State General Fund.

2. The interest and income earned on the money in the Wildlife Fund Account, after deducting any applicable charges, must be credited to the Account.

3. Except as otherwise provided in subsection 4 and NRS 503.597, the Department may use money in the Wildlife Fund Account only to carry out the provisions of this title and chapter 488 of NRS and as provided in NRS 365.535, and the money must not be diverted to any other use.

4. Except as otherwise provided in NRS 502.250 and 504.155, all fees for the sale or issuance of stamps, tags, permits and licenses that are required to be deposited in the Wildlife Fund Account pursuant to the provisions of this title and any matching money received by the Department from any source must be accounted for separately and must be used:

(a) Only for the management of wildlife; and

(b) If the fee is for the sale or issuance of a license, permit or tag other than a tag specified in subsection 5 or 6 of NRS 502.250, under the guidance of the Commission pursuant to subsection 2 of NRS 501.181.

Sec. 27. NRS 701.630 is hereby amended to read as follows:

701.630 1. The Energy Planning and Conservation ~~{Fund}~~ Account is hereby created in the State ~~{Treasury as a special revenue fund}~~ General Fund.

2. The Director of the Department of Wildlife may apply for and accept any gift, donation, bequest, grant or other source of money for use by the ~~{Fund}~~ Account. Any money so received must be deposited in the ~~{State Treasury for credit to the Fund}~~ Account.

3. ~~{The Fund is a continuing fund without reversion. The money in the Fund must be invested as the money in other state funds is invested.}~~ The interest and income earned on the money in the ~~{Fund}~~ Account, after deducting any applicable charges, must be credited to the ~~{Fund}~~ Account. Claims against the ~~{Fund}~~ Account must be paid as other claims against the State are paid.

4. *Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.*

5. The Director of the Department of Wildlife shall administer the ~~{Fund}~~ Account. The money in the ~~{Fund}~~ Account must be used in accordance with the State Wildlife Action Plan and used by the Department:

(a) To conduct surveys of wildlife;

(b) To map locations of wildlife and wildlife habitat in this State;

(c) To pay for conservation projects for wildlife and its habitat;

(d) To match any federal money for a project or program for the conservation of any species of wildlife which is of critical concern; and

(e) To coordinate carrying out the provisions of this subsection in cooperation with the Office of Energy.

~~{5-}~~ 6. The Department of Wildlife shall adopt regulations to carry out the provisions of this section. The regulations must include, without limitation, the criteria for projects for which the Department may use money from the ~~{Fund-}~~ Account.

~~{6-}~~ 7. As used in this section, "State Wildlife Action Plan" means a statewide plan prepared by the Department of Wildlife and approved by the United States Fish and Wildlife Service which sets forth provisions for the conservation of wildlife and wildlife habitat, including, without limitation, provisions for assisting in the prevention of any species of wildlife from becoming threatened or endangered.

Sec. 28. NRS 701.640 is hereby amended to read as follows:

701.640 1. The ~~{Fund-}~~ Account for the Recovery of Costs is hereby created in the State ~~{Treasury as a special revenue fund-}~~ General Fund.

2. All money collected by the Department of Wildlife in accordance with regulations adopted pursuant to NRS 701.610 must be deposited in the ~~{State Treasury for credit to the Fund-}~~ Account.

3. ~~{The Fund is a continuing fund without reversion. The money in the Fund must be invested as the money in other state funds is invested-}~~

~~{4-}~~ The interest and income earned on the money in the ~~{Fund-}~~ Account, after deducting any applicable charges, must be credited to the ~~{Fund-}~~ Account. Claims against the ~~{Fund-}~~ Account must be paid as other claims against the State are paid.

~~{5-}~~ 4. The Director of the Department of Wildlife may apply for and accept any gift, donation, bequest, grant or other source of money for use by the ~~{Fund-}~~ Account. Any money so received must be deposited in the ~~{State Treasury for credit to the Fund-}~~ Account. If the Director of the Department of Wildlife receives any matching federal money which is credited to the ~~{Fund-}~~ Account pursuant to this subsection, the amount of money credited may be transferred to the Energy Planning and Conservation ~~{Fund-}~~ Account created by NRS 701.630.

~~{6-}~~ 5. *Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.*

6. The Director of the Department of Wildlife shall administer the ~~{Fund-}~~ Account. The money in the ~~{Fund-}~~ Account must be used by the Department of Wildlife solely:

(a) To provide to the Federal Government, the Public Utilities Commission of Nevada or any person any information relating to wildlife or wildlife habitat based on the location of an energy development project; or

(b) To match any federal money for a project or program for the conservation of any species of wildlife.

Sec. 29. NRS 701A.385 is hereby amended to read as follows:

701A.385 Notwithstanding any statutory provision to the contrary, if the Director approves an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, of:

1. Property taxes imposed pursuant to chapter 361 of NRS, the amount of all the property taxes which are collected from the facility for the period of the abatement must be allocated and distributed in such a manner that:

(a) Forty-five percent of that amount is deposited in the Renewable Energy ~~[Fund]~~ *Account* created by NRS 701A.450; and

(b) Fifty-five percent of that amount is distributed to the local governmental entities that would otherwise be entitled to receive those taxes in proportion to the relative amount of those taxes those entities would otherwise be entitled to receive.

2. Local sales and use taxes, the State Controller shall allocate, transfer and remit an amount equal to all the sales and use taxes imposed in this State and collected from the facility for the period of the abatement in the same manner as if that amount consisted solely of the proceeds of taxes imposed by NRS 374.110 and 374.190.

Sec. 30. NRS 701A.450 is hereby amended to read as follows:

701A.450 1. The Renewable Energy ~~[Fund]~~ *Account* is hereby created ~~[ ]~~ *in the State General Fund*.

2. The Director of the Office of Energy appointed pursuant to NRS 701.150 shall administer the ~~[Fund]~~ *Account*.

3. The interest and income earned on the money in the ~~[Fund]~~ *Account* must be credited to the ~~[Fund]~~ *Account*.

4. Not less than 75 percent of the money in the ~~[Fund]~~ *Account* must be used to offset the cost of electricity to retail customers of a public utility that is subject to the portfolio standard established by the Public Utilities Commission of Nevada pursuant to NRS 704.7821.

5. *Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.*

6. The Director of the Office of Energy may establish other uses of the money in the ~~[Fund]~~ *Account* by regulation.

Sec. 31. NRS 490.035 is hereby repealed.

Sec. 32. 1. This act becomes effective upon passage and approval.

2. Sections 29 and 30 of this act expire by limitation on June 30, 2049.

#### TEXT OF REPEALED SECTION

490.035 "Fund" defined. "Fund" means the Fund for Off-Highway Vehicles created by NRS 490.069.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 877 to Senate Bill No. 56 adds both the Catalyst Fund and the Knowledge Fund into the list of funds that will be renamed "accounts" for the purposes of accurate financial accounting practices. It also ensures any funds remaining in the Catalyst Fund and Knowledge Fund do not revert to the General Fund following the years in question.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 165.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 847.

"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 issue a certificate of transferable tax 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 credits; ~~requiring a producer that receives transferable tax 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 transferable tax credits to which he or she is not entitled; authorizing the governing body of a city or county to grant abatements of certain permitting and licensing fees imposed or charged by the city of county; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 8 of this bill authorizes a producer that produces a film, television or other media production in this State to apply, on or before December 31, 2017, to the Office of Economic Development for a certificate of transferable tax credits. Section 8 requires the Office ~~of Economic Development~~ to approve transferable tax credits for such 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 will be incurred in this State; and (3) the production costs of the qualified production exceed \$500,000. Upon approval of transferable tax credits and a determination of the amount of tax credits by the Office, section 8 requires the Office to issue to the producer a certificate of transferable tax credits. Section 8 also sets forth the fees and taxes to which the transferable tax credits may be applied. Additionally, section 8 requires that, at the completion of the qualified production, the producer provide the Office with an audit of the qualified production that is certified by an independent certified public accountant in this State who is approved by the Office. Section 9 of this bill sets forth the types of qualified expenditures and production costs that may serve as a basis for transferable tax credits, and sections 10-12 of this bill provide for the calculation of the transferable tax 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 transferable tax credits; and (2) the disclosure of the audit report to the Office~~



~~and to the public with certain limited exceptions.]~~ Section 12 prohibits the Office from approving any applications for transferable tax credits received on or after January 1, 2018. Section 14 of this bill requires the Office to meet certain notice requirements before holding a hearing to approve or disapprove an application for transferable tax credits. Section 16 of this bill requires a producer to repay any portion of transferable tax credits to which the producer is not entitled if the producer becomes ineligible for the tax credits after receiving the tax credits.

Section 15.5 of this bill authorizes the governing body of a city or county to grant to the producer of a qualified production an abatement of all or any percentage of the amount of certain permitting fees and licensing fees imposed by the city or county if the governing body provides by ordinance for a pilot project for the abatement of such fees.

Section 19 of this bill provides that this bill expires on June 30, 2023.

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 2.5 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. (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:*

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, on or before December 31, 2017, apply to the Office of Economic Development for a certificate of eligibility for transferable tax credits for any qualified expenditures 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 368.4 of NRS;*~~

~~(c)~~ *The gaming license fees imposed by the provisions of NRS 463.370;*

~~(d)~~ *(c) Any tax imposed pursuant to chapter 680B of NRS; or*

~~[(e)]~~ (d) Any combination of the fees and taxes described in paragraphs (a) ~~to (d), inclusive,~~, (b) and (c).

2. The Office shall approve an application for a certificate of eligibility for transferable tax credits if the Office finds that the producer of the qualified production qualifies for the transferable tax credits pursuant to subsection 3 and shall calculate the estimated amount of the transferable tax credits pursuant to sections 10, 11 and 12 of this act.

3. To be eligible for transferable tax 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)]~~ (d) 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)]~~ (e) 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 \$500,000 or more; and

(2) Is certified by an independent certified public accountant in this State who is approved by the Office;

~~[(g)]~~ (f) Pay the cost of the audit required by paragraph ~~[(f)]~~ (e); and

~~[(h)]~~ (g) 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 transferable tax 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 credits available pursuant to section 10 of this act to:

(a) The applicant;

(b) The Department; and

(c) The State Gaming Control Board.

6. Within 14 business days after receipt of an audit provided by the producer pursuant to paragraph ~~4(f)~~ (e) of subsection 3 ~~4~~ and any other accountings or other information required by the Office, the 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 credits in the amount approved by the Office 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 transferable tax 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 transferable tax credits;

(2) Any additional qualified expenditures or production costs that may serve as the basis for transferable tax 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 transferable tax 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 transferable tax 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 transferable tax credits issued pursuant to section 8 of this act must be 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 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 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 transferable tax credits;*
  - (2) *Marketing and distribution;*
  - (3) *Financing, depreciation and amortization;*
  - (4) *The payment of any profits as a result of the qualified production;*
  - (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; or*

(d) *Which have been previously claimed as a basis for transferable tax credits,*

➤ *are not eligible to serve as a basis for 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 transferable tax credits issued to an eligible producer pursuant to section 8 of this act must equal ~~20~~ 15 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, transferable tax credits issued to an eligible producer pursuant to section 8 of this act must include 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 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 transferable tax credits that 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 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 transferable tax credits pursuant to subsection 1 of section 10 of this act:*

(a) *Wages and salaries, including fringe benefits, paid to above-the-line personnel must be included in the calculation at a rate of 17 percent.*

(b) *Wages and salaries, including fringe benefits, paid to below-the-line personnel:*

(1) *For the period beginning January 1, 2014, and ending December 31, 2015, must be included in the calculation at a rate of 17 percent.*

(2) For the period beginning January 1, 2016, and ending December 31, 2016, must be included in the calculation at a rate of 12 percent.

(3) For the period beginning January 1, 2017, and ending December 31, 2017, must be included in the calculation at a rate of 7 percent.

~~f (4) For the period beginning January 1, 2018, and ending December 31, 2018, must be included in the calculation at a rate of 2 percent.~~

~~(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 transferable tax credits ~~that~~ :

(a) 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 ~~(\$35,000,000)~~ \$20,000,000. If the Office does not approve ~~(\$35,000,000)~~ \$20,000,000 of transferable tax credits during any fiscal year, the remaining amount of transferable tax credits must be carried forward and made available for approval during the immediately following 2 fiscal years.

(b) Received on or after January 1, 2018.

2. The transferable tax credits issued to any producer for any qualified production pursuant to section 8 of this act:

(a) Must not exceed 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 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 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.]~~ \$750,000.

Sec. 13. ~~1. As a condition of approval, a producer that applies for transferable tax 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 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 transferable tax 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.~~ (Deleted by amendment.)



Sec. 14. 1. *An application for a certificate of eligibility for transferable tax 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, 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 transferable tax 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 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~~ 60 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. (Deleted by amendment.)

Sec. 15.5. 1. For the purpose of encouraging local economic development, the governing body of a city or county may, on or before December 31, 2017, grant to a producer of a qualified production for which a certificate of eligibility for transferable tax credits has been approved pursuant to section 8 of this act an abatement of all or any percentage of the amount of any permitting fee or licensing fee which the local government is authorized to impose or charge pursuant to chapter 244 or 268 of NRS.

2. Before granting any abatement pursuant to this section, the governing body of the city or county must provide by ordinance for a pilot project for granting abatements to producers of qualified productions for which a

certificate of eligibility for transferable tax credits has been approved pursuant to section 8 of this act.

3. A governing body of a city or county that grants an abatement pursuant to this section shall, on or before October 1 of each year in which such an abatement is granted, 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:

(a) The number of qualified productions produced within the jurisdiction of the governing body for which a certificate of eligibility for transferable tax credits was approved;

(b) The number and dollar value of the abatements granted by the governing body pursuant to this section;

(c) The number of persons within the jurisdiction of the governing body that were employed by each qualified production and the amount of wages paid to those persons; and

(d) The period during which each qualified production was produced within the jurisdiction of the governing body.

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 transferable tax credits after receiving the transferable tax credits pursuant to section 8 of this act shall repay to the Department or the State Gaming Control Board, as applicable, any portion of the transferable tax 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. The Office of Economic Development shall, 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 adopt such regulations as are respectively required to implement the provisions of sections 2 to 17, inclusive, of this act on or before December 31, 2013.

Sec. 19. 1. This act becomes effective upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and on January 1, 2014, for all other purposes.

2. This act expires by limitation on June 30, 2023.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 847 makes several changes to Senate Bill No. 165. The amendment creates a pilot program by adding a sunset provision to the bill such that all applications for film tax credits must be submitted on or before December 31, 2017; and the provisions of the bill will expire by limitation on June 30, 2023, which is after all credits issued will have expired. The base credit amount that may be earned by a single production is reduced from 20 percent of the eligible expenses to 15 percent of the eligible expenses. The maximum amount of film tax credits that may be granted by the Office of Economic Development in each fiscal year is reduced from \$35 million to \$20 million. The Live Entertainment Tax is removed from the list of taxes that the film credits may be taken against. Local governments are authorized to provide producers an abatement of certain permitting and licensing fees authorized under Chapter 244 or Chapter 268 of *Nevada Revised Statutes*. Any local government that grants such an abatement is required to submit a report to the Governor and the Legislature regarding the abatements granted. Finally, provisions requiring an audit to be performed by the Department of Taxation or the Gaming Control Board are deleted based on separate provisions of the bill that require an audit to be performed prior to the tax credits being issued.

Amendment adopted.

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

Senate Bill No. 484.

Bill read third time.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Senate Bill No. 484 makes a General Fund appropriation of \$126,000 to the Mental Health Information System Account for division-wide encryption and workgroup collaboration software. This funding is a one-shot appropriation included in the Governor's Executive Budget. The bill becomes effective upon passage and approval.

Roll call on Senate Bill No. 484:

YEAS—21.

NAYS—None.

Senate Bill No. 484 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 20.

Bill read third time.

### Remarks by Senator Ford.

Thank you, Mr. President. Assembly Bill No. 20 revises provisions regarding certain State Department of Agriculture personnel and their duties. The bill expands the purposes for which money may be expended from the Livestock Inspection Account and for the Program for the Control of Pests and Plant Diseases. The bill also revises notification requirements when a brand inspector determines that an animal is the legal property of a person other than the person offering that animal for inspection. Assembly Bill No. 20 provides that a person may be certified by the Department as an actual producer of farm products other than any livestock, livestock product or poultry. It changes provisions related to pest control, including increasing requirements for certain liability insurance and removing a requirement that each Nevada business location of a person licensed to engage in pest control must retain a primary principal who is responsible for the daily supervision of each category of pest control. The bill repeals a statute regarding a special tax on certain classes of livestock and restores the same provisions to another chapter of *Nevada Revised Statutes*. Finally, it repeals certain statutes relating to the Agricultural Loan Mediation Program, certain inspections by Department inspectors and peace officers and the retention of cattle hides by certain persons slaughtering cattle. This bill is effective upon passage and approval.

### Roll call on Assembly Bill No. 20:

YEAS—21.

NAYS—None.

Assembly Bill No. 20 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

### UNFINISHED BUSINESS

#### CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 18.

The following Assembly Amendment was read:

Amendment No. 716.

"SUMMARY—Makes various changes to provisions governing the Office of the Military, Nevada National Guard, Nevada National Guard Reserve and volunteer military organizations licensed by the Governor. (BDR 36-316)"

"AN ACT relating to the military; revising and updating certain provisions governing military justice; revising and updating certain other provisions governing the Office of the Military, Nevada National Guard, Nevada National Guard Reserve and volunteer military organizations licensed by the Governor; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law contains the Nevada Code of Military Justice, which provides a system of adjudicating guilt and punishing offenders within the Nevada National Guard. (NRS 412.196-412.584) Sections 8, 65 and 66 of this bill specify personal and subject matter jurisdiction under the Code. Existing law allows commanding officers to impose certain types of nonjudicial punishment upon servicemen and servicewomen under their command. (NRS 412.286-412.302) Sections 10-17, 67-70, 107 and 110 of this bill modify provisions governing nonjudicial punishment.

Existing law provides for courts-martial to adjudicate certain offenses under the Code. (NRS 412.304-412.448) Sections 18-32, 72-97 and 100-103 of this bill revise provisions governing courts-martial. Sections 30 and 31 provide that certain persons found incompetent to stand trial by court-martial or not guilty by reason of lack of mental responsibility in court-martial proceedings are committed to the ~~custody~~ care of ~~the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services~~ a suitable facility. Section 97 gives general courts-martial the authority to impose a punishment of confinement for up to 10 years. Convicted servicemen and servicewomen serve their confinement in civil jails, detention facilities, penitentiaries or certain prisons. (NRS 412.276, 412.414)

Existing law specifies military offenses triable by courts-martial. (NRS 412.452-412.562) Sections 33-40 of this bill add to this list of offenses acting as a spy, espionage, possession of controlled substances, sexual assault, stalking, larceny, wrongful appropriation, extortion and assault.

Section 41 of this bill specifies who may administer oaths for the purposes of military administration, including military justice. Sections 42 and 43 of this bill specify how the Code is to be construed.

Existing law establishes the Nevada National Guard as an organized body of enlisted personnel and commissioned officers. (NRS 412.026) Section 44 of this bill establishes the Nevada Enlisted Association of the National Guard of the United States, a group of current and retired enlisted personnel of the Nevada National Guard.

Section 53 of this bill conditions a program promoting rifle practice on the availability of funds from the State or Federal Government. (NRS 412.088)

Existing law provides that the Nevada National Guard cannot discriminate on the basis of race, creed, color, sex or national origin. (NRS 412.116) Section 54 of this bill prohibits discrimination on the basis of gender or sexual orientation as well, while deleting language specifically prohibiting discrimination based on sex.

Section 57 of this bill provides that members of the Nevada National Guard deployed to perform an emergency are to be compensated according to their respective military grade and pay status instead of receiving compensation equal to that received by the main labor force in the service of the State or Federal Government as they do under existing law. (NRS 412.138)

Section 106 of this bill modifies the procedure for making a complaint against a commanding officer. (NRS 412.568) Section 108 of this bill exempts persons subject to the Code from liability for acts or omissions performed as part of their duties under the Code. Section 110 of this bill repeals allowances provided to servicemen and servicewomen of the Nevada National Guard for uniforms and equipment.

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

Section 1. Chapter 412 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 44, inclusive, of this act.

Sec. 2. *"Nonjudicial punishment" means punishment that is imposed:*

1. *Pursuant to NRS 412.286 to 412.302, inclusive, and sections 10 to 17, inclusive, of this act;*

2. *Against an accused, through the chain of command, by the accused's commanding officer or other officer in charge; and*

3. *Without the need to convene a court-martial.*

Sec. 3. *"Principal assistant" means a commissioned officer of the state military forces serving immediately subordinate to the convening authority.*

Sec. 4. *"Restraint-of-freedom punishments" means restriction and arrest in quarters.*

Sec. 5. *"Senior force judge advocate" means the senior judge advocate of the commanding officer of the same force of the state military forces as the accused, and who is that commanding officer's chief legal advisor.*

Sec. 6. *"State military forces" means the members of the Nevada National Guard, reservists of the Nevada National Guard, and volunteer military organizations licensed by the Governor pursuant to NRS 412.126 to organize, drill and bear arms as volunteer military companies or volunteer military organizations.*

Sec. 7. 1. *The principal assistant shall assume command in the event of the commanding officer's death, prolonged absence or disability.*

2. *In the case of the Nevada Air National Guard, the principal assistant may include an officer who lacks an aeronautical rating, as defined in Air Force Instruction 11-402 § 2.2, as it may be amended or replaced, and is serving in a position immediately subordinate to the convening authority.*

3. *Any delegation of authority to a principal assistant must be in writing, unless exigencies prevent such written delegation. If exigencies prevent written delegation, verbal authorization is sufficient and must be reduced to writing as soon as possible thereafter.*

Sec. 8. 1. *The following persons are subject to jurisdiction under this Code:*

(a) *Any person described in subsection 1 of NRS 412.254 or who is a member of the state military forces; and*

(b) *Any person who is in the custody of the state military forces before trial or who is serving a sentence imposed by a court-martial.*

2. *Any person described in subsection 1 is subject to this Code until the person's active service has been terminated in accordance with the law or regulations of the state military forces and the National Guard Bureau and the regulations applicable to that person's service.*

Sec. 9. *No member of the state military forces may be placed in confinement in immediate association with:*

1. *An enemy prisoner; or*

2. *A person who is a citizen of a country other than the United States and who is not a member of the Armed Forces of the United States.*

Sec. 10. 1. *Each commanding officer shall maintain good order and discipline in his or her command. If a commanding officer determines that he or she can maintain good order and discipline through effective leadership, including, without limitation, administrative and corrective measures, he or she must do so. If a commanding officer determines that he or she cannot maintain good order and discipline through effective leadership, including, without limitation, administrative and corrective measures, he or she may pursue punitive measures.*

2. *In determining the appropriate method of punishment, a commanding officer must consider, without limitation:*

- (a) The nature of the offense;*
- (b) The nature of the punishment;*
- (c) The record of the offending serviceman or servicewoman;*
- (d) The need to maintain good order and discipline; and*
- (e) The likely effect of the punitive measures on the record of the offending serviceman or servicewoman.*

3. *Each commanding officer shall, insofar as is practicable, take action to ensure that:*

- (a) Military justice is exercised promptly and fairly; and*
- (b) Each matter of a disciplinary or punitive nature is resolved:*
  - (1) At the lowest appropriate level; and*
  - (2) Using the least severe punishment appropriate to the offense.*

Sec. 11. 1. *This section sets forth the law, policies and procedures for nonjudicial punishment in the state military forces. Unless modified by this Code, the procedures contained in Chapter 3 of Army Regulation 27-10 and Air Force Instruction 51-202, as they may be amended or replaced, apply to nonjudicial punishment in this Code.*

2. *Each commanding officer shall use nonjudicial punishment as an essential and prompt means of maintaining good order and discipline, and to promote positive behavior and changes in servicemen and servicewomen without the stigma of a court-martial conviction.*

3. *No superior may:*

*(a) Direct that a subordinate authority impose nonjudicial punishment in a particular case; or*

*(b) Issue regulations or guidelines which suggest to subordinate authorities that certain categories of minor offenses be disposed of by nonjudicial punishment instead of by court-martial or disposed of by administrative corrective measures, or that predetermined types or amounts of punishment be imposed for certain classifications of offenses that the subordinate authority considers appropriate for disposition by nonjudicial punishment.*

4. *Nonjudicial punishment may be imposed for a minor offense. Whether an offense is minor must be determined by, without limitation:*

- (a) The nature of the offense and the circumstances surrounding the commission of the offense;*

(b) *The age, rank, duty assignment, record and experience of the offender; and*

(c) *The maximum possible sentence that could be imposed for the offense if tried by general court-martial.*

5. *The decision as to whether an offense is minor is a matter of discretion for the commanding officer imposing nonjudicial punishment. The imposition and enforcement of nonjudicial punishment pursuant to NRS 412.286 to 412.302, inclusive, and sections 10 to 17, inclusive, of this act is not a bar to a trial by court-martial or other legal proceeding for a serious crime or offense growing out of the same act or omission and not properly punishable pursuant to NRS 412.286 to 412.302, inclusive, and sections 10 to 17, inclusive, of this act, but the fact that a nonjudicial punishment has been enforced pursuant thereto may be shown by the accused at trial and when so shown must be considered in determining the severity of punishment to be adjudged in the event of a finding of guilty.*

Sec. 12. *Failure to comply with any procedural provision of this Code does not invalidate a punishment imposed pursuant to the Code, unless the error materially prejudiced a substantial right of the servicemen or servicewomen on whom the punishment was imposed.*

Sec. 13. 1. *Commanding officers have authority to impose nonjudicial punishment upon military personnel under their command. The authority of a commanding officer to impose nonjudicial punishment for certain types of offenses or certain categories of persons, or to impose certain types of punishment in specific cases, may be limited or withheld by a superior officer.*

2. *Only the Governor and general officers in command may delegate their authority under subsection 1 to a principal assistant. This limitation on delegation of authority does not remove the authority of other commanding officers authorized to act under this Code, but such other commanding officers may not delegate that authority. A commanding officer superior to the commanding officer having authority to impose nonjudicial punishment may withhold that authority.*

3. *A commanding officer at any echelon may withhold from any subordinate commanding officer all or part of the authority prescribed in subsection 1, including, without limitation, the authority to impose nonjudicial punishment for specific types of offenses that the subordinate would otherwise impose. When authority is withheld, such action should be explained in a clearly defined writing or directive. The original of the writing or directive must be filed in the office of the applicable judge advocate who serves the commanding officer whose authority has been withheld. Any such withholding remains in effect when a new commanding officer is appointed or assumes command, until and unless expressly revoked by the superior commanding officer. Any such action should be addressed to the position held by the commanding officer whose authority has been withheld, not to the commanding officer by name.*



Sec. 14. *An accused facing nonjudicial punishment has the right to demand a trial by court-martial only if the commanding officer who initiated the proceeding for nonjudicial punishment elects to impose restraint-of-freedom punishments. If, before an offer of nonjudicial punishment is made, the commanding officer elects not to impose restraint-of-freedom punishments, the accused has no right to demand a trial by court-martial. If the commanding officer does not advise the accused serviceman or servicewoman of his or her right to reject the nonjudicial punishment and demand a trial by court-martial on initiation of the nonjudicial punishment action, the commanding officer thereby waives the right to retain the restraint-of-freedom punishments.*

Sec. 15. 1. *A commanding officer, after preliminary inquiry, may use a summarized proceeding if it is determined that punishment will not include restraint-of-freedom punishments.*

2. *A Summarized Record of Proceedings, under Article 15, UCMJ, as contained in Army Regulation 27-10, or AF Form 3070, as they may be amended or replaced, must be used to record the summarized nonjudicial punishment proceedings. However, the notification of the right to demand a trial by court-martial must be stricken from the form.*

3. *If a commanding officer who intends to impose nonjudicial punishment determines that a summarized proceeding is appropriate, the accused must be notified in writing of:*

(a) *The intent of the commanding officer to initiate nonjudicial punishment;*

(b) *The intent of the commanding officer to use summarized proceedings;*

(c) *The lack of a right on the part of the accused to demand a trial by court-martial;*

(d) *The maximum punishments allowable pursuant to the summarized proceeding;*

(e) *The right of the accused to remain silent;*

(f) *Each offense that the accused has allegedly committed with reference to the sections of the law allegedly violated;*

(g) *The right of the accused to confront witnesses, examine the evidence and submit matters in defense, extenuation and mitigation; and*

(h) *The right of the accused to appeal ~~for~~ within the period set forth in subsection 4 of NRS 412.296.*

4. *If a commanding officer determines that a summarized proceeding is appropriate, the accused does not have the right to consult with counsel before the hearing and the accused does not have the right to counsel or a spokesperson during the hearing.*

5. *Consistent with the regulations applicable to the accused's service, if a hearing is scheduled, notification of the date and time of the hearing may be made orally or in writing. The hearing must be scheduled not earlier than 24 hours and not later than 60 days after the accused receives notification*

*pursuant to subsection 3 of the intent of the commanding officer to impose nonjudicial punishment.*

*Sec. 16. 1. A commanding officer who, after preliminary inquiry, determines that the punishment options will include restraint-of-freedom punishments shall use a formal proceeding.*

*2. If the commanding officer determines that a formal proceeding is appropriate, the accused must be notified in writing of:*

*(a) The intent of the commanding officer to initiate nonjudicial punishment;*

*(b) The intent of the commanding officer to use a formal proceeding;*

*(c) The maximum punishments allowable under the formal proceeding;*

*(d) The right of the accused to remain silent;*

*(e) Each offense that the accused has allegedly committed with reference to sections of the law that are alleged to have been violated;*

*(f) The right of the accused to confront witnesses, examine the evidence and submit matters in defense, extenuation and mitigation;*

*(g) The right of the accused to consult with a judge advocate and the location of such counsel;*

*(h) The right of the accused to demand a trial by court-martial at any time before the imposition of the nonjudicial punishment; and*

*(i) The right of the accused to appeal.*

*3. If the commanding officer determines that a formal proceeding is appropriate, the accused must be given a reasonable time to consult with counsel, to gather matters in defense, extenuation and mitigation and to decide whether to accept the nonjudicial punishment or demand a trial by court-martial. This decision period must be at least 48 hours, depending on the availability of counsel, but such period may be extended at the request of the accused.*

*4. The commanding officer is not bound by the formal rules of evidence before courts-martial and may consider any matter the commanding officer reasonably believes is relevant to the offense.*

*Sec. 17. 1. A punishment may be announced at the next formation of the unit of the accused after the punishment is imposed or, if appealed, after the decision on the appeal. The announcement may also be posted on a bulletin board of the unit or published in a newsletter or web publication of the unit.*

*2. The announcement of the results of punishments may be used to mitigate perceptions of unfairness of punishment and to serve as a deterrent to similar misconduct by other servicemen and servicewomen. The announcement of punishments must not be undertaken to invoke public embarrassment or scorn of the serviceman or servicewoman so punished. Accordingly, the practice of announcing punishments must be undertaken in a consistent manner to avoid the appearance of favoritism or vindictiveness.*

3. In deciding whether to announce the punishment of servicemen and servicewomen in the grade of E-5 or above, the commanding officer shall consider the following factors:

- (a) The nature of the offense;
- (b) The military record and duty position of the serviceman or servicewoman being punished;
- (c) The deterrent effect of announcing the punishment;
- (d) The impact on the morale or mission of the applicable unit;
- (e) The impact on the victim, if any, of the serviceman's or servicewoman's offense; and
- (f) The impact on the ability of the serviceman or servicewoman to lead.

Sec. 18. 1. A military judge must be:

(a) An active or retired commissioned officer of an organized state military force ~~for~~ or in federal service;

(b) One of the following:

- (1) A member in good standing of the State Bar of Nevada;
- (2) A member of the bar of a federal court for at least 5 years; or
- (3) A person who is licensed to practice law in a state other than the State of Nevada, certified by the Adjutant General of the state in which the military judge is licensed, and a member in good standing therein, and who has received permission from the State Bar of Nevada to sit as a military judge; and

(c) Certified as qualified for duty as a military judge by the senior force judge advocate of the same military force of which the accused is a member.

2. If a military judge is not a member of the State Bar of Nevada, the military judge shall be deemed admitted pro hac vice, subject to filing with the senior force judge advocate of the same military force of which the accused is a member a certificate setting forth that the other qualifications provided in subsection 1 have been met.

Sec. 19. Each component or branch of the state military forces has court-martial jurisdiction over all servicemen and servicewomen of that particular component or branch who are subject to this Code. Additionally, the Nevada Army National Guard and Nevada Air National Guard have court-martial jurisdiction over all servicemen and servicewomen subject to this Code.

Sec. 20. 1. A person may not be tried or adjudged to punishment under this Code while incompetent.

2. For the purposes of this section, a person is incompetent when presently suffering from a mental disease or defect rendering the person unable to understand the nature of the proceedings against that person or to conduct or cooperate intelligently in the defense of the case.

Sec. 21. 1. It is an affirmative defense in trial by court-martial that, at the time of the commission of the acts constituting the offense, the accused, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality of the wrongfulness of his or her acts and, thus, lacked

mental responsibility for those acts. Mental disease or defect does not otherwise constitute a defense.

2. The accused has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence.

3. Whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge shall instruct the members of the court as to the defense of lack of mental responsibility under this section and charge them to find the accused:

(a) Guilty;

(b) Not guilty; or

(c) Not guilty by reason of lack of mental responsibility.

➡ Notwithstanding the provisions of NRS 412.396, the accused may only be found not guilty by reason of lack of mental responsibility pursuant to paragraph (c) if a majority of the members of the court-martial present at the time the vote is taken determines that the defense of lack of mental responsibility has been established.

4. The provisions of this subsection and subsection 3 do not apply to a court-martial composed only of a military judge. In the case of a court-martial composed only of a military judge or a summary court-martial officer, whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge or summary court-martial officer shall find the accused:

(a) Guilty;

(b) Not guilty; or

(c) Not guilty only by lack of mental responsibility.

➡ Notwithstanding the provisions of NRS 412.396, the accused may be found not guilty only by reason of lack of mental responsibility pursuant to paragraph (c) only if the military judge or summary court-martial officer determines that the defense of lack of mental responsibility has been established.

Sec. 22. 1. On application by an accused who is under a sentence of confinement that has not been ordered executed, the convening authority or, if the accused is no longer under that person's jurisdiction, the person exercising general court-martial jurisdiction over the command to which the accused is currently assigned may, in the sole discretion of that person, defer service of the sentence of confinement. The deferment must terminate when the sentence is ordered executed. The person who granted the deferment may rescind the deferment at any time. If the accused is no longer under the jurisdiction of the person who granted the deferment, the person exercising general court-martial jurisdiction over the command to which the accused is currently assigned may rescind the deferment at any time.

2. In any case in which a court-martial sentences an accused referred to in subsection 1 to confinement, the convening authority may defer the service of the sentence of confinement without the consent of the accused until after

*the accused has been permanently released to the state military forces by a state, the United States or a foreign country.*

*3. Subsection 1 applies to a person subject to this Code who:*

*(a) While in the custody of a state, the United States or a foreign country is temporarily returned by that state, the United States or a foreign country to the state military forces for trial by court-martial; and*

*(b) After the court-martial described in paragraph (a), is returned to that state, the United States or a foreign country under the authority of a mutual agreement or treaty, as the case may be.*

*4. In any case in which a court-martial sentences an accused to confinement and the sentence of confinement has been ordered executed pending review, the Adjutant General may defer further service of the sentence of confinement while that review is pending.*

*5. As used in this section, the term "state" includes any state, the District of Columbia and any commonwealth, territory or possession of the United States.*

*Sec. 23. 1. This section applies to any sentence that includes:*

*(a) Confinement for more than 6 months; or*

*(b) Confinement for 6 months or less and a dishonorable discharge, bad-conduct discharge or dismissal.*

*2. A sentence described in subsection 1 must result in the forfeiture of pay, or of pay and allowances, due the sentenced serviceman or servicewoman during any period of confinement or parole. The forfeiture required pursuant to this subsection must take effect on the date determined under this Code and may be deferred as provided by law. In the case of a general court-martial, all pay and allowances due the sentenced serviceman or servicewoman during such period must be forfeited. In the case of a special court-martial, two-thirds of all pay due the sentenced serviceman or servicewoman during such period must be forfeited.*

*3. In a case involving an accused who has dependents, the convening authority or other person acting under this Code may waive any or all of the forfeitures of pay and allowances required by subsection 2 for a period not to exceed 6 months. Any amount of pay or allowances that, except for a waiver under this subsection, would be forfeited must be paid, as the convening authority or other person taking action directs, to the dependents of the accused.*

*4. If the sentence of a serviceman or servicewoman who forfeits pay and allowances under subsection 2 is set aside or disapproved or, as finally approved, does not provide for a punishment referred to in subsection 1, the serviceman or servicewoman must be paid the pay and allowances which the serviceman or servicewoman would otherwise have been paid, except for the forfeiture, for the period during which the forfeiture was in effect.*

*Sec. 24. 1. In each case subject to appellate review pursuant to NRS 412.422, the accused may file with the convening authority a statement expressly withdrawing the right of the accused to such appeal. Such a*

*withdrawal must be signed by both the accused and defense counsel and must be filed in accordance with appellate procedures as provided by law.*

*2. The accused may withdraw an appeal at any time in accordance with appellate procedures as provided by law.*

*Sec. 25. 1. In a trial by court-martial in which a punitive discharge may be adjudged, the State may not appeal a finding of not guilty with respect to the charge or specification by the members of the court-martial, or by a judge in a bench trial, provided that the finding is not made in reconsideration of a sentence or a finding of guilty. The State may appeal the following:*

*(a) An order or ruling of the military judge which terminates the proceedings with respect to a charge or specification;*

*(b) An order or ruling which excludes evidence that is substantial proof of a fact material to the proceeding;*

*(c) An order or ruling which directs the disclosure of classified information;*

*(d) An order or ruling which imposes sanctions for nondisclosure of classified information;*

*(e) A refusal of the military judge to issue a protective order sought by the State to prevent the disclosure of classified information; and*

*(f) A refusal by the military judge to enforce an order described in paragraph (e) that has been previously issued by appropriate authority.*

*2. An appeal of an order or ruling by the State may not be taken unless the trial counsel provides the military judge with written notice of appeal from the order or ruling within 72 hours after the order or ruling. Such notice must include a certification by the trial counsel that the appeal is not taken for the purpose of delay and, if the order or ruling appealed is one which excludes evidence, that the evidence excluded is substantial proof of a fact material in the proceeding.*

*3. The State must diligently prosecute an appeal under this section as provided by law.*

*4. An appeal under this section must be forwarded to the court prescribed in this Code. In ruling on an appeal under this section, the court may act only with respect to matters of law.*

*5. Any period of delay resulting from an appeal under this section must be excluded in deciding any issue regarding denial of a speedy trial unless an appropriate authority determines that the appeal was filed solely for the purpose of delay with the knowledge that it was totally frivolous and without merit.*

*Sec. 26. 1. The senior force judge advocate or his or her designee shall review each general and special court-martial case in which there has been a finding of guilty. The senior force judge advocate or designee may not review a case under this subsection if that person has acted in the same case as an accuser, investigating officer, member of the court, military judge or counsel or has otherwise acted on behalf of the prosecution or defense. The*

*review of the senior force judge advocate or designee must be in writing and must contain the following:*

*(a) Conclusions as to whether:*

- (1) The court has jurisdiction over the accused and the offense;*
- (2) The charge and specification stated an offense; and*
- (3) The sentence was within the limits prescribed by law.*

*(b) A response to each allegation of error made in writing by the accused.*

*(c) If the case is sent for action pursuant to subsection 2, a recommendation as to the appropriate action to be taken and an opinion as to whether corrective action is required as a matter of law.*

*2. The record of trial and related documents in each case reviewed under subsection 1 must be sent for action to the Adjutant General if:*

*(a) The senior force judge advocate who reviewed the case recommends corrective action;*

*(b) The sentence approved includes dismissal, a bad-conduct discharge, dishonorable discharge or confinement for more than 6 months; or*

*(c) Such action is otherwise required by regulations of the Adjutant General.*

*3. The Adjutant General may:*

*(a) Disapprove or approve the findings or sentence, in whole or in part;*

*(b) Remit, commute or suspend the sentence in whole or in part;*

*(c) Except where the evidence was insufficient at the trial to support the findings, order a rehearing on the findings or on the sentence, or both; or*

*(d) Dismiss the charges.*

*4. If a rehearing is ordered but the convening authority finds a rehearing impracticable, the convening authority shall dismiss the charges.*

*5. If the opinion of the senior force judge advocate or designee, in the review under subsection 1, is that corrective action is required as a matter of law and if the Adjutant General does not take action that is at least as favorable to the accused as that recommended by the senior force judge advocate or designee, the record of trial and action thereon must be sent to the Governor for review and action as deemed appropriate.*

*6. The senior force judge advocate or his or her designee may review any case in which there has been a finding of not guilty of all charges and specifications. The senior force judge advocate or designee may not review a case under this subsection if that person has acted in the same case as an accuser, investigating officer, member of the court, military judge or counsel or has otherwise acted on behalf of the prosecution or defense. The senior force judge advocate or designee shall limit any review under this subsection to questions of subject matter jurisdiction ~~as~~ as that jurisdiction is set forth in NRS 412.256.*

*7. The record of trial and related documents in each case reviewed under subsection 6 must be sent for action to the Adjutant General.*

*8. The Adjutant General may:*

(a) When subject matter jurisdiction is found to be lacking, void the court-martial *ab initio*, with or without prejudice to the government, as the Adjutant General deems appropriate; or

(b) Return the record of trial and related documents to the senior force judge advocate for appeal by the government as provided by law.

Sec. 27. 1. The senior force judge advocate shall detail a judge advocate as appellate government counsel to represent the State in the review or appeal of cases specified in NRS 412.432 and before any federal or state court when requested to do so by the Attorney General. Appellate counsel representing the government must be members in good standing of the State Bar of Nevada.

2. Upon an appeal by the State of Nevada, an accused has the right to be represented by detailed military counsel before any reviewing authority and before any appellate court.

3. Upon the appeal by an accused, the accused has the right to be represented by military counsel before any reviewing authority.

4. Upon the request of an accused entitled to be so represented, the senior force judge advocate shall appoint a judge advocate to represent the accused in the review or appeal of cases specified in subsections 2 and 3.

5. An accused may be represented by civilian appellate counsel at no expense to the State.

Sec. 28. Decisions of a court-martial are from a court with jurisdiction to issue felony convictions, and appeals are to the court provided by the law of the state in which the court-martial was held. Appeals are to be made to courts of the state where a court-martial is held only after the exhaustion of the review conducted pursuant to NRS 412.418 to 412.438, inclusive, and sections 24 to 28, inclusive, of this act. The appellate procedures to be followed must be those provided by law for the appeal of criminal cases thereto.

Sec. 29. Under regulations prescribed, an accused who has been sentenced by a court-martial may be required to take leave pending completion of any action under NRS 412.304 to 412.448, inclusive, and sections 18 to 32, inclusive, of this act, if the sentence includes an unsuspended dismissal, an unsuspended dishonorable discharge or a bad-conduct discharge. The accused may be required to begin such leave on the date on which the sentence is approved or at any time after such date, and such leave may be continued until the date on which action under NRS 412.304 to 412.448, inclusive, and sections 18 to 32, inclusive, of this act is completed or may be terminated at an earlier time.

Sec. 30. 1. Unless otherwise stated in this section, in the case of a person determined pursuant to section 20 of this act to be incompetent, the provisions of NRS 178.3981 to 178.4715, inclusive, are applicable. References to the court in NRS 178.3981 to 178.4715, inclusive, and to the judge of such court, shall be deemed to refer to the convening authority having authority to convene a general court-martial for that person.



However, if the person is no longer subject to this Code at a time relevant to the application to the person of the relevant provisions of NRS 178.3981 to 178.4715, inclusive, the state trial court with felony jurisdiction in the county where the person is committed or otherwise may be found retains the powers specified in NRS 178.3981 to 178.4715, inclusive, as if it were the court that ordered the commitment of the person.

2. When the ~~Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services or the Administrator's designee~~ director of a facility in which a person is hospitalized pursuant to the actions taken by the convening authority having authority to convene a general court-martial for that person determines that the person ~~has recovered to such an extent that the person~~ is able to understand the nature of the proceedings against the person and to conduct or cooperate intelligently in the defense of the case, the ~~Administrator or the Administrator's designee~~ director shall promptly transmit a notification of that determination to the convening authority having authority to convene a general court-martial for the person ~~and~~, the person's counsel and the authority having custody of the person. The ~~Administrator or the Administrator's designee shall send a copy of the notification to the person's counsel. The Administrator~~ authority having custody of the person may retain custody of the person for not more than 30 days after ~~transmitting~~ receiving notification that the person has recovered to such an extent that the person is able to understand the nature of the proceedings against the person and to conduct or cooperate intelligently in the defense of the case.

3. Upon receipt of a notification pursuant to subsection 2, the convening authority having authority to convene a general court-martial for the person shall promptly take custody of the person unless the person to which the notification applies is no longer subject to this Code. If the person is no longer subject to this Code, the ~~Administrator~~ state trial court with felony jurisdiction in the county where the person is committed or otherwise may be found may take any action within the authority of ~~the Administrator~~ that court that the ~~Administrator~~ court considers appropriate regarding the person.

Sec. 31. 1. If a person is found by a court-martial not guilty by reason of lack of mental responsibility or not guilty only by reason of lack of mental responsibility, the person must be committed to a suitable facility until the person is eligible for release through the procedures specified in NRS 178.467 to 178.471, inclusive.

2. The court-martial must conduct a hearing on the mental condition of the person in accordance with NRS 175.539. A report of the results of the hearing must be made to the convening authority having authority to convene a general court-martial for the person.

3. If the court-martial finds by clear and convincing evidence that the person is a person with mental illness, the convening authority having authority to convene a general court-martial for the person shall commit the

person to the custody of ~~[the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services]~~ a suitable facility until the person is eligible for release through the procedures specified in NRS 178.467 to 178.471, inclusive.

4. Except as otherwise provided by law, the provisions of NRS 178.467 to 178.471, inclusive, apply in the case of a person committed to the custody of ~~[the Administrator]~~ a suitable facility pursuant to this section, except that the [state trial court with felony jurisdiction in the county where the person is committed] convening authority having authority to convene a general court-martial for the person shall be considered the court that ordered the person's commitment.

Sec. 32. At a hearing ordered pursuant to section 30 or 31 of this act, the person whose mental condition is the subject of the hearing must be represented by counsel and, if the person is financially unable to obtain adequate representation, counsel must be appointed for the person pursuant to NRS 412.364 if the hearing is conducted by a court-martial or pursuant to NRS 171.188 if the hearing is conducted by a court of this State. The person must be afforded an opportunity to testify, to present evidence, to subpoena witnesses on his or her behalf, and to confront and cross-examine witnesses who appear at the hearing.

Sec. 33. Any person who in time of war is found lurking as a spy or acting as a spy in or about any place, vessel or aircraft within the control or jurisdiction of any of the Armed Forces of the United States or in or about any shipyard, any manufacturing or industrial plant or any other place or institution engaged in work in aid of the prosecution of the war by the United States or elsewhere must be tried by a general court-martial.

Sec. 34. 1. Any person subject to this Code who, with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation, directly or indirectly communicates, delivers or transmits, or attempts to communicate, deliver or transmit, any object or information to any entity shall be punished as a court-martial may direct.

2. A person accused pursuant to this section must be given broad latitude to present matters in extenuation and mitigation.

3. Findings made pursuant to this section may be based on evidence introduced on the issue of guilt or innocence, and evidence introduced during the sentencing proceeding.

4. As used in this section:

(a) "Entity" means:

- (1) A foreign government;
- (2) A faction, party or military or naval force within a foreign country, whether recognized or unrecognized by the United States; or
- (3) A representative, officer, agent, employee, subject or citizen of a government, faction, party or force that is described in subparagraph (1) or (2).

(b) "Object or information" includes, without limitation, a document, writing, code book, signal book, sketch, photograph, photolineart negative, blueprint, plan, map, model, note, instrument, appliance or other information relating to national defense.

Sec. 35. 1. Any person subject to this Code who wrongfully uses, possesses, manufactures, distributes, imports into customs territory of the United States, exports from the United States or introduces into an installation, vessel, vehicle or aircraft used by or under the control of the Armed Forces of the United States or of any state military forces a substance described in subsection 2 shall be punished as a court-martial may direct.

2. The substances referred to in subsection 1 include, without limitation:

(a) Opium, heroin, cocaine, amphetamine, lysergic acid diethylamide, methamphetamine, phencyclidine, barbituric acid and marijuana, and any compound or derivative of any such substance.

(b) Any substance not specified in paragraph (a) that is listed in a schedule of controlled substances prescribed by the President of the United States for the purposes of the Uniform Code of Military Justice of the Armed Forces of the United States, 10 U.S.C. §§ 801 et seq.

(c) Any other substance not referenced pursuant to paragraph (a) or (b) and that is listed in schedules I to V, inclusive, of 21 U.S.C. § 812.

Sec. 36. 1. Any person subject to this Code who engages in or causes nonconsensual sexual contact with or by another person, without legal justification or lawful authorization, is guilty of sexual assault or sexual misconduct and shall be punished by way of nonjudicial punishment or as a court-martial may direct.

2. Neither consent nor mistake of fact as to consent is an affirmative defense in a prosecution for sexual assault or sexual misconduct.

3. In a prosecution under this section, in proving that the accused made a threat, it need not be proven that the accused actually intended to carry out the threat.

4. As used in this section:

(a) "Nonconsensual" means:

(1) Using force against the other person before consent or to gain consent;

(2) Causing grievous bodily harm to a person;

(3) Threatening or placing a person in fear to gain consent;

(4) Rendering a person unconscious;

(5) Administering to a person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct;

(6) Receiving verbal nonconsent before the act; or

(7) Lack of permission given.

(b) "Sexual contact" means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or

*buttocks of another person or intentionally causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh or buttocks of any person, with an intent to abuse, humiliate or degrade any person or to arouse or gratify the sexual desire of any person.*

Sec. 37. 1. Any person subject to this Code:

(a) *Who wrongfully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear death or bodily harm, including, without limitation, sexual assault, to himself or herself or a member of his or her immediate family;*

(b) *Who has knowledge or should have knowledge that the specific person will be placed in reasonable fear of death or bodily harm, including, without limitation, sexual assault, to himself or herself or a member of his or her immediate family; and*

(c) *Whose acts induce reasonable fear in the specific person of death or bodily harm, including sexual assault, to himself or herself or a member of his or her immediate family,*

➔ *is guilty of stalking and shall be punished as a court-martial may direct.*

2. *As used in this section:*

(a) *"Course of conduct" means a repeated:*

(1) *Maintenance of visual or physical proximity to a specific person; or*

(2) *Conveyance of verbal threats, written threats or threats implied by conduct or a combination of such threats, directed at or toward a specific person.*

(b) *"Immediate family," in the case of a specific person, means a spouse, parent, child or sibling of that person or any other family member, relative or intimate partner of the person who regularly resides in the household of the person or who regularly engages in contact with the person.*

(c) *"Repeated," with respect to conduct, means two or more occasions of such conduct.*

Sec. 38. 1. Any person subject to this Code who wrongfully takes, obtains or withholds by any means, from the possession of the owner or of any other person, any money, personal property or article of value of any kind:

(a) *With intent permanently to deprive or defraud another person of the use and benefit of property or to appropriate it to his or her own use or the use of any person other than the owner, steals that property and is guilty of larceny; or*

(b) *With intent temporarily to deprive or defraud another person of the use and benefit of property or to appropriate it to his or her own use or the use of another person other than the owner, is guilty of wrongful appropriation.*

2. *Any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial may direct.*

Sec. 39. Any person subject to this Code who communicates threats to another person with the intention thereby to obtain anything of value or any

*acquaintance, advantage or immunity is guilty of extortion and shall be punished as a court-martial may direct.*

Sec. 40. *Any person subject to this Code who:*

1. *Attempts or offers with unlawful force or violence to do bodily harm to another person, whether or not the attempt or offer is consummated, is guilty of assault and shall be punished as a court-martial may direct.*

2. *Commits an assault and intentionally inflicts grievous bodily harm with or without a weapon is guilty of aggravated assault and shall be punished as a court-martial may direct.*

Sec. 41. 1. *The following persons may administer oaths for the purposes of military administration, including military justice:*

(a) *Any judge advocate;*

(b) *Any summary court-martial;*

(c) *Any adjutant, assistant adjutant, acting adjutant and personnel adjutant;*

(d) *Any commanding officer of the naval militia; and*

(e) *Any other person so designated by regulations of the Armed Forces of the United States or by the laws of this State.*

2. *The following persons may administer oaths necessary in the performance of their duties:*

(a) *The president, military judge and trial counsel for all general and special courts-martial;*

(b) *The president and the counsel for the court of any court of inquiry;*

(c) *Any officer designated to take a deposition;*

(d) *Any person detailed to conduct an investigation;*

(e) *Any recruiting officer; and*

(f) *Any other person so designated by regulations of the Armed Forces of the United States or by the laws of this State.*

3. *The signature without seal of any person, together with the title of his or her office, is prima facie evidence of the authority of that person.*

Sec. 42. *This Code shall be so construed as to effectuate its general purpose to make it uniform, so far as practical, with the Uniform Code of Military Justice, 10 U.S.C. §§ 801 et seq.*

Sec. 43. *The provisions of this Code are hereby declared independent and severable and the invalidity, if any, or part or feature thereof shall not affect or render the remainder of such Code invalid or inoperative.*

Sec. 44. *Enlisted personnel of the Nevada National Guard, including retired enlisted members thereof, may organize themselves into an association, which is to be named the Nevada Enlisted Association of the National Guard of the United States. The Association may adopt bylaws not inconsistent with the statutes of this State and may alter and amend such bylaws. The Association may, upon request, provide advice and assistance to the Adjutant General regarding matters of concern to enlisted personnel of the Nevada National Guard.*

Sec. 45. *NRS 412.014 is hereby amended to read as follows:*

412.014 "Office" means the Office of the Military ~~[ ]~~, *including, without limitation, the Nevada Army National Guard and the Nevada Air National Guard.*

Sec. 46. NRS 412.022 is hereby amended to read as follows:

412.022 "Reservists" means members of the *reservists of the Nevada National Guard* ~~[Reserve]~~ *that are licensed by the Governor or by his or her designee.*

Sec. 47. NRS 412.024 is hereby amended to read as follows:

412.024 "Volunteers" means members of volunteer *military* organizations licensed by the Governor.

Sec. 48. NRS 412.026 is hereby amended to read as follows:

412.026 1. The militia of the State is composed of the Nevada National Guard and, when called into active service by the Governor, *reservists to the Nevada National Guard* ~~[Reserve]~~ and any volunteer *military* organizations licensed by the Governor.

2. The Nevada National Guard is an organized body of enlisted personnel between the ages of 17 and 64 years and commissioned officers between the ages of 18 and 64 years, divided into the Nevada Army National Guard and the Nevada Air National Guard.

3. ~~[The Nevada National Guard Reserve is an unorganized body comprising all able-bodied residents of the State between the ages of 17 and 64 years who:~~

~~(a) Are not serving in any force of the Nevada National Guard;~~

~~(b) Are or have declared their intention to become citizens of the United States; and~~

~~(c) Are not exempted from military duty under the laws of this state or the United States.~~

4.] If a volunteer *military* organization is formed and becomes licensed by the Governor, it shall consist of an organized body of able-bodied residents of the State between the ages of 17 and 64 years who are not serving in any force of the Nevada National Guard and who are or who have declared their intention to become citizens of the United States.

Sec. 49. NRS 412.044 is hereby amended to read as follows:

412.044 1. The Governor shall appoint an Adjutant General who shall hold office for a 4-year term or until relieved by reason of resignation, withdrawal of federal recognition or for cause to be determined by a court-martial. The current term of an Adjutant General shall continue until its prescribed expiration date while such Adjutant General is serving in a federal active duty status under an order or call by the President of the United States.

2. To be eligible for appointment to the office of Adjutant General, a person must be an officer of the Nevada National Guard, federally recognized in the grade of lieutenant colonel or higher, and must have completed at least 6 ~~[years]~~ *years* of service in the Nevada National Guard as a federally recognized officer.

3. The Adjutant General may be appointed in the grade of lieutenant colonel or higher, but not exceeding that of major general. If appointed in a lower grade, the Adjutant General may be promoted by the Governor to any grade not exceeding that of major general.

Sec. 50. NRS 412.048 is hereby amended to read as follows:

412.048 The Adjutant General shall serve as the Chief of Staff to the Governor, the Director of the Office of the Military and the Commander of the Nevada National Guard, and:

1. Is responsible, under the direction of the Governor, for the supervision of all matters pertaining to the administration, discipline, mobilization, organization and training of the Nevada National Guard, *reservists of the Nevada National Guard* ~~[Reserve]~~ and volunteer *military* organizations licensed by the Governor.

2. Shall perform all duties required of him or her by the laws of the United States and of the State of Nevada, and the regulations issued thereunder.

3. Shall employ such deputies, assistants and other personnel as he or she deems necessary to assist in the performance of those duties required of the Adjutant General as Director of the Office. The Adjutant General may so employ either members of the Nevada National Guard or civilian personnel. The duties of all deputies, assistants and other personnel appointed must be prescribed by Office regulations. All such employees are in the unclassified service of the State except civilian, clerical, administrative, maintenance and custodial employees who are in the classified service of the State.

Sec. 51. NRS 412.054 is hereby amended to read as follows:

412.054 1. The Adjutant General may appoint two Assistant Adjutants General, one each from the Nevada Army National Guard and the Nevada Air National Guard, who may serve as Chief of Staff for Army and Chief of Staff for Air, respectively, at the pleasure of the Adjutant General or until relieved by reason of resignation, withdrawal of federal recognition or for cause to be determined by a court-martial.

2. To be eligible for appointment to the office of Assistant Adjutant General, a person must be an officer of the Nevada National Guard, federally recognized in the grade of lieutenant colonel or higher, and must have completed at least 6 ~~[years]~~ *years of service* in the Nevada National Guard as a federally recognized officer . ~~[, 3 years of which must be immediately before the appointment.]~~

3. An Assistant Adjutant General may be appointed in the grade of lieutenant colonel or higher, but not exceeding that of brigadier general. An Assistant Adjutant General may be promoted by the Governor to any grade not exceeding that of brigadier general.

4. The Assistant Adjutants General shall perform such duties as may be assigned by the Adjutant General.

5. Whoever serves as Chief of Staff for Army is in the unclassified service of the State and, except as otherwise provided in NRS 284.143, shall not hold any other city, county, state or federal office of profit.

6. In the event of the absence or inability of the Adjutant General to perform his or her duties, the Adjutant General shall designate by Office regulations:

(a) One of the Assistant Adjutants General to perform the duties of his or her office as Acting Adjutant General.

(b) If neither Assistant Adjutant General is available, any national guard officer to be the Acting Adjutant General.

➡ The designated Assistant Adjutant General or designated officer may continue to receive his or her authorized salary while so serving as Acting Adjutant General, and shall so serve until the Adjutant General is again able to perform the duties of the office, or if the office is vacant, until an Adjutant General is regularly appointed and qualified.

Sec. 52. NRS 412.076 is hereby amended to read as follows:

412.076 1. Members of the militia of the State who are ordered to state active duty under the provisions of this chapter shall be deemed to be temporary employees of the State ~~[-]~~ *for the purposes of subsection 9 of NRS 286.297.*

2. Regular employees of the Office may be ordered to state active duty under this chapter without jeopardizing their status as regular employees. Employees so ordered must be in an authorized leave status from their regular military office employment during the period served on active duty.

Sec. 53. NRS 412.088 is hereby amended to read as follows:

412.088 1. The Office ~~[-]~~ *may* adopt and provide suitable medals, prizes or other awards for the promotion of rifle practice by duly organized rifle clubs of the Nevada ~~[-]~~ *Firearms Coalition* and organizations and members of the Nevada National Guard ~~[-]~~ *when funds are available and appropriated by the State or the Federal Government.*

2. The Adjutant General shall encourage and promote rifle and pistol practice by Nevada clubs affiliated with the National Rifle Association of America, and select and appoint representatives from those clubs to attend the annual national rifle and pistol matches. Not more than \$1,000 of the amount appropriated for the support of the Adjutant General's office may be used annually in the purchase of ammunition to be used by such rifle clubs, which ammunition must be sold at cost plus transportation charges.

Sec. 54. NRS 412.116 is hereby amended to read as follows:

412.116 1. The forces of the Nevada National Guard must be organized, armed, disciplined, governed, administered and trained as prescribed by applicable federal laws and regulations and Office regulations.

2. It hereby is declared to be the policy of the State that there must be an equality of treatment and opportunity for all persons in the Nevada National Guard without regard to race, creed, color, ~~sex~~ *gender, sexual orientation* or national origin.



3. As used in this section, "sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 55. NRS 412.126 is hereby amended to read as follows:

412.126 1. The Governor is authorized to issue licenses to bodies of persons to organize, drill and bear arms as *volunteer* military companies or *volunteer military* organizations.

2. Whenever any such body of persons associate themselves as a *volunteer* military company or *volunteer military* organization and drill with arms under the license of the Governor, the *volunteer* military company or *volunteer military* organization:

(a) Shall file with the Adjutant General annually, or at such time as the Governor or Adjutant General may designate, a muster roll of such *volunteer* military company or *volunteer military* organization certified by the oath of the commanding officer thereof. The muster roll shall contain the names, ages, occupations and places of residence of all members thereof, and the number and character of all arms in the possession of such organization.

(b) Is subject to inspection by the Adjutant General upon his or her request within such time as the Adjutant General shall designate.

3. Each member of such *volunteer* military company or *volunteer military* organization shall take and subscribe to an oath before a person authorized to administer it that he or she will support the Constitution of the United States and the Constitution of the State of Nevada and will obey and maintain all laws and obey all officers employed in administering those Constitutions and laws.

Sec. 56. NRS 412.128 is hereby amended to read as follows:

412.128 1. Whenever the Governor deems it necessary in time of peace, the Governor may call all or any part of the *reservists of the* Nevada National Guard ~~[Reserve]~~ or *volunteer military* organizations licensed by the Governor into active service to be organized pursuant to Office regulations to augment the Nevada National Guard as an internal security force.

2. In time of war, the Governor may call all or any part of the *reservists of the* Nevada National Guard ~~[Reserve]~~ or *volunteer military* organizations licensed by the Governor into active service to be organized pursuant to Office regulations to replace the Nevada National Guard as a state force when the Nevada National Guard is ordered into federal service.

3. Whenever laws of the United States authorize the organization of such state forces under federal recognition, the Governor or Adjutant General may promulgate such Office regulations as are necessary to comply with such federal laws and obtain federal recognition for the force authorized by this section.

Sec. 57. NRS 412.138 is hereby amended to read as follows:

412.138 When members of the Nevada National Guard are called into state active duty by the Governor to fight a fire, combat a flood or any other emergency where members of the Nevada National Guard are performing as

a labor force rather than a military force, they shall receive pay and allowances ~~[equal to that received by the main labor force in the service of the State or Federal Government.]~~ according to their respective military grade and pay status.

Sec. 58. NRS 412.188 is hereby amended to read as follows:

412.188 1. The qualifications for enlistment and reenlistment, the periods of enlistment, reenlistment and voluntary extension of enlistment, the period of service, the form of oath to be taken and the manner and form of transfer and discharge of enlisted personnel of the Nevada National Guard must be those prescribed by applicable federal laws and regulations and Office regulations.

2. The Governor is authorized to extend the period of any enlistment, reenlistment, voluntary extension of enlistment or the period of service of enlisted personnel ~~[of]~~ *serving as reservists of* the Nevada National Guard ~~[Reserve]~~ or volunteer *military* organizations licensed by the Governor for a period not to exceed 6 months after the termination of an emergency declared by the Governor, the Legislature, the President or Congress.

3. Whenever the period of enlistment, reenlistment, voluntary extension of enlistment, and the period of service of enlisted personnel of the reserve components of the Armed Forces of the United States are extended, the Governor shall extend the period of any enlistment, reenlistment, voluntary extension of enlistment or the period of service of enlisted personnel in the corresponding ~~[force]~~ *component* of the Nevada National Guard for the same period.

Sec. 59. NRS 412.196 is hereby amended to read as follows:

412.196 NRS 412.196 to 412.584, inclusive, *and sections 2 to 43, inclusive, of this act* may be cited as the Nevada Code of Military Justice.

Sec. 60. NRS 412.198 is hereby amended to read as follows:

412.198 As used in the Nevada Code of Military Justice, *unless the context otherwise requires*, the words and terms defined in NRS 412.202 to 412.252, inclusive, *and sections 2 to 6, inclusive, of this act* ~~[shall, unless the context otherwise requires,]~~ have the meaning ascribed to them in ~~[such]~~ those sections.

Sec. 61. NRS 412.214 is hereby amended to read as follows:

412.214 "Commanding officer" ~~[includes only]~~ *means a commissioned [officers.] officer who by virtue of rank and assignment exercises primary command authority over a military organization or a prescribed territorial area, which under pertinent official directives is recognized as a command.*

Sec. 62. NRS 412.216 is hereby amended to read as follows:

412.216 "Commissioned officer" includes ~~[a]~~ *an officer commissioned in the Armed Forces of the United States and all warrant [officer.] officers of the same.*

Sec. 63. NRS 412.239 is hereby amended to read as follows:

412.239 "Military judge" means an official of a general or special court-martial . ~~[, who is a commissioned officer and who is licensed to practice law in the State of Nevada.]~~

Sec. 64. NRS 412.242 is hereby amended to read as follows:

412.242 "Nevada National Guard" includes the National Guard of the State, as defined in 32 U.S.C. § 101(3), the *reservists to the Nevada National Guard* ~~[Reserve]~~ and volunteer *military* organizations licensed by the Governor when called into active service by the Governor.

Sec. 65. NRS 412.254 is hereby amended to read as follows:

412.254 1. The following persons who are not in federal service are subject to this Code:

~~[1.]~~ (a) Members of the Nevada National Guard, whether or not they are in training pursuant to 32 U.S.C. §§ 501 to 507, inclusive.

~~[2.]~~ (b) *Retired, separated or discharged members of the Nevada National Guard, regardless of their entitlement to pay, if the offense charged occurred before their retirement, separation or discharge.*

(c) All other persons lawfully ordered to duty in or with the Nevada National Guard, from the dates they are required by the terms of the order or other directive to obey it.

2. *No person may be punished under this Code for any offense provided for in the Code unless:*

(a) *The person is subject to any provision of subsection 1 or is a member of the state military forces; and*

(b) *The offense is either a purely military offense or a civilian offense where there is a nexus between the offense and the state military forces.*

3. *To impose disciplinary action under the Code, there must be jurisdiction over the person pursuant to section 8 of this act and jurisdiction over the subject matter pursuant to NRS 412.256.*

4. *For jurisdictional issues based on assignment or attachment, each service component shall refer to the current rules and other guidance applicable to the service component, including, without limitation, regulations and policy directives. Before the initiation of any action pursuant to this Code, the judge advocate shall require that the commanding officer resolve any jurisdictional issue regarding assigned or attached personnel involved in the action.*

Sec. 66. NRS 412.256 is hereby amended to read as follows:

412.256 *The following ~~subject matter is subject~~ provisions apply with regard to jurisdiction under this Code:*

1. *An offense of a purely military nature contained in the Code may be the subject of administrative measures, nonjudicial punishment or courts-martial. Each military offense is derived from the Uniform Code of Military Justice, 10 U.S.C. §§ 801 et seq. and, to the extent not inconsistent with the Code provisions describing those offenses, this Code incorporates each element of the offense as described in the Uniform Code with the following clarifications:*

*(a) Insofar as an element of an offense described in the Uniform Code refers to the United States, the element also refers to this State.*

*(b) Insofar as an element of an offense described in the Uniform Code refers to persons in the service of the United States or officials thereof, the element also includes persons in the service of the state military forces or state officials as provided in the Code.*

*(c) Insofar as an element refers to the property of the United States, the element also includes property of this State.*

*2. Offenses of a nonmilitary nature may be the subject of administrative measures, nonjudicial punishment or court-martial provided that the person alleged to have committed the offense is subject to the Code and there is a nexus between the act or omission constituting the offense and the state military forces. Civilian criminal offenses may be subject to prosecution pursuant to 10 U.S.C. §§ 933 and 934 if that nexus is present.*

*3. A proper civilian court has primary jurisdiction when an act or omission violates both the Code and state or federal criminal law. In such cases, a state court-martial or nonjudicial proceeding for punishment may be initiated only after the civilian authority has declined to prosecute or has dismissed charges, provided jeopardy has not attached. However, nothing in this Code precludes a commanding officer from taking administrative action even if the civilian authority exercises jurisdiction. Administrative remedies are not considered double jeopardy.*

*4. Any member of the state military forces may be ordered to duty involuntarily for any purpose under the Code.*

*5. In conducting prosecutions, a judge advocate shall coordinate with the Attorney General of the State of Nevada, similar officials in the State or county or equivalent prosecutorial authorities and appropriate municipal prosecutorial authorities to ensure that the judge advocate prosecutes with the cooperation of those local and state prosecutors. A commanding officer shall refer all suspected civilian offenses to a judge advocate who shall coordinate with the proper authorities when appropriate.*

*6. Each person discharged from the Nevada National Guard who is later charged with having fraudulently obtained the discharge is, subject to NRS 412.376, subject to trial by court-martial on that charge and is after apprehension subject to this Code while in the custody of the military for that trial. Upon conviction of that charge the person is subject to trial by court-martial for all offenses under this Code committed before the fraudulent discharge.*

~~{2-}~~ *7. No person who has deserted from the Nevada National Guard may be relieved from amenability to the jurisdiction of this Code by virtue of a separation from any later period of service.*

Sec. 67. NRS 412.286 is hereby amended to read as follows:

412.286 *1. Under Office regulations, limitations may be placed on the powers granted by NRS 412.286 to 412.302, inclusive, and sections 10 to 17, inclusive, of this act with respect to the kind and amount of punishment*

authorized, the categories of commanding officers and warrant officers exercising command authorized to exercise those powers, the applicability of NRS 412.286 to 412.302, inclusive, *and sections 10 to 17, inclusive, of this act* to an accused who demands trial by court-martial, and the kinds of courts-martial to which the case may be referred upon such a demand. However, punishment may not be imposed upon any member of the Nevada National Guard under NRS 412.286 to 412.302, inclusive, *and sections 10 to 17, inclusive, of this act* if the member has, before the imposition of such punishment, demanded trial by court-martial in lieu of such punishment. Under Office regulations, rules may be prescribed with respect to the suspension of punishments authorized hereunder. If authorized by Office regulations, a commanding officer exercising general court-martial jurisdiction or an officer of general rank in command may delegate his or her powers under NRS 412.286 to 412.302, inclusive, *and sections 10 to 17, inclusive, of this act* to a principal assistant.

2. *When nonjudicial punishment has been imposed for an offense, nonjudicial punishment may not again be imposed for the same offense. Administrative action can be taken for the same offense and will not be considered double punishment under the Code. For the purposes of this subsection, "same offense" means an offense that was part of a single incident or course of conduct.*

3. *After nonjudicial punishment has been imposed, it may not be increased, upon appeal or otherwise, unless the punishment imposed was not provided for in the Code.*

4. *When a commanding officer determines that nonjudicial punishment is appropriate for a particular serviceman or servicewoman, all known offenses determined to be appropriate for disposition by nonjudicial punishment and ready to be considered at that time, including, without limitation, all such offenses arising from a single incident or course of conduct, must ordinarily be considered together, rather than being made the basis for multiple punishment.*

5. *Nonjudicial punishment may not be imposed for any offense which was committed more than 3 years before the date of imposition of punishment, unless such 3-year limitation is waived by the accused in writing or unless the accused has filed an appeal under this Code.*

6. *Nothing in subsection 2 or 4 precludes a commanding officer from imposing, at one time, more than one punishment nonjudicially for the offense or offenses arising from a single incident or course of conduct authorized in the Code.*

Sec. 68. NRS 412.288 is hereby amended to read as follows:

412.288 Subject to NRS 412.286, ~~[any]~~ a commanding officer may ~~[, in addition to or in lieu of admonition or reprimand,]~~ impose one or more of the following *authorized maximum* disciplinary punishments *listed in this section* for minor offenses, without the intervention of a court-martial:

~~[1. Upon officers of his or her command:~~

~~(a) Restriction to certain specified limits, with or without suspension from duty, for not more than 30 consecutive days.~~

~~(b) If imposed by an officer exercising general court-martial jurisdiction or an officer of general rank in command:~~

~~(1) Arrest in quarters for not more than 30 consecutive days;~~

~~(2) Forfeiture of not more than one-half of 1 month's pay per month for 2 months;~~

~~(3) Restriction to certain specified limits, with or without suspension from duty, for not more than 60 consecutive days; or~~

~~(4) Detention of not more than one-half of 1 month's pay per month for 3 months.~~

~~2. Upon other personnel of his or her command:~~

~~(a) Correctional custody for not more than 7 consecutive days.~~

~~(b) Forfeiture of not more than 7 days' pay.~~

~~(c) Reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction.~~

~~(d) Extra duties, including fatigue or other duties, for not more than 14 consecutive days.~~

~~(e) Restriction to certain specified limits, with or without suspension from duty, for not more than 14 consecutive days.~~

~~(f) Detention of not more than 14 days' pay.~~

~~(g) If imposed by an officer of the grade of major or above:~~

~~(1) Correctional custody for not more than 30 consecutive days;~~

~~(2) Forfeiture of not more than one-half of 1 month's pay per month for 2 months;~~

~~(3) Reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades;~~

~~(4) Extra duties, including fatigue or other duties, for not more than 45 consecutive days;~~

~~(5) Restrictions to certain specified limits, with or without suspension from duty, for not more than 60 consecutive days; or~~

~~(6) Detention of not more than one-half of 1 month's pay per month for 3 months.~~

~~➤ Detention of pay shall be for a stated period of not more than 1 year but if the offender's term of service expires earlier, the detention shall terminate upon that expiration. No two or more of the punishments of arrest in quarters, correctional custody, extra duties, and restriction may be combined to run consecutively in the maximum amount imposable for each. Whenever any of those punishments are combined to run consecutively there must be an apportionment. In addition, forfeiture of pay may not be combined with detention of pay without an apportionment. For the purposes of this~~

~~subsection, "correctional custody" is the physical restraint of a person during duty or nonduty hours and may include extra duties, fatigue duties or hard labor. If practicable, correctional custody will not be served in immediate association with persons awaiting trial or held in confinement pursuant to trial by court martial.]~~

*1. The maximum punishments a company grade officer may impose upon enlisted members of the officer's command for each offense are:*

*(a) For traditional guard members of the Nevada National Guard:*

*(1) Suspension from duty for not more than two drill periods which need not be consecutive;*

*(2) Forfeiture of pay for not more than two drill periods which need not be consecutive;*

*(3) Reduction to the next inferior pay grade if the grade from which the serviceman or servicewoman is demoted is within the authority to promote of the officer imposing the reduction;*

*(4) Withholding of privileges for not more than 6 consecutive months;*

*(5) Reprimand; and*

*(6) Admonition.*

*(b) For active guard reserve members of the Nevada National Guard:*

*(1) Suspension from duty for not more than 14 days which need not be consecutive;*

*(2) Forfeiture of pay for not more than 14 days which need not be consecutive;*

*(3) Reduction to the next inferior pay grade if the grade from which the serviceman or servicewoman is demoted is within the authority to promote of the officer imposing the reduction;*

*(4) Withholding of privileges for not more than 6 consecutive months;*

*(5) Reprimand; and*

*(6) Admonition.*

*2. The maximum punishments a commanding officer of the grade of major or above may impose upon enlisted members of the officer's command are:*

*(a) Any punishment authorized in subsection 1.*

*(b) For traditional guard members of the Nevada National Guard:*

*(1) Suspension from duty for not more than four drill periods which need not be consecutive;*

*(2) Forfeiture of pay for not more than four drill periods which need not be consecutive; and*

*(3) Reduction to the next inferior pay grade if the grade from which the serviceman or servicewoman is demoted is within the authority to promote of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades.*

*(c) For active guard reserve members of the Nevada National Guard:*

(1) *Suspension from duty for not more than 1 month, the days of which need not be consecutive;*

(2) *Forfeiture of pay for not more than 1 month, the days of which need not be consecutive; and*

(3) *Reduction to the next inferior pay grade if the grade from which the serviceman or servicewoman is demoted is within the authority to promote of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades.*

3. *The maximum punishments which a commanding officer may impose upon officers under the commanding officer's command are:*

(a) *Any punishment otherwise authorized pursuant to this section and, if the commanding officer is a major or above, any punishment authorized in subsection 2.*

(b) *If imposed by an officer exercising general court-martial jurisdiction or an officer of general rank in command:*

(1) *For traditional guard members of the Nevada National Guard:*

(I) *Suspension from duty for not more than eight drill periods which need not be consecutive; and*

(II) *Forfeiture of pay for not more than one-half of one drill period's pay for eight drill periods which need not be consecutive.*

(2) *For active guard reserve members of the Nevada National Guard:*

(I) *Suspension from duty for not more than 2 months, the days of which need not be consecutive; and*

(II) *Forfeiture of pay for not more than one-half of 1 month's pay for 2 months, the days of which need not be consecutive.*

4. *The Governor, the Adjutant General, an officer exercising general court-martial authority or an officer of a general or flag rank may impose any punishment authorized in subsection 1, 2 or 3 upon any officer or enlisted member of the officer's command.*

Sec. 69. NRS 412.294 is hereby amended to read as follows:

412.294 1. The officer who imposes the punishment authorized in NRS 412.288, or the officer's successor in command, may, at any time, suspend probationally any part or amount of the unexecuted punishment imposed and may suspend probationally a reduction in grade or a forfeiture imposed under NRS 412.288, whether or not executed.

2. In addition, he or she may, at any time, remit or mitigate any part or amount of the unexecuted punishment imposed and may set aside in whole or in part the punishment, whether executed or unexecuted, and restore all rights, privileges and property affected.

3. He or she may also mitigate reduction in grade to forfeiture or detention of pay. ~~When mitigating:~~

~~1. Arrest in quarters to restriction;~~

~~2. Correctional custody to extra duties or restriction, or both; or~~

~~3. Extra duties to restriction;~~



→ the mitigated punishment shall not be for a greater period than the punishment mitigated.]

4. When mitigating forfeiture of pay to detention of pay, the amount of the detention ~~[shall]~~ must not be greater than the amount of the forfeiture.

5. When mitigating reduction in grade to forfeiture or detention of pay, the amount of the forfeiture or detention shall not be greater than the amount that could have been imposed initially under NRS 412.286 to 412.302, inclusive, *and sections 10 to 17, inclusive, of this act* by the officer who imposed the punishment mitigated.

Sec. 70. NRS 412.296 is hereby amended to read as follows:

412.296 1. A person punished under NRS 412.286 to 412.302, inclusive, *and sections 10 to 17, inclusive, of this act* who considers his or her punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under NRS 412.294 by the officer who imposed the punishment. Before acting on an appeal from a punishment of:

- ~~[1. Arrest in quarters for more than 7 days;~~
- ~~2. Correctional custody for more than 7 days;~~
- ~~3. Forfeiture of more than 7 days' pay;~~
- ~~4. Reduction of one or more pay grades from the fourth or a higher pay grade;~~
- ~~5. Extra duties for more than 14 days;~~
- ~~6. Restriction for more than 14 days; or~~
- ~~7. Detention of more than 14 days' pay;]~~

*(a) Suspension or forfeiture of pay for more than two drill periods or 14 days; or*

*(b) Reduction of one or more pay grades,*

→ the authority who is to act on the appeal shall refer the case to the State Judge Advocate for consideration and advice, and may so refer the case upon appeal from any punishment imposed under NRS 412.288.

2. *Appeals of nonjudicial punishment must be made to the next superior authority. The next superior authority is typically the commanding officer superior to the commanding officer who imposed the punishment. When a principal assistant imposes nonjudicial punishment, the next superior authority is the commanding officer superior to the commanding officer who delegated the power to the principal assistant to impose punishment.*

3. *Only one appeal is allowed pursuant to this section.*

4. *The accused must be given a reasonable time within which to submit an appeal. A reasonable time is ~~15~~ 30 days after imposition of the nonjudicial punishment or the time before the next monthly drill following imposition of the punishment, whichever comes ~~first~~ later.*

5. *A superior authority to the commanding officer who imposed the nonjudicial punishment, typically the next superior commanding officer, may act on an appeal.*

6. *Appeals must be in writing on applicable forms provided by the Office of the State Judge Advocate and must set forth the reasons for appeal and include additional documentation and evidence supporting the appeal. The superior authority may not consider additional evidence which was not presented to the commanding officer who imposed the nonjudicial punishment unless the exclusion of such evidence would yield an unjust result.*

7. *Before acting on an appeal, the superior authority shall refer the case to a judge advocate for consideration and advice. The judge advocate shall render an opinion as to the appropriateness of the punishment and whether the proceedings were conducted in accordance with law and regulations. When a case is so referred, the judge advocate is not limited to an examination of any written matter comprising the record of proceedings, and may make any inquiries and examine any additional matter deemed necessary.*

8. *In acting on an appeal, the superior authority may exercise the same power with respect to punishment imposed as may be exercised by the officer who imposed the nonjudicial punishment. The superior authority shall consider the record of proceedings, any matters submitted by the serviceman or servicewoman, any matters considered during legal review and any other appropriate matters. If the superior authority sets aside nonjudicial punishment due to procedural error, such superior authority may authorize additional proceedings by the imposing commanding officer or a successor, but the punishment shall be not more severe than that originally imposed. Upon completion of action by the superior authority, the accused must be promptly notified of the results.*

Sec. 71. NRS 412.298 is hereby amended to read as follows:

412.298 The imposition and enforcement of disciplinary punishment ~~under~~ pursuant to NRS 412.286 to 412.302, inclusive, and sections 10 to 17, inclusive, of this act, for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission and not properly punishable ~~under~~ pursuant to NRS 412.286 to 412.302, inclusive ~~of~~, and sections 10 to 17, inclusive, of this act, but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

Sec. 72. NRS 412.304 is hereby amended to read as follows:

412.304 1. In the Nevada National Guard not in federal service, there are general, special and summary courts-martial constituted like similar courts of the Army and Air Force. They have the jurisdiction and powers, except as to punishments, and ~~shall~~ must follow the forms and procedures provided for those courts.

2. ~~[Courts-martial shall be constituted as follows:]~~ *The three types of courts-martial for the state military forces include:*

(a) General courts-martial, consisting of:

(1) A military judge and not less than five members; or

(2) ~~[A]~~ *Only a military judge* ~~[alone,]~~ if, before the court is assembled, the accused, knowing the identity of the military judge ~~[,]~~ and after consultation with defense counsel, requests *orally on the record or* in writing ~~[,]~~ a court composed ~~[only]~~ of *only* a military judge, ~~[provided]~~ and the military judge approves ~~[. A court composed only of a military judge is not available to one accused of an offense punishable by death, except when the case has been referred to a trial as a noncapital case.]~~ *the request.*

(b) Special courts-martial, consisting of:

(1) A military judge and not less than three members; or

(2) ~~[A]~~ *Only a military judge* ~~[alone,]~~ if *one has been detailed to the court and* the accused, under the same conditions as those prescribed in subparagraph (2) of paragraph (a) of this subsection, so requests ~~[,]~~ and the military judge approves the request.

(c) Summary courts-martial, consisting of one commissioned officer.

Sec. 73. NRS 412.308 is hereby amended to read as follows:

412.308 Subject to NRS 412.306, general courts-martial have jurisdiction to try persons subject to this Code for any offense made punishable by this Code and may, under such limitations as the Governor may prescribe, adjudge any ~~[of the following punishments:~~

1. ~~A fine of not more than \$200 or forfeiture of pay and allowances of not more than \$200;~~

2. ~~Confinement with hard labor for not more than 200 days;~~

3. ~~Dishonorable discharge, bad conduct discharge or dismissal;~~

4. ~~Reprimand;~~

5. ~~Reduction of enlisted persons to a lower grade; or~~

6. ~~Any combination of these punishments.]~~ *punishment allowed by the Code.*

Sec. 74. NRS 412.312 is hereby amended to read as follows:

412.312 Subject to NRS 412.306, special courts-martial have jurisdiction to try persons subject to this Code for any offense for which they may be punished under this Code ~~[. A special court martial may adjudge any punishment a general court martial may adjudge, except dishonorable discharge, dismissal or confinement with hard labor for more than 100 days, forfeiture of pay and allowances of more than \$100 or a fine of more than \$100.]~~ and may, under such limitations as the Governor may prescribe, adjudge any punishment not forbidden by this Code except for dishonorable discharge, dismissal, confinement for more than 1 year, forfeiture of pay exceeding one-half pay per month or forfeiture of pay for more than 1 year.

Sec. 75. NRS 412.314 is hereby amended to read as follows:

412.314 1. Subject to NRS 412.306, summary courts-martial have jurisdiction to try persons subject to this Code, except officers ~~[and warrant~~

~~officers,]~~ , *cadets, candidates and midshipmen*, for any offense made punishable by this Code ~~[ ] under such limitations as the Governor may prescribe.~~

2. No person with respect to whom summary courts-martial have jurisdiction may be brought to trial before a summary court-martial if the person objects thereto . ~~[, unless under NRS 412.286, he or she has been permitted and has elected to refuse punishment under NRS 412.286 to 412.302, inclusive.]~~ If objection to trial by summary court-martial is made by an accused ~~[who has not been permitted to refuse punishment under NRS 412.286 to 412.302, inclusive, trial shall be ordered by special or general court martial, as may be appropriate.~~

3. ~~Summary courts martial may adjudge any of the following punishments:~~

- ~~(a) Confinement with hard labor for not exceeding 25 days;~~
- ~~(b) A fine of not more than \$25 or forfeiture of pay and allowances of not more than \$25 for a single offense;~~
- ~~(c) Reduction of enlisted persons to a lower grade; and~~
- ~~(d) Any combination of these punishments.]~~ , *trial by special or general court-martial may be ordered, as may be appropriate. Summary courts-martial may, under such limitations as the Governor may prescribe, adjudge any punishment not forbidden by this Code except dismissal, dishonorable or bad-conduct discharge, confinement for more than 1 month, restriction to specified limits for more than 2 months or forfeiture of more than one-half of 1 month's pay.*

Sec. 76. NRS 412.324 is hereby amended to read as follows:

412.324 1. In the Nevada National Guard not in federal service, a general ~~[courts martial]~~ *court-martial* may be convened by the : ~~[President or by the]~~

- (a) Governor ~~[ ]~~ ;
- (b) *Adjutant General*;
- (c) *Commanding officer of a component of the state military forces*;
- (d) *Commanding officer of a division or a separate brigade; or*
- (e) *Commanding officer of a separate wing.*

2. *If any such commanding officer is an accuser, the court shall be convened by superior competent authority and may in any case be convened by such superior authority if considered desirable by such authority.*

Sec. 77. NRS 412.326 is hereby amended to read as follows:

412.326 1. In the Nevada National Guard not in federal service, ~~[the]~~ *a special court-martial may be convened by:*

- (a) *Any person who may convene a general court-martial;*
- (b) *The commanding officer of a garrison, fort, post, camp, [airbase, auxiliary airbase or other place where troops are on duty, or of a brigade, regiment, wing, group, detached battalion, separate squadron or other detached command, may convene special courts martial. Special courts martial may also be convened by superior authority. When any such*

~~officer is an accuser, the court shall be convened by superior competent authority.] Nevada Air National Guard base or naval base or station;~~

(c) *The commanding officer of a brigade, regiment, detached battalion or corresponding unit of the Nevada Army National Guard;*

(d) *The commanding officer of a wing, group, separate squadron or corresponding unit of the Nevada Air National Guard; or*

(e) *The commanding officer or officer in charge of any other command when empowered by the Adjutant General.*

2. *When any such officer is an accuser, the court must be convened by superior competent authority and may in any case be convened by such superior authority if considered desirable by such authority.*

Sec. 78. NRS 412.328 is hereby amended to read as follows:

412.328 1. In the Nevada National Guard not in federal service, ~~[the commanding officer of a garrison, fort, post, camp, airbase, auxiliary airbase or other place where troops are on duty, or of a regiment, wing, group, detached battalion, detached squadron, detached company or other detachment, may convene a summary court-martial consisting of one commissioned officer. The proceedings shall be informal.] a summary court-martial may be convened by:~~

(a) *Any person who may convene a general court-martial;*

(b) *The commanding officer of a detached company or other detachment or corresponding unit of the Nevada Army National Guard;*

(c) *The commanding officer of a detached squadron or other detachment or the corresponding unit of the Nevada Air National Guard; or*

(d) *The commanding officer or officer in charge of any other command when empowered by the Adjutant General.*

2. When only one commissioned officer is present with a command or detachment he or she shall be the summary court-martial of that command or detachment and shall hear and determine all summary court-martial cases brought before him or her. Summary courts-martial may, however, be convened in any case by superior competent authority when considered desirable by ~~[him or her.]~~ such authority.

Sec. 79. NRS 412.332 is hereby amended to read as follows:

412.332 1. Any commissioned officer of or on duty with the Nevada National Guard is eligible to serve on all courts-martial for the trial of any person who may lawfully be brought before such courts for trial.

2. Any warrant officer of or on duty with the Nevada National Guard is eligible to serve on general and special courts-martial for the trial of any person, other than a commissioned officer, who may lawfully be brought before such courts for trial.

3. Any enlisted member of the Nevada National Guard who is not a member of the same unit as the accused is eligible to serve on general and special courts-martial for the trial of any enlisted member who may lawfully be brought before such courts for trial, but he or she shall serve as a member of a court only if, before the ~~[convening of the court,]~~ conclusion of a session

*called by the military judge before trial or, in the absence of such a session, before the court is assembled for the trial of the accused, the accused personally has requested orally on the record or in writing that enlisted members serve on it. After such a request, the accused serviceman or servicewoman may not be tried by a general or special court-martial the membership of which does not include enlisted members in a number comprising at least one-third of the total membership of the court, unless eligible members cannot be obtained on account of physical conditions or military exigencies. If such members cannot be obtained, the court may be convened and the trial held without them, but the convening authority shall make a detailed written statement, to be appended to the record, stating why they could not be obtained. As used in this subsection, the word "unit" means any regularly organized body of the Nevada National Guard not larger than a company, a squadron or a corresponding body.*

4. When it can be avoided, no person subject to this Code shall be tried by a court-martial any member of which is junior to him or her in rank or grade.

5. When convening a court-martial, the convening authority shall detail as members thereof such members of the Nevada National Guard as, in his or her opinion, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member of the Nevada National Guard is eligible to serve as a member of a general or special court-martial when he or she is the accuser, ~~or~~ a witness, ~~for the prosecution~~ or has acted as investigating officer or as counsel in the same case.

6. *Before a court-martial is assembled for the trial of a case, the convening authority may excuse a member of the court from participating in the case. The convening authority may delegate the authority under this subsection to a judge advocate or to any other principal assistant.*

7. If within the command of the convening authority there is present and not otherwise disqualified a commissioned officer who is a member of the bar of the State and of appropriate rank, the convening authority shall appoint him or her as president of a special court-martial. Although this requirement is binding on the convening authority, failure to meet it in any case does not divest a military court of jurisdiction.

Sec. 80. NRS 412.334 is hereby amended to read as follows:

412.334 1. *A military judge must be detailed to each general and special court-martial. The military judge shall preside over each open session of the court-martial to which the military judge has been detailed.*

2. The authority convening a general or special court-martial shall request the State Judge Advocate to detail a military judge. *Neither the convening authority nor any staff member of the convening authority may prepare or review any report concerning the effectiveness, fitness or efficiency of the military judge who is detailed if the report relates to the military judge's performance of duty as a military judge.*

~~{2-}~~ 3. No person may act as military judge in a case wherein the person is the accuser, a witness, ~~{for the prosecution,}~~ counsel or has acted as investigating officer.

~~{3-}~~ 4. The military judge may not consult with the members of the court except in the presence of the accused and trial and defense counsel, nor may he or she vote with the members of the court.

Sec. 81. NRS 412.336 is hereby amended to read as follows:

412.336 1. For each general and special court-martial the authority convening the court shall request the State Judge Advocate to detail trial and defense counsel and such assistants as he or she considers appropriate.

2. No person who has acted as investigating officer, military judge or court member may thereafter act as trial counsel or assistant trial counsel in the same case.

3. Unless requested by the accused, no person who has acted as investigating officer, military judge or court member may thereafter act as defense counsel or assistant defense counsel in the same case.

4. No person who has acted for the prosecution may thereafter act for the defense in the same case; nor may any person who has acted for the defense act for the prosecution in the same case.

5. Counsel for general and special courts-martial shall be a member of the bar of the highest court of a state or of a federal court.

6. *Except as otherwise provided in subsection 7, trial counsel or defense counsel detailed for a general or special court-martial must be a judge advocate, and trial counsel must be a member in good standing of the State Bar of Nevada.*

7. *In the instance when defense counsel is not a member of the State Bar of Nevada, the defense counsel must be deemed admitted pro hac vice, subject to filing a certificate with the military judge setting forth the qualifications that counsel is:*

*(a) A commissioned officer of the Armed Forces of the United States or a component thereof;*

*(b) A member in good standing of the bar of the highest court of his or her state; and*

*(c) Certified as a judge advocate in the Judge Advocate General's Corps of the Army, Air Force, Navy or the Marine Corps; or*

*(d) A judge advocate as defined in this Code.*

Sec. 82. NRS 412.342 is hereby amended to read as follows:

412.342 1. No member of a general or special court-martial may be absent or excused after ~~{the accused has been arraigned except}~~ the court has been assembled for the trial of the accused unless:

*(a) Excused as a result of a challenge;*

*(b) Excused by the military judge for physical disability; or ~~{as a result of a challenge or by}~~*

*(c) By order of the convening authority for good cause.*

2. Whenever a general court-martial, *other than a general court-martial composed of a military judge only*, is reduced below five members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than five members. When the new members have been sworn, the trial may proceed after the recorded testimony of each witness previously examined has been read to the court in the presence of the military judge, the accused and counsel.

3. Whenever a special court-martial is reduced below three members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than three members. When the new members have been sworn, the trial shall proceed as if no evidence has previously been introduced, unless a verbatim record of the testimony of previously examined witnesses or a stipulation thereof is read to the court in the presence of the accused and counsel.

4. *If the military judge of a court-martial composed of a military judge only is unable to proceed with trial because of physical disability, as a result of a challenge or for other good cause, the trial will proceed, subject to any applicable conditions of NRS 412.334, after the detail of a new military judge as if no evidence had previously been introduced, unless a verbatim record of the evidence previously introduced or a stipulation thereof is read in court in the presence of the new military judge, the accused and counsel for both sides.*

Sec. 83. NRS 412.348 is hereby amended to read as follows:

412.348 1. No charge or specification may be referred to a general court-martial for trial until a thorough and impartial investigation of all the matters set forth therein has been made. This investigation shall include inquiry as to the truth of the matter set forth in the charges, consideration of the form of charges, and a recommendation as to the disposition which should be made of the case in the interest of justice and discipline.

2. The accused shall be advised of the charges against him or her and of his or her right to be represented at that investigation by counsel. Upon his or her own request he or she shall be represented by civilian counsel if provided by him or her, or military counsel of his or her own selection if such counsel is reasonably available, or by counsel detailed by the officer exercising general court-martial jurisdiction over the command. At that investigation full opportunity shall be given to the accused to cross-examine witnesses against him or her if they are available and to present anything he or she may desire in his or her own behalf, either in defense or mitigation, and the investigating officer shall examine available witnesses requested by the accused. If the charges are forwarded after the investigation, they shall be accompanied by a statement of the substance of the testimony taken on both sides and a copy thereof shall be given to the accused.

3. If an investigation of the subject matter of an offense has been conducted before the accused is charged with an offense, and if the accused was present at the investigation and afforded the opportunities for



representation, cross-examination and presentation prescribed in subsection 2, no further investigation of that charge is necessary under this section unless it is demanded by the accused after he or she is informed of the charge. A demand for further investigation entitles the accused to recall witnesses for further cross-examination and to offer any new evidence in his or her own behalf.

4. *If evidence adduced in an investigation under this section indicates that the accused committed an uncharged offense, the investigating officer may investigate the subject matter of that offense without the accused having first been charged with the offense if the accused is:*

- (a) *Present at the investigation;*
- (b) *Informed of the nature of each uncharged offense investigated; and*
- (c) *Afforded the opportunities for representation, cross-examination and presentation prescribed in subsection 2.*

5. The requirements of this section are binding on all persons administering this Code but failure to follow them does not divest a military court of jurisdiction.

Sec. 84. NRS 412.354 is hereby amended to read as follows:

412.354 1. Before directing the trial of any charge by general court-martial, the convening authority shall refer it to the State Judge Advocate for consideration and advice. The convening authority may not refer a *specification under a charge* to a general court-martial for trial unless ~~he or she has found that the charge alleges an offense under this Code and is warranted by evidence indicated in the report of the investigation.~~ *the convening authority has been advised in writing by a judge advocate that:*

- (a) *The specification alleges an offense under this Code;*
- (b) *The specification is warranted by evidence indicated in the report of the investigation, if there is such a report; and*
- (c) *A court-martial would have jurisdiction over the accused and the offense.*

2. If the charges or specifications are not formally correct or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections, and such changes in the charges and specifications as are needed to make them conform to the evidence, may be made.

3. *The advice of the State Judge Advocate pursuant to subsection 1, with respect to a specification under a charge, must include a written and signed statement by the judge advocate:*

- (a) *Expressing conclusions with respect to each matter set forth in subsection 1; and*
- (b) *Recommending action that the convening authority take regarding the specification. If the specification is referred for trial, the recommendation of the judge advocate must accompany the specification.*

Sec. 85. NRS 412.358 is hereby amended to read as follows:

412.358 ~~[The procedure.]~~ *Pretrial, trial and posttrial procedures, including modes of proof, [in cases before military courts and other military tribunals] for cases before courts-martial arising under this Code and for courts of inquiry, may be prescribed by [Office regulations, which must, so far as practicable, apply the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the courts of the State, but which may not be contrary to or inconsistent with this Code.] the Governor or the Adjutant General by regulations, or as otherwise provided by law. The regulations prescribed under this section must apply the principles of law and the rules of evidence generally recognized in military criminal cases in the courts of the Armed Forces of the United States and must not be contrary to or inconsistent with this Code.*

Sec. 86. NRS 412.362 is hereby amended to read as follows:

412.362 ~~[No]~~

1. *Except as otherwise provided in subsection 2, no authority convening a general, special or summary court-martial nor any other commanding officer, or officer serving on the staff thereof, may censure, reprimand or admonish the court or any member, law officer or counsel thereof, with respect to the findings or sentence adjudged by the court, or with respect to any other exercise of its, his or her functions in the conduct of the proceeding. No person subject to this Code may attempt to coerce or, by any unauthorized means, influence the action of the court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving or reviewing authority with respect to his or her judicial acts.*

2. *Subsection 1 does not apply with respect to:*

*(a) General instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of courts-martial; or*

*(b) To statements and instructions given in open court by the military judge, summary court-martial officer or counsel.*

3. *In the preparation of an effectiveness, fitness or efficiency report, or any other report or document used in whole or in part for the purpose of determining whether a member of the state military forces is qualified to be advanced in grade, or in determining the assignment or transfer of a member of the state military forces or in determining whether a member of the state military forces should be retained on active status, no person subject to this Code may, in preparing any such report:*

*(a) Consider or evaluate the performance of duty of any such member as a member of a court-martial or witness therein; or*

*(b) Give a less favorable rating or evaluation of any counsel of the accused because of zealous representation before a court-martial.*

Sec. 87. NRS 412.364 is hereby amended to read as follows:

412.364 1. The trial counsel of a general or special court-martial shall prosecute in the name of the State and shall, under the direction of the court, prepare the record of the proceedings.

2. The accused has the right to be represented in his or her defense before a general or special court-martial ~~by~~ *or at an investigation as provided in NRS 412.348.*

3. *The accused may be represented:*

(a) *In his or her defense before a general or special court-martial, by civilian counsel ~~if provided by him or her, or by~~ at the provision and expense of the accused;*

(b) *By military counsel selected by the accused if reasonably available ; ~~by~~*

(c) *By the defense counsel detailed under NRS 412.336.*

4. Should the accused have counsel of his or her own selection, the defense counsel and assistant defense counsel, if any, who were detailed, shall, if the accused so desires, act as his or her associate counsel , ~~by~~ otherwise they shall be excused by the president of the court.

5. *Except as otherwise provided in subsection 6, if the accused is represented by military counsel of his or her own selection pursuant to paragraph (b) of subsection 3, any military counsel detailed in paragraph (c) of subsection 3 must be excused.*

6. *The accused is not entitled to be represented by more than one military counsel. However, the person authorized under regulations prescribed under NRS 412.336 to detail counsel, in that person's sole discretion:*

(a) *May detail additional military counsel as assistant defense counsel; and*

(b) *If the accused is represented by military counsel of the accused's own selection pursuant to paragraph (b) of subsection 3, may approve a request from the accused that military counsel detailed in paragraph (c) of subsection 3 act as associate defense counsel.*

7. *The senior force judge advocate of the same component of which the accused is a member shall determine whether the military counsel selected by an accused is reasonably available.*

~~3.3~~ 8. In every court-martial proceeding the defense counsel may, in the event of conviction ~~by forward~~ :

(a) *Forward for attachment to the record of proceedings a brief of such matters as the defense counsel feels should be considered in behalf of the accused on review, including any objection to the contents of the record which he or she considers appropriate ~~by~~*

~~4.3~~ ;

(b) *Assist the accused in the submission of any matter under NRS 412.452 to 412.562, inclusive, and sections 33 to 40, inclusive, of this act; and*

(c) *Take other action authorized by this Code.*

9. An assistant trial counsel of a general court-martial may, under the direction of the trial counsel or when he or she is qualified to be a trial counsel as required by NRS 412.336, perform any duty imposed by law, regulation or the custom of the service upon the trial counsel of the court. An assistant trial counsel of a special court-martial may perform any duty of the trial counsel.

~~{5-}~~ 10. An assistant defense counsel of a general or special court-martial may, under the direction of the defense counsel or when he or she is qualified to be the defense counsel as required by NRS 412.336, perform any duty imposed by law, regulation or the custom of the service upon counsel for the accused.

Sec. 88. NRS 412.366 is hereby amended to read as follows:

412.366 1. At any time after the service of charges, which have been referred for trial to a court-martial composed of a military judge and members, the military judge may call the court into session without the presence of the members for:

(a) Hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

(b) Hearing and ruling upon any matter which may be ruled upon by the military judge whether or not the matter is appropriate for later consideration or decision by the members of the court;

(c) Holding the arraignment and receiving the pleas of the accused; or

(d) Performing any other procedural function which may be performed by the military judge which does not require the presence of the members of the court. These proceedings shall be conducted in the presence of the accused, defense counsel and trial counsel and shall be made a part of the record.

2. *The proceedings described in subsection 1 must be conducted in the presence of the accused, defense counsel and trial counsel and must be made a part of the record. Such proceedings are not required to adhere to the provisions of NRS 412.342.*

3. Whenever a general or special court-martial deliberates or votes, only the members of the court may be present. All other proceedings, including any other consultation of the court with counsel or the military judge, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and the military judge.

Sec. 89. NRS 412.372 is hereby amended to read as follows:

412.372 1. The military judge and members of a general or special court-martial may be challenged by the accused or the trial counsel for cause stated to the court. The military judge shall determine the relevancy and validity of challenges for cause, and may not receive a challenge to more than one person at a time. Challenges by the trial counsel shall be presented and decided before those by the accused are offered, unless justice dictates otherwise.

2. *If exercise of a challenge for cause reduces the court below the minimum number of members required by NRS 412.304, all parties shall, notwithstanding NRS 412.342, either exercise or waive any challenge for cause then apparent against the remaining members of the court before additional members are detailed to the court. However, peremptory challenges must not be exercised at that time.*

3. Each accused and the trial counsel is entitled to one peremptory challenge, but the military judge may not be challenged except for cause.

4. *If exercise of a peremptory challenge reduces the court below the minimum number of members required by NRS 412.304, the parties shall, notwithstanding NRS 412.342, either exercise or waive any remaining peremptory challenge not previously waived against the remaining members of the court before additional members are detailed to the court.*

5. *Whenever additional members are detailed to the court and after any challenges for cause against such additional members are presented and decided, each accused and the trial counsel are entitled to one peremptory challenge against members not previously subject to peremptory challenge.*

Sec. 90. NRS 412.374 is hereby amended to read as follows:

412.374 1. The military judge, interpreters, and in general and special courts-martial, members, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel and reporters shall take an oath or affirmation in the presence of the accused to perform their duties faithfully.

2. *The form of the oath or affirmation, the time and place of the taking thereof, the manner of recording the same and whether the oath or affirmation must be taken for all cases in which these duties are to be performed or for a particular case must be as prescribed in regulation or as provided by law. The regulations may provide that:*

*(a) An oath or affirmation to perform faithfully the duties of a military judge, trial counsel or defense counsel may be taken at any time by any judge advocate or other person certified or designated to be qualified or competent for the duty; and*

*(b) If such an oath or affirmation is taken, it need not again be taken at the time the judge advocate or other person is detailed to that duty.*

3. Each witness before a military court shall be examined on oath or affirmation.

Sec. 91. NRS 412.376 is hereby amended to read as follows:

412.376 1. A person charged with desertion or absence without leave in time of war, or with aiding the enemy or with mutiny, may be tried and punished at any time without limitation.

2. Except as otherwise provided in this section, a person charged with desertion in time of peace or the offense punishable under NRS 412.554, is not liable to be tried by court-martial if the offense was committed more than 3 years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

3. Except as otherwise provided in this section ~~or title 15 of NRS~~, a person charged with any offense is not liable to be tried by court-martial or punished under NRS 412.286 to 412.302, inclusive, *and sections 10 to 17, inclusive, of this act* if the offense was committed more than ~~2~~ 3 years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command or before the imposition of punishment under NRS 412.286 to 412.302, inclusive ~~or~~, *and sections 10 to 17, inclusive, of this act.*

4. *Periods in which the accused is absent without authority or fleeing from justice are excluded in computing the period of limitation prescribed in this section.*

5. Periods in which the accused was absent from territory in which the State has the authority to apprehend the accused, or in the custody of civil authorities, or in the hands of the enemy, ~~shall be~~ are excluded in computing the period of limitation prescribed in this section.

6. *When the United States is at war, the running of any statute of limitations applicable to any offense under this Code:*

(a) *Involving fraud or attempted fraud against the United States, any state or any agency of either in any manner, whether by conspiracy or not;*

(b) *Committed in connection with the acquisition, care, handling, custody, control or disposition of any real or personal property of the United States or any state; or*

(c) *Committed in connection with the negotiation, procurement, award, performance, payment, interim financing, cancellation or other termination or settlement of any contract, subcontract or purchase order which is connected with or related to the prosecution of war or with any disposition of termination inventory by any war contractor or government agency, is suspended until 2 years after the termination of hostilities as proclaimed by the President of the United States or by a joint resolution of the Congress of the United States.*

7. *If charges or specifications are dismissed as defective or insufficient for any cause and the period prescribed by the applicable statute of limitations has expired or will expire within 180 days after the dismissal of the charges or specifications, trial and punishment under new charges and specification are not barred by the statute of limitations if the new charges and specifications:*

(a) *Are received by an officer exercising summary court-martial jurisdiction over the command within 180 days after the dismissal of the charges or specifications; and*

(b) *Allege the same acts or omissions that were alleged in the dismissed charges or specifications or allege acts or omissions that were included in the dismissed charges or specifications.*

Sec. 92. NRS 412.382 is hereby amended to read as follows:

412.382 1. If an accused arraigned before a court-martial makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with

the plea, or if it appears that the accused has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if the accused fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though the accused had pleaded not guilty.

2. *With respect to any charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge or by a court-martial without a military judge, a finding of guilty of the charge or specification may be entered immediately without vote. This finding constitutes the finding of the court unless the plea of guilty is withdrawn before the announcement of the sentence, in which event the proceedings must continue as though the accused had pleaded not guilty.*

Sec. 93. NRS 412.388 is hereby amended to read as follows:

412.388 A military court may punish for contempt any person who uses any menacing word, sign or gesture in its presence, or who disturbs its proceedings by any riot or disorder. The punishment may not exceed confinement for 30 days or a fine of \$100, or both. *A person not subject to this Code may be punished for contempt by a military court in the same otherwise applicable manner as that person could be punished if found in contempt of a criminal or civil court of the State.*

Sec. 94. NRS 412.396 is hereby amended to read as follows:

412.396 1. Voting by members of a general or special court-martial upon questions of challenge, on the findings and on the sentence ~~[shall]~~ *must* be by secret written ballot. The junior member of the court shall in each case count the votes. The count ~~[shall]~~ *must* be checked by the president, who shall forthwith announce the result of the ballot to the members of the court. *Unless a ruling is final, if any member objects thereto, the court must be cleared and closed and the question decided by a voice vote as provided in NRS 412.398, beginning with the junior in rank.*

2. *The military judge shall rule upon all questions of law and all interlocutory questions arising during the proceedings. Except as otherwise provided in this subsection, any such ruling made by the military judge upon any question of law or any interlocutory question other than the factual issue of mental responsibility of the accused is final and constitutes the ruling of the court, including, without limitation, for the purposes of interlocutory appeal under NRS 412.418 to 412.438, inclusive, and sections 24 to 28, inclusive, of this act. During the trial, the military judge may change the ruling at any time.*

3. Before a vote is taken on the findings, and except where a court-martial is composed of a military judge alone, the military judge shall, in the presence of the accused and counsel, instruct the court as to the elements of the offense and charge the court:

(a) That the accused must be presumed to be innocent until his or her guilt is established by legal and competent evidence beyond reasonable doubt;

(b) That in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and he or she must be acquitted;

(c) That if there is a reasonable doubt as to the degree of guilt, the findings must be in a lower degree as to which there is no reasonable doubt; and

(d) That the burden of proof to establish the guilt of the accused beyond reasonable doubt is upon the State.

~~{3-}~~ 4. If the court-martial is composed of a military judge alone, he or she shall determine all questions of law and fact, and, if the accused is convicted, adjudge an appropriate sentence. The military judge shall make a general finding, unless requested to make a special finding of facts. If an opinion or memorandum decision is filed, it is sufficient if the findings of fact appear therein.

Sec. 95. NRS 412.398 is hereby amended to read as follows:

412.398 1. No person may be convicted of an offense, except by the concurrence of two-thirds of the members present at the time the vote is taken.

2. All sentences shall be determined by the concurrence of two-thirds of the members present at the time that the vote is taken.

3. All other questions to be decided by the members of a general or special court-martial shall be determined by a majority vote ~~{-}~~, *but a determination to reconsider a finding of guilty or to reconsider a sentence, with a view toward decreasing it, may be made by voice and by any lesser vote which indicates that the reconsideration is not opposed by the number of votes required for finding or sentence.* A tie vote on a challenge disqualifies the member challenged. A tie vote on a motion for a finding of not guilty or on a motion relating to the question of the accused's sanity is a determination against the accused. A tie vote on any other question is a determination in favor of the accused.

Sec. 96. NRS 412.404 is hereby amended to read as follows:

412.404 1. Each *general and special* court-martial ~~{shall}~~ *must* keep a separate record of the proceedings of the trial of each case brought before it and the record must be authenticated by the signatures of the president and the military judge. If the record cannot be authenticated by either the president or the military judge, by reason of his or her absence, it must be signed by a member in lieu of him or her. If both the president and the military judge are unavailable, the record must be authenticated by two members. ~~{A record of the proceedings of a trial in which the sentence adjudged includes a bad conduct discharge or is more than that which could be adjudged by a special court martial must contain a complete verbatim account of the proceedings and testimony before the court. All other records of trial must contain such matter and be authenticated in such manner as the Governor may, by Office regulation, prescribe.}~~ *In a court-martial consisting of only a military judge, the court reporter shall authenticate the record*



*under the same conditions which would impose such a duty on a member pursuant to this subsection.*

2. *A complete verbatim record of the proceedings and testimony must be prepared in each general and special court-martial case resulting in a conviction. In all other court-martial cases, the record must contain such matters as may be prescribed by regulations.*

3. *Each summary court-martial must keep a separate record of the proceedings in each case, and the record must be authenticated in the manner as may be prescribed by regulations.*

4. A copy of the record of the proceedings of each general and special court-martial must be given to the accused as soon as it is authenticated. If a verbatim record of trial by general court-martial is not required by subsection ~~14~~ 2, the accused may buy such a record in accordance with Office regulations.

Sec. 97. NRS 412.408 is hereby amended to read as follows:

412.408 1. The punishments which a court-martial may direct for an offense may not exceed limits prescribed by this Code ~~14~~, *but a sentence may not exceed more than confinement for 10 years for a military offense nor can a sentence of death be adjudged. Any conviction by general court-martial of any military offense for which an accused can receive a sentence of confinement for more than 1 year is a felony. Except for convictions by a summary court-martial, all other military offenses are misdemeanors. Any conviction by a summary court-martial is not a criminal conviction.*

2. *The limits of punishment for violations of punitive articles prescribed herein must be the lesser of the sentences prescribed by the Manual for Courts-Martial of the United States that went into effect on January 1, 2004, and the most current edition of the State manual for courts-martial, if any, but no punishment may exceed that authorized by this Code.*

3. None of the provisions of this Code shall subject anyone to imprisonment for failure to pay a fine imposed by a military court.

Sec. 98. NRS 412.414 is hereby amended to read as follows:

412.414 1. A sentence of confinement adjudged by a military court, whether or not the sentence includes discharge or dismissal, and whether or not the discharge or dismissal has been executed, may be carried into execution by confinement in any place of confinement under the control of any of the forces of the Nevada National Guard or in any jail, detention facility, penitentiary or prison designated for that purpose. Persons so confined in a jail, detention facility, penitentiary or prison are subject to the same discipline and treatment as persons confined or committed to the jail, detention facility, penitentiary or prison by the courts of the State or of any political subdivision thereof.

2. ~~The omission of the words "hard labor" from any sentence or punishment of a court martial adjudging confinement does not deprive the authority executing that sentence or punishment of the power to require hard~~

~~labor as a part of the punishment.] No place of confinement may require payment of any fee or charge for so receiving or confining a person except as otherwise provided by law.~~

3. The keepers, officers and wardens of city or county jails and of other jails, detention facilities, penitentiaries or prisons designated by the Governor, or by such person as the Governor may authorize to act under NRS 412.276, shall:

(a) Receive persons ordered into confinement before trial and persons committed to confinement by a military court; and

(b) Confine them according to law.

→ A keeper, officer or warden may not require payment of any fee or charge for so receiving or confining a person.

Sec. 99. NRS 412.416 is hereby amended to read as follows:

412.416 1. Unless otherwise provided in Office regulations, a court-martial sentence of an enlisted member in a pay grade above E-1, as approved by the convening authority, that includes:

(a) A dishonorable or bad-conduct discharge; or

(b) Confinement, ~~for~~ or

~~(c) Hard labor without confinement.]~~

→ reduces that member to pay grade E-1, effective on the date of that approval.

2. If the sentence of a member who is reduced in pay grade under subsection 1 is set aside or disapproved, or, as finally approved, does not include punishment named in subsection 1, the rights and privileges of which the member was deprived because of that reduction must be restored to him or her and he or she is entitled to the pay and allowances to which he or she would have been entitled, for the period the reduction was in effect, had the member not been so reduced.

Sec. 100. NRS 412.418 is hereby amended to read as follows:

412.418 1. Except as *otherwise* provided in NRS 412.316 to 412.432, inclusive, *and sections 20 to 28, inclusive, of this act* a court-martial sentence, unless suspended, may be ordered executed by the convening authority when approved by him or her. The convening authority shall approve the sentence or such part, amount or commuted form of the sentence as he or she sees fit, and may suspend the execution of the sentence as approved by him or her.

2. *If the sentence of the court-martial includes dismissal, a dishonorable discharge or a bad-conduct discharge and if the right of the accused to appellate review is not waived and an appeal is not withdrawn, that part of the sentence extending to dismissal, a dishonorable discharge or a bad-conduct discharge must not be executed until there is a final judgment as to the legality of the proceedings. A judgment as to the legality of the proceedings is final in such cases when review is completed by an appellate court prescribed in NRS 412.432, and is deemed final by the law of the state where judgment was had.*

3. *If the sentence of the court-martial includes dismissal, a dishonorable discharge or a bad-conduct discharge and if the right of the accused to appellate review is waived or an appeal is withdrawn, the dismissal, dishonorable discharge or bad-conduct discharge may not be executed until review of the case by the senior force judge advocate and any action on that review is completed. The convening authority or other person acting on the case under the Code when so approved under this section may order any other part of a court-martial sentence executed immediately.*

Sec. 101. NRS 412.422 is hereby amended to read as follows:

412.422 1. *The findings and sentence of a court-martial must be reported promptly to the convening authority after the announcement of the sentence.*

2. *The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence. Any such submission must be in writing. Except in a summary court-martial case, such a submission must be made within 10 days after the accused has been given an authenticated record of trial under subsection 4 and, if applicable, the recommendation of a judge advocate. In a summary court-martial case, such a submission must be made within 7 days after the sentence is announced.*

3. *If the accused shows that additional time is required for the accused to submit such matters, the convening authority or other person taking action under this section, for good cause, may extend the applicable period under subsection 2 for not more than an additional 20 days.*

4. *In a summary court-martial case, the accused must be promptly provided a copy of the record of trial for use in preparing a submission authorized by subsection 2.*

5. *The accused may waive the right to make a submission to the convening authority under subsection 2. Such a waiver must be made in writing and may not be revoked. For the purposes of subsection 7, the time within which the accused may make a submission pursuant to this subsection shall be deemed to have expired upon the submission of such a waiver to the convening authority.*

6. *The convening authority has sole discretion to modify the findings and sentence of a court-martial pursuant to this section. If it is impractical for the convening authority to act, the convening authority shall forward the case to a person exercising general court-martial jurisdiction who may take action under this section.*

7. *Action on the sentence of a court-martial must be taken by the convening authority or by another person authorized to act under this section. The convening authority or other person authorized to take such action may do so only after consideration of any matters submitted by the accused pursuant to subsection 2 or after the time for submitting such matters expires, whichever is earlier. The convening authority or other*

person taking such action may approve, disapprove, commute or suspend the sentence in whole or in part.

8. The convening authority or other person authorized to act on the sentence of a court-martial may, in the person's sole discretion:

(a) Dismiss any charge or specifications by setting aside a finding of guilty;

(b) Change a finding of guilty on a charge or specification to a finding of guilty on an offense that is a lesser included offense of the offense stated in the charge or specification; or

(c) Refrain from taking any such action.

9. Before acting under this section on any general or special court-martial case in which there is a finding of guilt, the convening authority or other person taking action under this section shall obtain and consider the written recommendation of a judge advocate. The convening authority or other person taking action under this section shall refer the record of trial to the judge advocate, and the judge advocate shall use such record in the preparation of the recommendation. The recommendation of the judge advocate must include such matters as may be prescribed by regulation and must be served on the accused, who may submit any matter in response pursuant to subsection 2. By failing to object in the response to the recommendation or to any matter attached to the recommendation, the accused waives the right to object thereto.

10. The convening authority or other person taking action under this section, in the person's sole discretion, may order a proceeding in revision or a rehearing if there is an apparent error or omission in the record or if the record shows improper or inconsistent action by a court-martial with respect to findings or sentence that can be rectified without material prejudice to the substantial rights of the accused. In no case, however, may a proceeding in revision:

(a) Reconsider a finding of not guilty of any specification or a ruling which amounts to a finding of not guilty;

(b) Reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some article of this Code; or

(c) Increase the severity of the sentence unless the sentence prescribed for the offense is mandatory.

11. The convening authority or other person taking action under this section may order a rehearing if that person disapproves the findings and sentences and states the reasons for disapproval of the findings. If such person disapproves the findings and sentence and does not order a rehearing, that person shall dismiss the charges. The convening authority or other person taking action under this subsection may not order a rehearing as to the findings where there is a lack of sufficient evidence in the record to support the findings. The convening authority or other person taking action

*under this subsection may order a rehearing as to the sentence if that person disapproves the sentence.*

12. After a trial by court-martial the record shall be forwarded to the convening authority, as reviewing authority, and action thereon may be taken by the person who convened the court, a commissioned officer commanding for the time being, a successor in command or by the Governor.

~~{2-}~~ 13. The convening authority shall refer the record of each general court-martial to the State Judge Advocate, who shall submit his or her written opinion thereon to the convening authority. If the final action of the court has resulted in an acquittal of all charges and specifications, the opinion ~~{shall}~~ *must* be limited to questions of jurisdiction.

Sec. 102. NRS 412.426 is hereby amended to read as follows:

412.426 1. If the convening authority disapproves the findings and sentence of a court-martial he or she may, except where there is lack of sufficient evidence in the record to support the findings, order a rehearing. In such a case the convening authority shall state the reasons for disapproval. If the convening authority disapproves the findings and sentence and does not order a rehearing, he or she shall dismiss the charges.

2. Each rehearing shall take place before a court-martial composed of members not members of the court-martial which first heard the case. Upon a rehearing the accused may not be tried for any offense of which he or she was found not guilty by the first court-martial, and no sentence in excess of or more severe than the original sentence may be imposed, unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings, or unless the sentence prescribed for the offense is mandatory. *If the sentence approved after the first court-martial was in accordance with a pretrial agreement and the accused at the rehearing changes a plea with respect to the charges or specifications upon which the pretrial agreement was based or otherwise does not comply with the pretrial agreement, the approved sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first court-martial.*

Sec. 103. NRS 412.432 is hereby amended to read as follows:

412.432 1. *Except as otherwise required by this section, all records of trial and related documents must be transmitted and disposed of as prescribed by regulation and provided by law.*

2. If the convening authority is the Governor, his or her action on the review of any record of trial is final.

~~{2-}~~ 3. In all other cases not covered by subsection ~~{1-}~~ 2, if the sentence of a special court-martial as approved by the convening authority includes a bad-conduct discharge, whether or not suspended, the entire record must be sent to the appropriate staff judge advocate or legal officer of the state force concerned to be reviewed in the same manner as a record of trial by general court-martial. The record and the opinion of the staff judge advocate or legal officer must then be sent to the State Judge Advocate for review.

~~{3-}~~ 4. All other special and summary court-martial records must be sent to the law specialist or legal officer of the appropriate force of the Nevada National Guard and must be acted upon, transmitted and disposed of as may be prescribed by Office regulations.

~~{4-}~~ 5. The State Judge Advocate shall review the record of trial in each case sent to him or her for review as provided under subsection ~~{3-}~~ 4. If the final action of the court-martial has resulted in an acquittal of all charges and specifications, the opinion of the State Judge Advocate must be limited to questions of jurisdiction.

~~{5-}~~ 6. The State Judge Advocate shall take final action in any case reviewable by him or her.

~~{6-}~~ 7. In a case reviewable by the State Judge Advocate under this section, the State Judge Advocate may act only with respect to the findings and sentence as approved by the convening authority. The State Judge Advocate may affirm only such findings of guilty, and the sentence or such part or amount of the sentence, as he or she finds correct in law and fact and determines, on the basis of the entire record, should be approved. In considering the record he or she may weigh the evidence, judge the credibility of witnesses and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses. If the State Judge Advocate sets aside the findings and sentence, he or she may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If the State Judge Advocate sets aside the findings and sentence and does not order a rehearing, he or she shall order that the charges be dismissed.

~~{7-}~~ 8. In a case reviewable by the State Judge Advocate under this section, he or she shall instruct the convening authority to act in accordance with his or her decision on the review. If the State Judge Advocate has ordered a rehearing but the convening authority finds a rehearing impracticable, he or she may dismiss the charges.

~~{8-}~~ 9. The State Judge Advocate may order one or more boards of review each composed of not less than three commissioned officers of the Nevada National Guard, each of whom must be a member of the State Bar of Nevada. Each board of review shall review the record of any trial by special court-martial, including a sentence to a bad-conduct discharge, referred to it by the State Judge Advocate. Boards of review have the same authority on review as the State Judge Advocate has under this section.

Sec. 104. NRS 412.452 is hereby amended to read as follows:

412.452 No person may be tried or punished for any offense provided for in NRS 412.454 to 412.558, inclusive, *and sections 33 to 40, inclusive, of this act* unless it was committed while the person was in a duty status.

Sec. 105. NRS 412.566 is hereby amended to read as follows:

412.566 1. NRS 412.254, 412.256, 412.266 to 412.302, inclusive, *and sections 9 to 17, inclusive, of this act*, 412.332, 412.336, 412.362, 412.406, 412.452 to 412.556, inclusive, ~~and~~ 412.566 ~~to~~ , 412.568, 412.572

~~[inclusive,]~~ and section 8 of this act must be carefully explained to every enlisted member ~~[at the time]~~ :

(a) *At the time* of his or her enlistment or transfer or induction into ~~[or at the time]~~ any of the state military forces or within 30 days thereafter;

(b) *At the time* of his or her being ordered to duty in or with ~~[or]~~ any of the state military forces or within 30 days thereafter. ~~[Those]~~

2. The sections set forth in subsection 1 must also be explained annually to each unit of the state military forces.

3. A complete text of this Code and Office regulations thereunder must be made available to any member of the militia, upon his or her request, for his or her personal examination.

Sec. 106. NRS 412.568 is hereby amended to read as follows:

412.568 Any member of the ~~[militia]~~ *state military forces* who believes himself or herself wronged by his or her commanding officer, and who, upon due application to that commanding officer, is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the ~~[Adjutant General's office.]~~ *officer exercising general court-martial jurisdiction over the officer against whom the complaint is made. The officer exercising general court-martial jurisdiction shall examine the complaint and take proper measures for redressing the wrong complained of and shall, as soon as possible, send to the Adjutant General a true statement of that complaint, with the proceedings had thereon.*

Sec. 107. NRS 412.576 is hereby amended to read as follows:

412.576 1. For the purpose of collecting fines or penalties imposed by a court-martial, the president of any general or special court-martial and the summary court officer of any summary court-martial shall make a list of all fines and penalties and of the persons against whom they have been imposed, and may thereafter issue a warrant under his or her hand directed to any sheriff or constable of the county, commanding him or her to levy and collect such fines, together with the costs, upon and out of the property of the person against whom the fine or penalty was imposed.

2. Such warrant shall be executed and renewed in the same manner as executions from Justice Courts are executed and renewed.

3. The amount of such a fine may be noted upon any state roll or account for pay of the delinquent and deducted from any pay or allowance due or thereafter to become due him or her, until the fine is liquidated. Any sum so deducted shall be turned in to the military court which imposed the fine and shall be paid over by the officer receiving it in like manner as provided for other fines and moneys collected under a sentence of a summary court-martial.

4. All fines collected shall be paid by the officer collecting the same to the commanding officer of the organization of which the person fined is or was a member and accounted for by the commanding officer in the same manner as are other state funds.

5. *Fines imposed by a military court or through imposition of nonjudicial punishment may be paid to the State and delivered to the court or imposing officer, or to a person executing their process. Fines may be collected in the following manner:*

(a) *By cash or money order;*

(b) *By retention of any pay or allowances due or to become due to the person fined from any state or the United States; or*

(c) *By garnishment or levy, together with costs, on the wages, goods and chattels of a person delinquent in paying a fine, as provided by law.*

Sec. 108. NRS 412.578 is hereby amended to read as follows:

412.578 1. No action or proceeding may be prosecuted against the convening authority or a member of a military court or officer or person acting under its authority or reviewing its proceedings because of the approval, imposition or execution of any sentence or the imposition or collection of a fine or penalty, or the execution of any process or mandate of a military court.

2. *All persons acting under the provisions of this Code, whether as a member of the military or as a civilian, are immune from any personal liability for any of the acts or omissions which they performed or failed to perform as part of their duties under this Code.*

Sec. 109. NRS 412.604 is hereby amended to read as follows:

412.604 1. It is unlawful for anybody of persons whatever, other than the Nevada National Guard and the troops of the United States, to associate themselves together as a *volunteer* military company or *volunteer military* organization to drill or parade with arms in any city or town of this state, without the license of the Governor, which license may at any time be revoked.

2. Students in educational institutions where military science is a part of the course of instruction may, with the consent of the Governor, drill and parade with arms in public under the superintendence of their instructor.

3. Nothing contained in this section shall be construed so as to prevent members of benevolent or social organizations from wearing swords.

4. Any person violating any of the provisions of this section is guilty of a misdemeanor.

Sec. 110. NRS 412.184 and 412.292 are hereby repealed.

Sec. 111. This act becomes effective upon passage and approval.

#### TEXT OF REPEALED SECTIONS

412.184 Allowances for uniform and equipment.

1. A person who, on or after July 1, 1973, has completed 2 years of service as a commissioned officer or warrant officer of the Nevada National Guard, shall receive an allowance of \$100 at that time for uniforming and equipping himself or herself. Thereafter he or she shall receive, on completion of each 2 years of service, an additional allowance of \$100 to assist him or her in meeting the uniform requirements necessary to continued service in the Nevada National Guard.



2. The allowances set forth in subsection 1 must be paid from money available to the office only after the officer has furnished satisfactory evidence to the Adjutant General that he or she is properly entitled thereto.

412.292 Powers of officer in charge to impose punishment. An officer in charge may impose upon enlisted members assigned to the unit of which he or she is in charge such of the punishments authorized under paragraphs (a) to (f), inclusive, of subsection 2 of NRS 412.288 as the Adjutant General may specifically prescribe by Office regulation.

Senator Parks moved that the Senate concur in the Assembly Amendment No. 716 to Senate Bill No. 18.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 76.

The following Assembly Amendment was read:

Amendment No. 683.

"SUMMARY—Revises provisions governing permits to carry concealed firearms. (BDR 15-37)"

"AN ACT relating to concealed firearms; revising the definition of "concealed firearm"; authorizing a person to obtain one permit to carry a concealed firearm for all handguns owned by the person; revising provisions relating to a person's demonstration of competence with certain firearms for the purpose of obtaining or renewing a permit to carry a concealed firearm; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law defines "concealed firearm" as a loaded or unloaded pistol, revolver or other firearm which is carried upon a person in such a manner as not to be discernible by ordinary observation. (NRS 202.3653) Existing law provides that a person who applies for a permit to carry a concealed firearm may submit one application and obtain one permit to carry all revolvers and semiautomatic firearms owned by the person. A permit must list each category of firearm to which the permit pertains and is valid for any revolver or semiautomatic firearm which the permittee owns or thereafter obtains. An applicant for a permit must demonstrate competence with revolvers, semiautomatic firearms or both, as applicable, before obtaining a permit. (NRS 202.3657) Existing law also requires a permittee who wishes to renew his or her permit to demonstrate continued competence with revolvers, semiautomatic firearms or both, as applicable. (NRS 202.3677)

Section 1 of this bill revises the definition of "concealed firearm" and defines the term as a loaded or unloaded handgun which is carried upon a person in a manner as not to be discernible by ordinary observation. Section 2 of this bill provides that a person may obtain one permit to carry all handguns owned by the person, and such a permit is valid for any handgun which the person owns or thereafter obtains. Section 2 requires an applicant for a permit to demonstrate competence with handguns before obtaining a

permit, and section 4 of this bill requires a permittee to demonstrate continued competence with handguns before renewing a permit. Section 3 of this bill revises the required form of a permit.

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

Section 1. NRS 202.3653 is hereby amended to read as follows:

202.3653 As used in NRS 202.3653 to 202.369, inclusive, unless the context otherwise requires:

1. "Concealed firearm" means a loaded or unloaded ~~[pistol, revolver or other firearm]~~ handgun which is carried upon a person in such a manner as not to be discernible by ordinary observation.

2. "Department" means the Department of Public Safety.

3. "Handgun" has the meaning ascribed to it in 18 U.S.C. § 921(a)(29).

4. "Permit" means a permit to carry a concealed firearm issued pursuant to the provisions of NRS 202.3653 to 202.369, inclusive.

~~[4. "Revolver" means a firearm that has a revolving cylinder with several chambers, which, by pulling the trigger or setting the hammer, are aligned with the barrel, placing the bullet in a position to be fired. The term includes, without limitation, a single or double derringer.~~

~~5. "Semiautomatic firearm" means a firearm which:~~

~~(a) Uses the energy of the explosive in a fixed cartridge to extract a fixed cartridge and chamber a fresh cartridge with each single pull of the trigger; and~~

~~(b) Requires the release of the trigger and another pull of the trigger for each successive shot.]~~

Sec. 2. NRS 202.3657 is hereby amended to read as follows:

202.3657 1. Any person who is a resident of this State may apply to the sheriff of the county in which he or she resides for a permit on a form prescribed by regulation of the Department. Any person who is not a resident of this State may apply to the sheriff of any county in this State for a permit on a form prescribed by regulation of the Department. Application forms for permits must be furnished by the sheriff of each county upon request.

2. A person applying for a permit may submit one application and obtain one permit to carry all ~~[revolvers and semiautomatic firearms]~~ handguns owned by the person. The person must not be required to list and identify on the application each ~~[revolver or semiautomatic firearm]~~ handgun owned by the person. A permit ~~[must list each category of firearm to which the permit pertains and]~~ is valid for any ~~[revolver or semiautomatic firearm]~~ handgun which is owned or thereafter obtained by the person to whom the permit is issued.

3. Except as otherwise provided in this section, the sheriff shall issue a permit ~~[for revolvers, semiautomatic firearms or both, as applicable,]~~ to any person who is qualified to possess ~~[the firearms to which the application pertains]~~ a handgun under state and federal law, who submits an application in accordance with the provisions of this section and who:

- (a) Is 21 years of age or older;
  - (b) Is not prohibited from possessing a firearm pursuant to NRS 202.360;
- and

(c) Demonstrates competence with ~~[revolvers, semiautomatic firearms or both, as applicable,]~~ *handguns* by presenting a certificate or other documentation to the sheriff which shows that the applicant:

(1) Successfully completed a course in firearm safety approved by a sheriff in this State; or

(2) Successfully completed a course in firearm safety offered by a federal, state or local law enforcement agency, community college, university or national organization that certifies instructors in firearm safety.

↪ Such a course must include instruction in the use of ~~[revolvers, semiautomatic firearms or both, as applicable,]~~ *handguns* and in the laws of this State relating to the use of a firearm. A sheriff may not approve a course in firearm safety pursuant to subparagraph (1) unless the sheriff determines that the course meets any standards that are established by the Nevada Sheriffs' and Chiefs' Association or, if the Nevada Sheriffs' and Chiefs' Association ceases to exist, its legal successor.

4. The sheriff shall deny an application or revoke a permit if the sheriff determines that the applicant or permittee:

- (a) Has an outstanding warrant for his or her arrest.
- (b) Has been judicially declared incompetent or insane.
- (c) Has been voluntarily or involuntarily admitted to a mental health facility during the immediately preceding 5 years.
- (d) Has habitually used intoxicating liquor or a controlled substance to the extent that his or her normal faculties are impaired. For the purposes of this paragraph, it is presumed that a person has so used intoxicating liquor or a controlled substance if, during the immediately preceding 5 years, the person has been:

(1) Convicted of violating the provisions of NRS 484C.110; or

(2) Committed for treatment pursuant to NRS 458.290 to 458.350, inclusive.

(e) Has been convicted of a crime involving the use or threatened use of force or violence punishable as a misdemeanor under the laws of this or any other state, or a territory or possession of the United States at any time during the immediately preceding 3 years.

(f) Has been convicted of a felony in this State or under the laws of any state, territory or possession of the United States.

(g) Has been convicted of a crime involving domestic violence or stalking, or is currently subject to a restraining order, injunction or other order for protection against domestic violence.

(h) Is currently on parole or probation from a conviction obtained in this State or in any other state or territory or possession of the United States.

(i) Has, within the immediately preceding 5 years, been subject to any requirements imposed by a court of this State or of any other state or territory or possession of the United States, as a condition to the court's:

- (1) Withholding of the entry of judgment for a conviction of a felony; or
- (2) Suspension of sentence for the conviction of a felony.

(j) Has made a false statement on any application for a permit or for the renewal of a permit.

5. The sheriff may deny an application or revoke a permit if the sheriff receives a sworn affidavit stating articulable facts based upon personal knowledge from any natural person who is 18 years of age or older that the applicant or permittee has or may have committed an offense or engaged in any other activity specified in subsection 4 which would preclude the issuance of a permit to the applicant or require the revocation of a permit pursuant to this section.

6. If the sheriff receives notification submitted by a court or law enforcement agency of this or any other state, the United States or a territory or possession of the United States that a permittee or an applicant for a permit has been charged with a crime involving the use or threatened use of force or violence, the conviction for which would require the revocation of a permit or preclude the issuance of a permit to the applicant pursuant to this section, the sheriff shall suspend the person's permit or the processing of the person's application until the final disposition of the charges against the person. If a permittee is acquitted of the charges, or if the charges are dropped, the sheriff shall restore his or her permit without imposing a fee.

7. An application submitted pursuant to this section must be completed and signed under oath by the applicant. The applicant's signature must be witnessed by an employee of the sheriff or notarized by a notary public. The application must include:

(a) The name, address, place and date of birth, social security number, occupation and employer of the applicant and any other names used by the applicant;

(b) A complete set of the applicant's fingerprints taken by the sheriff or his or her agent;

(c) A front-view colored photograph of the applicant taken by the sheriff or his or her agent;

(d) If the applicant is a resident of this State, the driver's license number or identification card number of the applicant issued by the Department of Motor Vehicles;

(e) If the applicant is not a resident of this State, the driver's license number

or identification card number of the applicant issued by another state or jurisdiction;

(f) ~~Whether the application pertains to semiautomatic firearms;~~

(g) ~~Whether the application pertains to revolvers;~~

~~(b)~~ A nonrefundable fee equal to the nonvolunteer rate charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation to obtain the reports required pursuant to subsection 1 of NRS 202.366; and

~~(i)~~ (g) A nonrefundable fee set by the sheriff not to exceed \$60.

Sec. 3. NRS 202.366 is hereby amended to read as follows:

202.366 1. Upon receipt by a sheriff of an application for a permit, including an application for the renewal of a permit pursuant to NRS 202.3677, the sheriff shall conduct an investigation of the applicant to determine if the applicant is eligible for a permit. In conducting the investigation, the sheriff shall forward a complete set of the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report concerning the criminal history of the applicant. The investigation also must include a report from the National Instant Criminal Background Check System. The sheriff shall issue a permit to the applicant unless the applicant is not qualified to possess a handgun pursuant to state or federal law or is not otherwise qualified to obtain a permit pursuant to NRS 202.3653 to 202.369, inclusive, or the regulations adopted pursuant thereto.

2. To assist the sheriff in conducting the investigation, any local law enforcement agency, including the sheriff of any county, may voluntarily submit to the sheriff a report or other information concerning the criminal history of an applicant.

3. Within 120 days after a complete application for a permit is submitted, the sheriff to whom the application is submitted shall grant or deny the application. If the application is denied, the sheriff shall send the applicant written notification setting forth the reasons for the denial. If the application is granted, the sheriff shall provide the applicant with a permit containing a colored photograph of the applicant and containing such other information as may be prescribed by the Department. The permit must be in substantially the following form:

NEVADA CONCEALED FIREARM PERMIT

County .....	Permit Number .....
Expires .....	Date of Birth .....
Height .....	Weight .....
Name .....	Address .....
City .....	Zip .....

Photograph

Signature .....

Issued by .....

Date of Issue .....

~~Semiautomatic firearms authorized~~ ..... Yes ..... No

~~Revolvers authorized~~ ..... Yes ..... No

4. Unless suspended or revoked by the sheriff who issued the permit, a permit expires 5 years after the date on which it is issued.

5. As used in this section, "National Instant Criminal Background Check System" means the national system created by the federal Brady Handgun Violence Prevention Act, Public Law 103-159.

Sec. 4. NRS 202.3677 is hereby amended to read as follows:

202.3677 1. If a permittee wishes to renew his or her permit, the permittee must:

(a) Complete and submit to the sheriff who issued the permit an application for renewal of the permit; and

(b) Undergo an investigation by the sheriff pursuant to NRS 202.366 to determine if the permittee is eligible for a permit.

2. An application for the renewal of a permit must:

(a) Be completed and signed under oath by the applicant;

(b) Contain a statement that the applicant is eligible to receive a permit pursuant to NRS 202.3657;

(c) Be accompanied by a nonrefundable fee equal to the nonvolunteer rate charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation to obtain the reports required pursuant to subsection 1 of NRS 202.366; and

(d) Be accompanied by a nonrefundable fee of \$25.

➡ If a permittee fails to renew his or her permit on or before the date of expiration of the permit, the application for renewal must include an additional nonrefundable late fee of \$15.

3. No permit may be renewed pursuant to this section unless the permittee has demonstrated continued competence with ~~[revolvers, semiautomatic firearms or both, as applicable,]~~ *handguns* by successfully completing a course prescribed by the sheriff renewing the permit.

Senator Segerblom moved that the Senate concur in the Assembly Amendment No. 683 to Senate Bill No. 76.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 90.

The following Assembly Amendment was read:

Amendment No. 719.

"SUMMARY—Revises provisions relating to certain confidential information. (BDR ~~{19-468}~~ 48-468)"

"AN ACT relating to confidential information; ~~[establishing a procedure for the submission to a]~~ requiring a state or local governmental entity [of] to keep confidential certain records which are ~~[claimed to be confidential and which are required by the entity as a condition of its consideration of]~~ submitted to the entity in connection with an application for a special use permit or any other license, permit or similar approval; [providing for the determination of such a claim of confidentiality and the status and disposition of the records;] and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Various provisions of existing law provide for the confidentiality of records submitted to an official or agency of the State or Federal Government. For example, NRS 534A.031.] Existing law provides that exploration or subsurface information obtained as a result of a geothermal project must be filed with the Division of Minerals of the Commission on Mineral Resources and further provides that this information is confidential for 5 years after the date of filing. [However, there is no similar provision making this information confidential if it is submitted to a county or other political subdivision of the State.] (NRS 534A.031) Section 10.5 of this bill requires a state or local governmental entity to keep this information confidential during the same period if the information is submitted to the entity in connection with an application for a special use permit or any other license, permit or similar approval.~~

~~[ Where the submission to a local governmental entity of records that are otherwise declared by law to be confidential is required by the local governmental entity as a condition of its consideration of an application for a license, permit or similar approval, sections 6 and 7 of this bill establish an expedited process by which the applicant may assert a claim of confidentiality with respect to the records and obtain a determination of that claim from the chief legal officer or attorney of the local governmental entity. If the chief legal officer or attorney agrees that the records are confidential, section 8 of this bill requires the local governmental entity to maintain the records in confidence. If the records are determined not to be confidential, section 8 gives the applicant the choice of withdrawing the records from the possession of the local governmental entity, with the result that the application may likewise be deemed to have been withdrawn, or waiving any claim of confidentiality and proceeding with the application.]~~

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

Section 1. ~~[Chapter 239 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 2. ~~[As used in sections 2 to 8, 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.] (Deleted by amendment.)~~

Sec. 3. ~~[*"Applicant"* means a person or governmental entity that submits an application to a local governmental entity.] (Deleted by amendment.)~~

Sec. 4. ~~[*"Application"* means a request submitted by an applicant to a local governmental entity for a license, permit or any similar approval involving the exercise of governmental authority.] (Deleted by amendment.)~~

Sec. 5. ~~[*"Local governmental entity"* has the meaning ascribed to it in NRS 239.121.] (Deleted by amendment.)~~

Sec. 6. ~~[The records of a local governmental entity are confidential and not public books or records within the meaning of NRS 239.010 or any other provision of statute or regulation if the records meet all of the following requirements:~~

~~1. The records are specifically declared by a statute or regulation of this State or a federal statute or regulation to be confidential when submitted to an elected or appointed officer, institution, board, commission, bureau, council, department, division or other official or agency of the State or Federal Government;~~

~~2. The records are submitted to the local governmental entity by an applicant in connection with an application to the local governmental entity; and~~

~~3. The submission of the records is required by the local governmental entity as a condition of its consideration of the application.] (Deleted by amendment.)~~

Sec. 7. ~~[1. An applicant who submits to a local governmental entity any records that the applicant believes are confidential for the purposes of sections 2 to 8, inclusive, of this act shall clearly mark the records as confidential and submit with the records a written statement describing the records and specifically identifying each provision of statute or regulation, other than section 6 of this act, that declares the records to be confidential. Regardless of whether the records are determined to be confidential, the statement prepared pursuant to this subsection is a public record for the purposes of NRS 239.010 and any other provision of statute or regulation applicable to public books or records. The statement must also include the mailing address of the applicant, which is the applicant's address of record for the purposes of sections 2 to 8, inclusive, of this act. If that address changes at any time while the records remain in the possession of the local governmental entity, the applicant shall so notify the local governmental entity in writing.~~

~~2. Upon its receipt of the records and the written statement required by subsection 1, the local governmental entity shall transmit the records and the statement to its chief legal officer or attorney or to the person designated by the chief legal officer or attorney to conduct the review required by this subsection. Within 5 business days after he or she receives the records and the statement of the applicant, the chief legal officer or attorney or his or her designee shall review the records and the statement, conduct any additional investigation or analysis he or she deems appropriate, and determine whether the records are confidential for the purposes of sections 2 to 8, inclusive, of this act. Pending this determination, the records must not be revealed in whole or in part to any person or governmental entity except to the extent necessary to carry out the provisions of this section, or upon the order of a court of competent jurisdiction. The records are presumed not to be confidential unless the chief legal officer or attorney or his or her designee finds that the records, or any part thereof, are confidential based on~~



~~the review of the records and the statement, and any additional investigation or analysis.~~

~~3. The chief legal officer or attorney or his or her designee may determine for the purposes of sections 2 to 8, inclusive, of this act that the records are confidential in part and not confidential in part, in which case those records determined to be confidential and those records determined not to be confidential are subject, respectively, to the provisions of sections 2 to 8, inclusive, of this act applicable to records of that kind.~~ (Deleted by amendment.)

Sec. 8. ~~{1. Upon making the determination required by section 7 of this act, the chief legal officer or attorney of the local governmental entity or his or her designee shall cause written notice of the determination, including a statement of the basis for the determination, to be mailed to the applicant at the applicant's address of record. Regardless of whether the records are determined to be confidential, the notice prepared pursuant to this subsection is a public record for the purposes of NRS 239.010 and any other provision of statute or regulation applicable to public books or records. If the records are determined not to be confidential for the purposes of sections 2 to 8, inclusive, of this act, the notice must also include a copy of this section. If the records are determined to be confidential in part and not confidential in part, the notice must identify the records that have been determined not to be confidential.~~

~~2. If the records are determined to be confidential for the purposes of sections 2 to 8, inclusive, of this act:~~

~~(a) The records must not be revealed in whole or in part to any person or governmental entity except:~~

~~(1) To the extent necessary to consider and act upon the application;~~

~~(2) As authorized or required by the statute or regulation pursuant to which the records are determined to be confidential; or~~

~~(3) Upon the order of a court of competent jurisdiction.~~

~~(b) The local governmental entity shall cause the records to be mailed to the applicant at the applicant's address of record:~~

~~(1) Upon the expiration of any period of confidentiality specified in the statute or regulation pursuant to which the records are determined to be confidential; or~~

~~(2) At such time as the records are no longer required by the local governmental entity for any purpose connected with the application, whichever is earlier.~~

~~3. If the records are determined not to be confidential for the purposes of sections 2 to 8, inclusive, of this act:~~

~~(a) The applicant may elect to:~~

~~(1) Withdraw the records from the possession of the local governmental entity, which withdrawal may be deemed by the local governmental entity to constitute a withdrawal of the application; or~~

~~(2) Waive any claim of confidentiality in the records, proceed with the application and authorize the local governmental entity to retain possession of the records.~~

~~3. The applicant must give written notice of the applicant's election to the local governmental entity within 10 business days after the date of mailing of the notice required by subsection 1.~~

~~(b) Notwithstanding the determination, unless the local governmental entity has received written notice of the applicant's waiver of any claim of confidentiality in the records, the records must not be revealed in whole or in part to any person or governmental entity except to the extent necessary to carry out the provisions of this section, or upon the order of a court of competent jurisdiction.~~

~~(c) If notice of the applicant's election pursuant to paragraph (a) is not received from the applicant by the local governmental entity within 15 business days after the date of mailing of the notice required by subsection 1, the local governmental entity shall cause the records to be mailed to the applicant at the applicant's address of record, and the local governmental entity may thereupon deem the application to be withdrawn.~~

~~4. If the applicant waives any claim of confidentiality in the records pursuant to subsection 3, the records are public books or records for the purposes of NRS 239.010 and any other provision of statute or regulation applicable to public books or records.~~

~~5. If the local governmental entity deems an application to be withdrawn pursuant to this section, it shall cause written notice of that action to be mailed to the applicant at the applicant's address of record within 5 business days after the date of the action. Such an action is a denial of the application for the purposes of any statute or regulation which provides for administrative or judicial review of the denial of an application of that kind. In any such review, the propriety of a determination that records are not confidential for the purposes of sections 2 to 8, inclusive, of this act is an issue properly within the scope of review.~~ (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 10.5. NRS 534A.031 is hereby amended to read as follows:

534A.031 1. Any exploration and subsurface information obtained as a result of a geothermal project must be filed with the Division of Minerals of the Commission on Mineral Resources within 30 days after it is accumulated. The information is confidential for 5 years after the date of filing and may not be disclosed during that time without the express written consent of the operator of the project, except that it must be made available by the Division to the State Engineer or any other agency of the State upon request. The State Engineer or other agency shall keep the information confidential.

2. If any information made confidential by subsection 1 is submitted to any other state or local governmental entity in connection with an application for a special use permit or any other license, permit or similar

approval, the entity shall keep the information confidential during the period the information is confidential pursuant to subsection 1.

Sec. 11. This act becomes effective on July 1, 2013.

Senator Parks moved that the Senate concur in the Assembly Amendment No. 719 to Senate Bill No. 90.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 209.

The following Assembly Amendment was read:

Amendment No. 712.

"SUMMARY—Requires each regional development authority and the Board of Economic Development to ~~make recommendations~~ take certain actions regarding a recruiting and marketing effort to attract professionals and businesses to this State. (BDR 18-854)"

"AN ACT relating to economic development; requiring each regional development authority to present a plan for its region to the Executive Director of the Office of Economic Development regarding a recruiting and marketing effort to attract professionals and businesses to the region; requiring the Board of Economic Development to 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:

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]~~ Section 2 of 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)

Existing law further requires the Executive Director to designate regional development authorities to implement the State Plan. (NRS 231.053)

Section 1 of this bill requires each regional development authority to present a plan to the Executive Director regarding the development and enhancement of a recruiting and marketing effort to attract professionals and businesses to the region of this State served by the regional development authority. Section 1 also requires the Executive Director to consider those plans in carrying out his or her duties concerning the State Plan.

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

Section 1. Chapter 231 of NRS is hereby amended by adding thereto a new section to read as follows:

Each regional development authority shall present a plan to the Executive Director regarding the development and enhancement of a recruiting and

marketing effort to attract professionals and businesses to the region of this State served by the regional development authority. The Executive Director shall consider any plan presented pursuant to this section in carrying out the provisions of NRS 231.053.

Sec. 1.5. NRS 231.020 is hereby amended to read as follows:

231.020 As used in NRS 231.020 to 231.139, inclusive, and section 1 of this act, unless the context otherwise requires, "motion pictures" includes feature films, movies made for broadcast or other electronic transmission, and programs made for broadcast or other electronic transmission in episodes.

~~{Section 1.}~~ Sec. 2. 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 ~~{-}~~, *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.

*Sec. 3. NRS 231.053 is hereby amended to read as follows:*

231.053 After considering any pertinent advice and recommendations of the Board, the Executive Director:

1. Shall direct and supervise the administrative and technical activities of the Office.

2. Shall develop and may periodically revise a State Plan for Economic Development, which must include a statement of:

- (a) New industries which have the potential to be developed in this State;
- (b) The strengths and weaknesses of this State for business incubation;
- (c) The competitive advantages and weaknesses of this State;
- (d) The manner in which this State can leverage its competitive advantages and address its competitive weaknesses;
- (e) A strategy to encourage the creation and expansion of businesses in this State and the relocation of businesses to this State; and
- (f) Potential partners for the implementation of the strategy, including, without limitation, the Federal Government, local governments, local and regional organizations for economic development, chambers of commerce, and private businesses, investors and nonprofit entities.

3. Shall develop criteria for the designation of regional development authorities pursuant to subsection 4.

4. Shall designate as many regional development authorities for each region of this State as the Executive Director determines to be appropriate to implement the State Plan for Economic Development. In designating regional development authorities, the Executive Director must consult with local governmental entities affected by the designation. The Executive Director may, if he or she determines that such action would aid in the implementation of the State Plan for Economic Development, remove the designation of any regional development authority previously designated pursuant to this section.

5. Shall establish procedures for entering into contracts with regional development authorities to provide services to aid, promote and encourage the economic development of this State.

6. May apply for and accept any gift, donation, bequest, grant or other source of money to carry out the provisions of NRS 231.020 to 231.139, inclusive, and section 1 of this act, and 231.1573 to 231.1597, inclusive.

7. May adopt such regulations as may be necessary to carry out the provisions of NRS 231.020 to 231.139, inclusive, and section 1 of this act, and 231.1573 to 231.1597, inclusive.

8. In a manner consistent with the laws of this State, may reorganize the programs of economic development in this State to further the State Plan for Economic Development. If, in the opinion of the Executive Director, changes

to the laws of this State are necessary to implement the economic development strategy for this State, the Executive Director must recommend the changes to the Governor and the Legislature.

Senator Kihuen moved that the Senate concur in the Assembly Amendment No. 712 to Senate Bill No. 209.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 236.

The following Assembly Amendment was read:

Amendment No. 721.

"SUMMARY—Revises provisions governing state agencies. (BDR 19-769)"

"AN ACT relating to governmental administration; requiring a state agency to make available on an Internet website maintained by the state agency certain forms of the state agency in a format which allows the form to be completed, downloaded and saved electronically and submitted securely to the state agency via the Internet; authorizing a state agency to apply for a waiver from such a requirement; requiring the Interim Finance Committee to grant such a waiver in certain circumstances; authorizing a state agency to provide a copy of certain records to any other state agency upon request; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 3 of this bill requires each state agency, as soon as reasonably practicable, but not later than June 30, 2015, to make available on an Internet website maintained by the state agency an electronic version of each administrative form of the state agency in a format which allows the form to be completed, downloaded and saved electronically and submitted securely to the state agency via the Internet. Section 3 further authorizes a state agency to: (1) utilize, in a manner determined appropriate by the state agency, any program, software or technology to comply with that requirement; (2) collaborate with other state agencies to comply with that requirement; and (3) comply with that requirement in phases or separate portions over time. Section 3 also authorizes a state agency to apply to the Interim Finance Committee for a waiver of that requirement and requires the Committee to grant the waiver if the Committee determines that extenuating circumstances exist or that the cost to comply with the requirement is unreasonable and would place an undue burden on the operations of the state agency. Section 4 of this bill authorizes a state agency, upon receiving a written request from any other state agency, to provide the requesting state agency with a copy of any record maintained by the state agency other than a record which is declared by law to be confidential. ~~For which the state agency determines must be kept confidential.~~

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

Section 1. Chapter 237 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 sections 2, 3 and 4 of this act, the term "state agency" means every public agency, bureau, board, commission, department or division of the Executive Department of State Government.*

Sec. 3. 1. *Except as otherwise provided in subsection 3, a state agency shall, as soon as reasonably practicable, but not later than June 30, 2015, make available on an Internet website maintained by the state agency an electronic version of each administrative form of the state agency which is used by any person to submit information to the state agency. The electronic version of each administrative form must be in a format that allows a person to complete or prepare the form electronically, download and save an electronic copy of the form to a computer and submit the form to the state agency securely via the Internet.*

2. *A state agency may, in the discretion of the state agency:*

(a) *Utilize, in the manner that the state agency determines is appropriate, any program, software or technology that the state agency determines is appropriate for the purposes of complying with the requirements of subsection 1;*

(b) *Collaborate with another state agency to carry out the provisions of subsection 1, including, without limitation, for the purpose of sharing technology; and*

(c) *Comply with the provisions of subsection 1 in phases or separate portions over time, if the state agency determines that such an approach would be useful in fully complying with the provisions of subsection 1 by June 30, 2015.*

3. *A state agency may apply to the Interim Finance Committee for a waiver of the requirements of subsection 1. The Committee shall grant such a waiver to a state agency if the Committee determines that extenuating circumstances exist or that the cost to comply with subsection 1 is unreasonable and would place an undue burden on the operations of the state agency.*

Sec. 4. *A state agency may, upon receiving a written request from any other state agency, provide to the requesting state agency a copy of any record maintained by the state agency other than a record which is declared by law to be confidential. ~~For which the state agency determines must be kept confidential.~~ For the purposes of ~~providing a copy of a record pursuant to this subsection,~~ this section, if a ~~state agency determines that~~ a record is declared by law to be confidential in part and not confidential in part, the state agency may provide to the requesting state agency a copy of that portion of the record which is ~~determined~~ not ~~to be~~ confidential.*

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

Senator Parks moved that the Senate concur in the Assembly Amendment No. 721 to Senate Bill No. 236.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 246.

The following Assembly Amendment was read:

Amendment No. 781.

"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 ~~and~~ or ballot question; requiring such organizations and entities to register as committees for political action ~~and~~ and report certain information; clarifying that political parties and committees sponsored by political parties are not committees for political action; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Nevada's elections laws require major and minor political parties and committees sponsored by those political parties to report certain information regarding campaign contributions and expenditures. Nevada's elections laws also require committees for political action to report certain information regarding campaign contributions and expenditures. (Chapter 294A of NRS)

Section 1 of this bill clarifies that major and minor political parties and committees sponsored by those political parties are not committees for political action under Nevada's elections laws to ensure that there is no conflict between the provisions governing major and minor political parties and committees sponsored by those political parties and the provisions governing committees for political action. (NRS 294A.0055)

Section 1 also 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 primary purpose affecting the outcome of ~~an~~ any election or ballot question 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 primary purpose affecting the outcome of ~~an~~ any election or ballot question but for that purpose receives in excess of \$5,000 in contributions or makes expenditures in excess of \$5,000 in a calendar year. (NRS 294A.0055)

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 ~~and~~ and to thereafter comply with the reporting requirements regarding campaign contributions and expenditures. However, if the organization or entity does not have as its primary purpose affecting the outcome of any election or ballot question, it must report only those



contributions received for the purpose of affecting the outcome of any election or ballot question. (NRS 294A.230)

The provisions of this bill requiring such organizations and entities to register with the Secretary of State as committees for political action and comply with campaign reporting requirements are modeled on statutes enacted by the State of Maine. (Me. Rev. Stat. Ann. tit. 21-A, §§ 1051-1063) The Maine statutes and similar statutes from other jurisdictions have been upheld as constitutionally valid elections laws because they promote an informed electorate by providing voters with pertinent and valuable information about organizations and entities that finance and disseminate elections-related speech. (Nat'l Org. for Marriage v. McKee, 649 F.3d 34 (1st Cir. 2011); Real Truth About Abortion, Inc. v. FEC, 681 F.3d 544 (4th Cir. 2012); Ctr. for Individual Freedom v. Madigan, 697 F.3d 464 (7th Cir. 2012); Family PAC v. McKenna, 685 F.3d 800 (9th Cir. 2012); SpeechNow.org v. FEC, 599 F.3d 686 (D.C. Cir. 2010))

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 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 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 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.

*(h) A major or minor political party or any committee sponsored by a major or minor political party.*

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 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. When reporting contributions as required by this chapter, a person who qualifies as a committee for political action in accordance with subparagraph (2) of paragraph (b) of subsection 1 of NRS 294A.0055 is required to report only those contributions received for the purpose of affecting the outcome of any primary election, primary city election, general election, general city election, special election or any question on the ballot.*

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-}~~ 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-}~~ 5. The Secretary of State shall include on the Secretary of State's Internet website the information required pursuant to subsection ~~{2-~~

~~5-}~~ 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-}~~ or 2, if a committee for political action fails to register with the Secretary of State pursuant to subsection 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 that the Senate concur in the Assembly Amendment No. 781 to Senate Bill No. 246.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 373.

The following Assembly Amendment was read:

Amendment No. 748.

"SUMMARY—Makes various changes relating to judgments.  
(BDR 2-932)"

"AN ACT relating to judgments; authorizing a court to issue an order permitting a judgment debtor to pay a judgment in installments under certain circumstances; increasing the percentage of a judgment debtor's disposable earnings which is exempt from execution under certain circumstances; authorizing a judgment debtor who is a resident of this State to bring a civil action in certain circumstances against a judgment creditor who obtains a writ of garnishment without domesticating a foreign judgment; revising provisions relating to the exemption of annuity benefits from certain claims of the annuitant's creditors; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill authorizes a court to allow a person who has had a judgment for the payment of money entered against him or her to pay the judgment in installments from income or property that is not exempt from execution if the court determines that the defendant is unable to pay the judgment.

Existing law provides that 75 percent of a judgment debtor's disposable earnings for any workweek are exempt from execution. (NRS 21.025, 21.075, 21.090, 31.045, 31.295) Sections 2-4 and 6, 8 and 9 of this bill increase the exemption to 85 percent of a judgment debtor's disposable earnings for any workweek if the gross annual salary or wage of the debtor is ~~[\$50,000]~~ \$40,000 or less.

Existing law requires a judgment creditor who seeks to enforce a foreign judgment in this State to domesticate the foreign judgment by filing a copy of the foreign judgment with the clerk of any district court of this State. (NRS 17.330-17.400) Section 5 of this bill authorizes a judgment debtor who is a resident of this State to bring a civil action against a judgment creditor who, without domesticating a foreign judgment, garnishes a bank account or any other personal property maintained by the judgment debtor at a branch of a financial institution located in this State or the earnings of the judgment debtor from employment in this State.

Existing law exempts annuity benefits from certain claims of the annuitant's creditors under certain circumstances. (NRS 687B.290) Section 10 of this bill subjects certain amounts of annuity benefits to execution by certain creditors of the annuitant.

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

Section 1. Chapter 21 of NRS is hereby amended by adding thereto a new provision to read as follows:

1. *A judge of any court having jurisdiction at the time of the entry of a judgment, upon proper showing made by the defendant with both parties or their attorneys present in court, may make a written order permitting the judgment debtor to pay the judgment in installments from that portion of the judgment debtor's income or property which is not exempt from execution, at such times and in such amounts as, in the opinion of the judge, the judgment debtor is able to pay.*

2. *Upon compliance by the judgment debtor with the provisions of this section and the court rules, a judge of any court may issue an order permitting a judgment debtor to pay in installments from that portion of the judgment debtor's income or property which is not exempt from execution, at such times and in such amounts as, in the opinion of the judge, the judgment debtor is able to pay, any judgment previously entered by his or her court or filed in his or her court pursuant to NRS 17.350.*

3. *At any time after the entry of a judgment by a court or the filing of a judgment in a court pursuant to NRS 17.350, a judgment debtor may file a petition with the clerk of the court in which the judgment was entered or filed requesting the clerk to issue a notice, directed to the judgment creditor. The petition must include an affidavit of the judgment debtor setting forth the judgment debtor's inability to pay the judgment from that portion of the judgment debtor's income or property which is not exempt from execution.*

4. A notice issued pursuant to subsection 3 must notify the judgment creditor of the day and time of a hearing to allow the judgment debtor to pay the judgment in installments. The notice must be served on the judgment creditor not later than 4 days before the date set for the hearing on the petition, by placing the notice in the United States mail in an envelope properly stamped and addressed to the judgment creditor or the agent or attorney of the judgment creditor.

5. Except as otherwise provided by court order, a writ of execution or a writ of garnishment may not be issued on the judgment after the filing of a petition pursuant to subsection 3.

Sec. 2. NRS 21.025 is hereby amended to read as follows:

21.025 A writ of execution issued on a judgment for the recovery of money must be substantially in the following form:

(Title of the Court)

(Number and abbreviated title of the case)

#### EXECUTION

THE PEOPLE OF THE STATE OF NEVADA:

To the sheriff of ..... County.

Greetings:

To FINANCIAL INSTITUTIONS: This judgment is for the recovery of money for the support of a person.

On .....(month).....(day).....(year), a judgment was entered by the above-entitled court in the above-entitled action in favor of ..... as judgment creditor and against ..... as judgment debtor for:

\$ ..... principal,

\$ ..... attorney's fees,

\$ ..... interest, and

\$ ..... costs, making a total amount of

\$ ..... the judgment as entered, and

WHEREAS, according to an affidavit or a memorandum of costs after judgment, or both, filed herein, it appears that further sums have accrued since the entry of judgment, to wit:

\$ ..... accrued interest, and

\$ ..... accrued costs, together with \$..... fee, for the issuance of this writ, making a total of

\$ ..... as accrued costs, accrued interest and fees.

Credit must be given for payments and partial satisfactions in the amount of

\$ .....

which is to be first credited against the total accrued costs and accrued interest, with any excess credited against the judgment as entered, leaving a net balance of

\$ .....

actually due on the date of the issuance of this writ, of which

\$ .....

bears interest at ..... percent per annum, in the amount of \$..... per day, from the date of judgment to the date of levy, to which must be added the commissions and costs of the officer executing this writ.

NOW, THEREFORE, SHERIFF OF..... COUNTY, you are hereby commanded to satisfy this judgment with interest and costs as provided by law, out of the personal property of the judgment debtor, except that for any workweek, *85 percent of the disposable earnings of the debtor during that week if the gross annual salary or wage of the debtor is ~~+\$50,000~~ \$40,000 or less, 75 percent of the disposable earnings of the debtor during that week if the gross annual salary or wage of the debtor exceeds ~~+\$50,000~~ \$40,000* 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, is exempt from any levy of execution pursuant to this writ, and if sufficient personal property cannot be found, then out of the real property belonging to the debtor in the aforesaid county, and make return to this writ within not less than 10 days or more than 60 days endorsed thereon with what you have done.

Dated: This ..... day of the month of ..... of the year .....

....., Clerk.

By....., Deputy Clerk.

Sec. 3. NRS 21.075 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

4. Proceeds from a policy of life insurance.

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

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

7. Payments received as unemployment compensation.

8. Veteran's benefits.

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

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

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

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

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

12. ~~Seventy-five~~ *Eighty-five* percent of the take-home pay for any workweek ~~if your gross annual salary or wage is less than \$50,000~~ *if your gross annual salary or wage is less than \$40,000 or less, or seventy-five percent of the take-home pay for any workweek if your gross annual salary or wage exceeds \$40,000*, ~~unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.~~

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

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

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

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

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

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

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

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

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

(a) A present or future interest in the income or principal of a trust that is a contingent interest, if the 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. 4. 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, *85 percent of the disposable earnings of a judgment debtor during that week if the gross annual salary or wage of the judgment debtor is ~~less than~~ \$40,000 or less*, 75 percent of the disposable earnings of a judgment debtor during that week ~~if the gross annual salary or wage of the judgment debtor exceeds \$50,000~~ *if the gross annual salary or wage of the judgment debtor exceeds ~~\$50,000~~ \$40,000* or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

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

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

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

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

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city,

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

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) A 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) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291.

(ll) 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.

Sec. 5. Chapter 31 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Any judgment debtor who is a resident of this State and who maintains an account or any other property at a branch of a financial institution located in this State or whose earnings are derived from employment in this State may bring a civil action against a judgment creditor under a foreign judgment, if the judgment creditor, without satisfying the requirements of NRS 17.330 to 17.400, inclusive, has obtained a writ of garnishment to satisfy all or part of the foreign judgment from:*

(a) *The earnings of the judgment debtor derived from employment in this State; or*

(b) *Money in the account or any other property maintained by the judgment debtor at a branch of a financial institution located in this State.*

2. *A judgment debtor who prevails in an action brought under this section may recover from the judgment creditor damages equal to two times any amount paid to the judgment creditor under the writ of garnishment. If the judgment debtor prevails in an action brought under this section, the court must award reasonable attorney's fees and costs to the plaintiff.*

3. *As used in this section, "foreign judgment" has the meaning ascribed to it in NRS 17.340.*

Sec. 6. NRS 31.045 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

4. Proceeds from a policy of life insurance.

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

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

7. Payments received as unemployment compensation.

8. Veteran's benefits.

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

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

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

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

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

12. ~~[Seventy-five]~~ *Eighty-five* percent of the take-home pay for any workweek ~~[,] if your gross annual salary or wage is ~~[\$50,000]~~ \$40,000 or less, or seventy-five percent of the take-home pay for any workweek if your gross annual salary or wage exceeds ~~[\$50,000]~~ \$40,000~~ unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

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

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

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

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

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



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

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

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

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

(a) A present or future interest in the income or principal of a trust that is a contingent interest, if the interest has not been 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 proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through ..... (name of organization in county providing legal services to the indigent or elderly persons). 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 or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk 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 must be held within 7 judicial days after the objection to the claim of exemption and notice for a 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.

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

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

Sec. 7. NRS 31.060 is hereby amended to read as follows:

31.060 Subject to the requirements of NRS 31.045, the sheriff to whom the writ is directed and delivered shall execute it without delay, and if the undertaking mentioned in NRS 31.040 is not given, as follows:

1. Real property must be attached by leaving a copy of the writ with the occupant of the property or, if there is no occupant, by posting a copy in a conspicuous place on the property and recording the writ, together with a description of the property attached, with the recorder of the county.

2. Personal property must be attached:

- (a) By taking it into immediate custody, and, if directed by the plaintiff, using the services of any company which operates a tow car, as defined in NRS 706.131, or common motor carrier, as defined in NRS 706.036, to

transport it for storage in a warehouse or storage yard that is insured or bonded in an amount not less than the full value of the property; or

(b) By placing a keeper in charge of a going business where the property is located, with the plaintiff prepaying the expense of the keeper to the sheriff, during which period, the defendant, by order of the court or the consent of the plaintiff, may continue to operate in the ordinary course of business at the defendant's own expense if all sales are for cash and the full proceeds are paid to the keeper for the purpose of the attachment.

➔ If the property is stored pursuant to paragraph (a), the property must be segregated from other property and marked by signs or other appropriate means indicating that it is in the custody of the sheriff.

3. Any mobile home, as defined in NRS 40.215, must be attached by:

(a) Posting a copy of the writ in a conspicuous place on the mobile home;

(b) Taking it into immediate custody, subject to the provisions of subsection 2; or

(c) Placing a keeper in charge of the mobile home for 2 days, with the plaintiff prepaying the expense of the keeper to the sheriff:

(1) During which period, the defendant may continue to occupy the mobile home; and

(2) After which period, the sheriff shall take the mobile home into the sheriff's immediate custody, subject to the provisions of subsection 2, unless other disposition is made by the court or the parties to the action.

4. Debts and credits, due or to become due, and other personal property in the possession or under the control of persons other than the defendant must be attached by service of a writ of garnishment as provided in NRS 31.240 to 31.460, inclusive ~~[ ]~~, and *section 5 of this act*.

Sec. 8. NRS 31.290 is hereby amended to read as follows:

31.290 1. The interrogatories to be submitted with any writ of execution, attachment or garnishment to the garnishee may be in substance as follows:

#### INTERROGATORIES

Are you in any manner indebted to the defendants .....

.....  
.....,

or either of them, either in property or money, and is the debt now due? If not due, when is the debt to become due? State fully all particulars.

Answer:.....

.....

Are you an employer of one or all of the defendants? If so, state the length of your pay period and the amount of disposable earnings, as defined in NRS 31.295, that each defendant presently earns during a pay period. State the minimum amount of disposable earnings that is exempt from this garnishment, which is the federal 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), in effect at the time the earnings are payable multiplied by 50 for each week of the pay period, after deducting any amount required by law to be withheld.

Calculate the garnishable amount as follows:

(Check one of the following) The employee is paid:

[A] Weekly: \_\_ [B] Biweekly: \_\_ [C] Semimonthly: \_\_ [D] Monthly: \_\_

(1) Gross Earnings \$ .....

(2) Deductions required by law (not including child support) \$ .....

(3) Disposable Earnings [Subtract line 2 from line 1] \$ .....

(4) Federal Minimum Wage \$ .....

(5) Multiply line 4 by 50 \$ .....

(6) Complete the following directions in accordance with the letter selected above:

[A] Multiply line 5 by 1 \$ .....

[B] Multiply line 5 by 2 \$ .....

[C] Multiply line 5 by 52 and then divide by 24 \$ .....

[D] Multiply line 5 by 52 and then divide by 12 \$ .....

(7) Subtract line 6 from line 3 \$ .....

This is the attachable earnings. This amount must not exceed ~~[25%]~~ 15 percent of the disposable earnings from line 3 if the employee's gross annual salary or wage is ~~less than~~ \$40,000 or less or 25 percent of the disposable earnings from line 3 if the employee's gross annual salary or wage exceeds ~~of the disposable earnings from line 3.]~~ ~~[\$50,000.]~~ \$40,000.

Answer: .....

Did you have in your possession, in your charge or under your control, on the date the writ of garnishment was served upon you, any money, property, effects, goods, chattels, rights, credits or choses in action of the defendants, or either of them, or in which ..... is interested? If so, state its value, and state fully all particulars.

Answer: .....

Do you know of any debts owing to the defendants, whether due or not due, or any money, property, effects, goods, chattels, rights, credits or choses in action, belonging to ..... or in which ..... is interested, and now in the possession or under the control of others? If so, state particulars.

Answer: .....

Are you a financial institution with a personal account held by one or all of the defendants? If so, state the account number and the amount of money in the account which is subject to garnishment. As set forth in NRS 21.105, \$2,000 or the entire amount in the account,

whichever is less, is not subject to garnishment if the financial institution reasonably identifies that an electronic deposit of money has been made into the account within the immediately preceding 45 days which is exempt from execution, including, without limitation, payments of money described in NRS 21.105 or, if no such deposit has been made, \$400 or the entire amount in the account, whichever is less, is not subject to garnishment, unless the garnishment is for the recovery of money owed for the support of any person. The amount which is not subject to garnishment does not apply to each account of the judgment debtor, but rather is an aggregate amount that is not subject to garnishment.

Answer:.....

.....  
State your correct name and address, or the name and address of your attorney upon whom written notice of further proceedings in this action may be served.

Answer:.....

.....  
Garnishee

I (insert the name of the garnishee), declare under penalty of perjury that the answers to the foregoing interrogatories by me subscribed are true and correct.

.....  
(Signature of garnishee)

2. The garnishee shall answer the interrogatories in writing upon oath or affirmation and submit the answers to the sheriff within the time required by the writ. The garnishee shall submit his or her answers to the judgment debtor within the same time. If the garnishee fails to do so, the garnishee shall be deemed in default.

Sec. 9. NRS 31.295 is hereby amended to read as follows:

31.295 1. As used in this section:

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

(b) "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.

2. The maximum amount of the aggregate disposable earnings of a person which are subject to garnishment may not exceed:

(a) Fifteen percent of the person's disposable earnings for the relevant workweek if the person's gross annual salary or wage is ~~is~~ \$40,000 or less;

(b) Twenty-five percent of the person's disposable earnings for the relevant workweek ~~is~~ or

~~(b) if the person's gross annual salary or wage exceeds \$50,000;~~ \$40,000; or

(c) The amount by which the person's disposable earnings for that week exceed 50 times the federal 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), in effect at the time the earnings are payable,

↪ whichever is less.

3. The restrictions of subsection 2 do not apply in the case of:

(a) Any order of any court for the support of any person.

(b) Any order of any court of bankruptcy.

(c) Any debt due for any state or federal tax.

4. Except as otherwise provided in this subsection, the maximum amount of the aggregate disposable earnings of a person for any workweek which are subject to garnishment to enforce any order for the support of any person may not exceed:

(a) Fifty percent of the person's disposable earnings for that week if the person is supporting a spouse or child other than the spouse or child for whom the order of support was rendered; or

(b) Sixty percent of the person's disposable earnings for that week if the person is not supporting such a spouse or child,

↪ except that if the garnishment is to enforce a previous order of support with respect to a period occurring at least 12 weeks before the beginning of the workweek, the limits which apply to the situations described in paragraphs (a) and (b) are 55 percent and 65 percent, respectively.

Sec. 10. 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 listed as an asset on an application for a loan or pledged as payment for a loan* or 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 *within 1 year after the annuitant makes a payment to the insurer or* 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.

Senator Segerblom moved that the Senate concur in the Assembly Amendment No. 748 to Senate Bill No. 373.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 392.

The following Assembly Amendment was read:

Amendment No. 611.

"SUMMARY—~~Directs the Legislative Committee on Education to conduct an interim study~~ Requires reporting by the State Board of Education and school districts concerning gifts and bequests relating to education. (BDR ~~{S-147}~~ 34-147)"

"AN ACT relating to education; ~~directing the Legislative Committee on Education to conduct an interim study~~ requiring information concerning certain gifts or bequests of money or property to be reported by the State Board of Education for and the board of trustees of each school district; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[This bill directs the Legislative Committee on Education to conduct an interim study concerning gifts or bequests of money or property to the State Board of Education or the board of trustees of a school district. This bill also requires the Committee to submit a copy of the final written report of the results of the study and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the 78th Session of the Nevada Legislature.]~~ Under existing law, the State Board of Education is authorized to accept gifts of money for deposit in the Education Gift Fund and the board of trustees of each school district is authorized to accept gifts and bequests of money and property for purposes deemed suitable by the board of trustees. (NRS 385.095, 386.390) This bill requires the State Board and the board of trustees of each school district to prepare reports relating to such gifts and bequests, including information relating to the donors thereof, and to include the reports on the agenda of the next regular meeting of the State Board or board of trustees, as applicable, for review of the transactions involving a gift or bequest that have taken place since the previous meeting. This bill also provides an exemption from the reporting requirement for any gift or bequest: (1) of less than \$100,000, unless the cumulative total by the same donor within a 12-month period is equal to or more than \$100,000; or (2) that is intended for a public broadcasting service.

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



Section 1. (Deleted by amendment.)

*Sec. 1.3. NRS 385.095 is hereby amended to read as follows:*

385.095 Except as otherwise provided in NRS 385.091:

1. All gifts of money which the State Board is authorized to accept must be deposited in a special revenue fund in the State Treasury designated as the Education Gift Fund, ~~and~~ *and reported pursuant to subsection 4.*

2. The money available in the Education Gift Fund must be used only for the purpose specified by the donor, within the scope of the State Board's powers and duties, and no expenditure may be made until approved by the Legislature in an authorized expenditure act or by the Interim Finance Committee if the Legislature is not in session.

3. If all or part of the money accepted by the State Board from a donor is not expended before the end of any fiscal year, the remaining balance of the amount donated must remain in the Education Gift Fund until needed for the purpose specified by the donor.

*4. Except as otherwise provided in subsection 5, the State Board shall record each gift of money deposited in the Education Gift Fund pursuant to this section and prepare a report which includes, for each such gift:*

*(a) The amount of the gift;*

*(b) Except as otherwise provided in subsection 6, the name of the donor of the gift;*

*(c) Any instructions provided by the donor concerning the use of the gift; and*

*(d) Information concerning any connection between the donor and the State Board or the administration of the system of public education in this State, including, without limitation:*

*(1) Any contract between the donor and the State Board;*

*(2) Any contract between the donor and the State Public Charter School Authority;*

*(3) Any bid by the donor for a contract with the State Board;*

*(4) Any bid by the donor for a contract with the State Public Charter School Authority;*

*(5) If the donor is a lobbyist as defined in NRS 218H.080, a statement of whether the donor lobbies on issues of interest to the State Board or relating to the system of public education in this State; and*

*(6) Any service by the donor on a committee to form a charter school created pursuant to NRS 386.520.*

*5. This section does not apply to any gift of money:*

*(a) In an amount less than \$100,000, unless the cumulative total by the same donor within a 12-month period is equal to or more than \$100,000; or*

*(b) That is intended for a public broadcasting service.*

*6. A donor may remain anonymous for purposes of the report prepared pursuant to subsection 4, unless the donor is required to provide information pursuant to paragraph (d) of subsection 4.*

7. The State Board may submit a form to each donor that requires the donor to provide the information required for inclusion in the report prepared pursuant to subsection 4. If the State Board uses such a form, the State Board may rely upon the information provided by the donor on the form for purposes of the report required of the State Board pursuant to subsection 4 and the State Board is not otherwise required to verify the contents of the information provided by the donor on the form.

8. The State Board shall include the report prepared pursuant to subsection 4 on the agenda of the next regular meeting of the State Board held pursuant to NRS 385.040 and review all transactions involving a gift listed on the report that have taken place since the previous meeting of the State Board.

9. On or before February 1 of each year, the State Board shall transmit each report prepared pursuant to subsection 4 in the immediately preceding year:

(a) In odd-numbered years, to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature; and

(b) In even-numbered years, to the Legislative Committee on Education.

Sec. 1.7. NRS 386.390 is hereby amended to read as follows:

386.390 1. Each board of trustees shall have the power to accept on behalf of and for the school district any gift or bequest of money or property for a purpose deemed by the board of trustees to be suitable, and to utilize such money or property for the purpose so designated.

2. Except as otherwise provided in subsection 3, the board of trustees of each school district shall record each gift or bequest accepted pursuant to this section and prepare a report which includes, for each such gift or bequest:

(a) The amount of the gift or bequest of money or the fair market value of the bequest of property, as applicable;

(b) Except as otherwise provided in subsection 4, the name of the donor of the gift or bequest;

(c) Any instructions provided by the donor concerning the use of the gift or bequest; and

(d) Information concerning any connection between the donor and the board of trustees or any person responsible for the administration of the system of public education in this State, including, without limitation:

(1) Any contract between the donor and the board of trustees;

(2) Any bid by the donor for a contract with the board of trustees;

(3) If the donor is a lobbyist as defined in NRS 218H.080, a statement of whether the donor lobbies on issues of interest to the board of trustees or relating to the system of public education in this State; and

(4) Any service by the donor on a committee to form a charter school created pursuant to NRS 386.520.

3. This section does not apply to any gift or bequest:

(a) In an amount less than \$100,000, unless the cumulative total by the same donor within a 12-month period is equal to or more than \$100,000; or

(b) That is intended for a public broadcasting service.

4. A donor may remain anonymous for purposes of the report prepared pursuant to subsection 2, unless the donor is required to provide information pursuant to paragraph (d) of subsection 2.

5. The board of trustees of a school district may submit a form to each donor that requires the donor to provide the information required for inclusion in the report prepared pursuant to subsection 2. If the board of trustees uses such a form, the board of trustees may rely upon the information provided by the donor on the form for purposes of the report required of the school district pursuant to subsection 2 and the board of trustees is not otherwise required to verify the contents of the information provided by the donor on the form.

6. The board of trustees of each school district shall include the report prepared pursuant to subsection 2 on the agenda of the next regular meeting of the board of trustees held pursuant to NRS 386.330 and review all transactions involving a gift or bequest listed on the report that have taken place since the previous meeting of the board of trustees.

7. On or before February 1 of each year, the board of trustees of each school district shall transmit each report prepared pursuant to subsection 2 in the immediately preceding year:

(a) In odd-numbered years, to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature; and

(b) In even-numbered years, to the Legislative Committee on Education.

Sec. 2. (Deleted by amendment.)

Sec. 2.5. ~~[1. The Legislative Committee on Education shall conduct a study concerning gifts or bequests of money or property to the State Board of Education or the board of trustees of a school district. The study must include, without limitation, a review of:~~

~~(a) The transparency of the process of making gifts and bequests of money and property;~~

~~(b) The feasibility and advisability of imposing disclosure requirements for gifts or bequests of money or property;~~

~~(c) The feasibility and advisability of restricting the ability of the State Board or the board of trustees of a school district to accept certain kinds of gifts or bequests of money or property;~~

~~(d) The feasibility and advisability of limiting the conditions donors may place on gifts or bequests of money or property, including, without limitation, directions concerning the manner in which a gift or bequest is to be used;~~

~~(e) The feasibility and advisability of imposing limitations on the purposes for which a gift or bequest of money or property may be used; and~~

~~(f) Any other issues relating to gifts or bequests of money or property the Committee deems to be relevant.~~

~~2. The Committee shall recommend such action as may be necessary as a result of its findings.~~

~~3. On or before February 1, 2015, the Committee shall prepare a final written report of the results of the study and submit a copy of the report and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the 78th Session of the Nevada Legislature.] (Deleted by amendment.)~~

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

Senator Woodhouse moved that the Senate concur in the Assembly Amendment No. 611 to Senate Bill No. 392.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 421.

The following Assembly Amendment was read:

Amendment No. 686.

"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 revises the provisions establishing the grounds on which challenges for cause may be taken and includes, as an additional ground for such a challenge, the existence of a state of mind in the juror that the juror is biased for or against any party to the proceeding. ~~[Section]~~ Sections 2 and 3.5 of this bill ~~[requires]~~ require 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, 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, including a financial interest, 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~~ a substantial opinion or belief as to the merits of the action, or the main question involved therein, but the reading of ~~newspaper~~ media accounts of the subject matter before the court ~~shall~~ does 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.~~ ~~that the juror is biased~~ for or against any party to the proceeding.

2. 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. ~~In civil actions, the~~ 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. (Deleted by amendment.)

Sec. 3.5. 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.

Sec. 4. This act expires by limitation on June 30, 2015.

Senator Segerblom moved that the Senate concur in the Assembly Amendment No. 686 to Senate Bill No. 421.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 436.

The following Assembly Amendment was read:

Amendment No. 788.

"SUMMARY—~~Creates the Nevada State Parks and Cultural Resources Endowment Fund.~~ Establishes certain provisions relating to cultural resources of the State of Nevada. (BDR 19-1154)"

"AN ACT relating to cultural resources; creating the Nevada State Parks and Cultural Resources Endowment Fund; designating the Picon Punch as the official state drink; and providing other matters properly relating thereto." Legislative Counsel's Digest:

~~[This bill]~~ Section 1.5 of this bill creates the Nevada State Parks and Cultural Resources Endowment Fund, the income from which is only to be used for the purposes of enhancing state parks and preserving the cultural resources of this State.

Section 1.7 of this bill designates the traditional Basque drink known as the Picon Punch as the official state drink of the State of Nevada.

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

Section 1. Chapter 235 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ the provisions set forth as sections 1.5 and 1.7 of this act.

*Sec. 1.5. 1. The Nevada State Parks and Cultural Resources Endowment Fund is hereby created as a trust fund in the State Treasury.*

*2. The State Treasurer shall deposit in the Fund any money the State Treasurer receives from any person who wishes to contribute to the Fund.*

*3. The Fund must be administered by a committee consisting of:*

*(a) The Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources;*

*(b) The Administrator of the Office of Historic Preservation of the State Department of Conservation and Natural Resources; and*

*(c) Three members appointed by the Governor ~~+~~ with a view toward balancing gender and ethnicity.*

*4. Insofar as practicable, the appointed members of the committee must reflect the geographical diversity of this State, and at least one of those members must have experience in the field of financial management or trust management. After the initial terms, each such member serves a term of 4 years. A member may be reappointed.*

*5. The committee shall, at its first meeting and biennially thereafter, elect a chair from among the appointed members of the committee. The committee shall meet at such times and places as are specified by a call of the chair.*

*6. The Fund must only be used for the purposes of the enhancement of state parks and the preservation of the cultural resources of this State. Any interest earned on money in the Fund must be credited to the Fund. The money which represents the principal of the Fund must not be spent, and only the interest earned on the principal may be used to carry out the provisions of this section.*

~~5.7~~ *7. As used in this section, "cultural resources" has the meaning ascribed to it in subsection 3 of NRS 383.011.*

*Sec. 1.7. The traditional Basque drink known as the Picon Punch is hereby designated as the official state drink of the State of Nevada.*

Sec. 1.9. As soon as practicable after the effective date of this act, the Governor shall appoint to the committee created by section 1.5 of this act the appointed members of that committee. The members appointed initially to the committee pursuant to this section shall determine by lot whether they are designated to serve a term of 2, 3 or 4 years, respectively.

Sec. 2. This act becomes effective upon passage and approval.

Senator Parks moved that the Senate do not concur in the Assembly Amendment no. 788 to Senate Bill No. 436.

Motion carried by a constitutional majority.

Bill ordered transmitted to the Assembly.

Senate Bill No. 440.

The following Assembly Amendment was read:

Amendment No. 617.

"SUMMARY—Makes various changes to the Charter of the City of Henderson. (BDR S-870)"

"AN ACT relating to the City of Henderson; providing for the creation and duties of a Charter Committee; revising provisions relating to changing the boundaries of the City's wards based on changes in population; amending provisions relating to filling certain vacancies; amending provisions relating to Executive Officers; revising certain provisions relating to the Civil Service System; making various other changes to the Charter; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill amends various provisions of the Charter of the City of Henderson.

Section 1 of this bill provides for the creation, membership and duties of a Charter Committee to make recommendations to the City Council regarding amendments to the Charter.

Section 1.5 of this bill revises provisions relating to when the boundaries of the City's wards must be changed.

Existing law authorizes the City Council to fill a vacancy on the City Council or in the office of Mayor or Municipal Judge by appointment within 30 days after the occurrence of the vacancy. (Henderson City Charter § 1.070) Section 2 of this bill requires the City Council to fill a vacancy by: (1) appointment within 60 days after the occurrence of the vacancy; or (2) by calling a special election to be held not later than 90 days after the occurrence of the vacancy.

Existing law requires the appointment of certain officers by the City Manager to be ratified by the City Council. (Henderson City Charter § 1.090) Section 3 of this bill eliminates the Director of Public Works and the Director of Finance from the ratification requirement but requires the appointments of the Assistant City Manager and the Chief Financial Officer to be ratified by the City Council.

Section 4 of this bill requires that Executive Officers other than the City Attorney and the City Clerk perform such duties as are designated by the City Manager.

Section 5 of this bill authorizes the City Council to direct the City Attorney to apply for a subpoena commanding the attendance of certain persons before the City Council or production of documents or data. Section 5 also authorizes a Municipal Judge, rather than the City Clerk, to issue such a subpoena.

Section 6 of this bill revises the procedure for the City Clerk to keep a record of the City's ordinances.

Section 7 of this bill revises the powers of the City Council to regulate and control animals.

Section 8 of this bill amends the procedures relating to the sale, lease or exchange of real property owned by the City to eliminate: (1) certain requirements for applying or offering to purchase, lease or exchange real property; and (2) the requirement that the City Council obtain an appraisal of real property before selling or exchanging real property or entering into a lease for a term of 3 years or longer.

Section 9 of this bill provides that the City Manager is the Chief Executive Officer of the City.

Existing law provides that the City Council may remove the City Manager for cause. (Henderson City Charter § 3.030) Section 10 of this bill provides that the City Council may remove the City Manager for cause in accordance with the terms of the employment agreement between the City and the City Manager.

Section 11 of this bill requires the City Clerk to keep all records and historical papers belonging to the City.

Existing law requires the City Attorney to perform such duties as may be set by the City Council. (Henderson City Charter § 3.060) Section 12 of this bill requires the City Attorney to: (1) advise the City Council and all offices, departments and divisions of the City in all matters with respect to the City; (2) determine whether the City should initiate any judicial or administrative proceeding; and (3) perform such other duties as are designated by the City Council or prescribed by ordinance.

Section 13 of this bill clarifies that all Executive Officers are required to reside within the City during the term of their employment.

Section 14 of this bill clarifies that any City employee may collect or recover fines, forfeitures and other money except taxes. Section 14 also authorizes the City Manager and the City Attorney, in addition to the City Council, to collect all money, including taxes, due and unpaid to the City through proper legal action.

Section 15 of this bill provides that the City Council must not give orders to any subordinate of the City Attorney or City Clerk.

Section 16 of this bill provides that if the City Manager, City Attorney or City Clerk is adjudged guilty of nonfeasance, misfeasance or malfeasance in



office, the City Council may terminate that officer pursuant to the terms of his or her employment agreement.

Section 17 of this bill eliminates obsolete provisions relating to the qualifications of a Municipal Judge.

Section 18 of this bill provides that all fines and forfeitures for the violations of ordinances must be paid to the Chief Financial Officer, rather than the City's Treasury.

Sections 19 and 21 of this bill provide, respectively, that a candidate who is declared elected to office after a primary or general municipal election must enter into the discharge of his or her duties at the second regular meeting of the City Council held in the month of June immediately following the general election.

Section 20 of this bill eliminates obsolete language relating to the timing of the general municipal election.

Section 22 of this bill authorizes the City Council, on behalf of the City, to acquire, improve, equip, operate and maintain, convert to or authorize recreation projects.

Existing law requires, with limited exceptions, the City Council to levy a tax not exceeding 3 percent upon the assessed value of all real and personal property within the City. (Henderson City Charter § 8.010) Section 23 of this bill removes the 3 percent cap on such taxes ~~and~~ and requires the City Council to levy such taxes at a rate allowable under applicable provisions of the Nevada Revised Statutes.

Section 24 of this bill amends the classifications of employees of the City to whom the System of Civil Service applies. Section 26 of this bill provides that such changes apply to existing employees and officers who are employed by the City before, on or after October 1, 2013.

Section 25 of this bill repeals provisions relating to the City Clerk's performance bond, the limitation on the City incurring indebtedness for an amount exceeding the revenue of the year in which the debt is incurred, the transfer of money to the City Treasury, the deposit of surplus taxes and the City's Sinking Fund.

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

Section 1. The Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, at page 402, is hereby amended by adding thereto new sections to be designated as sections 1.120, 1.130 and 1.140, respectively, immediately following section 1.110, to read as follows:

Sec. 1.120 Charter Committee: Appointment; qualifications; compensation; terms; vacancies.

1. The Charter Committee must be appointed as follows:

(a) The Mayor shall appoint two members;

(b) The Mayor pro Tempore shall appoint two members;

(c) The remaining members of the City Council shall each appoint one member;

(d) The members of the Senate delegation representing the residents of the City and belonging to the majority party of the Senate shall appoint two members;

(e) The members of the Senate delegation representing the residents of the City and belonging to the minority party of the Senate shall appoint one member;

(f) The members of the Assembly delegation representing the residents of the City and belonging to the majority party of the Assembly shall appoint two members; and

(g) The members of the Assembly delegation representing the residents of the City and belonging to the minority party of the Assembly shall appoint one member.

2. Each member of the Charter Committee:

(a) Must be a registered voter of the City;

(b) Must reside in the City during his or her term of office; and

(c) Serves without compensation.

3. The term of office of a member of the Charter Committee is concurrent with the term of the person or persons, as applicable, by whom the member was appointed. If the term of office of any person making an appointment ends by resignation or otherwise, the term of office of a member of the Charter Committee appointed by that person ends on the day that the person resigns or otherwise leaves office.

4. If a vacancy occurs on the Charter Committee, the vacancy must be filled in the same manner as the original appointment for the remainder of the unexpired term.

Sec. 1.130 Charter Committee: Officers; meetings; duties. The Charter Committee shall:

1. Elect a Chair and Vice Chair from among its members, who each serve for a term of 2 years;

2. Meet at least once every 2 years before the beginning of each regular session of the Legislature and when requested by the City Council or the Chair of the Committee; and

3. Appear before the City Council on a date to be set after the final biennial meeting of the Charter Committee is conducted pursuant to subsection 2 and before the beginning of the next regular session of the Legislature to advise the City Council with regard to the recommendations of the Charter Committee concerning necessary amendments to this Charter.

Sec. 1.140 Charter Committee: Removal of member.

1. Any member of the Charter Committee may be removed by a majority of the remaining members of the Charter Committee for cause, including, without limitation:

(a) Failure or refusal to perform the duties of office;

(b) Absence from three consecutive regular meetings; or

(c) Ceasing to meet any qualification for appointment to the Charter Committee.

2. Any vacancy resulting from the removal of a member pursuant to this section must be filled pursuant to subsection 4 of section 1.120.

~~[Section 1.]~~ Sec. 1.5. Section 1.040 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 596, Statutes of Nevada 1995, at page 2205, is hereby amended to read as follows:

Sec. 1.040 Wards: Creation; boundaries.

1. The City must be divided into four wards, which must be as nearly equal in population as can be conveniently provided, and the territory comprising each ward must be contiguous.

2. The boundaries of wards must be established and changed by ordinance. Except as provided in subsection 3, the boundaries of wards must be changed whenever the population as determined by the ~~[last preceding national decennial census conducted by the Bureau of the Census of the United States Department of Commerce]~~ City's demographer and as revised figures are provided by the Planning Department of the City, in any ward exceeds the population in any other ward by more than 5 percent.

3. The boundaries of wards must not be changed, except to accommodate an annexation of territory to the City, during any year in which a general election is held.

Sec. 2. Section 1.070 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 515, Statutes of Nevada 1997, at page 2450, is hereby amended to read as follows:

Sec. 1.070 Elective offices: Vacancies. ~~[Except as otherwise provided in NRS 268.325:]~~

1. A vacancy in the City Council or in the office of Mayor or Municipal Judge must be filled *for the remainder of the unexpired term* by ~~[a]~~ :

(a) A majority vote of the members of the City Council, or the remaining members in the case of a vacancy in the City Council, within ~~[30]~~ 60 days after the occurrence of the vacancy ~~[The appointee must have]~~ appointing a person who has the same qualifications as are required of the elective official ~~[~~

~~2. No such appointment extends beyond the first regular meeting of the City Council after the canvass of returns of the election in which the vacancy is to be filled.] ; or~~

(b) A special election called by resolution of the City Council. The resolution must call for the special election to be held not later than 90 days after the vacancy occurs. Every candidate at the special election must have the same qualifications as are required of the elected official.

2. *If a special election is held pursuant to paragraph (b) of subsection 1:*

(a) *The City Council shall meet to canvass the election returns and declare the result pursuant to section 5.100; and*

(b) *The person elected to fill the remainder of an unexpired term shall enter upon the discharge of his or her respective duties at the first meeting of the City Council held after the canvass of returns is made.*

Sec. 3. Section 1.090 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as amended by chapter 596, Statutes of Nevada 1995, at page 2206, is hereby amended to read as follows:

Sec. 1.090 ~~{Appointive officers.}~~ *Executive Officers.*

1. The City Council of the City shall appoint the following ~~{officers.}~~ *Executive Officers:*

(a) City Manager.

(b) City Attorney.

(c) City Clerk.

2. The City Council may establish such other ~~{appointive officers}~~ *Executive Officers* as it may deem necessary for the operation of the City. Appointment of such ~~{officers}~~ *Executive Officers* must be made by the City Manager. ~~{.}~~

3. *The appointments of the following Executive Officers are subject to ratification of the City Council :* ~~{. Such officers must include:}~~

(a) Chief of Police.

(b) ~~{Director of Public Works.}~~ *Assistant City Manager.*

(c) Fire Chief.

(d) ~~{Director of Finance.}~~

(e) ~~Such other officers as may be necessary.}~~ *Chief Financial Officer.*

Sec. 4. Section 1.100 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, at page 404, is hereby amended to read as follows:

Sec. 1.100 ~~{Appointive — officers.}~~ *Executive Officers:*  
Miscellaneous provisions.

1. All ~~{appointive officers}~~ *Executive Officers other than the City Attorney and City Clerk* shall perform such duties as may be designated by the City Manager. ~~{and such other duties as may be directed by the City Council.}~~

2. ~~The City Council may require from all other officers and employees of the City constituted or appointed under this Charter, except Council Members, sufficient security for the faithful and honest performance of their respective duties.~~

3. ~~All appointive officers}~~

2. *All Executive Officers* of the City shall receive such salary as may be designated by the City Council.

Sec. 5. Section 2.030 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, at page 405, is hereby amended to read as follows:

Sec. 2.030 City Council: Discipline of members, other persons, subpoena power.

1. The City Council may:

(a) Provide for the punishment of any member for disorderly conduct committed in its presence.

(b) Order the attendance of witnesses and the production of all ~~papers~~ *documents and data* relating to any business before the City Council.

2. If any person ordered to appear before the City Council *or to produce documents or data* fails to obey such order:

(a) The City Council or any member thereof may *direct the City Attorney* to apply to the Municipal Court for a subpoena commanding the attendance of the person before the City Council ~~[-] or production of the documents or data to the City Council.~~

(b) ~~[-Such Clerk-]~~ *A Municipal Judge* may issue the subpoena, and any peace officer may serve it.

(c) If the person upon whom the subpoena is served fails to obey it, the *Municipal* Court may issue an order to show cause why such person should not be held in contempt of *the Municipal* Court and upon hearing of the matter may adjudge such person guilty of contempt and punish him or her accordingly.

Sec. 6. Section 2.100 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 596, Statutes of Nevada 1995, at page 2208, is hereby amended to read as follows:

Sec. 2.100 Ordinances: Enactment procedure; emergency ordinances.

1. All proposed ordinances when first proposed must be read to the City Council by title and referred to a committee for consideration, after which an adequate number of copies of the proposed ordinance must be filed with the City Clerk for public distribution. Except as otherwise provided in subsection 3, notice of the filing must be published once in a newspaper qualified pursuant to the provisions of chapter 238 of NRS, and published in the City at least 10 days before the adoption of the ordinance. The City Council shall adopt or reject the ordinance or an amendment thereto, within 30 days after the date of publication.

2. At the next regular meeting or special meeting of the City Council following the proposal of an ordinance and its reference to committee, the committee shall report the ordinance back to the City Council. Thereafter, it must be read by title only, and thereupon the

proposed ordinance must be finally voted upon or action thereon postponed.

3. In cases of emergency or where the ordinance is of a kind specified in section 7.040, by unanimous consent of the City Council, final action may be taken immediately or at a special meeting called for that purpose, and no notice of the filing of the copies of the proposed ordinance with the City Clerk need be published.

4. All ordinances must be signed by the Mayor, attested by the City Clerk and published at least once by title, together with the names of the Council Members voting for or against passage, in a newspaper qualified pursuant to the provisions of chapter 238 of NRS and published in the City, before the ordinance becomes effective. The City Council may, by majority vote, order the publication of the ordinance in full in lieu of publication by title only.

5. The City Clerk shall *keep a record of* all ordinances ~~in a book kept for that purpose,~~ together with the affidavits of publication. ~~by the publisher.~~

Sec. 7. Section 2.250 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as amended by chapter 596, Statutes of Nevada 1995, at page 2210, is hereby amended to read as follows:

Sec. 2.250 Powers of City Council: Animals. ~~{and poultry.}~~  
The City Council may regulate and control animals ~~{and poultry}~~ in the City and may construct facilities for this purpose.

Sec. 8. Section 2.320 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 48, Statutes of Nevada 1997, at page 89, is hereby amended to read as follows:

Sec. 2.320 Sale, lease, exchange of real property owned by the City: Procedure; disposition of proceeds.

1. Subject to the provisions of this section ~~{,}~~ *and any applicable provisions of chapter 268 of NRS*, the City may sell, lease or exchange real property in Clark County, Nevada, acquired by the City pursuant to federal law from the United States of America.

2. ~~{Except as otherwise provided in subsection 3:}~~  
~~—(a)}~~ The City may sell, lease or exchange real property only by resolution. Following the adoption of a resolution to sell, lease or exchange, the City Council shall cause a notice of its intention to sell, lease or exchange the real property to be published once in a newspaper qualified pursuant to the provisions of chapter 238 of NRS and published in the City. The notice must be published at least 30 days before the date set by the City Council for the sale, lease or exchange, and must state:

~~{(1)}~~ (a) The date, time and place of the proposed sale, lease or exchange.

~~{(2)}~~ (b) The place where and the time within which applications and deposits may be made by prospective purchasers or lessees.

~~[(3)]~~ (c) Such other information as the City Council desires.

~~[(b)] Applications or offers to purchase, lease or exchange pursuant to the notice required in paragraph (a) must be in writing, must not be accepted by the City Council for consideration before the date of publication of the notice and must be accompanied by a deposit of not less than 1 percent of the total offer to purchase. If a lease, sale or exchange is not consummated because:~~

~~— (1) The City refuses or is unable to consummate the lease, sale or exchange, the deposit must be refunded.~~

~~— (2) The person who made the application or offer to lease, buy or exchange refuses or is unable to consummate the lease, sale or exchange, the City shall retain an amount of the deposit that does not exceed 5 percent of the total offer to purchase.~~

~~— 3. The City Council may waive the requirements of subsection 2 for any lease of residential property that is for a term of 1 year or less.~~

~~— 4. The City Council shall not make a lease for a term of 3 years or longer or enter into a contract for the sale or exchange of real property until after the property has been appraised by one disinterested appraiser employed by the City Council. Except as otherwise provided in subsections 7 and 8, it must be the policy of the City Council to require that all such sales, leases or exchanges be made at or above the current appraised value as determined by the appraiser unless the City Council, in a public hearing held before the adoption of the resolution to sell, lease or exchange the property, determines by affirmative vote of not fewer than two thirds of the entire City Council based upon specified findings of fact that a lesser value would be in the best interest of the public. For the purposes of this subsection, an appraisal is not considered current if it is more than 3 years old.~~

~~— 5.]~~ 3. It must be the policy of the City Council to sell, lease and exchange real property in a manner that will result in the maximum benefit accruing to the City from the sales, leases and exchanges. The City Council may attach any condition to the sale, lease or exchange as appears to the City Council to be in the best interests of the City.

~~[(6.)]~~ 4. The City Council may sell unimproved real property owned by the City on a time payment basis. The down payment must be in an amount determined by the City Council, and the interest rate must be in an amount determined by the City Council, but must not be less than 6 percent per annum on the declining balance.

~~[(7.) Notwithstanding the provisions of subsection 4, the]~~

5. The City Council may dispose of any real property belonging to the City to the United States of America, the State of Nevada, Clark County, any other political subdivision of the State, or any quasi-public or nonprofit entity for a nominal consideration whenever the public interest requires such a disposition. In any such case, the consideration paid must equal the cost of the acquisition to the City.

~~{8.}~~ 6. The City Council may sell, lease or exchange real property for less than its appraised value to any person who maintains or intends to maintain a business within the boundaries of the City which is eligible pursuant to NRS 374.357 for an abatement from the sales and use taxes imposed pursuant to chapter 374 of NRS.

~~{9.}~~ 7. Proceeds from all sales and exchanges of real property owned by the City, after deduction of the cost of the real property, *legal fees*, reasonable costs of publication, title insurance, escrow and normal costs of sale, must be placed in the Land Fund previously created by the City in the City Treasury and hereby continued. Except as otherwise provided in subsection ~~{10.}~~ 8, money in the Land Fund may be expended only for:

(a) Acquisition of assets of a long-term character which are intended to continue to be held or used, such as land, buildings, machinery, furniture, computer software and other equipment.

(b) Capital improvements of improvements thereon.

(c) Expenses incurred in the preparation of a long-term comprehensive master planning study and any expenses incurred in the master planning of the City.

(d) All costs, including salaries, for administration of the Land Fund, and the land within the City.

(e) Expenses incurred in making major improvements and repairs to the water, sewer and street systems as differentiated from normal maintenance costs.

(f) *Legal fees relating to the purchase, sale, lease or maintenance of the real property.*

↪ Money received from leases of real property owned by the City must be placed in the Land Fund if the term of lease is 20 years or longer, whether the 20 years is for an initial term of lease or for an initial term and an option for renewal. ~~{Money received by the City from all other leases and interest on time payment sales of real property owned by the City must be apportioned in the ratio of 20 percent to current operational expenses of the City, 20 percent to the Land Fund, and 60 percent divided between the Land Fund and current operational expenses as determined by the Council.~~

~~—10.}~~ 8. If available, money in the Land Fund may be borrowed by the City . ~~{pursuant to the provisions of NRS 354.430 to 354.460, inclusive.}~~

Sec. 9. Section 3.020 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as amended by chapter 596, Statutes of Nevada 1995, at page 2212, is hereby amended to read as follows:

Sec. 3.020 City Manager: Duties.

1. The City Manager *is the Chief Executive Officer of the City and* shall perform such administrative and executive duties as the City



Council may designate. His or her duties and salary must be set by the City Council.

2. The City Manager may appoint such clerical and administrative assistants ~~employees~~ as he or she may deem necessary, subject to the approval of the City Council.

3. The Mayor or a Council Member may not be appointed as City Manager during the term for which he or she was elected or within 1 year after the expiration of his or her term.

Sec. 10. Section 3.030 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, at page 413, is hereby amended to read as follows:

Sec. 3.030 City Manager: Removal. The City Council may remove the City Manager for cause ~~[-]~~ *in accordance with the terms of the City Manager's employment agreement.*

Sec. 11. Section 3.040 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 596, Statutes of Nevada 1995, at page 2212, is hereby amended to read as follows:

Sec. 3.040 City Clerk: Duties. The City Clerk shall:

1. Keep the corporate seal and all books, *records* and *historical* papers belonging to the City.

2. Attend all meetings of the City Council and keep an accurate journal of its proceedings, including a record of all ordinances, bylaws and resolutions passed or adopted by it. After approval at each meeting of the City Council, the City Clerk shall attest the journal after it has been signed by the Mayor.

3. Enter upon the journal the result of the vote of the City Council upon the passage of all ordinances and resolutions.

4. Perform such other duties as may be required by the City Council.

Sec. 12. Section 3.060 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as amended by chapter 596, Statutes of Nevada 1995, at page 2213, is hereby amended to read as follows:

Sec. 3.060 City Attorney: Qualifications; duties.

1. The City Attorney must be a duly licensed member of the State Bar of Nevada.

2. The City Attorney is the *Chief* Legal Officer of the City and shall ~~perform~~ :

(a) *Advise the City Council and all of the offices, departments and divisions of the City in all matters with respect to the affairs of the City;*

(b) *Determine whether the City should initiate any judicial or administrative proceeding; and*

(c) *Perform such other duties as may be ~~set~~ designated by the City Council ~~[-]~~ or prescribed by ordinance.*

Sec. 13. Section 3.110 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as amended by chapter 596, Statutes of Nevada 1995, at page 2213, is hereby amended to read as follows:

Sec. 3.110 ~~{City officers:}~~ *Executive Officers: Residence.* All ~~{city officers}~~ *Executive Officers* must reside within the City during the term of their employment unless the City Council waives this requirement because of hardship or other extenuating circumstances.

Sec. 14. Section 3.130 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as amended by chapter 596, Statutes of Nevada 1995, at page 2213, is hereby amended to read as follows:

Sec. 3.130 ~~{City officers:}~~ *Collection and disposition of money.*

1. All fines, forfeitures or other money except taxes collected or recovered by any ~~{officer}~~ *employee of the City* or other person pursuant to the provisions of this Charter or of any valid ordinance of the City must be paid by the ~~{officer}~~ *employee* or person collecting or receiving them to the ~~{Finance Director,}~~ *Chief Financial Officer*, who shall dispose of them in accordance with the ordinances, regulations and procedures established by the City Council.

2. The City Council, *City Manager or City Attorney* may by proper legal action collect all money, including taxes, which are due and unpaid to the City or any office thereof, and the City Council may pay from the General Fund all fees and expenses necessarily incurred by it in connection with the collection of such money.

Sec. 15. Section 3.140 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, at page 414, is hereby amended to read as follows:

Sec. 3.140 *Interference by City Council.*

1. No Council Member or the Mayor may direct or request the appointment of any person to, or his or her removal from, office by the City Manager or by any of his or her subordinates, or, *except as otherwise provided in section 1.090*, in any manner take part in the appointment or removal of ~~{officers}~~ *Executive Officers* and employees ~~{in the administrative service of the City,}~~ *unless the removal is authorized pursuant to section 3.150.*

2. Except for the purpose of inquiry, the Council and its members shall deal with ~~{the administrative service}~~ *employees* solely through the City Manager, ~~{and neither}~~ *City Attorney or City Clerk*, as applicable, or their designees. Neither the Council nor any member thereof ~~{shall}~~ *may* give orders to any subordinate of the City Manager, *City Attorney or City Clerk*, either publicly or privately.

~~{2. Any Council Member or the Mayor violating the provisions of this section, or voting for a resolution or ordinance in violation of this section, is guilty of a misdemeanor, and upon conviction thereof shall cease to be a Council Member or the Mayor.}~~

Sec. 16. Section 3.150 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, at page 415, is hereby amended to read as follows:

Sec. 3.150 Removal of ~~[officers.]~~ *certain Executive Officers.* If ~~[any officer]~~ *the City Manager, City Attorney or City Clerk* is adjudged guilty of nonfeasance, misfeasance or malfeasance in office, the City Council may ~~[declare the office vacant and]~~ *terminate the City Manager, City Attorney or City Clerk, as applicable, pursuant to the terms of his or her employment agreement, if there is an employment agreement between the City and the City Manager, City Attorney or City Clerk, as applicable. The City Council may fill the vacancy so caused [;] as provided by law.*

Sec. 17. Section 4.020 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 209, Statutes of Nevada 2001, at page 971, is hereby amended to read as follows:

Sec. 4.020 Municipal Court: Qualifications of Municipal Judge; salary.

1. Each Municipal Judge must have been a resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

2. Each Municipal Judge shall devote his or her full time to the duties of his or her office and must be a duly licensed member, in good standing, of the State Bar of Nevada . ~~[; except that the requirement to be a duly licensed member, in good standing, of the State Bar of Nevada does not apply to any Municipal Judge who is an incumbent when this section becomes effective as long as he or she continues to serve as such in uninterrupted terms.]~~

3. The salary of each Municipal Judge must be fixed by the City Council and be uniform for all departments of the Municipal Court. The salary may be increased during the terms for which the Judges are elected or appointed.

Sec. 18. Section 4.030 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as amended by chapter 596, Statutes of Nevada 1995, at page 2214, is hereby amended to read as follows:

Sec. 4.030 Disposition of fines. All fines and forfeitures for the violation of ordinances must be paid ~~[into the Treasury of the City.]~~ *to the Chief Financial Officer.*

Sec. 19. Section 5.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 218, Statutes of Nevada 2011, at page 956, is hereby amended to read as follows:

Sec. 5.010 Primary municipal election.

1. Except as otherwise provided in section 5.020, a primary municipal election must be held on the Tuesday after the first Monday in April of each odd-numbered year, at which time there must be

nominated candidates for offices to be voted for at the next general municipal election.

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

3. All candidates for elective office must be voted upon by the registered voters of the City at large.

4. If in the primary municipal election no candidate receives a majority of votes cast in that election for the office for which he or she is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general municipal election. If in the primary municipal election, regardless of the number of candidates for an office, one candidate receives a majority of votes cast in that election for the office for which he or she is a candidate, he or she must be declared elected and no general municipal election need be held for that office. *Such candidate shall enter upon his or her respective duties at the second regular meeting of the City Council held in June of the year of the general municipal election.*

Sec. 20. Section 5.020 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 218, Statutes of Nevada 2011, at page 957, is hereby amended to read as follows:

Sec. 5.020 General municipal election.

1. Except as otherwise provided in subsection 2:

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

(b) All candidates for the office of Mayor, Council Member and Municipal Judge must be voted upon by the registered voters of the City at large. The term of office for members of the City Council and the Mayor is 4 years. Except as otherwise provided in subsection 3 of section 4.015, the term of office for a Municipal Judge is 6 years.

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

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

(e) On the Tuesday after the first Monday in June 2005, and every 6 years thereafter, there must be elected by the qualified voters of the

City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 3 who will hold office until his or her successor has been elected and qualified.

2. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.

3. If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.

4. If the City Council adopts an ordinance pursuant to subsection 2, the ordinance must not affect the term of office of any elected official of the City serving in office on the effective date of the ordinance. The next succeeding term for that office may be shortened but may not be lengthened as a result of the ordinance.

Sec. 21. Section 5.100 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 596, Statutes of Nevada 1995, at page 2216, is hereby amended to read as follows:

Sec. 5.100 Election returns; canvass; certificates of election; entry of officers upon duties; tie vote procedure.

1. The election returns from any special, primary or general municipal election must be filed with the City Clerk, who shall immediately place the returns in a safe or vault, and no person may handle, inspect or in any manner interfere with the returns until canvassed by the City Council.

2. The City Council shall meet at any time within 10 days after any election and canvass the returns and declare the result. The election returns must then be sealed and kept by the City Clerk for 6 months. No person may have access to the returns except on order of a court of competent jurisdiction or by order of the City Council.

3. The City Clerk, under his or her hand and official seal, shall issue to each person elected a certificate of election. ~~[The]~~ *Except as otherwise provided in section 1.070, the officers so elected shall qualify and enter upon the discharge of their respective duties at the* ~~[first]~~ *second* regular meeting of the City Council ~~[next succeeding that in which the canvass of returns was made.]~~ *held in June of the year of the general municipal election.*

4. If any election results in a tie, the City Council shall summon the candidates who received the tie vote and determine the tie by lot. The City Clerk shall then issue to the winner a certificate of election.

Sec. 22. Section 6.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 416, Statutes of Nevada 2001, at page 2099, is hereby amended to read as follows:

Sec. 6.010 Local improvement law. Except as otherwise provided in subsection 2 of section 2.280 and section 2.285, the City Council, on behalf of the City and in its name, without any election, may from time to time acquire, improve, equip, operate and maintain, convert to or authorize:

1. Curb and gutter projects;
2. Drainage projects;
3. Off-street parking projects;
4. Overpass projects;
5. Park *or recreation* projects;
6. Sanitary sewer projects;
7. Security walls;
8. Sidewalk projects;
9. Storm sewer projects;
10. Street projects;
11. Telephone projects;
12. Transportation projects;
13. Underground and aboveground electric and communication facilities;
14. Underpass projects;
15. Water projects;
16. Upon petition by a person or business authorized to provide the service, such other utility projects as are deemed necessary by the Council; and
17. Any combination thereof.

Sec. 23. Section 8.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, at page 420, is hereby amended to read as follows:

Sec. 8.010 Municipal taxes.

1. The City Council shall annually, at the time prescribed by law for levying taxes for State and County purposes, levy a tax ~~not exceeding 3 percent~~ at the appropriate a rate allowable under applicable provisions of the Nevada Revised Statutes upon the assessed value of all real and personal property within the City except as provided in the Local Government Securities Law and the Consolidated Local Improvements Law, as amended from time to time. The taxes so levied shall be collected at the same time and in the same manner and by the same officers, exercising the same functions, as prescribed in the laws of the State of Nevada for collection of State and County taxes. The revenue laws of the State shall, in every respect not inconsistent with the provisions of this Charter, be applicable to the levying, assessing and collecting of the municipal taxes.

2. In the matter of equalization of assessments, the rights of the City and the inhabitants thereof shall be protected in the same manner

and to the same extent by the action of the County Board of Equalization as are the State and County.

3. All forms and blanks used in levying, assessing and collecting the revenues of the State and counties shall, with such alterations or additions as may be necessary, be used in levying, assessing and collecting the revenues of the City. The City Council shall enact all such ordinances as it may deem necessary and not inconsistent with this Charter and the laws of the State for the prompt, convenient and economical collecting of the revenue.

Sec. 24. Section 9.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 108, Statutes of Nevada 2003, at page 604, is hereby amended to read as follows:

Sec. 9.010 *System of Civil Service.*

1. There is hereby created a System of Civil Service, applicable to and governing the employment of all employees of the City except *Executive Officers, department directors, senior department directors, division heads, [the City Clerk, the City Attorney,] assistant city attorneys, [the City Manager, assistant city managers,] any other attorney employed by the Office of the City Attorney, assistants to the City Manager, [the Intergovernmental Relations Director,] the Municipal Court Administrator, any elected officer, [and] any employee that reports directly to an elected officer [-], any probationary employee, any temporary employee, [any employee to whom the provisions of a collective bargaining agreement entered into pursuant to chapter 288 of NRS apply] and any other employee excluded from the System by ordinance.*

2. The System of Civil Service must be administered by a Civil Service Board composed of five persons appointed by the City Council.

3. The Board shall prepare regulations governing the System of Civil Service to be adopted by the City Council. The regulations must provide for:

- (a) Examination of potential employees.
- (b) Procedures for recruitment and placement.
- (c) Classification of positions.
- (d) Procedures for promotion, disciplinary actions and removal of employees.
- (e) Such other matters as the Board may deem necessary.

4. Copies of the regulations governing the System of Civil Service must be distributed to all employees of the City.

5. *An employee of the City who is included in the System of Civil Service and accepts a position that is excluded from the System pursuant to subsection 1 does not retain any rights or privileges within the System.*

Sec. 25. Sections 3.050, 7.030, 8.030, 8.040 and 8.050 of the Charter of the City of Henderson are hereby repealed.

Sec. 26. The provisions of section 9.010 of the Charter of the City of Henderson, as amended by section 24 of this act, apply to every person who is an:

1. Employee of the City of Henderson;
2. Appointive officer; or
3. Executive Officer,

↪ before, on or after October 1, 2013.

#### LEADLINES OF REPEALED SECTIONS

Sec. 3.050 City Clerk's performance bond.

Sec. 7.030 Limitations on incurring indebtedness; contracts.

Sec. 8.030 Taxes paid to County Treasurer; transfers of money to City Treasury.

Sec. 8.040 Surplus taxes; bond redemption.

Sec. 8.050 Sinking Fund.

Senator Parks moved that the Senate concur in the Assembly Amendment No. 617 to Senate Bill No. 440.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 38.

The following Assembly Amendment was read:

Amendment No. 682.

"SUMMARY—Revises provisions governing the dissemination by the Central Repository for Nevada Records of Criminal History of information relating to certain offenses. (BDR 14-343)"

"AN ACT relating to criminal records; authorizing the dissemination of certain information concerning the criminal history of certain prospective and current employees and volunteers who work in positions involving children, elderly persons or persons with disabilities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the dissemination of certain information concerning the criminal history of prospective and current employees who work in positions involving children. (NRS 179A.180-179A.240) This bill expands these provisions: (1) to apply to persons who work in positions involving elderly persons and persons with disabilities; and (2) to authorize the dissemination of such information concerning certain prospective and current volunteers.

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

Section 1. NRS 179A.180 is hereby amended to read as follows:

179A.180 As used in NRS 179A.180 to 179A.240, inclusive, unless the context otherwise requires:



1. "Elderly person" means a person who is 60 years of age or older.

2. "Employee" means a person who renders time and services to an employer ~~[,] for compensation~~, and whose regular course of duties places that person in a position to:

(a) Exercise supervisory or disciplinary control over children ~~[,]~~, *elderly persons or persons with disabilities*;

(b) Have direct access to or contact with children, *elderly persons or persons with disabilities who are served by the employer*; or

(c) Have access to information or records maintained by the employer relating to identifiable children, *elderly persons or persons with disabilities who are served by the employer*,

↪ and includes a prospective employee. ~~[, but does not include a volunteer or prospective volunteer.]~~

~~[2.]~~ 3. "Employer" means a person, or a governmental agency or political subdivision of this State that is not an agency of criminal justice, whose employees *or volunteers* regularly render services to children, *elderly persons or persons with disabilities*, including without limitation care, treatment, transportation, instruction, companionship, entertainment and custody. *The term includes, without limitation, a person, or a governmental agency or political subdivision of this State that is not an agency of criminal justice, that licenses or certifies others to render services to children, elderly persons or persons with disabilities.*

4. "Person with a disability" means a person who:

(a) Has a physical or mental impairment that substantially limits one or more of the major life activities of the person;

(b) Has a record of such an impairment; or

(c) Is regarded as having such an impairment.

5. Except as otherwise provided in this subsection, "volunteer" means a person who renders time and services to an employer without compensation, and whose regular course of duties place that person in a position to:

(a) Exercise supervisory or disciplinary control over children, *elderly persons or persons with disabilities*;

(b) Have direct access to or contact with children, *elderly persons or persons with disabilities who are served by the employer*; or

(c) Have access to information or records maintained by the employer relating to identifiable children, *elderly persons or persons with disabilities who are served by the employer*,

↪ and includes a prospective volunteer. *The term does not include a person who renders time and services for a public school or for an activity that is part of the program for a public school. As used in this subsection, "public school" has the meaning ascribed to it in NRS 385.007.*

Sec. 2. NRS 179A.190 is hereby amended to read as follows:

179A.190 1. Notice of information relating to the offenses listed in subsection 4 may be disseminated to employers pursuant to NRS 179A.180 to 179A.240, inclusive.

2. An employer may consider such a notice of information concerning an employee *or a volunteer* when making a decision to hire, retain, suspend or discharge the employee ~~[-] or volunteer~~, and is not liable in an action alleging discrimination based upon consideration of information obtained pursuant to NRS 179A.180 to 179A.240, inclusive.

3. The provisions of NRS 179A.180 to 179A.240, inclusive, do not limit or restrict any other statute specifically permitting the dissemination or release of information relating to the offenses listed in subsection 4.

4. The offenses for which a notice of information may be disseminated pursuant to subsection 1 includes information contained in or concerning a record of criminal history, or the records of criminal history of the United States or another state, relating in any way to:

- (a) A sexual offense;
- (b) A conviction for a felony within the immediately preceding 7 years;
- (c) An act committed outside this State that would constitute a sexual offense if committed in this State or a conviction for an act committed outside this State that would constitute a felony if committed in this State; and
- (d) The aiding, abetting, attempting or conspiring to engage in any such act in this State or another state.

Sec. 3. NRS 179A.200 is hereby amended to read as follows:

179A.200 1. In addition to any other information which an employer is authorized to request pursuant to this chapter, an employer may request from the Central Repository notice of information relating to the offenses listed in subsection 4 of NRS 179A.190 concerning an employee ~~[-] or a volunteer~~.

2. A request for notice of information relating to the offenses listed in subsection 4 of NRS 179A.190 from an employer must conform to the requirements of the Central Repository. The request must include:

- (a) The name and address of the employer, and the name and signature of the person requesting the notice on behalf of the employer;
- (b) The name and address of the employer's facility in which the employee *or volunteer* is employed *or volunteering* or *is seeking to become employed [-] or to volunteer*;
- (c) The name, a complete set of fingerprints and other identifying information of the employee ~~[-] or volunteer~~;
- (d) Signed consent by the employee *or volunteer* authorizing:

(1) The employer to forward the fingerprints of the employee *or volunteer* to the Central Repository for submission to the Federal Bureau of Investigation for its report;

(2) A search of information relating to the offenses listed in subsection 4 of NRS 179A.190 concerning the employee ~~[-] or volunteer~~; and

(3) The release of a notice concerning that information;

(e) The mailing address of the employee *or volunteer* or a signed waiver of the right of the employee *or volunteer* to be sent a copy of the information

disseminated to the employer as a result of the search of the records of criminal history; and

(f) The signature of the employee *or volunteer* indicating that the employee *or volunteer* has been notified : ~~{of:}~~

(1) ~~{The}~~ *That his or her fingerprints will be used as the basis of a check of his or her records of criminal history;*

(2) *Of the* types of information for which notice is subject to dissemination pursuant to NRS 179A.210, or a description of the information;

~~{(2) The}~~

(3) *Of the* employer's right to require a check of the records of criminal history as a condition of employment ~~{:}~~ *or volunteering;* and

~~{(3) The}~~

(4) *Of the* employee's *or volunteer's* right, pursuant to NRS 179A.150, to challenge the accuracy or sufficiency of any information disseminated to the employer.

Sec. 4. NRS 179A.210 is hereby amended to read as follows:

179A.210 1. Upon receipt of a request from an employer for notice of information relating to the offenses listed in subsection 4 of NRS 179A.190, the Central Repository shall undertake a search for the information, unless the request does not conform to the requirements of the Repository. The search must be based on the fingerprints of the employee ~~{:}~~ *or volunteer*, or on a number furnished to the employee *or volunteer* for identification pursuant to a previous search, as provided by the employer, and must include:

(a) Identifying any information relating to the offenses listed in subsection 4 of NRS 179A.190 concerning the employee *or volunteer* in the Central Repository;

(b) Requesting information relating to the offenses listed in subsection 4 of NRS 179A.190 concerning the employee *or volunteer* from repositories of the United States or other states, if authorized by federal law or an agreement entered into pursuant to NRS 179A.075;

(c) If the information pertains to an arrest for which no disposition has been reported, contacting appropriate officers in the local jurisdiction where the arrest or prosecution occurred to verify and update the information; and

(d) Determining whether the information relating to the offenses listed in subsection 4 of NRS 179A.190 is the type of information for which notice is subject to dissemination pursuant to this section.

2. Notice of information relating to the offenses listed in subsection 4 of NRS 179A.190 may be disseminated to an employer who has requested it only if a check of the pertinent records indicates:

(a) A conviction for any such offense, or a conviction based on an arrest or on an initial charge for any such offense;

(b) An arrest or an initial charge for a sexual offense that is pending at the time of the request; or

(c) Two or more incidents resulting in arrest or initial charge for a sexual offense that have not resulted in a conviction.

3. If a search of the records of the Central Repository reveals no information for which notice is subject to release, the Central Repository shall submit the fingerprints of the employee *or volunteer* to the Federal Bureau of Investigation for a search of its records of criminal history. The Central Repository shall review all information received from the Federal Bureau of Investigation. Notice of any information received from the Federal Bureau of Investigation may be disseminated only if the information is of a kind for which notice is subject to release pursuant to this section.

4. Within 30 days after receipt of a request by an employer for notice of information relating to the offenses listed in subsection 4 of NRS 179A.190, the Central Repository shall send a written report of the results of the search to the employer and to the employee ~~[-]~~ *or volunteer*, except that if the employee *or volunteer* has waived the right to receive the results of the search, the report must be sent only to the employer. If the search revealed:

(a) No information for which notice is subject to release, the report must include a statement to that effect; or

(b) Information about the employee *or volunteer* for which notice is subject to release, the report must include a notice of the type of information, limited to the descriptions set forth in subsection 2, revealed by the search. The notice must not include any further facts or details concerning the information. A statement of the purpose for which the notice is being disseminated, and the procedures by which the employee *or volunteer* might challenge the accuracy and sufficiency of the information, must also be included with the report.

5. Upon receipt of corrected information relating to the offenses listed in subsection 4 of NRS 179A.190 for which notice was disseminated under this section, the Central Repository shall send written notice of the correction to:

(a) The employee *or volunteer* who was the subject of the search, unless the employee *or volunteer* has waived the right to receive such a notice;

(b) All employers to whom notice of the results of the search were disseminated within 3 months before the correction; and

(c) Upon request of the employee ~~[-]~~ *or volunteer*, any other employers who previously received the information.

6. Upon receipt of new information relating to the offenses listed in subsection 4 of NRS 179A.190 concerning an employee *or volunteer* who was the subject of a search within the previous 3 months, for which notice is subject to dissemination under this section, the Central Repository shall send written notice of the information to:

(a) The employee *or volunteer* who was the subject of the search, unless the employee *or volunteer* has waived the right to receive such a notice;

(b) All employers to whom a report of the results of the search were disseminated within 3 months before the correction; and

(c) Upon request of the employee ~~[.]~~ *or volunteer*, any other employers who previously received a report of the results of the search.

Sec. 5. ~~[NRS 179A.230 is hereby amended to read as follows:~~

~~179A.230 1. A person who is the subject of a request for notice of information pursuant to NRS 179A.180 to 179A.240, inclusive, may recover actual damages in a civil action against:~~

~~(a) The Central Repository for an intentional or grossly negligent:~~

~~(1) Dissemination of information relating to the offenses listed in subsection 4 of NRS 179A.190 not authorized for dissemination; or~~

~~(2) Release of information relating to the offenses listed in subsection 4 of NRS 179A.190 to a person not authorized to receive the information;~~

~~(b) The Central Repository for an intentional or grossly negligent failure to correct any notice of information relating to the offenses listed in subsection 4 of NRS 179A.190 which was disseminated pursuant to NRS 179A.180 to 179A.240, inclusive; or~~

~~(c) An employer, representative of an employer or employee for an intentional or grossly negligent violation of NRS 179A.110. Punitive damages may be awarded against an employer, representative of an employer or employee whose violation of NRS 179A.110 is malicious.~~

~~2. An employer is liable to a child, elderly person or person with a disability served by the employer for damages suffered by the child, elderly person or person with a disability as a result of an offense listed in subsection 4 of NRS 179A.190 committed against the child, elderly person or person with a disability by an employee or volunteer if, at the time the employer hired the employee ~~[.]~~ *or volunteer*, the employee *or volunteer* was the subject of information relating to the offenses for which notice was available for dissemination to the employer and the employer:~~

~~(a) Failed, without good cause, to request notice of the information pursuant to NRS 179A.180 to 179A.240, inclusive; or~~

~~(b) Was unable to obtain the information because the employee or volunteer refused to consent to the search and release of the information, and the employer hired or retained the employee or volunteer despite this refusal.~~

~~→ The amount of damages for which an employer is liable pursuant to this subsection must be reduced by the amount of damages recovered by the child, elderly person or person with a disability in an action against the employee or volunteer for damages sustained as a result of an offense listed in subsection 4 of NRS 179A.190.~~

~~3. An action pursuant to this section must be brought within 3 years after:~~

~~(a) The occurrence upon which the action is based; or~~

~~(b) The date upon which the party bringing the action became aware or reasonably should have become aware of the occurrence, whichever was earlier, if the party was not aware of the occurrence at the time of the occurrence.~~

~~4. This section does not limit or affect any other rights, claims or causes of action arising by statute or common law.] (Deleted by amendment.)~~

Sec. 6. (Deleted by amendment.)

Senator Segerblom moved that the Senate do not concur in the Assembly Amendment No. 682 to Senate Bill No. 38.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 176.

The following Assembly Amendment was read:

Amendment No. 665.

"SUMMARY—Revises various provisions concerning investigations of reports of abuse or neglect of a child. (BDR 38-66)"

"AN ACT relating to children; requiring an agency which provides child welfare services to determine whether certain reports concerning the possible abuse or neglect of a child are substantiated or unsubstantiated; setting forth that if such an agency substantiates a report alleging the person responsible for a child's welfare has abused or neglected the child, the agency must notify that person in writing of its intent to place the person's name in the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child, and that the person may administratively appeal the substantiation of the report; requiring the findings of fact in certain adjudicatory hearings to be included as part of the disposition of the case in the report required to be made to the Central Registry; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires, with certain exceptions, an agency which provides child welfare services to investigate each report of abuse or neglect received or referred to the agency. (NRS 432B.300) Section 7 of this bill requires an agency which provides child welfare services to determine whether a report concerning the possible abuse or neglect of a child that the agency has determined warrants an investigation is substantiated or unsubstantiated. ~~[The definitions set forth in section 7 provide that a report that was investigated is "substantiated" if credible evidence of the abuse or neglect exists and is "unsubstantiated" if no credible evidence of the abuse or neglect exists.]~~ If the agency determines a report is substantiated, section 3 of this bill requires the agency to provide to the person responsible for the child's welfare and who is named in the report as allegedly causing the abuse or neglect, written notification which includes statements indicating: (1) that the report which was made against the person has been substantiated and the agency intends to place the person's name in the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child; (2) that the person has the right to request an administrative appeal of the substantiation of the report and the agency's intention to place the

person's name in the Central Registry; and (3) the manner for requesting such an appeal.

Section 4 of this bill sets forth the process for such an administrative appeal and provides that the appeal is stayed upon written notice to the agency of a pending adjudicatory hearing on a petition alleging that a child is in need of protection, which hearing arose out of the same incident as the report. Section 4 also sets forth the circumstances establishing a conclusive presumption that the substantiation of the report will be affirmed and the person's name will be placed in the Central Registry.

Existing law provides certain circumstances in which an investigation of child abuse or neglect is not warranted, including when the agency which provides child welfare services determines that the alleged act was the result of the reasonable exercise of discipline by a parent or guardian involving the use of corporal punishment. (NRS 432B.260) Section 6 of this bill removes the examples of spanking or paddling within that provision and further removes the requirement that the agency which provides child welfare services upon making such a determination remove all references of the matter from its records.

Existing law requires the agency investigating a report of abuse or neglect of a child to report certain information to the Central Registry after completing the investigation, including the disposition of the case. (NRS 432B.310) Section 9 of this bill requires such an agency to include the findings of fact recorded by the court in certain adjudicatory hearings and certain specific allegations admitted to by the parties as part of the disposition of the case in the report the agency makes to the Central Registry.

Existing law further prohibits an agency which provides child welfare services from reporting to the Central Registry any information concerning a child identified as being affected by prenatal illegal substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure, unless the agency determines that a person has abused or neglected the child. (NRS 432B.310) Section 8 of this bill specifies that such abuse or neglect of the child must have occurred after the child was born.

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

Section 1. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *"Central Registry" has the meaning ascribed to it in NRS 432.0999.*

Sec. 3. *If an agency which provides child welfare services determines pursuant to NRS 432B.300 that a report made pursuant to NRS 432B.220 is substantiated, the agency shall provide written notification to the person responsible for the child's welfare who is named in the report as allegedly causing the abuse or neglect of the child which includes statements indicating that:*

1. The report which was made against the person has been substantiated and the agency which provides child welfare services intends to place the person's name in the Central Registry pursuant to NRS 432B.310; and

2. The person may request an administrative appeal of the substantiation of the report and the agency's intention to place the person's name in the Central Registry by submitting a written request to the agency which provides child welfare services within the time required pursuant to section 4 of this act.

Sec. 4. 1. A person to whom a written notification is sent pursuant to section 3 of this act may request an administrative appeal of the substantiation of the report and the agency's intention to place the person's name in the Central Registry by submitting a written request to the agency which provides child welfare services within 15 days after the date on which the agency sent the written notification as required pursuant to section 3 of this act.

2. Except as otherwise provided in subsection 3, if an agency which provides child welfare services receives a request for an administrative appeal within 15 days after the agency sent the written notification pursuant to subsection 1, a hearing before a hearing officer must be held in accordance with chapter 233B of NRS.

3. An administrative appeal is stayed upon the receipt of written notification to the agency which provides child welfare services of a pending adjudicatory hearing pursuant to NRS 432B.530 which arose out of the same incident as the incident upon which the report made pursuant to NRS 432B.220 was premised. The stay of the administrative appeal is lifted when:

(a) A final determination is made in the adjudicatory hearing; or

(b) The adjudicatory hearing is dismissed or terminated if the adjudicatory hearing does not result in a final determination being made.

4. If a request for an administrative appeal is not submitted pursuant to subsection 1, the agency which provides child welfare services shall place the person's name in the Central Registry pursuant to NRS 432B.310.

5. If the hearing officer in a hearing that is held pursuant to this section:

(a) Affirms the substantiation of the report, the agency which provides child welfare services shall place the person's name in the Central Registry pursuant to NRS 432B.310; or

(b) Rejects the substantiation of the report, the agency which provides child welfare services shall not place the person's name in the Central Registry pursuant to NRS 432B.310.

6. A conclusive presumption that the substantiation of the report will be affirmed and the person's name will be placed in the Central Registry pursuant to NRS 432B.310 is established if there is a final determination in an adjudicatory hearing that the child was in need of protection.

7. The decision of a hearing officer in a hearing that is held pursuant to this section is a final decision for the purposes of judicial review.



8. *As used in this section, "final determination in an adjudicatory hearing" means a finding made by a court pursuant to subsection 5 of NRS 432B.530 as to whether a child was in need of protection at the time of the removal of the child from the home that is based on the child being subjected to abuse or neglect by the person to whom a written notice was sent pursuant to section 3 of this act.*

Sec. 5. 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 of this act* have the meanings ascribed to them in those sections.

Sec. 6. NRS 432B.260 is hereby amended to read as follows:

432B.260 1. Upon the receipt of a report concerning the possible abuse or neglect of a child, an agency which provides child welfare services or a law enforcement agency shall promptly notify the appropriate licensing authority, if any. A law enforcement agency shall promptly notify an agency which provides child welfare services of any report it receives.

2. Upon receipt of a report concerning the possible abuse or neglect of a child, an agency which provides child welfare services or a law enforcement agency shall immediately initiate an investigation if the report indicates that:

- (a) The child is 5 years of age or younger;
- (b) There is a high risk of serious harm to the child;
- (c) The child has suffered a fatality; or
- (d) The child is living in a household in which another child has died, or the child is seriously injured or has visible signs of physical abuse.

3. Except as otherwise provided in subsection 2, upon receipt of a report concerning the possible abuse or neglect of a child or notification from a law enforcement agency that the law enforcement agency has received such a report, an agency which provides child welfare services shall conduct an evaluation not later than 3 days after the report or notification was received to determine whether an investigation is warranted. For the purposes of this subsection, an investigation is not warranted if:

- (a) The child is not in imminent danger of harm;
- (b) The child is not vulnerable as the result of any untreated injury, illness or other physical, mental or emotional condition that threatens the immediate health or safety of the child;
- (c) The alleged abuse or neglect of the child or the alleged effect of prenatal illegal substance abuse on or the withdrawal symptoms resulting from any prenatal drug exposure of the newborn infant could be eliminated if the child and the family of the child are referred to or participate in social or health services offered in the community, or both; or
- (d) The agency determines that the:

(1) Alleged abuse or neglect was the result of the reasonable exercise of discipline by a parent or guardian of the child involving the use of corporal punishment; ~~including, without limitation, spanking or paddling;~~ and

(2) Corporal punishment so administered was not so excessive as to constitute abuse or neglect as described in NRS 432B.150.

4. If the agency determines that an investigation is warranted, the agency shall initiate the investigation not later than 3 days after the evaluation is completed.

5. If an agency which provides child welfare services investigates a report of alleged abuse or neglect of a child pursuant to NRS 432B.010 to 432B.400, inclusive, *and sections 2, 3 and 4 of this act*, the agency shall inform the person responsible for the child's welfare who is named in the report as allegedly causing the abuse or neglect of the child of any allegation which is made against the person at the initial time of contact with the person by the agency. The agency shall not identify the person responsible for reporting the alleged abuse or neglect.

6. Except as otherwise provided in this subsection, if the agency determines that an investigation is not warranted, the agency may, as appropriate:

(a) Provide counseling, training or other services relating to child abuse and neglect to the family of the child, or refer the family to a person who has entered into an agreement with the agency to provide those services; or

(b) Conduct an assessment of the family of the child to determine what services, if any, are needed by the family and, if appropriate, provide any such services or refer the family to a person who has entered into a written agreement with the agency to make such an assessment.

~~7. If an agency determines that an investigation is not warranted for the reason set forth in paragraph (d) of subsection 3, the agency shall take no further action in regard to the matter and shall delete all references to the matter from its records.~~

7. If an agency which provides child welfare services enters into an agreement with a person to provide services to a child or the family of the child pursuant to subsection 6, the agency shall require the person to notify the agency if the child or the family refuses or fails to participate in the services, or if the person determines that there is a serious risk to the health or safety of the child.

8. ~~8. If an agency which provides child welfare services that~~ determines pursuant to ~~paragraph (a), (b) or (c) of~~ subsection 3 that an investigation is not warranted, the agency may, at any time, reverse that determination and initiate an investigation.

9. An agency which provides child welfare services and a law enforcement agency shall cooperate in the investigation, if any, of a report of abuse or neglect of a child.

Sec. 7. NRS 432B.300 is hereby amended to read as follows:

432B.300 ~~Except as otherwise provided in~~

~~1. If an agency which provides child welfare services determines that an investigation of a report concerning the possible abuse or neglect of a child is warranted pursuant to NRS 432B.260, an agency which provides~~

~~child welfare services shall investigate each report of abuse or neglect received or referred to it to} the agency shall determine {~~

~~1-}, without limitation:~~

~~1. (a)~~ 1. The composition of the family, household or facility, including the name, address, age, sex and race of each child named in the report, any siblings or other children in the same place or under the care of the same person, the persons responsible for the children's welfare and any other adult living or working in the same household or facility;

~~2. (b)~~ 2. Whether there is reasonable cause to believe any child is abused or neglected or threatened with abuse or neglect, the nature and extent of existing or previous injuries, abuse or neglect and any evidence thereof, and the person apparently responsible;

~~3. (c)~~ 3. Whether there is reasonable cause to believe that a child has suffered a fatality as a result of abuse or neglect regardless of whether or not there are any siblings of the child or other children who are residing in the same household as the child who is believed to have suffered a fatality as a result of abuse or neglect;

~~4. (d)~~ 4. If there is reasonable cause to believe that a child is abused or neglected, the immediate and long-term risk to the child if the child remains in the same environment; ~~and}~~

~~5. (e)~~ 5. The treatment and services which appear necessary to help prevent further abuse or neglect and to improve the environment of the child and the ability of the person responsible for the child's welfare to care adequately for the child {~~1-}~~ ; and

~~6. (f)~~ 6. Whether the report concerning the possible abuse or neglect of a child is substantiated or unsubstantiated.

~~2. As used in this section:~~

~~(a) "Substantiated" means that a report made pursuant to NRS 432B.220 was investigated and that credible evidence of the abuse or neglect exists.~~

~~(b) "Unsubstantiated" means that a report made pursuant to NRS 432B.220 was investigated and that no credible evidence of the abuse or neglect exists. The term includes efforts made by an agency which provides child welfare services to prove or disprove an allegation of abuse or neglect that the agency is unable to prove because it was unable to locate the child or the person responsible for the welfare of the child.~~

Sec. 8. NRS 432B.310 is hereby amended to read as follows:

432B.310 1. Except as otherwise provided in subsection 6 of NRS 432B.260, the agency investigating a report of abuse or neglect of a child shall, upon completing the investigation, report to the Central Registry:

(a) Identifying and demographic information on the child alleged to be abused or neglected, the parents of the child, any other person responsible for the welfare of the child and the person allegedly responsible for the abuse or neglect;

(b) The facts of the alleged abuse or neglect, including the date and type of alleged abuse or neglect, the manner in which the abuse was inflicted, the

severity of the injuries and, if applicable, any information concerning the death of the child; and

(c) The disposition of the case.

2. An agency which provides child welfare services shall not report to the Central Registry any information concerning a child identified as being affected by prenatal illegal substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure unless the agency determines that a person has abused or neglected the child ~~[-~~

~~3. As used in this section, "Central Registry" has the meaning ascribed to it in NRS 432.0999.] after the child was born.~~

Sec. 9. NRS 432B.530 is hereby amended to read as follows:

432B.530 1. An adjudicatory hearing must be held within 30 days after the filing of the petition, unless good cause is shown or the hearing has been continued until a later date pursuant to NRS 432B.513.

2. At the hearing, the court shall inform the parties of the specific allegations in the petition and give them an opportunity to admit or deny them. If the allegations are denied, the court shall hear evidence on the petition.

3. In adjudicatory hearings, all relevant and material evidence helpful in determining the questions presented, including oral and written reports, may be received by the court and may be relied upon to the extent of its probative value. The parties or their attorney must be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making reports when reasonably available.

4. The court may require the child to be present in court at the hearing.

5. If the court finds by a preponderance of the evidence that the child was in need of protection at the time of the removal of the child from the home, it shall record its findings of fact and may proceed immediately or at another hearing held within 15 working days, to make a proper disposition of the case. If the court finds that the allegations in the petition have not been established, it shall dismiss the petition and, if the child is in protective custody, order the immediate release of the child.

6. *The findings of fact recorded by the court pursuant to subsection 5 and any specific allegations in the petition admitted to by the parties must be included as part of the disposition of the case in the report required to be made to the Central Registry pursuant to NRS 432B.310.*

Senator Jones moved that the Senate do not concur in the Assembly Amendment No. 665 to Senate Bill No. 176.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 228.

The following Assembly Amendment was read:

Amendment No. 780.

"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)~~ and the administration of the Nevada Ethics in Government Law by the Commission on Ethics. (Chapter 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 2-9 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~~, 30 and 31 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 others" in NRS 281A.420.

Section 23 defines "pecuniary interest ~~is~~" for the Ethics Law, and sections ~~40 and 42~~ 40.3 and 41 of this bill require proof of a significant personal or pecuniary interest in defining various types of ~~unethical conduct~~ ethical conflicts, so that a de minimis or insignificant personal or pecuniary interest does not create a conflict of interest, require disqualification or abstention, or provide just or sufficient cause for an ethics investigation or violation. (NRS 281A.400, 281A.420)

Section 25 of this bill enacts provisions for computing periods of time 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.

Section 27.3 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 Ethics Law. Section 27.5

of this bill requires the Commission to consider various aggravating and mitigating factors when determining the amount of any civil penalty imposed for a willful violation of the Ethics Law.

Sections 33-37 of this bill make various changes concerning the operation of 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; and (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.]~~ (NRS 281A.200, 281A.240, 281A.260, 281A.270, 281A.290)

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. (NRS 281A.300)

Sections ~~[39]~~ 40.3-44 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. (NRS 281A.400, 281A.410, 281A.420, 281A.440, 281A.470)

~~† Section 39 revises provisions proscribing various types of unethical conduct.~~

~~Section 40 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 45 of this bill revises the "safe harbor" provision of the Ethics Law to provide that a public officer or employee does not commit a willful violation if the public officer or employee: (1) relied in good faith upon the advice of the legal counsel retained by his or her public body, agency or employer; and (2) his or her action was not contrary to a prior published opinion issued by the Commission. (NRS 281A.480)

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. (NRS 281A.500)

~~† 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.] (Deleted by amendment.)~~

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 2 to 10, inclusive, of this act have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

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.] (Deleted by amendment.)~~

Sec. 4. ~~["Domestic partner" means a person in a domestic partnership.] (Deleted by amendment.)~~

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.] (Deleted by amendment.)~~

Sec. 6. ~~["Household" means an association of persons who live in the same home or dwelling.] (Deleted by amendment.)~~

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.] (Deleted by amendment.)~~

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.] (Deleted by amendment.)~~

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.] (Deleted by amendment.)~~

Sec. 10. (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 281.4 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 281.4 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 281.4 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 354.174.] (Deleted by amendment.)~~

Sec. 12. [NRS 281.221 is hereby amended to read as follows:

~~281.221 1. Except as otherwise provided in this section [,] and NRS 281.4.130, 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.] (Deleted by amendment.)~~

~~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, [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 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.~~ (Deleted by amendment.)

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.] (Deleted by amendment.)~~

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.~~

~~(e) 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.]] (Deleted by amendment.)

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.] (Deleted by amendment.)~~

Sec. 17. Chapter 281A of NRS is hereby amended by adding thereto the provisions set forth as sections 18 to ~~[27,]~~ 27.5, 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, 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.] (Deleted by amendment.)~~

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 ~~and~~ and the Commission complies with the provisions of the State Budget Act.*

*Sec. 27.3. 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. 27.5. 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. 28. (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 ~~and~~ ~~[, sharing its expenses,]~~ and who are related by blood, adoption, [or] marriage ~~and~~ or domestic partnership.

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.] (Deleted by amendment.)~~

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.]~~

~~5.7~~ Not more than four members of the Commission may be residents of the same county.

5. ~~6.7~~ 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. ~~7.7~~ 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.~~ Cause the making of such investigations as are reasonable and necessary for the rendition of its opinions pursuant to this chapter.

~~4.~~ Inform the Attorney General or district attorney of all cases of noncompliance with the requirements of this chapter.

~~5.~~ 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.~~ 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~~ *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. 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. 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. Except for State Legislators who are subject to the restrictions set forth in subsection 8, 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. 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. 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.~~

~~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.~~

~~11. 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.]~~  
(Deleted by amendment.)

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 [public officer or employee] 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 163 or 164 of NRS or who is required to register with the Nevada Gaming Commission pursuant to chapter 163 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 163 or 164 of NRS or who is required to register with the Nevada Gaming Commission pursuant to chapter 163 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) 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:~~

~~(a) The governing body of a state agency or an advisory body thereto if:~~

~~(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:~~

~~(I) Is engaged in the profession, occupation or business regulated by the state agency;~~

~~(II) Holds a license issued by the state agency; and~~

~~(III) Is required to hold a license issued by the state agency 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:~~

~~(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.~~ (Deleted by amendment.)

Sec. 40.3. 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 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. As used in this subsection ~~the~~

(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"~~, "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 of a contract between the government and any business entity in which the public officer or employee has a significant pecuniary interest.

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 duties as a public officer or employee.

5. 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~~ interest of the public officer or employee or any other person or business entity.

6. 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 the public officer or employee.

7. Except for State Legislators who are subject to the restrictions set forth in subsection 8, 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.~~ 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. 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. A public officer or employee shall not attempt to benefit ~~the public officer's or employee's~~ a significant personal or ~~financial~~ pecuniary interest of the public officer or employee through the influence of a subordinate.

10. A public officer or employee shall not seek other employment or contracts through the use of the public officer's or employee's official position.

*Sec. 40.5. 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 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 not accept compensation from any private person to represent or counsel the private person on any issue pending before 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 agency, shall not, for 1 year after leaving the service of the agency, represent or counsel for compensation a private person upon 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 public officer or employee 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.

(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.

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.

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 *acceptance of a gift or loan, significant* pecuniary interest or commitment in a private capacity to the interests of ~~{others,}~~ *another person*.

(b) The Commission must give appropriate weight and proper deference to the public policy of this State which ~~favours~~ *is*

~~(1) Favours~~ 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} significant pecuniary interest or {the public officer's} commitment in a private capacity to the interests of {others,} another person.

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] 218.4.970 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. 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 to the county, city or other political subdivision 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; 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 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;~~

~~(1) 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.~~  
(Deleted by amendment.)

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 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]~~ 9, *all 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 and all materials and information gathered in an investigation of the request, is]~~ *the record of the proceedings of the investigatory panel made pursuant to subsection 5, are confidential and not public records pursuant to chapter 239 of NRS until [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]~~ *authorizes* 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 ~~[.]~~ ,

↳ *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. 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.

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 ~~and~~ in accordance with the provisions of section 27.5 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 , upon its own motion or upon the motion of the person about whom an opinion was requested pursuant to NRS 281A.440, 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~~ 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~~ his or her public body ~~for which the public officer~~ ~~represents~~ ~~serves or by the~~ agency or employer; ~~of the public employee~~ ~~for upon the manual published by the Commission pursuant to NRS 281A.290;~~

~~(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 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~~ Director of the Department of Administration ~~or his or her designee~~.*

2. *Within 30 days after a public employee begins employment:*

(a) *The ~~Administrator of the Division of Human Resource Management~~ Director 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 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 291A.240 or by a designee of the Executive Director.~~

~~4.7~~ 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.}~~ 4. 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.}~~ 5. 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.}~~ 4. 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.}~~ 6. 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.}~~ 7. 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.}~~ ~~10.7~~ 8. 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.}~~ ~~10.7~~ 9. The Commission shall retain each acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.

~~{8.}~~ ~~11.7~~ 10. 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.}~~ ~~12.7~~ 11. 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.~~ (Deleted by amendment.)

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 preceeding 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 preceeding the regular session:~~

<del>Lieutenant Governor .....</del>	<del>1</del>
<del>Secretary of State .....</del>	<del>5</del>
<del>State Treasurer .....</del>	<del>2</del>
<del>State Controller .....</del>	<del>2</del>
<del>Attorney General .....</del>	<del>15</del>

~~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 two legislative measures, which must be submitted to the Legislative Counsel on or before September 1 preceeding 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 preceeding the regular session. A legislative measure that is not prefiled on or before that date shall be deemed withdrawn.] (Deleted by amendment.)~~

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.] (Deleted by amendment.)~~

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.] (Deleted by amendment.)~~

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.] (Deleted by amendment.)~~

Sec. 52. ~~[NRS 269.071 is hereby amended to read as follows:~~

~~269.071 1. [It] *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 [,] 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.] (Deleted by amendment.)~~

Sec. 53. ~~[NRS 269.072 is hereby amended to read as follows:~~

~~269.072 1. [It] *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 [,] 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.] (Deleted by amendment.)~~

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.] (Deleted by amendment.)~~

Sec. 55. ~~[NRS 232.800 is hereby amended to read as follows:~~

~~232.800 1. Except as otherwise provided in NRS 281.230 [,] 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 [,] 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.*] (Deleted by amendment.)~~

Sec. 56. ~~[NRS 281A.530 and 281A.550 are hereby repealed.] (Deleted by amendment.)~~

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.] (Deleted by amendment.)~~

Sec. 57. ~~[1.] This [section and sections 1 to 10, inclusive, 14 to 38, inclusive, 41 and 43 to 48, inclusive, of this act become] act becomes effective upon passage and approval.~~

~~[2. Sections 11, 12, 13, 39, 40, 42 and 49 to 56.5, inclusive, of this act 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;~~

~~nor 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;~~

~~nor 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 Spearman moved that the Senate do not concur in the Assembly Amendment No. 780 to Senate Bill No. 228.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 410.

The following Assembly Amendment was read:

Amendment No. 775.

"SUMMARY—Revises provisions governing hypodermic devices. (BDR 40-451)"

"AN ACT relating to hypodermic devices; authorizing ~~governmental~~ certain entities ~~[and certain persons]~~ to establish a program for the safe distribution and disposal of hypodermic devices and certain other material; requiring the county board of health or district board of health for the county in which a sterile hypodermic device program operates to establish guidelines governing such a program; providing that the possession of a 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 authorizes a governmental entity, a tax-exempt nonprofit corporation, a public health program, a licensed medical facility or a person who has a tax-exempt nonprofit corporation as a fiscal sponsor, to establish a program for the safe distribution and disposal of hypodermic devices. Section 4.5 of this bill requires the county board of health or district

board of health for the county in which a sterile hypodermic device program operates to establish guidelines governing such a program. 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 devices, material and information that a program may provide. Section 8 of this bill provides that 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 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. *1. A governmental entity, 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), a public health program, a medical facility 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.*

*2. As used in this section:*

- (a) "Medical facility" has the meaning ascribed to it in NRS 449.0151.*
- (b) "Public health program" has the meaning ascribed to it in NRS 454.00973.*

Sec. 4.5. *The county board of health or district board of health for the county in which a sterile hypodermic device program operates shall establish guidelines governing the operation of the program which provide for, without limitation:*

1. The recording of the quantities of hypodermic devices distributed and collected by the program; and

2. The procedures for the safe collection and disposal of used hypodermic devices.

Sec. 5. A sterile hypodermic device program shall ~~establish~~ :

1. 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.

2. Provide community outreach and educational programs concerning:

(a) The safer use of hypodermic devices to avoid disease and infection;  
and

(b) The safe disposal of hypodermic devices.

3. Report the quantities of hypodermic devices distributed and collected by the program to the State Board of Health at least semiannually.

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; and

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 safer use of hypodermic devices to avoid disease and infection;~~

~~—(e)~~ Methods for preventing the transmission or contraction of blood-borne diseases;

~~—(f)~~ (e) Employment and vocational training services and centers; and

~~—(g)~~ (f) Legal aid services.

Sec. 8. 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 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 trace amount of a controlled substance and that 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 Jones moved that the Senate do not concur in the Assembly Amendment No. 775 to Senate Bill No. 410.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Joint Resolution No. 9.

The following Assembly Amendment was read:

Amendment No. 691.

"SUMMARY—Urges the Director of the Bureau of Land Management to expedite the process for approving special recreation permits for certain uses of federal public lands in Nevada. (BDR R-1008)"

"SENATE JOINT RESOLUTION—Urging the Director of the Bureau of Land Management to expedite the process for approving special recreation permits for certain uses of federal public lands in Nevada."

WHEREAS, Outdoor recreation in Nevada generates \$14.9 billion in consumer spending annually, creates 148,000 jobs and generates \$4.8 billion in wages and salaries and \$1 billion in state and local tax revenue; and

WHEREAS, Nevada has an abundance of federal public lands suitable for outdoor recreation that are managed by the Bureau of Land Management of the United States Department of the Interior; and

WHEREAS, Operators of outdoor recreation-related businesses are required to apply to the Bureau of Land Management for special recreation permits for commercial and competitive uses of those public lands; and

WHEREAS, Federal public lands in Nevada should be managed in a manner that preserves the environment; and

WHEREAS, The Bureau of Land Management has adopted regulations, 43 C.F.R. Part 2930, Subpart 2932, which set forth the procedure for applying for a special recreation permit; and

WHEREAS, The processing of special recreation permits by the Bureau of Land Management is often slow; and

WHEREAS, The slow processing of special recreation permits by the Bureau of Land Management deters outdoor recreation-related businesses from operating effectively and profitably; and

WHEREAS, Expedited processing of special recreation permits by the Bureau of Land Management would serve to create additional jobs for Nevadans and generate additional state and local tax revenue; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the Nevada Legislature hereby urges:

1. The Director of the Bureau of Land Management to expedite the process of approving special recreation permits for commercial and competitive uses of federal public lands in Nevada ~~for~~ for nonmotorized events;

2. The Director of the Bureau of Land Management to amend the provisions of 43 C.F.R. Part 2930, Subpart 2932, to further expedite the process of approving those special recreation permits; and

3. The Nevada Congressional Delegation to use its best efforts to encourage the Director of the Bureau of Land Management to expedite the process of approving those special recreation permits ~~[for commercial and competitive uses of federal public land in Nevada]~~ and to make any necessary amendments to the provisions of 43 C.F.R. Part 2930, Subpart 2932; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the Secretary of the Interior, the Director of the Bureau of Land Management and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Senator Ford moved that the Senate do not concur in the Assembly Amendment No. 691 to Senate Joint Resolution No. 9.

Motion carried.

Resolution ordered transmitted to the Assembly.

#### SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 22, 25, 39, 54, 66, 82, 100, 135, 141, 152, 169, 199, 213, 273, 305, 345, 356, 365, 371, 382, 388, 393, 402, 404, 409, 420, 432, 433, 434, 437, 438, 459, 460, 476, 488, 489; Senate Joint Resolutions Nos. 1, 12, 13; Senate Joint Resolution No. 15 of the 76th Legislative Session; Assembly Bills Nos. 210, 321, 352, 354, 358, 366, 381, 382, 383, 389, 393, 417, 418, 421, 432, 434, 437; Assembly Concurrent Resolution No. 8.

#### REMARKS FROM THE FLOOR

Senator Hutchison requested that the following remarks be entered in the Journal.

#### SENATOR HUTCHISON:

Thank you, Mr. President. I was raised by great parents who taught me that one of the most important words in the English language is the word "remember." On this Memorial Day, we pause as a Nation, as a State and as citizens to remember the real reason we enjoy the blessings of America and of being Americans—those who fought and died to preserve our liberties and freedoms. I would like to share with my Senate colleagues and to put on the record two paragraphs from a speech—which helps me remember the purpose of day—delivered by General Douglas MacArthur to the Corps of Cadets at the United States Military Academy at West Point on May 12, 1962, following General MacArthur's return to the United States after serving as Supreme Commander of Allied Forces in the Pacific Theatre during WWII and commanding United Nations Forces on the Korean Peninsula during the Korean conflict:

"What sort of soldiers are those you are to lead? Are they reliable? Are they brave? Are they capable of victory? Their story is known to all of you. It is the story of the American man-at-arms. My estimate of him was formed on the battlefield many, many years ago, and has never changed. I regarded him then as I regard him now—as one of the world's noblest figures, not only as one of the finest military characters, but also as one of the most stainless. His name and fame are the birthright of every American citizen. In his youth and strength, his love and loyalty, he gave all that mortality can give. He needs no eulogy from me or from any other man. He has written his own history and written it in red on his enemy's breast. But when I think of his patience under adversity, of his courage under fire, and of his modesty in victory, I am filled with an emotion of admiration I cannot put into words.

He belongs to history as furnishing one of the greatest examples of successful patriotism. He belongs to posterity as the instructor of future generations in the principles of liberty and freedom. He belongs to the present, to us, by his virtues and by his achievements. In twenty campaigns, on a hundred battlefields, around a thousand campfires, I have witnessed that enduring fortitude, that patriotic self-abnegation, and that invincible determination which have carved his statue in the hearts of his people. From one end of the world to the other he has drained deep the chalice of courage. I do not know the dignity of their birth, but I do know the glory of their death. They died unquestioning, uncomplaining, with faith in their hearts, and on their lips the hope that we would go on to victory. Always for them: Duty, Honor, Country; always their blood and sweat and tears, as we sought the way and the light and the truth."

On this Memorial Day, I offer my respect and appreciation for the veterans among us in this Body who have served nobly and honorably, and I offer my hope that we will always remember those brave and selfless souls who fought and died to preserve our liberties and freedoms.

PRESIDENT KROLICKI:

Thank you, Senator Hutchison, for sharing those perfectly appropriate words with us today. I failed to remember that I had asked Senator Brower to lead us in the Pledge of Allegiance today, as he is a former Naval Officer Lieutenant in the United States Navy. Would all of the Senators who have served us in the Armed Forces please rise so we can acknowledge you: Senator Brower, Senator Hardy, Senator Parks and Senator Spearman.

SENATOR HARDY:

Thank you, Mr. President. Soldiers have died. Those of us left behind ask the question, “Why did John have to die?” Sometimes we ask the question, “Why was I left behind?” We do not know. The Lord may not tell us now, but in a coming day, we will know. We will see our loved one—our fellow fallen soldier. We will all be resurrected. Our disabled will all be made whole. That is real. It will happen. We will know and hug them again.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Ford, the privilege of the Floor of the Senate Chamber for this day was extended to Tillery Williams.

On request of Senator Kieckhefer, the privilege of the Floor of the Senate Chamber for this day was extended to April Kieckhefer, Aspen Kieckhefer, Austin Kieckhefer, Lincoln Kieckhefer and Lucy Kieckhefer.

On request of Senator Settlemeyer, the privilege of the Floor of the Senate Chamber for this day was extended to Caitlyn Settlemeyer.

On request of President Krolicki, the privilege of the Floor of the Senate Chamber for this day was extended to Yaping Wang.

Senator Denis moved that the Senate adjourn until Tuesday, May 28, 2013, at 11:00 a.m. and it do so, on this Memorial Day, in memory of those who made the ultimate sacrifice defending the United States of America.

Motion carried.

Senate adjourned at 1:45 p.m.

Approved:

BRIAN K. KROLICKI  
*President of the Senate*

Attest: DAVID A. BYERMAN  
*Secretary of the Senate*